

Reprinted 2/11

Amend. to H.R. 3029, Do Pass 1/23 (p. 200)

JAN 13 1981

HOUSE FILE 73

Agriculture

By HUMMEL

Passed House, Date 2-9-81 (p. 334) Passed Senate, Date _____
Vote: Ayes 91 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to repairs and improvements in drainage and
2 levee districts.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 73

H-3029

1 Amend House File 73 as follows:
2 1. Page 2, line 2, by inserting after the word
3 "report" the words "or a report from the soil
4 conservation district conservationist".

H-3029 FILED January 27, 1981 BY COMMITTEE ON AGRICULTURE
Adopted 2/9 (p. 334) Pellett, Chair

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1 Section 1. Section 455.135, subsections 1, 2 and 4, Code
2 1981, are amended to read as follows:

3 1. When any levee or drainage district ~~shall~~ has
4 been established and the improvement constructed, the same
5 improvement shall be at all times under the supervision of
6 the board of supervisors except as otherwise provided for
7 control and management by a board of trustees and ~~it shall~~
8 ~~be the duty of~~ the board to shall keep the same improvement
9 in repair as provided ~~herein~~ in this section.

10 a. The board at any time on its own motion, without notice,
11 may order done whatever is necessary to restore or maintain
12 a drainage or levee improvement in its original efficiency
13 or capacity, and for that purpose may remove silt and debris,
14 repair any damaged structures, remove weeds and other vegetable
15 growth, and whatever else may be needed to restore or maintain
16 such efficiency or capacity or to prolong its useful life.

17 ~~in the event~~

18 b. The board may at any time obtain an engineer's report
19 regarding the most feasible means of repairing a drainage
20 or levee improvement and the probable cost of making the
21 repair. If the engineer advises, or the board otherwise
22 concludes that permanent restoration of a damaged structure
23 is not feasible at the time, the board may order ~~such~~ temporary
24 construction as it deems necessary to the continued functioning
25 of the improvement. If in maintaining and repairing tile
26 lines the board finds from ~~the~~ an engineer's report it is
27 more economical to construct a new line than to repair the
28 existing line, ~~such~~ the new line may be considered to be a
29 repair.

30 c. If the estimated cost of any repair exceeds ten thousand
31 dollars, or seventy-five percent of the original total cost
32 of the district and subsequent improvements ~~therein~~, whichever
33 is the greater amount, the board shall set a date for a hearing
34 on the matter of making ~~such~~ the proposed repairs, and shall
35 give notice as provided in sections 455.20 to 455.24. If

1 a hearing is required and the estimated cost of the repair
 2 exceeds twenty-five thousand dollars, an engineer's report
 3 shall be presented at the hearing. The board shall not divide
 4 proposed repairs into separate programs in order to avoid
 5 the notice and hearing requirements of this paragraph. At
 6 ~~such~~ the hearing the board shall hear objections to the
 7 feasibility of such the proposed repairs, and following the
 8 hearing the board shall order made-such that the repairs as
 9 it deems desirable and feasible be made. Any interested party
 10 shall have the right of appeal from such orders in the manner
 11 provided in this chapter.

12 d. The right of remonstrance shall does not apply to
 13 repairs as defined in this section.

14 2. In the case of minor repairs, or in the eradication
 15 of brush and weeds along the open ditches, not in excess of
 16 ~~one~~ five thousand dollars where the board finds that the same
 17 ~~will result in~~ a saving to the district will result it may
 18 cause the same repairs or eradication to be done by secondary
 19 road equipment, or weed fund equipment, and labor of the
 20 county and then reimburse the secondary road fund or the weed
 21 fund from the fund of the drainage district thus benefited.

22 4. For the purpose of this subsection, an "improvement"
 23 in a drainage or levee district in which any ditch, tile drain
 24 or other facility has previously been constructed is a project
 25 intended to expand, enlarge or otherwise increase the capacity
 26 of any existing ditch, drain or other facility above that
 27 for which it was designed.

28 a. When the board determines that improvements, which
 29 ~~differ from the repairs referred to in the preceding~~
 30 ~~paragraphs,~~ are necessary or desirable, it shall appoint an
 31 engineer to make ~~such~~ surveys as seem appropriate to determine
 32 the nature and extent of such the needed improvements, and
 33 to file a report showing what improvements are recommended
 34 and their estimated costs, which report may be amended before
 35 final action. If the estimated cost of the improvements does

1 not exceed five thousand dollars, or twenty-five percent of
2 the original cost of the district and subsequent improvements
3 therein, whichever is the greater amount, the board may order
4 the work done without notice. The board shall not divide
5 proposed improvements into separate programs in order to avoid
6 the ~~twenty-five-percent~~ limitation herein-fixed for making
7 improvements without notice. If the board deems it desirable
8 to make improvements where the estimated cost exceeds ~~twenty-~~
9 ~~five-percent-of-the-original-total-cost-of-the-district-and~~
10 ~~subsequent-improvements-therein~~ that limit, it shall set a
11 date for a hearing on the matter of constructing ~~such~~ the
12 proposed improvements and also on the matter of whether there
13 shall be a reclassification of benefits for the cost of ~~such~~
14 the proposed improvements, and shall give notice as provided
15 in sections 455.20 to 455.24. At ~~such~~ the hearing the board
16 shall hear objections to the feasibility of ~~such~~ the proposed
17 improvements and ~~such~~ arguments for or against a
18 reclassification ~~as-may-be~~ presented by or for any taxpayer
19 of the district. Following the hearing the board shall order
20 ~~made-such~~ that the improvements as it deems desirable and
21 feasible be made, and shall also determine whether there
22 should be a reclassification of benefits for the cost of ~~such~~
23 ~~improvement~~ improvements. If it is determined that ~~such~~ a
24 reclassification of benefits should be made the board shall
25 proceed as provided in section 455.45.

26 ~~in-the-event-that~~ b. If the estimated cost of the
27 improvements as ~~contemplated-in-this-section-should-exceed~~
28 defined in this subsection exceeds twenty thousand dollars,
29 or the original cost of the district plus the cost of
30 subsequent improvements in the district, whichever is the
31 greater amount, a majority of the landowners, owning in the
32 aggregate more than seventy percent of the total land in ~~said~~
33 the district, may file a written remonstrance against ~~said~~
34 ~~improvement~~ the proposed improvements, at or before the time
35 fixed for hearing on ~~said-improvement~~ the proposed

1 improvements, with the county auditor, or auditors in case
2 the district extends into more than one county. If such a
3 remonstrance is filed, the board shall discontinue and dismiss
4 all further proceedings on ~~said-improvement~~ the proposed
5 improvements and charge the costs incurred to date for ~~said~~
6 the proposed improvement improvements to the district. Any
7 interested party ~~shall-have-the-right-of~~ may appeal from such
8 orders in the manner provided in this chapter. ~~Provided,~~
9 ~~however,-that-the-provisions-of~~ However, this section ~~shall~~
10 does not affect the procedures of section 455.142 covering
11 the common outlet.

12 EXPLANATION

13 This bill revises several of the provisions of section
14 455.135, which relates to repairs and improvements in drainage
15 and levee districts. The description of what constitutes
16 a repair (i.e., maintaining a district's facilities at their
17 designed capacity) is augmented to make clear that work done
18 to prolong the useful life of a district's facilities is
19 legally a repair, and a definition of an improvement (i.e.,
20 increasing the designed capacity of a district's facilities)
21 is added. Various references to dollar amounts which affect
22 the conditions and procedures for making repairs and
23 improvements are updated to reflect inflation, and flat dollar
24 amounts are provided as alternatives to cost levels set by
25 reference to the original cost of the district. The bill
26 takes effect July 1 following enactment.

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Rs Pass 3/2
(p. 636)

HOUSE FILE 73

By HUMMEL

(As Amended and Passed by the House)

Passed House, Date 2-9-81 (p. 334) Passed Senate, Date 3-13-81 (p. 778)

Vote: Ayes 91 Nays 0 Vote: Ayes 43 Nays 1

Approved March 26, 1981

A BILL FOR

1 An Act relating to repairs and improvements in drainage and
2 levee districts.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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_____ House Amendments

1 Section 1. Section 455.135, subsections 1, 2 and 4, Code
2 1981, are amended to read as follows:

3 1. When any levee or drainage district ~~shall have~~ has
4 been established and the improvement constructed, the ~~same~~
5 improvement shall be at all times under the supervision of
6 the board of supervisors except as otherwise provided for
7 control and management by a board of trustees and ~~it shall~~
8 ~~be the duty of~~ the board to shall keep the ~~same~~ improvement
9 in repair as provided ~~herein~~ in this section.

10 a. The board at any time on its own motion, without notice,
11 may order done whatever is necessary to restore or maintain
12 a drainage or levee improvement in its original efficiency
13 or capacity, and for that purpose may remove silt and debris,
14 repair any damaged structures, remove weeds and other vegetable
15 growth, and whatever else may be needed to restore or maintain
16 such efficiency or capacity or to prolong its useful life.
17 ~~In the event~~

18 b. The board may at any time obtain an engineer's report
19 regarding the most feasible means of repairing a drainage
20 or levee improvement and the probable cost of making the
21 repair. If the engineer advises, or the board otherwise
22 concludes that permanent restoration of a damaged structure
23 is not feasible at the time, the board may order ~~such~~ temporary
24 construction as it deems necessary to the continued functioning
25 of the improvement. If in maintaining and repairing tile
26 lines the board finds from ~~the~~ an engineer's report it is
27 more economical to construct a new line than to repair the
28 existing line, ~~such~~ the new line may be considered to be a
29 repair.

30 c. If the estimated cost of any repair exceeds ten thousand
31 dollars, or seventy-five percent of the original total cost
32 of the district and subsequent improvements ~~therein~~, whichever
33 is the greater amount, the board shall set a date for a hearing
34 on the matter of making ~~such~~ the proposed repairs, and shall
35 give notice as provided in sections 455.20 to 455.24. If

1 a hearing is required and the estimated cost of the repair
2 exceeds twenty-five thousand dollars, an engineer's report
3 or a report from the soil conservation district conservationist
4 shall be presented at the hearing. The board shall not divide
5 proposed repairs into separate programs in order to avoid
6 the notice and hearing requirements of this paragraph. At
7 such the hearing the board shall hear objections to the
8 feasibility of such the proposed repairs, and following the
9 hearing the board shall order made-such that the repairs as
10 it deems desirable and feasible be made. Any interested party
11 shall have the right of appeal from such orders in the manner
12 provided in this chapter.

13 d. The right of remonstrance shall does not apply to
14 repairs as defined in this section.

15 2. In the case of minor repairs, or in the eradication
16 of brush and weeds along the open ditches, not in excess of
17 one five thousand dollars where the board finds that the same
18 will result in a saving to the district will result it may
19 cause the same repairs or eradication to be done by secondary
20 road equipment, or weed fund equipment, and labor of the
21 county and then reimburse the secondary road fund or the weed
22 fund from the fund of the drainage district thus benefited.

23 4. For the purpose of this subsection, an "improvement"
24 in a drainage or levee district in which any ditch, tile drain
25 or other facility has previously been constructed is a project
26 intended to expand, enlarge or otherwise increase the capacity
27 of any existing ditch, drain or other facility above that
28 for which it was designed.

29 a. When the board determines that improvements, which
30 ~~differ from the repairs referred to in the preceding~~
31 ~~paragraphs,~~ are necessary or desirable, it shall appoint an
32 engineer to make such surveys as seem appropriate to determine
33 the nature and extent of such the needed improvements, and
34 to file a report showing what improvements are recommended
35 and their estimated costs, which report may be amended before

1 final action. If the estimated cost of the improvements does
2 not exceed five thousand dollars, or twenty-five percent of
3 the original cost of the district and subsequent improvements
4 therein, whichever is the greater amount, the board may order
5 the work done without notice. The board shall not divide
6 proposed improvements into separate programs in order to avoid
7 the ~~twenty-five-percent~~ limitation herein-fixed for making
8 improvements without notice. If the board deems it desirable
9 to make improvements where the estimated cost exceeds ~~twenty-~~
10 ~~five-percent-of-the-original-total-cost-of-the-district-and~~
11 ~~subsequent-improvements-therein~~ that limit, it shall set a
12 date for a hearing on the matter of constructing such the
13 proposed improvements and also on the matter of whether there
14 shall be a reclassification of benefits for the cost of such
15 the proposed improvements, and shall give notice as provided
16 in sections 455.20 to 455.24. At such the hearing the board
17 shall hear objections to the feasibility of such the proposed
18 improvements and such arguments for or against a
19 reclassification ~~as-may-be~~ presented by or for any taxpayer
20 of the district. Following the hearing the board shall order
21 ~~made-such~~ that the improvements as it deems desirable and
22 feasible be made, and shall also determine whether there
23 should be a reclassification of benefits for the cost of such
24 improvement improvements. If it is determined that such a
25 reclassification of benefits should be made the board shall
26 proceed as provided in section 455.45.

27 ~~In-the-event-that~~ b. If the estimated cost of the
28 improvements as ~~contemplated-in-this-section-should-exceed~~
29 defined in this subsection exceeds twenty thousand dollars,
30 or the original cost of the district plus the cost of
31 subsequent improvements in the district, whichever is the
32 greater amount, a majority of the landowners, owning in the
33 aggregate more than seventy percent of the total land in said
34 the district, may file a written remonstrance against said
35 improvement the proposed improvements, at or before the time

1 fixed for hearing on ~~said-improvement~~ the proposed
2 improvements, with the county auditor, or auditors in case
3 the district extends into more than one county. If ~~such a~~
4 remonstrance is filed, the board shall discontinue and dismiss
5 all further proceedings on ~~said-improvement~~ the proposed
6 improvements and charge the costs incurred to date for ~~said~~
7 the proposed improvement improvements to the district. Any
8 interested party ~~shall-have-the-right-of~~ may appeal from such
9 orders in the manner provided in this chapter. ~~Provided,~~
10 ~~however,-that-the-provisions-of~~ However, this section shall
11 does not affect the procedures of section 455.142 covering
12 the common outlet.

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HOUSE FILE 73

AN ACT
RELATING TO REPAIRS AND IMPROVEMENTS IN DRAINAGE AND LEVEE
DISTRICTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455.135, subsections 1, 2 and 4, Code 1981, are amended to read as follows:

1. When any levee or drainage district ~~shall have~~ has been established and the improvement constructed, the ~~same~~ improvement shall be at all times under the supervision of the board of supervisors except as otherwise provided for control and management by a board of trustees and ~~it shall be the duty of~~ the board to shall keep the ~~same~~ improvement in repair as provided ~~herein~~ in this section.

a. The board at any time on its own motion, without notice, may order done whatever is necessary to restore or maintain a drainage or levee improvement in its original efficiency or capacity, and for that purpose may remove silt and debris, repair any damaged structures, remove weeds and other vegetable growth, and whatever else may be needed to restore or maintain such efficiency or capacity or to prolong its useful life.
~~in the event~~

b. The board may at any time obtain an engineer's report regarding the most feasible means of repairing a drainage or levee improvement and the probable cost of making the repair. If the engineer advises, or the board otherwise concludes that permanent restoration of a damaged structure is not feasible at the time, the board may order such temporary construction as it deems necessary to the continued functioning of the improvement. If in maintaining and repairing tile lines the board finds from the an engineer's report it is more economical to construct a new line than to repair the existing line, such the new line may be considered to be a repair.

c. If the estimated cost of any repair exceeds ten thousand dollars, or seventy-five percent of the original total cost of the district and subsequent improvements therein, whichever is the greater amount, the board shall set a date for a hearing on the matter of making such the proposed repairs, and shall give notice as provided in sections 455.20 to 455.24. If a hearing is required and the estimated cost of the repair exceeds twenty-five thousand dollars, an engineer's report or a report from the soil conservation district conservationist shall be presented at the hearing. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At such the hearing the board shall hear objections to the feasibility of such the proposed repairs, and following the hearing the board shall order made such that the repairs as it deems desirable and feasible be made. Any interested party shall have the right of appeal from such orders in the manner provided in this chapter.

d. The right of remonstrance ~~shall~~ does not apply to repairs as defined in this section.

2. In the case of minor repairs, or in the eradication of brush and weeds along the open ditches, not in excess of one five thousand dollars where the board finds that ~~the same will result in~~ a saving to the district will result it may cause the ~~same~~ repairs or eradication to be done by secondary road equipment, or weed fund equipment, and labor of the county and then reimburse the secondary road fund or the weed fund from the fund of the drainage district thus benefited.

4. For the purpose of this subsection, an "improvement" in a drainage or levee district in which any ditch, tile drain or other facility has previously been constructed is a project intended to expand, enlarge or otherwise increase the capacity of any existing ditch, drain or other facility above that for which it was designed.

a. When the board determines that improvements, ~~which differ from the repairs referred to in the preceding paragraphs,~~ are necessary or desirable, it shall appoint an

engineer to make ~~such~~ surveys as seem appropriate to determine the nature and extent of ~~such the needed~~ improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed five thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements therein, whichever is the greater amount, the board may order the work done without notice. The board shall not divide proposed improvements into separate programs in order to avoid the ~~twenty-five-percent~~ limitation ~~herein-fixed~~ for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds ~~twenty-five-percent-of-the-original-total-cost-of-the-district-and subsequent-improvements-therein~~ that limit, it shall set a date for a hearing on the matter of constructing ~~such the~~ proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of ~~such the proposed~~ improvements, and shall give notice as provided in sections 455.20 to 455.24. At ~~such the~~ hearing the board shall hear objections to the feasibility of ~~such the proposed~~ improvements and ~~such~~ arguments for or against a reclassification ~~as-may-be~~ presented by or for any taxpayer of the district. Following the hearing the board shall order ~~made-such that the~~ improvements as it deems desirable and ~~feasible be made,~~ and shall also determine whether there should be a reclassification of benefits for the cost of ~~such improvement~~ improvements. If it is determined that ~~such a~~ reclassification of benefits should be made the board shall proceed as provided in section 455.45.

~~in-the-event-that b.~~ If the estimated cost of the improvements as ~~contemplated-in-this-section-should-exceed defined in this subsection exceeds twenty thousand dollars,~~ or the original cost of the district plus the cost of subsequent improvements in the district, ~~whichever is the~~ greater amount, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in ~~said~~

~~the~~ district, may file a written remonstrance against ~~said improvement the proposed improvements,~~ at or before the time fixed for hearing on ~~said-improvement the proposed improvements,~~ with the county auditor, or auditors in case the district extends into more than one county. If ~~such a~~ remonstrance is filed, the board shall discontinue and dismiss all further proceedings on ~~said-improvement the proposed improvements~~ and charge the costs incurred to date for ~~said the proposed improvement improvements~~ to the district. Any interested party ~~shall-have-the-right-of~~ may appeal from such orders in the manner provided in this chapter. ~~Provided, however,-that-the-provisions-of~~ However, this section ~~shall does~~ not affect the procedures of section 455.142 covering the common outlet.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 73, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved March 26, 1981

ROBERT D. RAY
Governor