

**Senate File 500 - Introduced**

SENATE FILE 500

BY GUTH

**A BILL FOR**

1 An Act relating to the establishment, repair, and improvement  
2 of drainage and levee districts, including by requiring  
3 proof of professional liability insurance by civil engineers  
4 and providing for rights of landowners.

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

DIVISION I

REQUIREMENTS FOR ENGINEERS

1  
2  
3 Section 1. Section 468.10, subsection 1, Code 2021, is  
4 amended to read as follows:

5 1. The board shall at its first session thereafter, regular,  
6 special, or adjourned, examine the petition and if it be found  
7 sufficient in form and substance, shall appoint a disinterested  
8 and competent civil engineer ~~who shall give bond to the county~~  
9 ~~for the use of the proposed levee or drainage district, if it~~  
10 ~~be established, and if not established, for the use of the~~  
11 ~~petitioners, in amount and with sureties to be approved by~~  
12 ~~the auditor, and conditioned for the faithful and competent~~  
13 ~~performance of the engineer's duties.~~ The engineer shall  
14 provide the board proof of professional liability insurance  
15 which shall be maintained for an amount of coverage required  
16 by the board.

17 Sec. 2. Section 468.33, Code 2021, is amended to read as  
18 follows:

19 **468.33 Supervising engineer — bond insurance.**

20 Upon the payment or securing of damages, the board shall  
21 appoint a competent civil engineer to have charge of the work  
22 of construction thereof, who shall be required, before entering  
23 upon the work ~~to give a bond to the county for the use and~~  
24 ~~benefit of the levee or drainage district, to be approved by~~  
25 ~~the auditor in such sum as,~~ to provide to the board proof of  
26 professional liability insurance which shall be maintained  
27 for an amount of coverage required by the board ~~may fix,~~  
28 ~~conditioned for the faithful discharge of the engineer's~~  
29 ~~duties.~~

30 Sec. 3. Section 468.203, Code 2021, is amended to read as  
31 follows:

32 **468.203 Engineer appointed.**

33 After the filing of the plan contemplated in [section 468.201](#)  
34 the board shall, at its first session thereafter, regular,  
35 special, or adjourned, appoint a disinterested and competent

1 civil or drainage engineer ~~who shall give bond in an amount~~  
2 ~~to be fixed by the board conditioned for the faithful and~~  
3 ~~competent performance of the engineer's duties.~~ The engineer  
4 shall provide the board proof of professional liability  
5 insurance which shall be maintained for an amount of coverage  
6 required by the board.

7 Sec. 4. Section 468.287, Code 2021, is amended to read as  
8 follows:

9 **468.287 Supervising engineer.**

10 At the time of finally establishing the district, the  
11 boards of the several counties, acting jointly, shall employ  
12 a competent civil engineer to have charge and supervision of  
13 the construction of the improvement and they shall fix the  
14 engineer's compensation and ~~the engineer shall, before entering~~  
15 ~~upon said work, give a bond running to the several counties for~~  
16 ~~the use and benefit of the district in the same amounts and of~~  
17 ~~like tenor and effect as is provided in districts wholly within~~  
18 ~~one county.~~ The engineer shall provide the boards proof of  
19 professional liability insurance which shall be maintained for  
20 an amount of coverage required by the boards. A duplicate of  
21 such ~~bond~~ proof shall be filed with the auditor of each of said  
22 counties.

23 DIVISION II

24 COMPETITIVE BIDDING

25 Sec. 5. Section 468.3, subsection 1, Code 2021, is amended  
26 by striking the subsection.

27 Sec. 6. Section 468.3, Code 2021, is amended by adding the  
28 following new subsections:

29 NEW SUBSECTION. 5A. The term "*construction cost*" means  
30 the costs of the materials and labor normally provided and  
31 completed by a contractor under a construction contract secured  
32 by a competitive bid, competitive proposal, or negotiation.

33 NEW SUBSECTION. 6A. The term "*cost of repair*" means the  
34 costs of any repair to an improvement which is subject to  
35 special assessment including but not limited to the same type

1 of costs specified in subsection 6.

2 Sec. 7. Section 468.3, subsection 6, Code 2021, is amended  
3 to read as follows:

4 6. The term "cost of improvements improvement" means the  
5 costs of any improvement which is subject to special assessment  
6 including, but not limited to, the costs of engineering,  
7 preliminary reports, property valuations, regulatory permits,  
8 converted wetland or other mitigation, estimates, plans,  
9 specifications, notices, acquisition of land, easements,  
10 rights-of-way, construction, ~~repair,~~ connection of existing  
11 private tile lines encountered during construction, repairs  
12 or replacements or new installations of all surface water  
13 entry pipes and subsurface drainage outlet pipes on drainage  
14 district open ditches, supervision, inspection, testing,  
15 notices and publication, interest during construction and for  
16 a reasonable period following the completion of construction,  
17 and may include the default fund which shall amount to not more  
18 than ten percent of the total cost of an improvement assessed  
19 against benefited ~~property~~ land.

20 Sec. 8. Section 468.34, Code 2021, is amended to read as  
21 follows:

22 **468.34 Advertisement for competitive bids.**

23 ~~The~~ If the board provides for a competitive bid process as  
24 provided in section 468.35, the board shall publish notice once  
25 each week for two consecutive weeks in a newspaper published  
26 in the county where the improvement is located, and publish  
27 additional advertisement and publication elsewhere as the board  
28 may direct. The notice shall state the time and place of  
29 letting the work of construction of the improvement, specifying  
30 the approximate amount of work to be done in each numbered  
31 section of the district, the time fixed for the commencement,  
32 and the time of the completion of the work, that bids will  
33 be received on the entire work and in sections or divisions  
34 of it, and that a bidder will be required to deposit a bid  
35 security with the county auditor as provided in [section 468.35](#).

1 All notices shall set the date and time that bids will be  
2 received and upon which the work will be let. ~~However, when~~  
3 ~~the estimated cost of the improvement is less than the adjusted~~  
4 ~~competitive bid threshold, the board may let the contract for~~  
5 ~~the construction without taking bids and without publishing~~  
6 ~~notice.~~

7 Sec. 9. Section 468.35, Code 2021, is amended to read as  
8 follows:

9 **468.35 Bids — letting of work — competitive bid process.**

10 1. The board shall award a contract for work ordered by  
11 the board using a competitive bid process as provided in this  
12 section, if any of the following apply:

13 a. The estimated construction cost for work ordered by the  
14 board is one hundred thousand dollars or more under one or more  
15 contracts.

16 b. The board determines that a competitive bid process is  
17 appropriate for the work ordered.

18 2. If awarding a contract using a competitive bid process,  
19 the board shall award the contract or contracts for each  
20 section of the work to the lowest responsible bidder or bidders  
21 therefor, bids to be submitted, received, and acted upon  
22 separately as to the main drain and each of the laterals, and  
23 each settling basin, if any, exercising their own discretion as  
24 to letting such work as to the main drain as a whole, or as to  
25 each lateral as a whole, or by sections as to both main drain  
26 and laterals, and reserving the right to reject any and all  
27 bids and readvertise the letting of the work.

28 ~~2.~~ 3. A bid submitted under subsection 2 shall be in  
29 writing, specifying the portion of the work upon which the  
30 bid is made, and filed with the auditor. The bid shall be  
31 accompanied with a bid security. The bid security shall be  
32 in the form of a deposit of cash, a certified check on and  
33 certified by a bank in Iowa, a certified share draft drawn on  
34 a credit union in Iowa, or a bid bond with a corporate surety  
35 satisfactory to the board as provided in [section 73A.20](#). The

1 bid security must be payable to the auditor or the auditor's  
2 order at the auditor's office in a sum equal to five percent  
3 of the amount of the bid. However, if the maximum limit on a  
4 bid security would cause a denial of funds or services from  
5 the federal government which would otherwise be available,  
6 or if the maximum limit would otherwise be inconsistent with  
7 the requirements of federal law, the maximum limit may be  
8 suspended to the extent necessary to prevent denial of federal  
9 funds or services or to eliminate the inconsistency with  
10 federal requirements. The cash, check, or share draft of an  
11 unsuccessful bidder shall be returned, and the bid bond of an  
12 unsuccessful bidder shall be canceled. The bid security of a  
13 successful bidder shall be maintained as a guarantee that the  
14 bidder will enter into a contract in accordance with the bids.

15 Sec. 10. Section 468.36, Code 2021, is amended to read as  
16 follows:

17 **468.36 Performance Letting of work — competitive bid process**  
18 **— bond — return of deposit.**

19 A If the board awards a contract or contracts for work  
20 ordered by the board using a competitive bid process as  
21 provided in section 468.35, the successful bidder is required  
22 to execute a bond with sureties approved by the auditor in  
23 favor of the county for the use and benefit of the levee or  
24 drainage district and all persons entitled to liens for labor  
25 or material in an amount not less than seventy-five percent of  
26 the contract price of the work to be done, conditioned for the  
27 timely, efficient, and complete performance of the contract,  
28 and the payment, as they become due, of all just claims for  
29 labor performed and material used in carrying out the contract.  
30 When a contract is executed and bond approved by the board, the  
31 cash, certified check, or certified share draft deposited with  
32 the bid shall be returned to the bidder.

33 Sec. 11. Section 468.37, Code 2021, is amended to read as  
34 follows:

35 **468.37 Contracts.**

1 ~~All~~ Except as provided in section 468.37A, agreements  
2 and contracts for work or materials in constructing the  
3 improvements of such district shall be in writing, signed by  
4 the chairperson of the board of supervisors for and on behalf  
5 of the district and the parties who are to perform the work  
6 or furnish the materials specified in such contract. Such  
7 contract shall specify the particular work to be done or  
8 materials to be furnished, the time when it shall begin and  
9 when it shall be completed, the amount to be paid and the times  
10 of payment, liquidated damages for late completed work, with  
11 such other terms and conditions as to details necessary to a  
12 clear understanding of the terms thereof.

13 Sec. 12. NEW SECTION. 468.37A Letting of work without  
14 competitive bid process.

15 1. If the board does not use the competitive bid process  
16 as provided in section 468.35, it may order the work done and  
17 contract with a contractor selected by the board to do the work  
18 without advertising as otherwise required in section 468.34  
19 or requiring the execution of bond as otherwise required in  
20 section 468.36. The board shall not enter into a contract with  
21 a contractor unless the contractor provides proof of liability  
22 insurance acceptable to the board.

23 2. If the estimated construction cost is less than fifty  
24 thousand dollars, the board and the selected contractor shall  
25 enter into a contract which is not required to comply with  
26 section 468.37. The board shall appoint an engineer to oversee  
27 the work. However, if the governing body is a county board of  
28 supervisors, the board may designate the county's secondary  
29 roads department to oversee the work. The board shall make  
30 payment from the drainage fund the full amount necessary to  
31 reimburse the secondary road fund for the full cost of any  
32 equipment and labor provided. The board shall make payment to  
33 the contractor on a lump sum basis if the board approves the  
34 completed work and receives an invoice that does not require  
35 correction. The requirements of sections 468.100 through

1 468.103 do not apply.

2 3. If the estimated construction cost is fifty thousand  
3 dollars or more but less than one hundred thousand dollars,  
4 the board may select two or more qualified contractors to  
5 submit competitive proposals using plans, specifications,  
6 and bid forms prepared by the supervising engineer appointed  
7 under section 468.33. The contract shall provide a contract  
8 completion date and provide for liquidated damages for late  
9 completed work. The board shall make progress payments to the  
10 contractor on a monthly basis, and shall retain ten percent  
11 of the total amount until thirty days after the board has  
12 concluded the project completion hearing and accepted the work  
13 pursuant to section 468.103. The requirements of sections  
14 468.100 through 468.103 apply.

15 Sec. 13. Section 468.100, subsection 2, Code 2021, is  
16 amended to read as follows:

17 2. a. All of the provisions of **this section** shall, when  
18 applicable, apply to repair work and improvement work in the  
19 same force and effect as to original construction.

20 b. This section does not apply if the estimated construction  
21 cost is less than fifty thousand dollars as provided in section  
22 468.37A.

23 Sec. 14. Section 468.101, Code 2021, is amended to read as  
24 follows:

25 **468.101 Completion of work — report — notice.**

26 1. When the work to be done under a contract is completed  
27 to the satisfaction of the engineer in charge of construction,  
28 the engineer shall report and certify that the contract is  
29 completed to the board. Upon receipt of the report, the board  
30 shall set a day to consider the report and shall give notice  
31 of the time and purpose of the meeting by ordinary mail to the  
32 owners of the land on which the work was done, and to the owners  
33 of each tract of land or lot within the district by publication  
34 in a newspaper of general circulation in the county. The  
35 publication is not required to name the owners of any tract of



1 land or lot within the district. The date for considering the  
2 report by the board shall be not less than ten days after the  
3 date of mailing, or publication, whichever is later.

4 2. This section does not apply if the estimated construction  
5 cost is less than fifty thousand dollars as provided in section  
6 468.37A.

7 Sec. 15. Section 468.102, Code 2021, is amended to read as  
8 follows:

9 **468.102 Objections.**

10 1. Any party interested in the said district or the  
11 improvement thereof may file objections to said report  
12 and submit any evidence tending to show said report should  
13 not be accepted. Any interested party having a claim for  
14 damages arising out of the construction of the improvement  
15 or repair shall file said claim with the board at or before  
16 the time fixed for hearing on the completion of the contract,  
17 which claim shall not include any claim for land taken for  
18 right-of-way or for severance of land.

19 2. This section does not apply if the estimated construction  
20 cost is less than fifty thousand dollars as provided in section  
21 468.37A.

22 Sec. 16. Section 468.103, Code 2021, is amended by adding  
23 the following new subsection:

24 NEW SUBSECTION. 3. This section does not apply if the  
25 construction cost is less than fifty thousand dollars as  
26 provided in section 468.37A.

27 Sec. 17. REPEAL. Section 468.66, Code 2021, is repealed.

28 DIVISION III

29 REPAIRS AND IMPROVEMENTS

30 Sec. 18. Section 468.126, subsections 1, 2, 3, and 4, Code  
31 2021, are amended to read as follows:

32 1. When any levee or drainage district has been established  
33 and the improvement constructed, the improvement shall be at  
34 all times under the supervision of the board of supervisors  
35 except as otherwise provided for control and management by a

1 board of trustees ~~and the~~. A board shall keep the improvement  
2 in repair as provided in this section.

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

10 b. In considering a proposed repair to an improvement,  
11 the board shall hold an informational meeting of interested  
12 landowners in the district. An interested landowner includes  
13 the owner of land which may be included in the proposed  
14 benefited area or the proposed area which otherwise may be  
15 subject to special assessment for the proposed repair.

16 (1) The board shall not appoint an engineer to prepare  
17 an engineer's report until after it holds the informational  
18 meeting. However, the board may appoint an engineer to attend  
19 the informational meeting if it determines that the engineer's  
20 involvement may better assist persons in presenting information  
21 or the board in making a decision regarding the proposed  
22 repair.

23 (2) The board shall set a date for the informational meeting  
24 and order the auditor to notify interested landowners of the  
25 informational meeting's location, date, and time by ordinary  
26 mail. The date of the meeting shall not be less than ten days  
27 after the date that the meeting notice is mailed.

28 (3) At the informational meeting, the board shall explain  
29 to interested landowners in attendance the board's process of  
30 ordering the repair and paying for the cost of repair. The  
31 board shall answer all relevant questions and consider all  
32 relevant comments presented at the informational meeting, and  
33 may consider changing the scope of the engineer's study and  
34 report.

35 (4) (a) This paragraph "b" does not apply if the board

1 determines that a repair must be made on an emergency basis or  
2 that the estimated cost of repair is minor.

3 (b) A failure to notify an interested landowner of an  
4 informational meeting under this paragraph "b" is not a basis to  
5 challenge the validity of the informational meeting or a board  
6 action.

7 ~~b.~~ c. The After the informational meeting is held, or if  
8 the board is not required to hold an informational meeting, as  
9 provided in paragraph "b", the board may at any time obtain  
10 appoint an engineer and enter an order for the preparation  
11 of an engineer's report regarding the most feasible means of  
12 repairing a drainage or levee an improvement and the probable  
13 cost of making the repair. The engineer's report shall provide  
14 the estimated cost of repair, the identity of each parcel  
15 in the district to be assessed for the proposed repair, the  
16 identity of eligible parcels in the district that would benefit  
17 from the proposed repair, and the estimated total size of the  
18 affected area in the district that would benefit from the or be  
19 assessed for the proposed repair. The engineer's report shall  
20 be filed with the auditor before the board's action to approve  
21 the report.

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

30 ~~e.~~ (2) (a) If the estimated cost of the repair does not  
31 exceed fifty thousand dollars minimum cost of repair threshold  
32 is satisfied, the board may approve the proposed repair and  
33 order the work done without conducting holding a hearing on the  
34 matter. This paragraph "c" does not restrict the authority  
35 of the board from holding a hearing regardless of the cost of

1 repair in the same manner as a hearing required under this  
2 section.

3 (b) ~~Otherwise,~~ If the board holds a hearing regarding the  
4 proposed repair, the board shall ~~set a~~ schedule the hearing and  
5 order the auditor to send a notice of the hearing to the owners  
6 of the parcels proposed to be subject to a special assessment  
7 for the proposed repair as presented in the engineer's report.  
8 The notice shall state the location, date ~~for a,~~ and time of  
9 the hearing and ~~provide notice of the hearing to landowners in~~  
10 the district by publication in the same manner as. The notice  
11 shall be made as provided in ~~section 468.15~~ sections 468.14  
12 through 468.18. However, if the estimated cost of the repair  
13 exceeds the adjusted competitive bid threshold, the board shall  
14 provide notice to the landowners pursuant to sections 468.14  
15 through 468.18.

16 (c) As used in this subparagraph (2), the minimum cost of  
17 repair threshold is satisfied if the estimated cost of repair  
18 for the estimated total size of the affected area as provided  
19 in the engineer's report provided in this paragraph "c" is less  
20 than the estimated cost of repair according to the following  
21 schedule:

22 (i) If the estimated total size of the affected area in the  
23 district is less than two thousand acres, an estimated cost of  
24 repair of sixty thousand dollars.

25 (ii) If the estimated total size of the affected area in  
26 the district is two thousand acres or more but less than four  
27 thousand acres, an estimated cost of repair of one hundred  
28 twenty thousand dollars.

29 (iii) If the estimated total size of the affected area in  
30 the district is four thousand acres or more but less than eight  
31 thousand acres, an estimated cost of repair of two hundred  
32 thousand dollars.

33 (iv) If the estimated total size of the affected area in the  
34 district is eight thousand acres or more but less than sixteen  
35 thousand acres, an estimated cost of repair of three hundred

1 thousand dollars.

2 (v) If the estimated total size of the affected area in  
3 the district is sixteen thousand acres or more but less than  
4 thirty-two thousand acres, an estimated cost of repair of four  
5 hundred thousand dollars.

6 (vi) If the estimated total size of the affected area in  
7 the district is thirty-two thousand acres or more but less than  
8 sixty-four thousand acres, an estimated cost of repair of five  
9 hundred thousand dollars.

10 (vii) If the estimated total size of the affected area in  
11 the district is sixty-four thousand acres or more, an estimated  
12 cost of the repair of six hundred thousand dollars.

13 (3) The board shall not divide a proposed repair into  
14 separate programs in order to avoid the notice and hearing  
15 requirements of this paragraph "c".

16 ~~d.~~ (4) If a hearing is required to be held under this  
17 paragraph "c", the board shall appoint an engineer and order  
18 an engineer's report or a report from the soil and water  
19 conservation district conservationist regarding the matter to  
20 be presented at the hearing. The board may waive the report  
21 requirement if a prior report on the repair exists and that  
22 report is less than ten years old. However, the engineer  
23 shall review and amend the report as necessary to update  
24 the estimated cost of repair, identify the affected area in  
25 the district that would benefit from or be assessed for the  
26 proposed repair, and identify the estimated total size of the  
27 affected area. At the hearing, the board shall hear consider  
28 facts and recommendations presented at the hearing, including  
29 objections to the feasibility of making the proposed repair.  
30 At any time prior to the final adoption of the plan, the board  
31 may order the plan to be amended.

32 ~~e.~~ d. Following a the conclusion of the hearing, if  
33 required provided in paragraph "c", the board shall determine  
34 whether the proposed repair is necessary or desirable, and  
35 feasible. If the board determines the proposed repair is

1 necessary or desirable, and feasible, it shall order that the  
2 proposed repair be made.

3 ~~f.~~ e. Any interested party has the right of appeal from  
4 ~~such orders~~ an order of the board under this subsection in the  
5 manner provided in this subchapter, parts 1 through 5.

6 ~~g.~~ f. The right of remonstrance does not apply to a repair  
7 as provided in this section.

8 2. In the case of a repair, or the eradication of brush or  
9 weeds along the open ditches, not in excess of ~~the adjusted~~  
10 ~~competitive bid threshold~~ fifty thousand dollars, where the  
11 board finds that a saving to the district will result, the  
12 board may cause the repairs or eradication to be done by  
13 secondary road fund equipment, or weed fund equipment, and  
14 labor of the county and then reimburse the secondary road fund  
15 or the weed fund from the fund of the ~~drainage~~ district thus  
16 benefited.

17 3. When the board deems it necessary ~~it~~, the board may order  
18 the repair or reconstruct the reconstruction of an outlet of  
19 any private tile line which empties into a drainage ditch of  
20 any district and, or may order the repair or reconstruction of  
21 any connection of a private drain tile to a district drain.  
22 The board may charge the cost of repair or reconstruction to  
23 the district. However, if the board determines that the repair  
24 or reconstruction is required due to a failure to construct the  
25 outlet or drain tile in compliance with specifications made by  
26 the board under section 468.140, the board may assess the costs  
27 in each case against the land served by the private tile line  
28 where the repair or reconstruction was made.

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

35 b. (1) When the board determines that ~~an~~ a contemplated

1 improvement is necessary or desirable, and feasible, the board  
2 shall appoint an engineer ~~to make~~ and order the preparation  
3 of an engineer's study and report. The engineer's report  
4 shall include the results of any surveys as seem appropriate  
5 to determine the nature and extent of the improvement, and to  
6 file a report showing what a description of the contemplated  
7 improvement is recommended and its, the estimated construction  
8 cost, which the estimated cost of improvement, the identity  
9 of each parcel in the district that would benefit from the  
10 contemplated improvement, the estimated benefited area in  
11 each parcel, the ownership of each parcel and the estimated  
12 total size of the area in the district that would benefit  
13 from the proposed improvement. The engineer's report may be  
14 amended before the board's final action approving the proposed  
15 improvement. The engineer's report shall be filed with the  
16 auditor.

17 (2) If the board determines that a contemplated improvement  
18 is not to an existing facility of the district or if an  
19 extension of an existing facility is primarily intended to  
20 bring land into the district which is not otherwise benefited  
21 by any other facilities of the district, the board shall  
22 require that the contemplated improvement be pursued as  
23 a new drainage district or as a new subdrainage district.  
24 However, the board shall retain jurisdiction to pursue the  
25 contemplated improvement under this subsection if an owner or  
26 owners of land in the district that would be benefited by the  
27 contemplated improvement file a petition complying with section  
28 468.8 requesting the contemplated improvement and post a bond  
29 complying with section 468.9 conditioned for the payment of  
30 all costs and expenses incurred in the proceedings in case a  
31 contemplated improvement is not approved and constructed.

32 c. Before the engineer begins work, the board shall hold an  
33 informational meeting of interested landowners in the district.  
34 An interested landowner includes the owner of land in the  
35 district which may be included in the proposed benefited area.

1     (1) The board shall set a date for the informational meeting  
2 and order the auditor to notify interested landowners of the  
3 informational meeting's location, date, and time by ordinary  
4 mail. The date of the meeting shall not be less than ten days  
5 after the date that the notice is mailed.

6     (2) At the informational meeting, the board shall explain  
7 to interested landowners in attendance the board's process  
8 of ordering the improvement, assessing benefits of the  
9 improvement, a landowner's right to support or object to the  
10 proposed improvement at a future hearing, and the landowner's  
11 right of remonstrance as provided in this subsection. The  
12 board shall answer all relevant questions and consider all  
13 relevant comments presented at the informational meeting, and  
14 may consider changing the scope of the engineer's study and  
15 report.

16     (3) A failure to notify a landowner of an informational  
17 meeting under this paragraph "c" is not a basis to challenge the  
18 validity of the informational meeting or a board action.

19     d. After the engineer's report is filed with the auditor as  
20 provided in paragraph "c", the board shall consider the report,  
21 order the report to be tentatively approved, with or without  
22 amendment, and order a hearing as follows:

23     e. (1) If the estimated cost of the improvement does not  
24 exceed fifty thousand dollars minimum cost of improvement  
25 threshold is satisfied, the board may approve the proposed  
26 improvement and order the work done without conducting holding  
27 a hearing on the matter. Otherwise, the board shall set a date  
28 for schedule a hearing on regarding the proposed improvement.  
29 This paragraph "d" does not restrict the authority of the board  
30 from holding a hearing regardless of the cost of improvement in  
31 the same manner as for a hearing required under this subsection  
32 except that the right of remonstrance shall not be available.

33     (2) The board shall order the auditor to send a notice of a  
34 hearing held under this subsection to the owners of the land  
35 in the affected area as provided in the engineer's report.



1 The notice shall state the location, date, and time of the  
2 hearing and state that the board shall consider whether to  
3 construct the proposed improvement and whether there shall be  
4 a reclassification of benefits for the cost of the proposed  
5 improvement. The notice shall be made in the same manner as  
6 provided in sections 468.14 through 468.18.

7 ~~(1) (a) The board shall provide notice to landowners in~~  
8 ~~the district by publication in the same manner as provided~~  
9 ~~in [section 468.15](#). However, if the estimated cost of the~~  
10 ~~improvement exceeds the adjusted competitive bid threshold,~~  
11 ~~the board shall provide notice to the landowners pursuant to~~  
12 ~~[sections 468.14 through 468.18](#).~~

13 ~~(b) Notwithstanding subparagraph division (a), and in lieu~~  
14 ~~of publishing the notice, the board may mail a copy of the~~  
15 ~~notice to each address where a landowner within the district~~  
16 ~~resides by first class mail if the cost of mailing is less~~  
17 ~~than publication of the notice. The mailing shall be made~~  
18 ~~during the time the notice would otherwise be required to be~~  
19 ~~published.~~

20 (3) As used in this paragraph "d", the minimum cost of  
21 improvement threshold is satisfied if the estimated cost of  
22 improvements for the estimated total size of the affected  
23 area in the district as provided in the engineer's report is  
24 less than the estimated cost of improvement according to the  
25 following schedule:

26 (a) If the estimated total size of the affected area in the  
27 district is less than two thousand acres, an estimated cost of  
28 improvement of thirty thousand dollars.

29 (b) If the estimated total size of the affected area in  
30 the district is two thousand acres or more but less than four  
31 thousand acres, an estimated cost of improvement of sixty  
32 thousand dollars.

33 (c) If the estimated total size of the affected area in the  
34 district is four thousand acres or more but less than eight  
35 thousand acres, an estimated cost of improvement of one hundred

1 thousand dollars.

2 (d) If the estimated total size of the affected area in the  
3 district is eight thousand acres or more but less than sixteen  
4 thousand acres, an estimated cost of improvement of one hundred  
5 fifty thousand dollars.

6 (e) If the estimated total size of the affected area in  
7 the district is sixteen thousand acres or more but less than  
8 thirty-two thousand acres, an estimated cost of improvement of  
9 two hundred thousand dollars.

10 (f) If the estimated total size of the affected area in the  
11 district is thirty-two thousand acres or more but less than  
12 sixty-four thousand acres, an estimated cost of improvement of  
13 two hundred fifty thousand dollars.

14 (g) If the estimated total size of the affected area in the  
15 district is sixty-four thousand acres or more, an estimated  
16 cost of improvement of three hundred thousand dollars.

17 ~~(2)~~ (4) The board shall not divide proposed improvements  
18 into separate programs in order to avoid compliance with this  
19 paragraph "e" subsection.

20 ~~d.~~ (5) At the If a hearing, if required in is to be held  
21 under this paragraph "e" "d", the board shall hear consider  
22 objections to the feasibility of the proposed improvements  
23 improvement and arguments for or against a reclassification  
24 presented by or for any taxpayer of the district. Following  
25 the hearing, the board shall determine whether to approve  
26 the proposed improvement and order that the improvement it  
27 deems necessary or desirable and feasible be made and its  
28 construction. The board shall also determine whether there  
29 should be a reclassification of benefits for the cost of the  
30 improvement. If it is determined that a reclassification of  
31 benefits should be made, the board shall proceed as provided  
32 in [section 468.38](#).

33 e. If the estimated cost of the improvement exceeds  
34 the ~~adjusted competitive bid~~ minimum cost of improvement  
35 threshold, or the original cost of the district plus the cost

1 ~~of subsequent improvements in the district, whichever amount~~  
2 ~~is greater,~~ a majority of the landowners in the district  
3 identified as benefiting from the improvement as provided in  
4 the engineer's report, and owning in the aggregate more than  
5 seventy percent of the total land ~~in the district~~ benefiting  
6 from the improvement, may file a written remonstrance against  
7 the proposed improvement, at or before the date time set for  
8 hearing on the proposed improvement as provided in paragraph  
9 "e" this subsection, with the county auditor, or auditors  
10 in case the district extends into more than one county. If  
11 a remonstrance is filed, the board shall discontinue and  
12 dismiss all further proceedings on the proposed ~~improvements~~  
13 improvement and charge the costs incurred to date for the  
14 proposed ~~improvements~~ improvement to the district.

15 f. Any interested party may appeal from such orders in  
16 the manner provided in this subchapter, parts 1 through 5.  
17 However, this section does not affect the procedures of section  
18 468.132 covering the common outlet.

19 Sec. 19. Section 468.140, Code 2021, is amended to read as  
20 follows:

21 **468.140 Outlet for lateral drains — specifications.**

22 The owner of any premises assessed for the payment of the  
23 costs of location and construction of any ditch, drain or  
24 drain tile, or watercourse as in this subchapter, parts 1  
25 through 5, provided, shall have the right to use the same as  
26 an outlet for lateral drains from the premises. The board of  
27 supervisors shall make specifications covering the manner in  
28 which such lateral drains shall be connected with the main  
29 ditches or other laterals and be maintained, and the owner  
30 shall follow such specifications in making and maintaining any  
31 such connection.

32 EXPLANATION

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

35 GENERAL. Under Code chapter 468, drainage or levee

1 districts are established and managed by different forms of  
2 governing bodies, including a board of supervisors, joint  
3 boards of supervisors governing intercounty districts,  
4 and an elected board of trustees. A board is required to  
5 appoint a civil engineer to establish a district and oversee  
6 work projects in the district. A board may order a repair  
7 to an improvement (to restore or maintain its capacity)  
8 or the construction of an improvement (to expand, enlarge,  
9 or otherwise increase its capacity). Usually, the work is  
10 ordered by the board after a competitive bid process and  
11 after a public hearing of affected landowners. In lieu of  
12 a statutory dollar amount used to determine whether bids are  
13 required to be let under Code chapter 468, the amount may be  
14 set by the vertical infrastructure bid threshold subcommittee  
15 for public improvements established within the department of  
16 transportation (Code sections 314.1B and 468.3).

17 **REQUIREMENTS FOR ENGINEERS.** The bill provides that a  
18 civil engineer appointed by a board is not required to post a  
19 bond but instead must provide proof of professional liability  
20 insurance in an amount required by the board.

21 **COMPETITIVE BID PROCESS.** The bill eliminates the vertical  
22 infrastructure bid threshold used to determine when a board  
23 may order work in the district without using a competitive  
24 bid process. If the estimated construction cost is less than  
25 \$50,000, the board and a contractor selected by the board  
26 may enter into a contract without a competitive bid. The  
27 board must appoint an engineer or the county's secondary roads  
28 department to oversee the work. If the estimated construction  
29 cost is \$50,000 or more but less than \$100,000, the board may  
30 select two or more qualified contractors to submit competitive  
31 proposals using plans, specifications, and bid forms prepared  
32 by a supervising engineer. It also requires that the contract  
33 provide a completion date and liquidated damages for at least  
34 \$100,000. The board is required to make monthly progress  
35 payments to the contractor on a monthly basis and withhold 10

1 percent until completion.

2 REPAIRS AND IMPROVEMENTS. The bill provides that in  
3 considering a proposed repair or improvement, the board must  
4 hold an informational meeting of interested landowners in  
5 the district whose land is affected by the board's action  
6 ordering a repair or improvement. An informational meeting  
7 for a repair is not necessary if the repair must be made due  
8 to an emergency or the costs of the repair are minor. Notice  
9 is sent to affected landowners by ordinary mail. A failure to  
10 notify an interested landowner of the meeting does not confer  
11 any legal right to challenge a board's action. The board is  
12 not required to hold a regular meeting concerning the repair or  
13 improvement if, according to an engineer's report, a minimum  
14 cost threshold of the repair or improvement is satisfied. The  
15 method of calculating the threshold is different for repairs  
16 and improvements. In both cases, it is based on the estimated  
17 total size of the affected area (calculated in acres). For a  
18 proposed repair, this includes all parcels that would benefit  
19 from or be assessed for the proposed repair, and in the case  
20 of a proposed improvement, it includes all parcels that would  
21 benefit from the proposed improvement. In any case, a schedule  
22 is used in which a minimum threshold cost is assigned for each  
23 size category of land. The bill also provides for cases in  
24 which the board determines that a contemplated improvement  
25 is not to an existing facility in the district or it is to  
26 an existing facility but is primarily intended to bring land  
27 into the district without benefiting other facilities in the  
28 district. In such cases, the contemplated improvement must  
29 be made as a new drainage district or as a new subdrainage  
30 district.