

MAR 4 1996
Place On Calendar

HOUSE FILE **2425**
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 704)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to drainage district bid bonds, assessment
2 payments, subdistricts, and drainage discharge liability.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2425

H-5201

- 1 Amend House File 2425 as follows:
- 2 1. By striking page 3, line 29, through page 4,
- 3 line 12.
- 4 2. By renumbering as necessary.

By WITT of Black Hawk

H-5201 FILED MARCH 5, 1996

Lost 3-11-96 (P. 620)

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HF 2425

1 Section 1. Section 468.34, Code 1995, is amended to read
2 as follows:

3 468.34 ADVERTISEMENT FOR BIDS.

4 The board shall publish notice once each week for two
5 consecutive weeks in a newspaper published in the county where
6 the improvement is located, and publish additional
7 advertisement and publication elsewhere as the board may
8 direct. The notice shall state the time and place of letting
9 the work of construction of the improvement, specifying the
10 approximate amount of work to be done in each numbered section
11 of the district, the time fixed for the commencement, and the
12 time of the completion of the work, that bids will be received
13 on the entire work and in sections or divisions of it, and
14 that a bidder will be required to deposit with the bid cash, a
15 bid bond, a certified check on and certified by a bank in
16 Iowa, or a certified share draft from a credit union in Iowa
17 payable to the auditor or the auditor's order, at the
18 auditor's office, in an amount equal to ten percent of the
19 bid, in no case to exceed ten thousand dollars. If the
20 estimated cost of the improvement exceeds fifteen thousand
21 dollars, the board may make additional publication for two
22 consecutive weeks in a contractors' journal of general
23 circulation, giving only the type of proposed construction or
24 repairs, estimated amount, date of letting, amount of bidder's
25 bond, and name and address of the county auditor. All notices
26 shall fix the date to which bids will be received and upon
27 which the work will be let. However, when the estimated cost
28 of the improvement is less than ten thousand dollars, the
29 board may let the contract for the construction without taking
30 bids and without publishing notice.

31 Sec. 2. Section 468.57, subsection 2, unnumbered paragraph
32 1, Code Supplement 1995, is amended to read as follows:

33 To pay the assessments in not less than ten nor more than
34 twenty equal installments, with the number of payments and
35 interest rate determined by the board, notwithstanding chapter

1 74A. The first installment of each assessment, or the total
2 amount if less than one hundred dollars, is due and payable on
3 July 1 next succeeding the date of the levy, unless the
4 assessment is filed with the county treasurer after May 31 in
5 any year. The first installment shall bear interest on the
6 whole unpaid assessment from the date of the levy as set by
7 the board to the first day of December following the due date.
8 The succeeding annual installments, with interest on the whole
9 unpaid amount, to the first day of December following the due
10 date, are respectively due on July 1 annually, and must be
11 paid at the same time and in the same manner as the first
12 semiannual payment of ordinary taxes. All future installments
13 of an assessment may be paid on any date by payment of the
14 then outstanding balance plus interest accrued-to-the-date-of
15 payment to the next December 1, or additional annual
16 installments may be paid after the current installment has
17 been paid before December 1 without interest. A payment must
18 be for the full amount of the next installment. If
19 installments remain to be paid, the next annual installment
20 with interest added to December 1 shall be due. After
21 December 1, if a drainage assessment is not delinquent, a
22 property owner may pay one-half or all of the next annual
23 installment of principal and interest of a drainage assessment
24 prior to the delinquency date of the installment. When the
25 next installment has been paid in full, successive principal
26 installments may be prepaid. The county treasurer shall
27 accept the payments of the drainage assessment, and shall
28 credit the next annual installment or future installments of
29 the drainage assessment to the extent of the payment or
30 payments, and shall remit the payments to the drainage fund.
31 If a property owner elects to pay one or more principal
32 installments in advance, the pay schedule shall be advanced by
33 the number of principal installments prepaid. Each
34 installment of an assessment with interest on the unpaid
35 balance is delinquent from October 1 after its due date,

1 ~~including these instances when the last day of September is a~~
2 ~~Saturday or Sunday, unless the last day of September is a~~
3 ~~Saturday or Sunday, in which case the installment becomes~~
4 ~~delinquent from the following Tuesday, and bears the same~~
5 delinquent interest as ordinary taxes. When collected, the
6 interest must be credited to the same drainage fund as the
7 drainage special assessment.

8 Sec. 3. Section 468.63, Code 1995, is amended to read as
9 follows:

10 468.63 DRAINAGE SUBDISTRICT.

11 After the establishment of a drainage district, a person
12 owning land within the district which has been assessed for
13 benefits, but which is separated from the main ditch, drain,
14 or watercourse for which it has been so assessed, by the land
15 of others, who desires a ditch or drain constructed from the
16 person's land across the land of the others in order to
17 connect with the main ditch, drain, or watercourse, and is
18 unable to agree with the intervening owners on the terms and
19 conditions on which the person may enter upon their lands and
20 cause to be constructed the connecting drain or ditch, may
21 file a petition for the establishment of a subdistrict and
22 ~~shall give notice of the filing of the petition to each person~~
23 ~~whose land may be included in the subdistrict or may be~~
24 ~~assessed in the subdistrict in the manner provided by sections~~
25 ~~468.14 through 468.18 for the notice of the hearing and have~~
26 ~~proofs on file before the appointment of the engineer, if one~~
27 ~~is appointed.~~ Thereafter, the proceedings shall be the same
28 as provided for the establishment of an original district.

29 Sec. 4. Section 468.621, Code 1995, is amended to read as
30 follows:

31 468.621 DRAINAGE IN COURSE OF NATURAL DRAINAGE --
32 RECONSTRUCTION -- DAMAGES.

33 Owners of land may drain the land in the general course of
34 natural drainage by constructing or reconstructing open or
35 covered drains, discharging the drains in any natural

1 watercourse or depression so the water will be carried into
2 some other natural watercourse, and if the drainage is wholly
3 upon the owner's land the owner is not liable in damages for
4 the drainage ~~unless it increases the quantity of water or~~
5 ~~changes the manner of discharge on the land of another.~~ An
6 owner in constructing a replacement drain, wholly on the
7 owner's land, and in the exercise of due care, is not liable
8 in damages to another if a previously constructed drain on the
9 owner's own land is rendered inoperative or less efficient by
10 the new drain, unless in violation of the terms of a written
11 contract. This section does not affect the rights or
12 liabilities of proprietors in respect to running streams.

13 EXPLANATION

14 Section 1 of the bill relates to advertising for bids for
15 contracts to improve, construct, or repair levee or drainage
16 districts. Section 1 provides that a bidder may use a bid
17 bond as security, in an amount equal to 10 percent of the bid
18 or not to exceed \$10,000, for the county which is accepting
19 bids. A bid bond is a type of bond used in public
20 construction projects which is filed at the time of the bid.
21 A bid bond protects the entity of government which is
22 accepting bids in the event that the bidder refuses to enter
23 into a contract after the award of the contract to the bidder.

24 Section 2 relates to installment payments on drainage
25 district assessments. Section 2 amends section 468.57,
26 subsection 2, relating to installment payments on drainage
27 district special assessments to conform to provisions in
28 section 384.65, subsections 2, 3, and 4. Section 2 provides
29 that after the first and succeeding annual installments on
30 assessments are paid, all future installments of assessments
31 add interest to the next December 1 on payments due. However,
32 after an installment that is due is paid, an additional
33 installment may be paid before December 1 without interest.

34 Section 2 also provides that a payment must be for the full
35 amount of the next installment. If installments remain to be

1 paid, the next annual installment with interest added to
 2 December 1 is due. After December 1, if an assessment is not
 3 delinquent, a property owner may pay one-half or all of the
 4 next annual installment of principal and interest of an
 5 assessment prior to the delinquency date of the installment.
 6 When the next installment has been paid in full, successive
 7 principal installments may be prepaid.

8 Section 2 further provides that each installment of an
 9 assessment with interest on the unpaid balance is delinquent
 10 from October 1 after its due date, unless the last day of
 11 September is a Saturday or Sunday, in which case the
 12 installment becomes delinquent from the following Tuesday.
 13 Existing law provides that such interest on the unpaid balance
 14 is delinquent from October 1 after its due date, including
 15 those instances when the last day of September is a Saturday
 16 or Sunday.

17 Section 3 eliminates the provision of existing law which
 18 requires a property owner, not the drainage district, who is
 19 filing a petition to establish a subdistrict, to give notice
 20 of the filing of the petition to each person whose land may be
 21 included in the subdistrict or may be assessed in the
 22 subdistrict.

23 Section 4 eliminates the provision holding an owner of land
 24 liable if changes to drainage wholly upon the owner's land
 25 increase the quantity of water or change the manner of
 26 discharge on the land of another.

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HSB 704

LOCAL GOVERNMENT

Succeeded By

HOUSE FILE

SF (HF) 2425

BY (PROPOSED COMMITTEE ON LOCAL GOVERNMENT BILL BY CHAIRPERSON VANDE HOEF)

Merty che
Arnold
Vande Hoef

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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