

Senate File 2203 - Introduced

SENATE FILE 2203

BY BROWN

A BILL FOR

1 An Act relating to the management of drainage or levee
2 districts, by providing for making repairs or constructing
3 improvements within a district.

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

1 Section 1. Section 468.126, subsection 1, paragraphs b, c,
2 and d, Code 2020, are amended to read as follows:

3 b. (1) The board ~~may at any time obtain~~ shall not
4 order an engineer's report be prepared and submitted to the
5 board regarding a repair, unless the board makes an initial
6 determination of the repair's estimated cost. The board may
7 adjust its initial determination at any time.

8 (a) The board shall order the report based on an estimated
9 cost that exceeds three hundred fifty thousand dollars.

10 (b) The board may order the report based on an estimated
11 cost that exceeds two hundred fifty thousand dollars but does
12 not exceed three hundred fifty thousand dollars.

13 (c) The board shall not order the report based on an
14 estimated cost that does not exceed two hundred fifty thousand
15 dollars.

16 (2) Notwithstanding subparagraph (1), the board may order
17 the report prepared by a soil and water conservation district
18 conservationist in lieu of an engineer.

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

30 c. (1) ~~If the estimated cost of the repair does not exceed~~
31 The board shall hold a hearing regarding a repair, if the
32 estimated cost of the repair exceeds fifty thousand dollars.
33 The estimated cost of the repair shall be based on the board's
34 last determination, unless a report is ordered pursuant to
35 paragraph "b". In that case, the estimated cost shall be based

1 on the estimate in the report. If the estimated cost of the
2 repair does not exceed fifty thousand dollars, the board may
3 order the work done without conducting a hearing on the matter.
4 ~~Otherwise, the~~

5 (2) The board shall set a date and time for a hearing and
6 provide notice of the hearing to landowners in the district by
7 publication in the same manner as provided in [section 468.15](#).
8 However, if the estimated cost of the repair exceeds the
9 adjusted competitive bid threshold, the board shall provide
10 notice to the landowners pursuant to sections 468.14 through
11 468.18. The board shall not divide a proposed repair into
12 separate programs in order to avoid the notice and hearing
13 requirements of this paragraph.

14 ~~d. If a hearing is required under paragraph "c", the board~~
15 ~~shall order an engineer's report or a report from the soil~~
16 ~~and water conservation district conservationist regarding the~~
17 ~~matter to be presented at the hearing. The board may waive the~~
18 report requirement if a prior report on the repair exists and
19 that report is less than ten years old. At the hearing, the
20 board shall hear objections to the feasibility of making the
21 proposed repair.

22 Sec. 2. Section 468.126, subsection 4, paragraphs b and c,
23 Code 2020, are amended to read as follows:

24 ~~b. (1) When the~~ The board shall not order an improvement
25 be constructed unless the board determines that an improvement
26 is necessary or desirable, and feasible, the. The board shall
27 not order an engineer's report be prepared and submitted to
28 the board regarding an improvement, unless the board makes an
29 initial determination of the improvement's estimated cost. The
30 board may adjust its initial determination at any time.

31 (a) The board shall order the report based on an estimated
32 cost that exceeds three hundred fifty thousand dollars.

33 (b) The board may order the report based on an estimated
34 cost that exceeds two hundred fifty thousand dollars but does
35 not exceed three hundred fifty thousand dollars.

1 (c) The board shall not order a report based on an estimated
2 cost that does not exceed two hundred fifty thousand dollars.

3 (2) If the board orders a report, it shall appoint an
4 engineer to make surveys as seem appropriate to determine the
5 nature and extent of the improvement, and to file a report
6 showing what improvement is recommended and its estimated cost,
7 which report may be amended before final action.

8 ~~c. If the estimated cost of the improvement does not exceed~~
9 The board shall hold a hearing regarding an improvement, if
10 the estimated cost of the improvement exceeds fifty thousand
11 dollars. ~~The estimated cost of the improvement shall be based~~
12 on the board's last determination, unless a report is ordered
13 pursuant to paragraph "b". In that case, the estimated cost
14 shall be based on the estimate in the report. If the estimated
15 cost of the improvement does not exceed fifty thousand dollars,
16 the board may order the work done without conducting a hearing
17 on the matter. ~~Otherwise, the~~

18 (1) The board shall set a date and time for a hearing on
19 whether to construct the proposed improvement and whether there
20 shall be a reclassification of benefits for the cost of the
21 proposed improvement.

22 ~~(1)~~ (a) The board shall provide notice to landowners in
23 the district by publication in the same manner as provided
24 in [section 468.15](#). However, if the estimated cost of the
25 improvement exceeds the adjusted competitive bid threshold,
26 the board shall provide notice to the landowners pursuant to
27 sections 468.14 through 468.18.

28 (b) Notwithstanding subparagraph division (a), and in lieu
29 of publishing the notice, the board may mail a copy of the
30 notice to each address where a landowner within the district
31 resides by first class mail if the cost of mailing is less
32 than publication of the notice. The mailing shall be made
33 during the time the notice would otherwise be required to be
34 published.

35 (2) The board shall not divide proposed improvements into

1 separate programs in order to avoid compliance with this
2 paragraph "c".

3

EXPLANATION

4

The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

5

6 This bill amends Code chapter 468 by providing for repairs
7 made and improvements constructed to a drainage or levee
8 district (district) as ordered by a board managing the district
9 (board). The bill provides that before ordering a report from
10 a civil or drainage engineer or soil and water conservation
11 district conservationist regarding a proposed repair or
12 ordering a report from an engineer regarding a proposed
13 improvement, the board must make a determination regarding
14 its estimated cost. The board is required to order a report,
15 is provided discretion to order a report, or is prohibited
16 from ordering a report, based on that estimate. The board's
17 estimate is also used to determine whether to conduct a hearing
18 of landowners regarding the matter.

19 BACKGROUND. Generally, there are two types of projects
20 authorized under Code chapter 468, a repair which refers to
21 restoring a facility to its original design or efficiency
22 and an improvement which enhances or enlarges the district's
23 facility. A board determines whether to conduct a hearing
24 of landowners regarding a repair or improvement based on the
25 project's estimated cost as provided in the report. A hearing
26 is required if the estimated cost of the repair or improvement
27 exceeds \$50,000. In that case, the report is presented at
28 the hearing. There are several types of boards that may have
29 jurisdiction to decide whether or not to order a repair or
30 improvement, including a board of supervisors, a joint board of
31 supervisors, or an elected board of trustees.