

House File 2246 - Introduced

**HOUSE FILE 2246
BY MERTZ**

A BILL FOR

- 1 An Act providing for restorations and repairs of damages to
- 2 drainage or levee district improvements.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 468.149, Code 2009, is amended to read
2 as follows:

3 **468.149 Obstructing or damaging improvements.**

4 1. Any A person or persons who without legal
5 authority willfully damages an improvement, including
6 by diverting, obstructing, impeding, or filling up, without
7 legal authority, any ditch, drain, or watercourse or breaking
8 down or injuring any levee or the bank of any settling basin,
9 established, constructed, and maintained under any provision
10 of law, or obstructing, who without legal authority willfully
11 obstructs or engaging engages in travel or agricultural
12 practices upon the improvement or rights of way of a levee or
13 drainage district which the governing body thereof has, by
14 resolution, determined to be injurious to such improvement
15 or to interfere with its proper preservation, operation or
16 maintenance, and has prohibited, shall be deemed is guilty of a
17 serious misdemeanor and any such unlawful. In addition, the
18 person's act as above described is hereby declared to be a
19 nuisance and may be abated as such.

20 2. Said The governing body shall also have the power to
21 repair of the levee or drainage district may make restorations
22 for repairs to any ditch, drain or watercourse, or any levee or
23 bank of any settling basin improvement damaged or obstructed by
24 any a person or persons in violation of the resolution of said
25 governing body, after three days' as described in subsection
26 l. The governing body shall first provide the person notice
27 to such person or persons to make such repair, in the event
28 that there is a failure to do so, and the expense thereof of
29 the necessary restorations or repairs. The person shall make
30 the restorations or repairs within forty-five days after the
31 governing body delivers the notice. The person shall also
32 provide a written certification from a licensed engineer to the
33 governing body as it requires to ensure that the restorations
34 or repairs were done in conformity with applicable drainage
35 standards. If the person fails to make the restorations or

1 repairs as required in this subsection, the governing body may
2 make the restorations or repairs. In that case, the person
3 is liable for the reasonable costs incurred by the governing
4 body in making the restorations or repairs. In addition, the
5 person is also liable for any attorney fees and engineering
6 fees incurred by the governing body as a result of the person's
7 conduct. The amount shall be assessed to such person or
8 persons and shall be certified and, placed on the tax books,
9 and collected with interest and penalties after due, in the
10 same manner as other property taxes.

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EXPLANATION

12 This bill applies when a person damages a levee or drainage
13 district improvement. Currently, the person causing the damage
14 is liable for making a repair after being provided three days'
15 notice by the district's governing body (e.g., the county
16 board of supervisors). After that, the governing body may
17 make the repairs and assess the person the costs collectable
18 as other property taxes. Under the bill, a person must make
19 restorations or repairs as required by the governing body,
20 within 45 days after the governing body delivers the notice and
21 provide proof to the governing body from a licensed engineer
22 that the repairs or restorations were made in conformance
23 with drainage standards. The person is liable for the costs
24 incurred by the governing body in making the restorations
25 or repairs. In addition, the person is also liable for any
26 attorney fees and engineering fees incurred by the governing
27 body as a result of the person's conduct.