

Reprint 4/10/85

MAR 20 1985

Place On Calendar

HOUSE FILE 678

BY COMMITTEE ON AGRICULTURE

(Formerly House Study Bill 278)

Passed House, Date 4-8-85 (p. 1394) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 96 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

*Motion to reconsider (p. 1467) w/2 4/10/85*

# A BILL FOR

1 An Act relating to drainage and drainage districts.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 678

1 Section 1. Section 455.33, Code 1985, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Following its establishment, the  
4 drainage district is deemed to have acquired by permanent  
5 easement all right-of-way for drainage district ditches, tile  
6 lines, settling basins and other improvements, unless they are  
7 acquired by fee simple, in the dimensions shown on the survey  
8 and report made in compliance with sections 455.17 and 455.18  
9 or as shown on the permanent survey, plat and profile, if one  
10 is made. The permanent easement includes the right of ingress  
11 and egress across adjoining land and the right of access for  
12 maintenance, repair, improvement and inspection.

13 Sec. 2. Section 455.64, subsection 2, Code 1985, is  
14 amended to read as follows:

15 2. To pay such assessments in not less than ten nor more  
16 than twenty equal installments, the number to be fixed by the  
17 board and interest at the rate fixed by the board, not  
18 exceeding that permitted by chapter 74A. ~~One-such-installment~~  
19 ~~shall-be-payable-at-the-September-semiannual-taxpaying-date-in~~  
20 ~~each-year;-provided;-however;-that-the-county-treasurer-shall;~~  
21 ~~at-the-September-semiannual-taxpaying-date;-require-only-the~~  
22 ~~payment-of-a-sufficient-portion-of-the-assessments-to-meet-the~~  
23 ~~interest-and-the-amount-maturing-on-bonds-or-certificates~~  
24 ~~prior-to-the-regular-time-for-the-payment-of-the-second~~  
25 ~~installment-of-taxes-and-the-balance-shall-be-collected-with~~  
26 ~~such-second-installment-and-without-penalty.~~ The first  
27 installment of each assessment, or the total amount if less  
28 than one hundred dollars is due and payable on July 1 next  
29 succeeding the date of the levy, unless the assessment is  
30 filed with the county treasurer after May 31 in any year. The  
31 first installment shall bear interest on the whole unpaid  
32 assessment from the date of acceptance of the work by the  
33 board to the first day of December following the due date.  
34 The succeeding annual installments, with interest on the whole  
35 unpaid amount, to the first day of December following the due

1 date, are respectively due on July 1 annually, and must be  
2 paid at the same time and in the same manner as the September  
3 semiannual payment of ordinary taxes. All future installments  
4 of an assessment may be paid on any date by payment of the  
5 then outstanding balance, plus interest to December 1  
6 following the due date of the next maturing installment. Each  
7 installment of an assessment with interest on the unpaid  
8 balance is delinquent after the thirtieth day of September  
9 next after its due date, and bears the same delinquent  
10 interest with the same penalties as ordinary taxes. When  
11 collected, the interest and penalties must be credited to the  
12 same drainage fund as the drainage special assessment.

13 Sec. 3. Section 455.111, Code 1985, is amended to read as  
14 follows:

15 455.111 COMPLETION OF WORK -- REPORT -- NOTICE.

16 When the work to be done under any contract is completed to  
17 the satisfaction of the engineer in charge of construction,  
18 the engineer shall so report and certify to the board, which  
19 shall fix a day to consider said the report and shall give  
20 notice of the time and purpose of such the meeting by one  
21 ~~publication-in-a-newspaper-of-general-circulation-published-in~~  
22 ~~said-county~~ ordinary mail to the landowners of the district  
23 and the date fixed for considering said the report shall be  
24 not less than five twenty days after the date of such  
25 publication mailing.

26 Sec. 4. NEW SECTION. 455.127A ABANDONED RIGHT-OF-WAY.

27 If a railroad or other utility has abandoned the use of its  
28 right-of-way for the purpose it was originally acquired or has  
29 sold its right-of-way to a person who will use it for a  
30 purpose other than for which it was originally acquired, the  
31 right or privilege of the drainage district to pass through  
32 the right-of-way of the railroad or utility shall become a  
33 permanent easement in favor of the drainage district for  
34 drainage purposes including the right of ingress and egress  
35 through adjacent property and the right of access for

1 maintenance, repair, improvement and inspection. The  
2 permanent easement has the same dimensions as originally  
3 specified in the engineer's report and survey, or as acquired  
4 by use or as subsequently acquired.

5 If a railroad or other utility has abandoned the use of its  
6 right-of-way for the purpose it was originally acquired or has  
7 sold its right-of-way to a person who will use it for a  
8 purpose other than for which it was originally acquired in  
9 segments, each segment shall be assessed for benefits in the  
10 same proportion as the area of the segment bears to the area  
11 of the right-of-way through the forty acre tract.

12 Sec. 5. Section 455.128, Code 1985, is amended by adding  
13 the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. The right of remonstrance, as  
15 provided under section 455.34, does not apply to the owners of  
16 lands being involuntarily annexed to an established district.

17 Sec. 6. Section 455.129, Code 1985, is amended to read as  
18 follows:

19 455.129 PROCEEDINGS ON REPORT.

20 If such the report recommends the annexation of such the  
21 lands or any portion thereof of them, the board shall consider  
22 such the report, plats, and profiles and if satisfied that any  
23 of such the lands are materially benefited by the district and  
24 that such annexation is feasible, expedient, and for the  
25 public good, it shall proceed in all respects as to notice,  
26 hearing, appointment of appraisers to fix damages and as to  
27 hearing thereon on the annexation; and ~~if~~ such the annexation  
28 is finally made, as to classification and assessment of  
29 benefits to the annexed lands only, to the same extent and in  
30 the same manner as provided in the establishment of an  
31 original district. However, the annexation and classification  
32 of the annexed lands for benefits may be determined at one  
33 hearing. Those parties having an interest in the lands  
34 proposed to be annexed ~~shall~~ have the right to receive notice,  
35 to make objections, to file claims for damages, to have

1 hearing, to take appeals and to do all other things to the  
2 same extent and in the same manner as provided in the  
3 establishment of an original district.

4 Sec. 7. Section 455.130, Code 1985, is amended to read as  
5 follows:

6 455.130 LEVY ON ANNEXED LANDS.

7 After ~~such~~ annexation is made the board shall may levy upon  
8 the annexed lands an assessment sufficient to equal the  
9 assessments for benefit originally paid by the lands of equal  
10 classification if the finding by the board as provided by  
11 section 455.128 was that ~~said~~ the lands should have been  
12 included in the district when originally established, plus  
13 their proportionate share of the costs of any enlargement or  
14 extension of drains required to serve the annexed lands. If  
15 the finding of the board as provided in section 455.128 was  
16 based on the fact that additional lands are now benefited by  
17 virtue of the repair, ~~or~~ improvement, or the change of the  
18 topographical conditions made to ~~said~~ the district and were  
19 not benefited by the district as originally established, then  
20 the board shall levy upon ~~said~~ the annexed lands an assessment  
21 sufficient to pay their proportionate share of the costs of  
22 ~~said~~ the repair or improvement which was the basis for the  
23 lands being annexed. If the board finds that the lands are  
24 presently receiving benefits from the district but that some  
25 were reasonably omitted from the original establishment  
26 because of the change of the topographical conditions, the  
27 assessments levied upon the annexed lands shall be limited to  
28 a proportionate share of the costs of current and future  
29 maintenance, repairs and improvements.

30 Sec. 8. Section 455.135, subsection 1, paragraph c, Code  
31 1985, is amended to read as follows:

32 c. If the estimated cost of any repair exceeds ten  
33 thousand dollars, or seventy-five percent of the original  
34 total cost of the district and subsequent improvements,  
35 whichever is the greater amount, the board shall set a date

1 for a hearing on the matter of making the proposed repairs,  
2 and shall give notice as provided in sections 455.20 to  
3 455.24. If a hearing is required and the estimated cost of the  
4 repair exceeds twenty-five thousand dollars, an engineer's  
5 report or a report from the soil conservation district  
6 conservationist shall be presented at the hearing. The  
7 requirement of a report may be waived by the board if a prior  
8 report on the repair exists and that report is less than ten  
9 years old. The board shall not divide proposed repairs into  
10 separate programs in order to avoid the notice and hearing  
11 requirements of this paragraph. At the hearing the board  
12 shall hear objections to the feasibility of the proposed  
13 repairs, and following the hearing the board shall order that  
14 the repairs it deems desirable and feasible be made. Any  
15 interested party ~~shall have~~ has the right of appeal from such  
16 orders in the manner provided in this chapter.

17 Sec. 9. Section 455.135, subsection 8, Code 1985, is  
18 amended to read as follows:

19 8. If the drainage records on file in the auditor's office  
20 for a particular district do not define specifically the land  
21 taken for right of way for drainage purposes, the board may at  
22 any time upon its own motion employ a land surveyor to make a  
23 survey and report of ~~said~~ the district and to actually define  
24 the right of way taken for drainage purposes. After the land  
25 surveyor has filed the survey and report with the board, the  
26 board shall fix a date for hearing on ~~said~~ the report and  
27 shall serve notice of ~~said~~ the hearing upon all landowners and  
28 lienholders of record and occupants of the lands traversed by  
29 ~~said~~ the right of way in the manner and for the time required  
30 for service of original notices in the district court. At the  
31 hearing the board shall specifically define the land taken for  
32 the right-of-way. Once established, the right-of-way  
33 constitutes a permanent easement in favor of the drainage  
34 district for drainage purposes including the right of ingress  
35 and egress across adjoining land and the right of access for

1 maintenance, repair, improvement and inspection. A person  
2 aggrieved by the action or failure to act of the board under  
3 this subsection may appeal only in compliance with sections  
4 455.92 through 455.108.

5 Sec. 10. Section 455.147, Code 1985, is amended to read as  
6 follows:

7 455.147 LEVY UNDER RECLASSIFICATION.

8 If the amount finally charged against a district exceeds  
9 twenty-five percent of the original cost of the improvement,  
10 the board ~~shall~~ may order a reclassification as provided for  
11 the original classification of a district and upon the final  
12 adoption of the new classification and apportionment shall  
13 proceed to levy ~~said~~ that amount upon all lands, highways, and  
14 railway rights of way and property within the district, in  
15 accordance with ~~said~~ the new classification and apportionment.  
16 ~~Any~~ An assessment made under this section on ~~any~~ a tract,  
17 parcel or lot within the district which is computed at less  
18 than two dollars shall be fixed at the sum of two dollars.

19 Sec. 11. Section 462.18, Code 1985, is amended to read as  
20 follows:

21 462.18 CANVASS -- CERTIFICATES OF ELECTION.

22 The canvass of the returns by the board or boards of  
23 supervisors shall be on the next Monday following ~~said~~ the  
24 ~~election and it.~~ election. If the district is in more than one county,  
25 the board of supervisors of the county with the greatest  
26 acreage in the district shall canvass the vote. The board of  
27 supervisors of the other counties in which the district is  
28 located may attend and participate in the canvass of the  
29 returns. It or they shall make a return of the results of  
30 ~~such~~ the canvass to the auditor, who shall issue certificates  
31 to the trustees elected, and when the district extends into  
32 more than one county, then the auditor with whom the election  
33 returns were filed shall issue ~~such~~ the certificates and  
34 certify an abstract of the canvass to each other county in  
35 which the district is located.

1 Sec. 12. Section 467A.4, subsection 4, Code 1985, is  
2 amended by adding the following new lettered paragraph:  
3 NEW LETTERED PARAGRAPH. To establish a position of state  
4 drainage coordinator for drainage districts and drainage and  
5 levee districts which will keep the management of those  
6 districts informed of the activities and experience of all  
7 other such districts and facilitate an interchange of advice,  
8 experience and cooperation among the districts, coordinate by  
9 advice and consultation the programs of the districts, secure  
10 the cooperation and assistance of the United States and its  
11 agencies and of the agencies of this state and other states in  
12 the work of the districts, disseminate information throughout  
13 the state concerning the activities and programs of the dis-  
14 tricts and provide other appropriate assistance to the dis-  
15 tricts.

16 EXPLANATION

17 This bill encompasses some of the recommendations of the  
18 drainage laws study committee.  
19 It allows land which has become benefited by a district  
20 after its establishment as a result of topographical changes  
21 to be annexed and be assessed for any subsequent, but not the  
22 original, improvement, allows one county board of supervisors  
23 to canvass the election of trustees of a district in more than  
24 one county, provides that the right of remonstrance does not  
25 apply to involuntary annexations, allows the waiving of an  
26 engineer's report on a repair if the prior report is less than  
27 ten years old, makes reclassification discretionary when a  
28 lower district charges more than twenty-five percent of the  
29 original cost of the improvement for the improvement of a  
30 common outlet, replaces notice by publication with notice by  
31 certified mail to all the landowners of the time to submit a  
32 claim for damages arising out of the construction of an im-  
33 provement or repair, establishes a staff position in the de-  
34 partment of soil conservation to assist and coordinate  
35 drainage districts, and preserves drainage easements through

1 abandoned railroad and other utility rights-of-way and where  
2 original records have been lost and provides a method for  
3 appeal.

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HOUSE FILE 678

H-3396

1 Amend House File 678 as follows:  
2 1. Page 6, by inserting after line 35 the  
3 following:  
4 "Sec. 12. Section 462.22, Code 1985, is amended to  
5 read as follows:  
6 462.22 ELECTIONS -- HOW CONDUCTED.  
7 After the first election of trustees, the trustees  
8 shall act as judges of election; the however, a  
9 trustee standing for election shall not serve as a  
10 judge and shall be replaced as judge by a person not  
11 standing for election who is eligible to be elected as  
12 a trustee. The clerk of the board shall act as one of  
13 the clerks; and some owner of land in the district  
14 shall be appointed by the board to act as another  
15 clerk. The trustees shall fill all vacancies in the  
16 election board. The result of each election shall be  
17 certified to the auditor or the several county  
18 auditors if the district is located in more than one  
19 county."

H-3396 FILED MARCH 21, 1985 BY SPEAR of Lee  
*Adopted 4/8/85 (p. 1393)*

HOUSE FILE 678

H-3532

1 Amend House File 678 as follows:  
2 1. Page 6, by inserting after line 35 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 465.22, Code 1985, is amended  
5 to read as follows:  
6 465.22 DRAINAGE IN COURSE OF NATURAL DRAINAGE --  
7 RECONSTRUCTION -- DAMAGES.  
8 Owners of land may drain the same in the general  
9 course of natural drainage by constructing or  
10 reconstructing open or covered drains, discharging the  
11 same in any natural watercourse or depression whereby  
12 the water will be carried into some other natural  
13 watercourse, and when such drainage is wholly upon the  
14 owner's land the owner shall not be liable in damages  
15 therefor, nor shall any such for it unless it  
16 increases the quantity of water or changes the manner  
17 of discharge on the land of another. An owner in  
18 constructing a replacement drain, wholly on the  
19 owner's own land, and in the exercise of due care be  
20 is not liable in damages to another in case a  
21 previously constructed drain on the owner's own land  
22 is rendered inoperative or less efficient by such new  
23 drain, unless in violation of the terms of a written  
24 contract. Nothing in this section shall in any manner  
25 be construed to affect the rights or liabilities of  
26 proprietors in respect to running streams."

H-3532 FILED MARCH 28, 1985 BY HANSON of Delaware  
*Law. 4/8 (p. 1393)*

HOUSE FILE

678

BY COMMITTEE ON AGRICULTURE

(As Amended and Passed by the House April 10, 1985)

Re Passed House, Date 4-26-85 (p. 1920) Passed Senate, Date 4-15-85 (p. 1386)

Vote: Ayes 93 Nays 0 Vote: Ayes 40 Nays 4

Approved May 23, 1985

### A BILL FOR

- 1 An Act relating to drainage and drainage districts.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

#### SENATE AMENDMENT TO HOUSE FILE 678

H-3856

- 1 Amend House File 678 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 12, by inserting after the word
- 4 "inspection." the following: "The owner or lessee
- 5 shall be reimbursed for any crop damages incurred in
- 6 the maintenance, repair, improvement and inspection."
- 7 2. Page 2, line 2, by striking the word
- 8 "September" and inserting the word "first".
- 9 3. Page 2, by striking lines 5 and 6 and
- 10 inserting the words "then outstanding balance plus
- 11 interest accrued to the date of payment. Each".
- 12 4. Page 2, line 24, by striking the word "twenty"
- 13 and inserting the following: "ten".
- 14 5. Page 2, line 30, by inserting after the word
- 15 "the" the word "prior".
- 16 6. By renumbering, relettering, or redesignating
- 17 and correcting internal references as necessary.

H-3856 FILED APRIL 17, 1985

RECEIVED FROM THE SENATE

*House concurred 4/26/85 (p. 1920)*

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1 Section 1. Section 455.33, Code 1985, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Following its establishment, the  
4 drainage district is deemed to have acquired by permanent  
5 easement all right-of-way for drainage district ditches, tile  
6 lines, settling basins and other improvements, unless they are  
7 acquired by fee simple, in the dimensions shown on the survey  
8 and report made in compliance with sections 455.17 and 455.18  
9 or as shown on the permanent survey, plat and profile, if one  
10 is made. The permanent easement includes the right of ingress  
11 and egress across adjoining land and the right of access for  
12 maintenance, repair, improvement and inspection.

13 Sec. 2. Section 455.64, subsection 2, Code 1985, is  
14 amended to read as follows:

15 2. To pay such assessments in not less than ten nor more  
16 than twenty equal installments, the number to be fixed by the  
17 board and interest at the rate fixed by the board, not  
18 exceeding that permitted by chapter 74A. ~~One such installment~~  
19 ~~shall be payable at the September semiannual taxpaying date in~~  
20 ~~each year; provided, however, that the county treasurer shall,~~  
21 ~~at the September semiannual taxpaying date, require only the~~  
22 ~~payment of a sufficient portion of the assessments to meet the~~  
23 ~~interest and the amount maturing on bonds or certificates~~  
24 ~~prior to the regular time for the payment of the second~~  
25 ~~installment of taxes and the balance shall be collected with~~  
26 ~~such second installment and without penalty. The first~~  
27 installment of each assessment, or the total amount if less  
28 than one hundred dollars is due and payable on July 1 next  
29 succeeding the date of the levy, unless the assessment is  
30 filed with the county treasurer after May 31 in any year. The  
31 first installment shall bear interest on the whole unpaid  
32 assessment from the date of acceptance of the work by the  
33 board to the first day of December following the due date.  
34 The succeeding annual installments, with interest on the whole  
35 unpaid amount, to the first day of December following the due

1 date, are respectively due on July 1 annually, and must be  
2 paid at the same time and in the same manner as the September  
3 semiannual payment of ordinary taxes. All future installments  
4 of an assessment may be paid on any date by payment of the  
5 then outstanding balance, plus interest to December 1  
6 following the due date of the next maturing installment. Each  
7 installment of an assessment with interest on the unpaid  
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11 collected, the interest and penalties must be credited to the  
12 same drainage fund as the drainage special assessment.

13 Sec. 3. Section 455.111, Code 1985, is amended to read as  
14 follows:

15 455.111 COMPLETION OF WORK -- REPORT -- NOTICE.

16 When the work to be done under any contract is completed to  
17 the satisfaction of the engineer in charge of construction,  
18 the engineer shall so report and certify to the board, which  
19 shall fix a day to consider said the report and shall give  
20 notice of the time and purpose of such the meeting by one  
21 ~~publication-in-a-newspaper-of-general-circulation-published-in~~  
22 ~~said-county~~ ordinary mail to the landowners of the district  
23 and the date fixed for considering said the report shall be  
24 not less than five twenty days after the date of such  
25 publication mailing.

26 Sec. 4. NEW SECTION. 455.127A ABANDONED RIGHT-OF-WAY.

27 If a railroad or other utility has abandoned the use of its  
28 right-of-way for the purpose it was originally acquired or has  
29 sold its right-of-way to a person who will use it for a  
30 purpose other than for which it was originally acquired, the  
31 right or privilege of the drainage district to pass through  
32 the right-of-way of the railroad or utility shall become a  
33 permanent easement in favor of the drainage district for  
34 drainage purposes including the right of ingress and egress  
35 through adjacent property and the right of access for

1 maintenance, repair, improvement and inspection. The  
2 permanent easement has the same dimensions as originally  
3 specified in the engineer's report and survey, or as acquired  
4 by use or as subsequently acquired.

5 If a railroad or other utility has abandoned the use of its  
6 right-of-way for the purpose it was originally acquired or has  
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20 If ~~such~~ the report recommends the annexation of ~~such~~ the  
21 lands or any portion thereof of them, the board shall consider  
22 ~~such~~ the report, plats, and profiles and if satisfied that any  
23 of ~~such~~ the lands are materially benefited by the district and  
24 that ~~such~~ annexation is feasible, expedient, and for the  
25 public good, it shall proceed in all respects as to notice,  
26 hearing, appointment of appraisers to fix damages and as to  
27 hearing ~~thereon~~ on the annexation; and ~~if such~~ the annexation  
28 is finally made, as to classification and assessment of  
29 benefits to the annexed lands only, to the same extent and in  
30 the same manner as provided in the establishment of an  
31 original district. However, the annexation and classification  
32 of the annexed lands for benefits may be determined at one  
33 hearing. Those parties having an interest in the lands  
34 proposed to be annexed shall have the right to receive notice,  
35 to make objections, to file claims for damages, to have

1 hearing, to take appeals and to do all other things to the  
2 same extent and in the same manner as provided in the  
3 establishment of an original district.

4 Sec. 7. Section 455.130, Code 1985, is amended to read as  
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6 455.130 LEVY ON ANNEXED LANDS.

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9 assessments for benefit originally paid by the lands of equal  
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11 section 455.128 was that ~~said~~ the lands should have been  
12 included in the district when originally established, plus  
13 their proportionate share of the costs of any enlargement or  
14 extension of drains required to serve the annexed lands. If  
15 the finding of the board as provided in section 455.128 was  
16 based on the fact that additional lands are now benefited by  
17 virtue of the repair, or improvement, or the change of the  
18 topographical conditions made to ~~said~~ the district and were  
19 not benefited by the district as originally established, then  
20 the board shall levy upon ~~said~~ the annexed lands an assessment  
21 sufficient to pay their proportionate share of the costs of  
22 ~~said~~ the repair or improvement which was the basis for the  
23 lands being annexed. If the board finds that the lands are  
24 presently receiving benefits from the district but that some  
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32 c. If the estimated cost of any repair exceeds ten  
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1 for a hearing on the matter of making the proposed repairs,  
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3 455.24. If a hearing is required and the estimated cost of the  
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24 the right of way taken for drainage purposes. After the land  
25 surveyor has filed the survey and report with the board, the  
26 board shall fix a date for hearing on ~~said~~ the report and  
27 shall serve notice of ~~said~~ the hearing upon all landowners and  
28 lienholders of record and occupants of the lands traversed by  
29 ~~said~~ the right of way in the manner and for the time required  
30 for service of original notices in the district court. At the  
31 hearing the board shall specifically define the land taken for  
32 the right-of-way. Once established, the right-of-way  
33 constitutes a permanent easement in favor of the drainage  
34 district for drainage purposes including the right of ingress  
35 and egress across adjoining land and the right of access for

1 maintenance, repair, improvement and inspection. A person  
2 aggrieved by the action or failure to act of the board under  
3 this subsection may appeal only in compliance with sections  
4 455.92 through 455.108.

5 Sec. 10. Section 455.147, Code 1985, is amended to read as  
6 follows:

7 455.147 LEVY UNDER RECLASSIFICATION.

8 If the amount finally charged against a district exceeds  
9 twenty-five percent of the original cost of the improvement,  
10 the board shall may order a reclassification as provided for  
11 the original classification of a district and upon the final  
12 adoption of the new classification and apportionment shall  
13 proceed to levy ~~said~~ that amount upon all lands, highways, and  
14 railway rights of way and property within the district, in  
15 accordance with ~~said~~ the new classification and apportionment.  
16 Any An assessment made under this section on any a tract,  
17 parcel or lot within the district which is computed at less  
18 than two dollars shall be fixed at the sum of two dollars.

19 Sec. 11. Section 462.18, Code 1985, is amended to read as  
20 follows:

21 462.18 CANVASS -- CERTIFICATES OF ELECTION.

22 The canvass of the returns by the board or boards of  
23 supervisors shall be on the next Monday following ~~said the~~  
24 election and-it. If the district is in more than one county,  
25 the board of supervisors of the county with the greatest  
26 acreage in the district shall canvass the vote. The board of  
27 supervisors of the other counties in which the district is  
28 located may attend and participate in the canvass of the  
29 returns. It or they shall make a return of the results of  
30 such the canvass to the auditor, who shall issue certificates  
31 to the trustees elected, and when the district extends into  
32 more than one county, then the auditor with whom the election  
33 returns were filed shall issue such the certificates and  
34 certify an abstract of the canvass to each other county in  
35 which the district is located.

1 Sec. 12. Section 462.22, Code 1985, is amended to read as  
2 follows:

3 462.22 ELECTIONS -- HOW CONDUCTED.

4 After the first election of trustees, the trustees shall  
5 act as judges of election; the however, a trustee standing for  
6 election shall not serve as a judge and shall be replaced as  
7 judge by a person not standing for election who is eligible to  
8 be elected as a trustee. The clerk of the board shall act as  
9 one of the clerks; and some owner of land in the district  
10 shall be appointed by the board to act as another clerk. The  
11 trustees shall fill all vacancies in the election board. The  
12 result of each election shall be certified to the auditor or  
13 the several county auditors if the district is located in more  
14 than one county.

15 Sec. 13. Section 467A.4, subsection 4, Code 1985, is  
16 amended by adding the following new lettered paragraph:

17 NEW LETTERED PARAGRAPH. To establish a position of state  
18 drainage coordinator for drainage districts and drainage and  
19 levee districts which will keep the management of those  
20 districts informed of the activities and experience of all  
21 other such districts and facilitate an interchange of advice,  
22 experience and cooperation among the districts, coordinate by  
23 advice and consultation the programs of the districts, secure  
24 the cooperation and assistance of the United States and its  
25 agencies and of the agencies of this state and other states in  
26 the work of the districts, disseminate information throughout  
27 the state concerning the activities and programs of the dis-  
28 tricts and provide other appropriate assistance to the dis-  
29 tricts.

30  
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32  
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S-3713

HOUSE FILE 678

- 1 Amend House File 678 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 24, by striking the word "twenty"
- 4 and inserting the following: "ten".

S-3713 Filed April 11, 1985

By WALDSTEIN

*Adopted 4/15/85 (p. 1354)*

S-3743

HOUSE FILE 678

- 1 Amend House File 678 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 30, by inserting after the word
- 4 "the" the word "prior".
- 5 2. Page 2, line 32, by striking the word "become"
- 6 and inserting the words "continue to be".

S-3743 Filed April 15, 1985

By SMALL

*A-Adopted 4/15 (p. 1374)*  
*B. Lost*

S-3745

HOUSE FILE 678

- 1 Amend House File 678 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 12, by inserting after the word
- 4 "inspection." the following: "The owner or lessee
- 5 shall be reimbursed for any crop damages incurred in
- 6 the maintenance, repair, improvement and inspection."
- 7 2. Page 2, line 2, by striking the word
- 8 "September" and inserting the word "first".
- 9 3. Page 2, by striking lines 5 and 6 and
- 10 inserting the words "then outstanding balance plus
- 11 interest accrued to the date of payment. Each".

S-3745 Filed April 15, 1985

By WALDSTEIN & PRIEBE

*Adopted 4/15 (p. 1374)*

HOUSE FILE 678

AN ACT

RELATING TO DRAINAGE AND DRAINAGE DISTRICTS.

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

Section 1. Section 455.33, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Following its establishment, the drainage district is deemed to have acquired by permanent easement all right-of-way for drainage district ditches, tile lines, settling basins and other improvements, unless they are acquired by fee simple, in the dimensions shown on the survey and report made in compliance with sections 455.17 and 455.18 or as shown on the permanent survey, plat and profile, if one is made. The permanent easement includes the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement and inspection. The owner or lessee shall be reimbursed for any crop damages incurred in the maintenance, repair, improvement and inspection.

Sec. 2. Section 455.64, subsection 2, Code 1985, is amended to read as follows:

2. To pay such assessments in not less than ten nor more than twenty equal installments, the number to be fixed by the board and interest at the rate fixed by the board, not exceeding that permitted by chapter 74A. ~~One such installment shall be payable at the September semiannual taxpaying date in each year; provided, however, that the county treasurer shall, at the September semiannual taxpaying date, require only the payment of a sufficient portion of the assessments to meet the interest and the amount maturing on bonds or certificates prior to the regular time for the payment of the second installment of taxes and the balance shall be collected with such second installment and without penalty. The first~~

installment of each assessment, or the total amount if less than one hundred dollars is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the board to the first day of December following the due date. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the first semiannual payment of ordinary taxes. All future installments of an assessment may be paid on any date by payment of the then outstanding balance plus interest accrued to the date of payment. Each installment of an assessment with interest on the unpaid balance is delinquent after the thirtieth day of September next after its due date, and bears the same delinquent interest with the same penalties as ordinary taxes. When collected, the interest and penalties must be credited to the same drainage fund as the drainage special assessment.

Sec. 3. Section 455.111, Code 1985, is amended to read as follows:

455.111 COMPLETION OF WORK -- REPORT -- NOTICE.

When the work to be done under any contract is completed to the satisfaction of the engineer in charge of construction, the engineer shall so report and certify to the board, which shall fix a day to consider said the report and shall give notice of the time and purpose of such the meeting by one publication in a newspaper of general circulation published in said county ordinary mail to the landowners of the district and the date fixed for considering said the report shall be not less than five ten days after the date of such publication mailing.

Sec. 4. NEW SECTION. 455.127A ABANDONED RIGHT-OF-WAY.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired, the prior right or privilege of the drainage district to pass through the right-of-way of the railroad or utility shall become a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress through adjacent property and the right of access for maintenance, repair, improvement and inspection. The permanent easement has the same dimensions as originally specified in the engineer's report and survey, or as acquired by use or as subsequently acquired.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired in segments, each segment shall be assessed for benefits in the same proportion as the area of the segment bears to the area of the right-of-way through the forty-acre tract.

Sec. 5. Section 455.128, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The right of remonstrance, as provided under section 455.34, does not apply to the owners of lands being involuntarily annexed to an established district.

Sec. 6. Section 455.129, Code 1985, is amended to read as follows:

455.129 PROCEEDINGS ON REPORT.

If such the report recommends the annexation of such the lands or any portion thereof of them, the board shall consider such the report, plats, and profiles and if satisfied that any of such the lands are materially benefited by the district and that such annexation is feasible, expedient, and for the public good, it shall proceed in all respects as to notice, hearing, appointment of appraisers to fix damages and as to

hearing thereon on the annexation; and if such the annexation is finally made, as to classification and assessment of benefits to the annexed lands only, to the same extent and in the same manner as provided in the establishment of an original district. However, the annexation and classification of the annexed lands for benefits may be determined at one hearing. Those parties having an interest in the lands proposed to be annexed shall have the right to receive notice, to make objections, to file claims for damages, to have hearing, to take appeals and to do all other things to the same extent and in the same manner as provided in the establishment of an original district.

Sec. 7. Section 455.130, Code 1985, is amended to read as follows:

455.130 LEVY ON ANNEXED LANDS.

After such annexation is made the board shall may levy upon the annexed lands an assessment sufficient to equal the assessments for benefit originally paid by the lands of equal classification if the finding by the board as provided by section 455.128 was that said the lands should have been included in the district when originally established, plus their proportionate share of the costs of any enlargement or extension of drains required to serve the annexed lands. If the finding of the board as provided in section 455.128 was based on the fact that additional lands are now benefited by virtue of the repair, or improvement, or the change of the topographical conditions made to said the district and were not benefited by the district as originally established, then the board shall levy upon said the annexed lands an assessment sufficient to pay their proportionate share of the costs of said the repair or improvement which was the basis for the lands being annexed. If the board finds that the lands are presently receiving benefits from the district but that some were reasonably omitted from the original establishment because of the change of the topographical conditions, the

assessments levied upon the annexed lands shall be limited to a proportionate share of the costs of current and future maintenance, repairs and improvements.

Sec. 8. Section 455.135, subsection 1, paragraph c, Code 1985, is amended to read as follows:

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, whichever is the greater amount, the board shall set a date for a hearing on the matter of making 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 requirement of a report may be waived by the board if a prior report on the repair exists and that report is less than ten years old. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At the hearing the board shall hear objections to the feasibility of the proposed repairs, and following the hearing the board shall order that the repairs it deems desirable and feasible be made. Any interested party shall have has the right of appeal from such orders in the manner provided in this chapter.

Sec. 9. Section 455.135, subsection 8, Code 1985, is amended to read as follows:

8. If the drainage records on file in the auditor's office for a particular district do not define specifically the land taken for right of way for drainage purposes, the board may at any time upon its own motion employ a land surveyor to make a survey and report of said the district and to actually define the right of way taken for drainage purposes. After the land surveyor has filed the survey and report with the board, the board shall fix a date for hearing on said the report and

shall serve notice of said the hearing upon all landowners and lienholders of record and occupants of the lands traversed by said the right of way in the manner and for the time required for service of original notices in the district court. At the hearing the board shall specifically define the land taken for the right-of-way. Once established, the right-of-way constitutes a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement and inspection. A person aggrieved by the action or failure to act of the board under this subsection may appeal only in compliance with sections 455.92 through 455.108.

Sec. 10. Section 455.147, Code 1985, is amended to read as follows:

455.147 LEVY UNDER RECLASSIFICATION.

If the amount finally charged against a district exceeds twenty-five percent of the original cost of the improvement, the board shall may order a reclassification as provided for the original classification of a district and upon the final adoption of the new classification and apportionment shall proceed to levy said that amount upon all lands, highways, and railway rights of way and property within the district, in accordance with said the new classification and apportionment. Any An assessment made under this section on any a tract, parcel or lot within the district which is computed at less than two dollars shall be fixed at the sum of two dollars.

Sec. 11. Section 462.18, Code 1985, is amended to read as follows:

462.18 CANVASS -- CERTIFICATES OF ELECTION.

The canvass of the returns by the board or boards of supervisors shall be on the next Monday following said the election and it. If the district is in more than one county, the board of supervisors of the county with the greatest acreage in the district shall canvass the vote. The board of

supervisors of the other counties in which the district is located may attend and participate in the canvass of the returns. It or they shall make a return of the results of such the canvass to the auditor, who shall issue certificates to the trustees elected, and when the district extends into more than one county, then the auditor with whom the election returns were filed shall issue such the certificates and certify an abstract of the canvass to each other county in which the district is located.

Sec. 12. Section 462.22, Code 1985, is amended to read as follows:

462.22 ELECTIONS -- HOW CONDUCTED.

After the first election of trustees, the trustees shall act as judges of election; the however, a trustee standing for election shall not serve as a judge and shall be replaced as judge by a person not standing for election who is eligible to be elected as a trustee. The clerk of the board shall act as one of the clerks; and some owner of land in the district shall be appointed by the board to act as another clerk. The trustees shall fill all vacancies in the election board. The result of each election shall be certified to the auditor or the several county auditors if the district is located in more than one county.

Sec. 13. Section 467A.4, subsection 4, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. To establish a position of state drainage coordinator for drainage districts and drainage and levee districts which will keep the management of those districts informed of the activities and experience of all other such districts and facilitate an interchange of advice, experience and cooperation among the districts, coordinate by advice and consultation the programs of the districts, secure the cooperation and assistance of the United States and its agencies and of the agencies of this state and other states in the work of the districts, disseminate information throughout

the state concerning the activities and programs of the districts and provide other appropriate assistance to the districts.

\_\_\_\_\_  
DONALD D. AVENSON  
Speaker of the House

\_\_\_\_\_  
ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 678, Seventy-first General Assembly.

\_\_\_\_\_  
JOSEPH O'HERN  
Chief Clerk of the House

Approved May 23, 1985

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor