

Senate File 2151 - Introduced

SENATE FILE 2151

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 2024, 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 2024, 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 2024, 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 2024, 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 2024, is amended
26 by striking the subsection.

27 Sec. 6. Section 468.3, Code 2024, 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 of a drainage district
35 which is subject to special assessment including but not

1 limited to the same type of costs specified in subsection 6.

2 Sec. 7. Section 468.3, subsection 6, Code 2024, is amended
3 to read as follows:

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

18 b. "Cost of improvement" also includes repairs or
19 replacements or new installations of all surface water entry
20 pipes and subsurface drainage outlet pipes on drainage district
21 open ditches not otherwise accomplished by the board under
22 section 468.126, subsection 3.

23 Sec. 8. Section 468.34, Code 2024, is amended to read as
24 follows:

25 **468.34 Advertisement for competitive bids.**

26 The If the board provides for a competitive bid process as
27 provided in section 468.35, the board shall publish notice once
28 each week for two consecutive weeks in a newspaper published
29 in the county where the improvement is located, and publish
30 additional advertisement and publication elsewhere as the board
31 may direct. The notice shall state the time and place of
32 letting the work of construction of the improvement, specifying
33 the approximate amount of work to be done in each numbered
34 section of the district, the time fixed for the commencement,
35 and the time of the completion of the work, that bids will

1 be received on the entire work and in sections or divisions
2 of it, and that a bidder will be required to deposit a bid
3 security with the county auditor as provided in [section 468.35](#).
4 All notices shall set the date and time that bids will be
5 received and upon which the work will be let. ~~However, when~~
6 ~~the estimated cost of the improvement is less than the adjusted~~
7 ~~competitive bid threshold, the board may let the contract for~~
8 ~~the construction without taking bids and without publishing~~
9 ~~notice.~~

10 Sec. 9. Section 468.35, Code 2024, is amended to read as
11 follows:

12 **468.35 Bids — letting of work — competitive bid process.**

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

16 a. The estimated construction cost for work ordered by the
17 board is one hundred thousand dollars or more to be assessed
18 for benefits on lands in the same drainage district under one
19 or more contracts.

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

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

32 ~~2.~~ 3. A bid submitted under subsection 2 shall be in
33 writing, specifying the portion of the work upon which the
34 bid is made, and filed with the auditor. The bid shall be
35 accompanied with a bid security. The bid security shall be

1 in the form of a deposit of cash, a certified check on and
2 certified by a bank in Iowa, a certified share draft drawn on
3 a credit union in Iowa, or a bid bond with a corporate surety
4 satisfactory to the board as provided in [section 73A.20](#). The
5 bid security must be payable to the auditor or the auditor's
6 order at the auditor's office in a sum equal to five percent
7 of the amount of the bid. However, if the maximum limit on a
8 bid security would cause a denial of funds or services from
9 the federal government which would otherwise be available,
10 or if the maximum limit would otherwise be inconsistent with
11 the requirements of federal law, the maximum limit may be
12 suspended to the extent necessary to prevent denial of federal
13 funds or services or to eliminate the inconsistency with
14 federal requirements. The cash, check, or share draft of an
15 unsuccessful bidder shall be returned, and the bid bond of an
16 unsuccessful bidder shall be canceled. The bid security of a
17 successful bidder shall be maintained as a guarantee that the
18 bidder will enter into a contract in accordance with the bids.

19 Sec. 10. Section 468.36, Code 2024, is amended to read as
20 follows:

21 **468.36 Performance Letting of work — competitive bid process**
22 **— bond — return of deposit.**

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

1 the bid shall be returned to the bidder.

2 Sec. 11. Section 468.37, Code 2024, is amended to read as
3 follows:

4 **468.37 Contracts.**

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

17 Sec. 12. NEW SECTION. **468.37A Letting of work without**
18 **competitive bid process.**

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

27 2. If the estimated construction cost is less than fifty
28 thousand dollars, the board and the selected contractor shall
29 enter into a contract which is not required to comply with
30 section 468.37. The board shall appoint an engineer to oversee
31 the work. However, if the governing body is a county board of
32 supervisors, the board may designate the county's secondary
33 roads department to oversee the work. The board shall make
34 payment from the drainage fund the full amount necessary to
35 reimburse the secondary road fund for the full cost of any

1 equipment and labor provided. The board shall make payment to
2 the contractor on a lump sum basis if the board approves the
3 completed work and receives an invoice that does not require
4 correction. The requirements of sections 468.100 through
5 468.103 do not apply.

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

19 Sec. 13. Section 468.100, subsection 2, Code 2024, is
20 amended to read as follows:

21 2. a. All of the provisions of [this section](#) shall, when
22 applicable, apply to repair work and improvement work in the
23 same force and effect as to original construction.

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

27 Sec. 14. Section 468.101, Code 2024, is amended to read as
28 follows:

29 **468.101 Completion of work — report — notice.**

30 1. When the work to be done under a contract is completed
31 to the satisfaction of the engineer in charge of construction,
32 the engineer shall report and certify that the contract is
33 completed to the board. Upon receipt of the report, the board
34 shall set a day to consider the report and shall give notice
35 of the time and purpose of the meeting by ordinary mail to the

1 owners of the land on which the work was done, and to the owners
2 of each tract of land or lot within the district by publication
3 in a newspaper of general circulation in the county. The
4 publication is not required to name the owners of any tract of
5 land or lot within the district. The date for considering the
6 report by the board shall be not less than ten days after the
7 date of mailing, or publication, whichever is later.

8 2. This section does not apply if the estimated construction
9 cost is less than fifty thousand dollars as provided in section
10 468.37A.

11 Sec. 15. Section 468.102, Code 2024, is amended to read as
12 follows:

13 **468.102 Objections.**

14 1. Any party interested in the district or the improvement
15 thereof may file objections to the report made under section
16 468.101 and submit any evidence tending to show that the report
17 should not be accepted. Any interested party having a claim
18 for damages arising out of the construction of the improvement
19 or repair shall file the claim with the board at or before
20 the time fixed for hearing on the completion of the contract,
21 which claim shall not include any claim for land taken for
22 right-of-way or for severance of land.

23 2. This section does not apply if the estimated construction
24 cost is less than fifty thousand dollars as provided in section
25 468.37A.

26 Sec. 16. Section 468.103, Code 2024, is amended by adding
27 the following new subsection:

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

31 Sec. 17. REPEAL. Section 468.66, Code 2024, is repealed.

32 DIVISION III

33 REPAIRS AND IMPROVEMENTS

34 Sec. 18. Section 468.126, subsections 1, 2, 3, and 4, Code
35 2024, are amended to read as follows:

1 1. When any levee or drainage district has been established
2 and the improvement constructed, the improvement shall be at
3 all times under the supervision of the board of supervisors
4 except as otherwise provided for control and management by a
5 board of trustees ~~and the~~. A board shall keep the improvement
6 in repair as provided in this section. The board may authorize
7 one or more board members or trustees, watchpersons employed
8 under section 468.169, or other employees of the district to
9 identify minor maintenance needs, determine and recommend
10 repairs, engage contractors, and oversee the repair work
11 construction, if the cost is not more than seventy-five
12 thousand dollars. The board may also engage the county
13 engineer and the secondary road department under subsection
14 2 to manage the minor repairs and also larger repairs, if
15 construction costs are less than the district's repair cost
16 threshold but not more than one hundred fifty thousand dollars.

17 a. The board at any time on its own motion, without notice,
18 may order done whatever is necessary to restore or maintain a
19 ~~drainage or levee~~ an improvement in its original efficiency
20 or capacity, and for that purpose may remove silt and debris,
21 repair any damaged structures, remove weeds and other vegetable
22 growth, and whatever else may be needed to restore or maintain
23 such efficiency or capacity or to prolong its useful life.

24 b. In considering a proposed repair to an improvement,
25 the board shall hold an informational meeting of interested
26 landowners in the district, if the board is reasonably assured
27 that the repair cost will exceed the repair cost threshold.
28 However, the board may hold the informational meeting for a
29 lower cost repair. An interested landowner includes the owner
30 of land which may be included in the proposed benefited area
31 or the proposed area which otherwise may be subject to special
32 assessment for the proposed repair.

33 (1) The board shall not appoint an engineer to prepare
34 an engineer's report until after it holds the informational
35 meeting if one is required. However, the board may appoint an

1 engineer to attend the informational meeting if it determines
2 that the engineer's involvement may better assist persons
3 in presenting information or the board in making a decision
4 regarding the proposed repair.

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

10 (3) At the informational meeting, the board shall explain
11 to interested landowners in attendance the board's process of
12 ordering the repair and paying for the cost of repair. The
13 board shall answer all relevant questions and consider all
14 relevant comments presented at the informational meeting, and
15 may consider changing the scope of the engineer's study and
16 report.

17 (4) (a) This paragraph "b" does not apply if the board
18 determines that a repair must be made on an emergency basis or
19 that the estimated cost of repair is minor.

20 (b) A failure to notify an interested landowner of an
21 informational meeting under this paragraph "b" is not a basis to
22 challenge the validity of the informational meeting or a board
23 action.

24 ~~b.~~ c. The After the informational meeting is held, or if
25 the board is not required to hold an informational meeting, as
26 provided in paragraph "b", the board may at any time obtain
27 appoint an engineer and enter an order for the preparation
28 of an engineer's report regarding the most feasible means of
29 repairing a drainage or levee an improvement and the probable
30 cost of making the repair. The engineer's report shall provide
31 the estimated cost of repair, the identity of each parcel
32 in the district to be assessed for the proposed repair, the
33 identity of eligible parcels in the district that would benefit
34 from the proposed repair, and the estimated total size of the
35 affected area in the district that would benefit from the or be

1 assessed for the proposed repair. The engineer's report shall
2 be filed with the auditor before the board's action to approve
3 the report.

4 (1) If the engineer advises, or the board otherwise
5 concludes that permanent restoration of a damaged structure
6 is not feasible at the time, the board may order temporary
7 construction it deems necessary to the continued functioning of
8 the improvement. If in maintaining and repairing tile lines
9 the board finds from an engineer's report concludes that it is
10 more economical to construct a new line of the best historic
11 efficiency and capacity than to repair the existing line, the
12 new line may be considered to be a repair.

13 e. (2) (a) If the estimated cost of the repair does not
14 exceed fifty thousand dollars minimum cost of repair threshold
15 is satisfied, the board may approve the proposed repair and
16 order the work done without conducting holding a hearing on the
17 matter. Otherwise, This paragraph "c" does not restrict the
18 authority of the board from holding a hearing regardless of the
19 cost of repair in the same manner as a hearing required under
20 this section.

21 (b) If the board holds a hearing regarding the proposed
22 repair, the board shall set a schedule the hearing and order
23 the auditor to send a notice of the hearing to the owners of
24 the parcels proposed to be subject to a special assessment for
25 the proposed repair as presented in the engineer's report. The
26 notice shall state the location, date for a, and time of the
27 hearing and provide notice of the hearing to landowners in the
28 district by publication in the same manner as. The notice
29 shall be made as provided in section 468.15 sections 468.14
30 through 468.18. However, if the estimated cost of the repair
31 exceeds the adjusted competitive bid threshold, the board shall
32 provide notice to the landowners pursuant to sections 468.14
33 through 468.18.

34 (c) As used in this subparagraph (2), the minimum cost of
35 repair threshold is satisfied if the estimated cost of repair

1 for the estimated total size of the affected area as provided
2 in the engineer's report provided in this paragraph "c" is less
3 than the estimated cost of repair according to the following
4 schedule:

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

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

12 (iii) If the estimated total size of the affected area in
13 the district is four thousand acres or more but less than eight
14 thousand acres, an estimated cost of repair of two hundred
15 thousand dollars.

16 (iv) If the estimated total size of the affected area in the
17 district is eight thousand acres or more but less than sixteen
18 thousand acres, an estimated cost of repair of three hundred
19 thousand dollars.

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

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

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

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

34 ~~d.~~ (4) Notwithstanding paragraph "b" "c", if the estimated
35 cost of the repair exceeds fifty thousand dollars or the

1 adjusted competitive bid threshold, whichever is more, the
2 board shall order an engineer's report or a report from the
3 soil and water conservation district conservationist regarding
4 the matter which shall be presented at the hearing provided in
5 paragraph "c". The board may waive the report requirement if a
6 prior report on the repair exists and that report is less than
7 ten years old. However, the engineer shall review and amend
8 the report as necessary to update the estimated cost of repair,
9 identify the affected area in the district that would benefit
10 from or be assessed for the proposed repair, and identify the
11 estimated total size of the affected area. At the hearing, the
12 board shall ~~hear~~ consider facts and recommendations presented
13 at the hearing, including objections to the feasibility of
14 making the proposed repair. At any time prior to the final
15 adoption of the plan, the board may order the plan to be
16 amended.

17 ~~e.~~ d. Following a the conclusion of the hearing, ~~if~~
18 ~~required~~ provided in paragraph "c", the board shall determine
19 whether the proposed repair is necessary or desirable, and
20 feasible. If the board determines the proposed repair is
21 necessary or desirable, and feasible, it shall order that the
22 proposed repair be made.

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

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

28 2. In the case of a repair, or the eradication of brush or
29 weeds along the open ditches, not in excess of ~~the adjusted~~
30 ~~competitive bid threshold~~ fifty thousand dollars, where the
31 board finds that a saving to the district will result, the
32 board may cause the repairs or eradication to be done by
33 secondary road fund equipment, or weed fund equipment, and
34 labor of the county and then reimburse the secondary road fund
35 or the weed fund from the fund of the ~~drainage~~ district thus

1 benefited.

2 3. When the board deems it necessary ~~it~~, the board may order
3 the repair or reconstruct the reconstruction of an outlet of
4 any private tile line which empties into a drainage ditch of
5 any district and, or may order the repair or reconstruction of
6 any connection of a private drain tile to a district drain.
7 The board may charge the cost of repair or reconstruction to
8 the district. However, if the board determines that the repair
9 or reconstruction is required due to a failure to construct the
10 outlet or drain tile in compliance with specifications made by
11 the board under section 468.140, the board may assess the costs
12 ~~in each case~~ against the land served by the private tile line
13 where the repair or reconstruction was made.

14 4. a. For the purpose of **this subsection**, an "improvement"
15 in a drainage or levee district in which any ditch, tile drain,
16 or other facility has previously been constructed is a project
17 intended to expand, enlarge, or otherwise increase the capacity
18 of any existing ditch, drain, or other facility above that for
19 which it was designed.

20 b. (1) When the board determines that ~~an~~ a contemplated
21 improvement is necessary or desirable, and feasible, the board
22 shall appoint an engineer to make and order the preparation
23 of an engineer's study and report. The engineer's report
24 shall include the results of any surveys as seem appropriate
25 to determine the nature and extent of the improvement, and to
26 ~~file a report showing what~~ a description of the contemplated
27 ~~improvement is recommended and its,~~ the estimated construction
28 cost, which the estimated cost of improvement, the identity
29 of each parcel in the district that would benefit from the
30 contemplated improvement, the estimated benefited area in
31 each parcel, the ownership of each parcel, and the estimated
32 total size of the area in the district that would benefit
33 from the proposed improvement. The engineer's report may be
34 amended before the board's final action approving the proposed
35 improvement. The engineer's report shall be filed with the

1 auditor.

2 (2) If the board determines that a contemplated improvement
3 is not to an existing facility of the district or if an
4 extension of an existing facility is primarily intended to
5 bring land into the district which is not otherwise benefited
6 by any other facilities of the district, the board shall
7 require that the contemplated improvement be pursued as
8 a new drainage district or as a new subdrainage district.
9 However, the board shall retain jurisdiction to pursue the
10 contemplated improvement under this subsection if an owner or
11 owners of land in the district that would be benefited by the
12 contemplated improvement file a petition complying with section
13 468.8 requesting the contemplated improvement and post a bond
14 complying with section 468.9 conditioned for the payment of
15 all costs and expenses incurred in the proceedings in case a
16 contemplated improvement is not approved and constructed.

17 c. Before the engineer begins work, the board shall hold an
18 informational meeting of interested landowners in the district.
19 An interested landowner includes the owner of land in the
20 district which may be included in the proposed benefited area.

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

26 (2) At the informational meeting, the board shall explain
27 to interested landowners in attendance the board's process
28 of ordering the improvement, assessing benefits of the
29 improvement, a landowner's right to support or object to the
30 proposed improvement at a future hearing, and the landowner's
31 right of remonstrance as provided in this subsection. The
32 board shall answer all relevant questions and consider all
33 relevant comments presented at the informational meeting, and
34 may consider changing the scope of the engineer's study and
35 report.

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

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

8 ~~c.~~ (1) If the estimated cost of the improvement does not
9 exceed fifty thousand dollars minimum cost of improvement
10 threshold is satisfied, the board may approve the proposed
11 improvement and order the work done without conducting holding
12 a hearing on the matter. Otherwise, the board shall set a date
13 for schedule a hearing on regarding the proposed improvement.
14 This paragraph "d" does not restrict the authority of the board
15 from holding a hearing regardless of the cost of improvement in
16 the same manner as for a hearing required under this subsection
17 except that the right of remonstrance shall not be available.

18 (2) The board shall order the auditor to send a notice of a
19 hearing held under this subsection to the owners of the land
20 in the affected area as provided in the engineer's report.
21 The notice shall state the location, date, and time of the
22 hearing and state that the board shall consider whether to
23 construct the proposed improvement and whether there shall be
24 a reclassification of benefits for the cost of the proposed
25 improvement. The notice shall be made in the same manner as
26 provided in sections 468.14 through 468.18.

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

33 ~~(b) Notwithstanding subparagraph division (a), and in lieu~~
34 ~~of publishing the notice, the board may mail a copy of the~~
35 ~~notice to each address where a landowner within the district~~

1 ~~resides by first class mail if the cost of mailing is less~~
2 ~~than publication of the notice. The mailing shall be made~~
3 ~~during the time the notice would otherwise be required to be~~
4 ~~published.~~

5 (3) As used in this paragraph "d", the minimum cost of
6 improvement threshold is satisfied if the estimated cost of
7 improvements for the estimated total size of the affected
8 area in the district as provided in the engineer's report is
9 less than the estimated cost of improvement according to the
10 following schedule:

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

14 (b) If the estimated total size of the affected area in
15 the district is two thousand acres or more but less than four
16 thousand acres, an estimated cost of improvement of sixty
17 thousand dollars.

18 (c) If the estimated total size of the affected area in the
19 district is four thousand acres or more but less than eight
20 thousand acres, an estimated cost of improvement of one hundred
21 thousand dollars.

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

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

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

34 (g) If the estimated total size of the affected area in the
35 district is sixty-four thousand acres or more, an estimated

1 cost of improvement of three hundred thousand dollars.

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

5 ~~d.~~ (5) ~~At the~~ If a hearing, if required in is to be held
6 under this paragraph ~~"c"~~ "d", the board shall hear consider
7 objections to the feasibility of the proposed improvements
8 improvement and arguments for or against a reclassification
9 presented by or for any taxpayer of the district. Following
10 the hearing, the board shall determine whether to approve
11 the proposed improvement and order that the improvement it
12 ~~deems necessary or desirable and feasible be made and its~~
13 construction. The board shall also determine whether there
14 should be a reclassification of benefits for the cost of the
15 improvement. If it is determined that a reclassification of
16 benefits should be made, the board shall proceed as provided
17 in [section 468.38](#).

18 e. If the estimated cost of the improvement exceeds
19 the ~~adjusted competitive bid~~ minimum cost of improvement
20 ~~threshold, or the original cost of the district plus the cost~~
21 ~~of subsequent improvements in the district, whichever amount~~
22 ~~is greater,~~ a majority of the landowners in the district
23 identified as benefiting from the improvement as provided in
24 the engineer's report, and owning in the aggregate more than
25 seventy percent of the total land ~~in the district~~ benefiting
26 from the improvement, may file a written remonstrance against
27 the proposed improvement, at or before the ~~date~~ time set for
28 hearing on the proposed improvement as provided in ~~paragraph~~
29 ~~"c"~~ this subsection, with the county auditor, or auditors
30 in case the district extends into more than one county. If
31 a remonstrance is filed, the board shall discontinue and
32 dismiss all further proceedings on the proposed ~~improvements~~
33 improvement and charge the costs incurred to date for the
34 proposed ~~improvements~~ improvement to the district.

35 f. Any interested party may appeal from such orders in

1 the manner provided in **this subchapter, parts 1 through 5.**
2 However, **this section** does not affect the procedures of section
3 468.132 covering the common outlet.

4 Sec. 19. Section 468.140, Code 2024, is amended to read as
5 follows:

6 **468.140 Outlet for lateral drains — specifications.**

7 The owner of any premises assessed for the payment of the
8 costs of location and construction of any ditch, drain or
9 drain tile, or watercourse as in this subchapter, parts 1
10 through 5, provided, shall have the right to use the same as
11 an outlet for lateral drains from the premises. The board of
12 supervisors shall make specifications covering the manner in
13 which such lateral drains shall be connected with the main
14 ditches or other laterals and be maintained, and the owner
15 shall follow such specifications in making and maintaining any
16 such connection.

17 EXPLANATION

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

20 GENERAL. Under Code chapter 468, drainage or levee
21 districts are established and managed by different forms of
22 governing bodies, including a board of supervisors, joint
23 boards of supervisors governing intercounty districts,
24 and an elected board of trustees. A board is required to
25 appoint a civil engineer to establish a district and oversee
26 work projects in the district. A board may order a repair
27 to an improvement (to restore or maintain its capacity)
28 or the construction of an improvement (to expand, enlarge,
29 or otherwise increase its capacity). Usually, the work is
30 ordered by the board after a competitive bid process and
31 after a public hearing of affected landowners. In lieu of
32 a statutory dollar amount used to determine whether bids are
33 required to be let under Code chapter 468, the amount may be
34 set by the vertical infrastructure bid threshold subcommittee
35 for public improvements established within the department of

1 transportation (Code sections 314.1B and 468.3).

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

6 **COMPETITIVE BID PROCESS.** The bill eliminates the vertical
7 infrastructure bid threshold used to determine when a board
8 may order work in the district without using a competitive
9 bid process. If the estimated construction cost is less than
10 \$50,000, the board and a contractor selected by the board
11 may enter into a contract without a competitive bid. The
12 board must appoint an engineer or the county's secondary roads
13 department to oversee the work. If the estimated construction
14 cost is \$50,000 or more but less than \$100,000, the board may
15 select two or more qualified contractors to submit competitive
16 proposals using plans, specifications, and bid forms prepared
17 by a supervising engineer. It also requires that the contract
18 provide a completion date and liquidated damages for at least
19 \$100,000. The board is required to make monthly progress
20 payments to the contractor on a monthly basis and withhold 10
21 percent until completion.

22 **REPAIRS AND IMPROVEMENTS.** The board may authorize one
23 or more board members or trustees, watchpersons, or other
24 employees of the district to identify minor maintenance
25 needs, determine and recommend repairs, engage contractors,
26 and oversee the repair work construction, if the cost is not
27 more than \$75,000. The board may also engage the county
28 engineer and the secondary road department to manage the
29 minor repairs and also larger repairs, if construction costs
30 are less than the district's repair cost threshold but not
31 more than \$150,000. The bill provides that in considering
32 a proposed repair or improvement, the board must hold an
33 informational meeting of interested landowners in the district
34 whose land is affected by the board's action ordering a repair
35 or improvement. An informational meeting for a repair is

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