

House File 711 - Introduced

HOUSE FILE 711

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HSB 244)

A BILL FOR

1 An Act relating to levee and drainage districts, by providing
2 for the repair or reconstruction of levees, requesting the
3 establishment of a legislative interim committee to consider
4 levee and drainage district laws, making appropriations, and
5 including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LEVEE IMPROVEMENTS

Section 1. Section 8.57, subsection 5, paragraph f, subparagraph (1), Code 2023, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (0e) (i) For the fiscal year beginning July 1, 2023, and for each fiscal year thereafter through the fiscal year beginning July 1, 2027, of the wagering tax receipts received pursuant to sections 99D.17 and 99F.11, the next five million dollars shall be deposited in the levee improvement fund created in section 8.57D.

(ii) This subparagraph division is repealed July 1, 2028.

Sec. 2. NEW SECTION. **8.57D Levee improvement fund — creation — appropriations.**

1. A levee improvement fund is created within the department of homeland security and emergency management created pursuant to section 29C.5 which shall be under the control of that department.

2. The levee improvement fund shall consist of moneys deposited in the fund pursuant to section 8.57, subsection 5, paragraph "f", subparagraph (1), subparagraph division (0e); appropriations made to the fund; and transfers of interest, earnings, and moneys from other funds as provided by law.

3. The levee improvement fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

4. *a.* Moneys in the levee improvement fund are appropriated to the department of homeland security and emergency management for the exclusive purpose of supporting all of the following:

(1) The office of levee safety, including to conduct a statewide analysis of the condition of the state's levees as provided in section 418A.4.

1 (2) The flood mitigation board, including to award
2 cost-share moneys to levee districts pursuant to the levee
3 improvement program as provided in section 418A.5.

4 b. Not more than five percent of moneys in the levee
5 improvement fund shall be available to defray expenses incurred
6 in administering chapter 418A by the department, including the
7 office of levee safety and flood mitigation board.

8 5. a. Notwithstanding section 8.33, moneys in the levee
9 improvement fund that remain unencumbered or unobligated at
10 the close of a fiscal year shall not revert but shall remain
11 available for the expenditure for the purposes designated.

12 b. Notwithstanding section 12C.7, subsection 2, interest or
13 earnings on moneys in the fund shall be credited to the fund.

14 6. This section is repealed July 1, 2028.

15 Sec. 3. NEW SECTION. 418A.1 Definitions.

16 For the purposes of this chapter, unless the context
17 otherwise requires:

18 1. "*Board*" means the flood mitigation board created in
19 section 418.5.

20 2. "*Department*" means the department of homeland security
21 and emergency management created in section 29C.5.

22 3. "*Hazardous event*" means an event caused by a levee's
23 uncontrolled or controlled release of surface water in a manner
24 that may injure humans and animals or damage real and personal
25 property used for agricultural, commercial, industrial,
26 residential, or public purposes.

27 4. "*Levee district*" means a levee district, including a
28 subdistrict, established pursuant to chapter 468.

29 5. "*Office*" means the office of levee safety created in
30 section 418A.3.

31 6. "*Program*" means the levee improvement program established
32 pursuant to section 418A.5.

33 7. "*Survey*" means the Iowa geological survey created in
34 section 456.1.

35 Sec. 4. NEW SECTION. 418A.2 Purpose.

1 The purpose of this chapter is to reduce and manage
2 risks associated with a hazardous event caused by a levee's
3 inadequate design, structural performance, or operational
4 control.

5 Sec. 5. NEW SECTION. **418A.3 Office of levee safety.**

6 1. An office of levee safety is created within the
7 department.

8 2. *a.* In administering this chapter, all of the following
9 apply:

10 (1) The office shall cooperate with the flood mitigation
11 board.

12 (2) The office and the board shall cooperate with the Iowa
13 geological survey.

14 *b.* The office and board may cooperate with other state
15 and federal agencies, including the United States army corps
16 of engineers and the federal emergency management agency,
17 administering the national levee safety program, as provided in
18 33 U.S.C. ch. 46.

19 3. The office, in cooperation with the board, shall assist
20 communities benefiting from a levee, including levee districts.
21 The office, in cooperation with the board, shall evaluate
22 methods to best carry out the purpose of this chapter.

23 Sec. 6. NEW SECTION. **418A.4 Statewide analysis.**

24 1. The office of levee safety, in cooperation with the Iowa
25 geological survey, shall conduct a statewide analysis of the
26 condition of the state's levees. The office and survey shall
27 identify each levee requiring repair or reconstruction based on
28 a scale adopted by the office which assigns a number based on
29 the levee's level of critical need. The office shall consider
30 all of the following:

31 *a.* Deficiencies in the construction, maintenance, and
32 operation of each levee in a levee district.

33 *b.* The amount of capital expenditures required for the
34 repair or reconstruction for each levee in a levee district.

35 *c.* Payment obligations creating legal indebtedness incurred

1 by the levee district, including those evidenced by bonds,
2 warrants, certificates, contracts, or judgments.

3 *d.* The current total revenue collected by the levee
4 district, and the budgeted revenue ceiling of the levee
5 district based on a maximum assessment rate for classified
6 lands used to maintain the levee as apportioned to each owner
7 of such land.

8 2. The governing body of each levee district shall assist
9 the office in conducting the analysis for the governing body's
10 levee district.

11 3. This section is repealed July 1, 2028.

12 Sec. 7. NEW SECTION. **418A.5 Flood mitigation board — levee**
13 **improvement program.**

14 1. A levee improvement program is established to provide
15 for the repair or reconstruction of those levees requiring
16 immediate capital expenditure in order to reduce and manage
17 a hazardous event. The program shall be administered by the
18 flood mitigation board acting in cooperation with the office of
19 levee safety.

20 2. In administering the program, the board, acting in
21 cooperation with the office, shall award moneys to levee
22 districts applying for assistance on a cost-share basis. The
23 amount of cost-share moneys contributed by the board shall not
24 exceed fifty percent of the estimated cost or fifty percent of
25 the actual cost of the improvement, whichever is less.

26 3. *a.* The department shall provide for the publication and
27 submission of applications for an award of cost-share moneys
28 under the program. The board, in cooperation with the office,
29 shall approve or disapprove the applications based on criteria
30 established by the board.

31 *b.* (1) The board shall consider the scale number assigned
32 to the levee by the office as provided in section 418A.4.

33 (2) This paragraph is repealed July 1, 2028.

34 4. The department may enter into a chapter 28E agreement in
35 order to administer the program on behalf of the board.

1 Sec. 8. NEW SECTION. **418A.6 Department — statewide levee**
2 **improvement report.**

3 1. The department of homeland security and emergency
4 management shall prepare and submit a statewide levee
5 assessment report to the governor and general assembly not
6 later than January 5 of each year.

7 2. *a.* (1) The statewide levee assessment report must
8 include a summary of the condition of levees in each levee
9 district.

10 (2) This paragraph is repealed July 1, 2028.

11 *b.* The statewide levee assessment report must identify those
12 levees having the highest level of critical need of repair or
13 reconstruction and the budget of a levee district to finance
14 the repair or reconstruction.

15 3. The statewide levee assessment report must include
16 the results of efforts to repair or reconstruct levees using
17 cost-share moneys awarded to the governing bodies of levee
18 districts under the levee improvement program.

19 4. The statewide levee assessment report must include
20 a summary of future plans to administer the program. The
21 statewide levee assessment report may include recommendations
22 for additional funding and legislation necessary to carry out
23 the purpose of this chapter.

24 Sec. 9. NEW SECTION. **456.15 Levees.**

25 The Iowa geological survey shall assist the office of levee
26 safety as provided in chapter 418A.

27 Sec. 10. **EFFECTIVE DATE.** This division of this Act, being
28 deemed of immediate importance, takes effect upon enactment.

29 DIVISION II

30 LEGISLATIVE INTERIM STUDY

31 Sec. 11. **INTERIM COMMITTEE.** The legislative council is
32 requested to establish an interim study committee to review
33 Iowa's levee and drainage district laws, including chapter 468.
34 The interim committee, if established, is charged to update
35 laws regarding the rights and duties of landowners to manage

1 water resources within watershed areas; the establishment and
2 governance of districts; the construction, maintenance, and
3 repair of improvements; and the financing of improvements.

4 EXPLANATION

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

7 BACKGROUND. This bill amends provisions that relate to a
8 levee or drainage district, including subdistricts, where a
9 project (improvement) is constructed to divert or store water
10 in a manner that allows land that would otherwise be saturated
11 to instead be used for development, including agricultural
12 production (Code chapter 468). A district is established
13 and managed by different forms of local governing bodies,
14 including a board of supervisors or joint boards of supervisors
15 governing intercounty districts. An established district may
16 also be managed by a board of trustees elected by landowners
17 in the district. An improvement may include a facility that
18 increases the district's capacity to divert or store water
19 by new construction, such as the installation of a drain or
20 tile line or ditch, the modification of a watercourse, or the
21 erection of a barrier such as a dam or embankment. It may
22 also include the maintenance of a constructed facility that
23 restores the district's original capacity such as dredging a
24 drainage ditch. The expense associated with an improvement
25 is borne by owners of land located within the district. A
26 special property tax "assessment" is imposed on a prorated
27 basis according to a formula that distributes the total tax
28 amount due among affected landowners based on the relative
29 increase to the owner's land value assigned a "classification"
30 according to 40-acre or less tracts. The land subject to an
31 increased valuation is referred to as being "benefited" by the
32 improvement.

33 BILL'S PROVISIONS — LEVEE IMPROVEMENT FUND. The bill
34 establishes a levee improvement fund (new Code section
35 8.57D) supported by revenues deposited in the rebuild Iowa

1 infrastructure fund which includes moneys derived from
2 wagering tax receipts (amended Code section 8.57(5)). The
3 bill appropriates \$5 million to the levee improvement fund
4 for each of the next five fiscal years to support efforts by
5 the department of homeland security and emergency management
6 (department) to repair or reconstruct levees in order to reduce
7 and manage risks associated with hazardous events caused by a
8 levee's uncontrolled or controlled release of surface water
9 as a consequence of the levee's inadequate design, structural
10 performance, or operational control (new Code section 418A.2).

11 BILL'S PROVISIONS — LEVEE IMPROVEMENT PURPOSE —
12 ADMINISTRATION. The bill creates an office of levee safety
13 (office) within the department (new Code section 418A.3)
14 and assigns new duties and powers to the flood mitigation
15 board (board). The office, in cooperation with the board, is
16 required to assist communities, including levee districts,
17 benefiting from levees. The office, in cooperation with the
18 Iowa geological survey (survey), is required to conduct a
19 statewide analysis (analysis) of the condition of the state's
20 levees and the budget of levee districts required to finance
21 the repair or reconstruction of those levees (new Code section
22 418A.4). The governing body of each levee district is required
23 to assist the office in conducting its analysis. The board is
24 required to administer a levee improvement program (program)
25 (new Code section 418A.5). The purpose of the program is to
26 finance, on a cost-share basis, the repair or reconstruction of
27 levees based on criteria established by the board, including
28 levees assigned a scale number by the office when conducting
29 its analysis. The department is required to submit an annual
30 report to the governor and general assembly regarding the
31 status of the analysis and program (new Code section 418A.6).

32 BILL'S PROVISIONS — LEGISLATIVE INTERIM STUDY. The bill
33 requests the legislative council to establish an interim study
34 committee to review Iowa's levee and drainage district laws.
35 The interim committee would consider updating laws regarding

1 the rights and duties of landowners to manage water resources
2 within watershed areas; the establishment and governance
3 of districts; the construction, maintenance, and repair of
4 improvements; and the financing of improvements.

5 BILL'S PROVISIONS — EFFECTIVE DATES. The provisions of
6 the bill, other than those which request a legislative interim
7 study, take effect upon enactment.