

CHAPTER 44.

- S. F. 133. AN ACT to repeal section 963 of the Code of 1873, relating to costs on appeal in establishing highways and to enact a substitute therefor.
Be it enacted by the General Assembly of the State of Iowa—
- Sec. 963, code, repealed. SECTION 1. That section 963 of the Code of 1873 be and the same is hereby repealed, and the following enacted in lieu thereof:
- Appeal costs to be paid by petitioner. "If the appeal be taken by the petitioner he shall pay the costs, unless the claimant recovers a less amount than was allowed him by the board. In all other cases the taxing of the costs shall rest in the discretion of the court."
- Costs taxed by court in certain cases.
- Approved April 14, 1896.

CHAPTER 45.

- S. F. 362. AN ACT to enable the trustees or commissioners of state institutions to lay out, establish, vacate, or change public highways through land owned by the state on which state institutions are situated.
Be it enacted by the General Assembly of the State of Iowa:
- Trustees of state institutions may vacate state land for highways. SECTION 1. That the trustees or the commissioners of any of the institutions belonging to this state may vacate, alter, change, or establish public highways through the lands belonging to the state and for the use of such institutions as to the said board of trustees or commissioners may seem for the best interests of the state and the public, subject however to the approval of the board of supervisors of the county or the city council of the city wherein such lands are situated.
- Subject to approval by board of supervisors. SEC. 2. Whenever said board of trustees, or commissioners and board of supervisors or city council shall make any change in said public highways by altering, vacating, or establishing new highways, the same, together with a plat thereof, shall be reported to the county auditor of the county in which the land is located, and shall be by the auditor entered on his plat-book of highways in the same manner as other highways are platted.
- When changes are made in highways. SEC. 3. That section 954 of the Code of Iowa, 1873 be and the same is hereby repealed.
- Reports to county auditor. Approved April 14, 1896.
- Entered on plat book.
- Sec. 954 of code repealed.

CHAPTER 46.

- H. F. 883. AN ACT amending chapter 2 of title X of the Code of 1873, relating to drainage and levees.
Be it enacted by the General Assembly of the State of Iowa:
- Right of way where U. S. is improving a SECTION 1. In any case where the United States may have undertaken, or may hereafter undertake, the work of building a levee along or near the bank of a navigable

stream forming a part of the boundary of this state, the board of supervisors of any and every county through which the same may pass, shall have the right and power to aid in procuring the right of way for the same, maintaining the same, and providing a system of internal drainage made necessary or advisable by the construction of such levee, whenever in their judgment such work will be conducive to the public health, convenience, or welfare.

navigable boundary stream.
Right of board of supervisors to assist where work is conducive of health or convenience.

SEC. 2. Proceedings as contemplated by the preceding section may be begun by filing with the county auditor a petition asking the board of supervisors to form a drainage district for any of the purposes in section 1 of this act specified, of the lands in the petition described, which shall also be shown on a map or plat to be filed with such petition. This petition shall be signed by not less than twenty-five owners of lands lying within the limits of such proposed district, as shown by the transfer books in the auditor's office, and a bond with satisfactory sureties shall also be filed with the county auditor and approved by him, conditioned for the payment of all costs and expenses incurred, in case the board of supervisors shall refuse to grant the prayer of the petition.

Proceeding.
Petition filed with county auditor.
Drainage districts formed.
Petition signed by 25 property owners.
Bond sureties. Supervisors may appoint a commission.

SEC. 3. At their next regular session held after the filing of such petition, or at a special session called for the purpose, the board of supervisors shall, if the foregoing provisions have been complied with, appoint a commission of three disinterested freeholders of the county, one of whom shall be, if practicable, a competent civil engineer or surveyor. This commission shall, after being duly sworn, proceed to examine the lands within such proposed district, lay out the work required, and make an estimate of the probable cost of the same. They shall make a full report to the board of supervisors, and may recommend that such district be formed as prayed, or that it be enlarged, or diminished, as in their judgment will best subserve the general good, and promote the general welfare. They shall also classify the lands within the limits of such districts as they recommend, grading the same as "dry," "low," and "wet," making such classification, so far as practicable, in forty acre tracts, by government sub-divisions.

A civil engineer or surveyor to be a member of commission.
Duty of commission.
Land classified.
Land in 40-acre tracts.

SEC. 4. Upon the filing of the report of the commissioners the county auditor shall fix a time, not less than twenty days thereafter, when the board of supervisors will proceed to take final action on the petition. At least ten days' notice of such hearing shall be given to each owner of land lying within such proposed district, as shown by the transfer-books in the auditor's office. Such notice shall be over the hand and seal of the county auditor, shall state in brief the substance of the petition, the recommendation of the commissioners, and the time when

Time fixed for final action.
Ten days' notice to land owner of hearing.
Contents of notice.

Notice, how served.	the board of supervisors will proceed to a hearing on the same. This notice shall be served by the sheriff, if the person named can be found in the county, but if the sheriff
When owner cannot be found.	shall return that any such person cannot be found in the county the notice shall then be served by posting two copies thereof at least fifteen days before the time fixed for the hearing, one to be posted at the front door of the
Copy of notice and affidavit filed with county auditor.	court-house, and the other at some public place in the township within which such lands are situated, and within the limits of such proposed drainage district, a copy of such notice, with an affidavit of the posting of the same to be filed with the county auditor before the hearing; <i>provided</i> , however, that service of such notice may be acknowl-
Service acknowledged as in paragraph 2603, code.	edged in the manner provided by paragraph three of section 2603, code of 1873, and substituted service of such notice may be made under the circumstances and in the manner provided, in paragraph two of the same section.
Hearing by board of supervisors.	SEC. 5. At the time named, or at such other time to which the board of supervisors may adjourn the matter, they shall proceed with the hearing, and any of the parties interested may appear in person or by counsel and be heard, and may file written pleadings. The board of
Decision by the board.	supervisors shall hear and determine the matter, and if they determine against the formation of such district they shall dismiss the proceedings at the cost of the petitioners.
Classification where district is formed.	If they shall decide to form such district they shall proceed and fix the boundaries of the same, and shall classify the lands as "dry," "low," and "wet," according to the evidence, making such classification as far as practicable
Classification into forty-acre lots.	in forty-acre tracts and in government subdivisions, and they shall enter their findings and classification on their records. At such hearing the recommendation of the
Evidence of the commission.	commissioners shall be competent evidence, but shall not be conclusive.
Persons aggrieved by decisions of the board.	SEC. 6. Any person aggrieved by such action of the board of supervisors may, within twenty days after such action is taken, appeal to the district court of the county in which such lands are situated, where such appeal shall
Appeal to district court.	be heard on its merits regardless of technicalities, and appeal may be taken from the district to the supreme court, but under and subject to the restrictions now
Service on county auditor.	imposed by law upon appeals generally. The appeal to the district court shall be taken by serving notice of such appeal on the county auditor, and the three persons first
Service on three successful remonstrants.	named among the signers to the petition specified in section two hereof. If the appeal is taken by the petitioners, notice of such appeal shall be served on the county auditor and any three of the successful remonstrants, if there be so many, but on all if they be less than three. Upon serv-
Copy of petition served on clerk of court.	ice of notice of such appeal, the county auditor shall file with the clerk of the district court a copy of the petition,

written objections filed by the parties complaining, or complained against, and of the action taken by the board of supervisors, all certified by him; these may constitute the pleadings, and the clerk of the district court shall docket the same, as in case of any other action brought, entitling the same in the names of the three first signing the petition, on behalf of all, and against the remonstrants who are successful, or who appeal, as the case may be.

Clerk of court shall docket the case.

Such appeal, however, shall not interfere with the board of supervisors in the prosecution of the work, unless the same shall have been taken by not less than one-half of the acreage lying within the limits of such proposed district, but if so taken by not less than one half such acreage then the board of supervisors shall so enter upon their records, and shall also enter an order suspending all proceedings pending the final disposition of such appeal.

Appeal shall not interfere with work.

When appeal may suspend proceedings.

SEC. 7. After entering the order as provided in section five hereof, unless further proceedings are suspended as provided in section six hereof, the board of supervisors shall proceed and adopt such plan or system as, in their judgment is proper and best under all the circumstances, and cause the work to be done, causing such ditches to be dug, channels opened, embankments to be erected, fills made, and such other work to be done as in their judgment will most efficiently promote the general good and the public welfare. They shall have power, in the manner now provided by law, chapter four of title X, code of 1873, to condemn any land which they deem it necessary to take or use in the prosecution of such work, including any that may be required to aid the United States in completing such levee, the costs and expenses of which shall be paid out of the drainage fund pertaining to such district as hereinafter provided. In the doing of this work the board of supervisors shall have power to employ such help and assistance as they deem necessary, and to fix the compensation for the same. All the work to be done which shall involve an estimated expenditure of five hundred dollars or over shall be let by contract, after advertising the same for three weeks in some newspaper of general circulation published in the county, to the lowest bidder who shall furnish satisfactory security for the performance of the contract; *provided*, however, that the board of supervisors may reject all bids, and do the work themselves whenever, in their judgment, the work can be so done at a substantial saving.

Board may proceed unless action is suspended.

Duties and work performed.

May condemn any lands deemed necessary.

Expenses paid out of drainage fund.

Help and assistance employed.

Work to be let by contract.

Bids may be rejected.

SEC. 8. The entire costs and expenses incurred under this chapter shall be assessed against the lands lying within such drainage district on the following basis: The lands classed as "low" shall be assessed twice as much per acre as the lands classed as "dry," and the lands classed as "wet" shall be assessed twice as much per acre as the

Cost to be assessed against lands in drainage district.

Schedule of assessments.

Compensation of commissioners.	lands classed as "low," and in tracts as classified by the board of supervisors, as provided in section five hereof. The commissioners provided for in section three hereof shall be allowed three dollars a day each, which shall be included as part of the expenses of such work, <i>provided</i> , that if the petition shall be dismissed by the board of supervisors then the compensation of such commissioners shall be paid by the petitioners.
Paid by petitioners.	SEC. 9. The assessment required under section eight hereof shall be made by the board of supervisors at the time of levying general taxes after the work has been authorized, and the same shall be entered on the records of the board of supervisors, then entered on the tax books by the county auditor as drainage taxes, and shall be collected by the county treasurer at the same time, in the same manner, and with the same penalties as general taxes, and if the same is not paid he shall sell all such lands upon which such assessment remains unpaid, at the same time, and in the same manner, as is now by law provided for the sale of lands for delinquent taxes, including all steps up to the execution and delivery of the tax deed for the same.
Assessment made by supervisors when taxes are levied.	The land owners shall take notice of, and pay, such assessments, without other or further notice than such as is provided for in this chapter. The funds realized from such assessments shall constitute the drainage fund, as contemplated in this chapter, and shall be disbursed on warrants drawn against that fund by the county auditor, on the order of the board of supervisors.
Entered as drainage taxes.	SEC. 10. If the amount required under section eight hereof shall not exceed a rate based on twenty-five cents per acre on the "wet" lands, it shall be levied and paid in one year; if it shall be over twenty-five cents, and under fifty cents per acre on such basis, it shall be payable one-half in one and one-half in two years; and if it shall exceed fifty cents per acre on such basis then it shall be divided into three equal annual payments.
How collected	SEC. 11. If the entire amount required under this chapter cannot be collected in one year, the board of supervisors of such county shall have the power to issue drainage bonds for all which cannot thus be provided for in one year, in substantially the manner and form as provided in section 1866 of "the Code of Iowa," such issue to be determined upon by them before the levy, and an amount sufficient to pay the interest on such bonds shall be estimated and included in the assessment.
Land owners to pay without further notice.	SEC. 12. The board of supervisors shall have the right and power to keep up and maintain any such levee, ditches, drains, or system of drainage, either in whole or in part, as may in their judgment be required, and to levy the expense thereof upon the real estate within such
Drainage fund.	
Terms and time of payment.	
Drainage bonds may be issued.	
Interest included in assessment.	
Drainage system to be kept up.	
Expense of keeping up.	

drainage district as herein provided for, and collect and expend the same; *provided*, however, that no such work which shall impose a tax at a rate exceeding one based on ten cents per acre on the "wet" lands shall be authorized by them, unless the same is first petitioned for and authorized in substantially the manner required by this chapter for the inauguration of new work.

Maximum of tax for repairs

SEC. 13. The petitioners who proceed under section two of this act, may ask that the lands described in the petition be formed into more than one drainage district, and whether they do so or not the board of supervisors shall have the right and power to arrange said lands, or the lands which they shall finally determine to bring within the provisions of this act, into two or more districts, the boundaries of which shall be so fixed as will, in the judgment of the board, tend to a more equitable and just apportionment of the burdens to be imposed. It shall be the duty of the commissioners provided for in section three of this act to report whether, in their judgment, there should be more than one such district formed, and to make their plans and estimates according to such districts as they recommend.

Two or more districts may be formed on one petition.

Boundaries to be fixed by board of supervisors.

Report of commission as to number of districts.

SEC. 14. In case more than one such district is created as provided in section 13 of this act, the board of supervisors shall require separate accounts to be kept of the costs and expenses incurred in each, making an equitable apportionment of such as is not susceptible of exact division, and the lands in each drainage district shall be liable to assessment for the costs and expenses incurred in such district only.

Where more than one district is created.

Separate accounts to be kept.

SEC. 15. The boards of supervisors of any two or more adjoining counties may carry on the work provided for in this chapter concurrently; *provided*, that they first agree upon a plan or system, and a basis of equitable apportionment of the work to be done, and the share of the cost and expenses of the same, to be borne by each of such counties.

Boards in adjoining counties may carry on the work jointly.

Must first agree on plan or system.

Approved April 7, 1896.

CHAPTER 47.

AN ACT to amend section 989 of the Code relative to the drainage of surface water from the highway. H. F. 332.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That section 989 of the code of Iowa, be and is hereby amended by adding the following to said section, "providing, it shall be the duty of the supervisors to use strict diligence in draining the surface water from the public highway in its natural channels, and to this end he may enter upon the enclosed or reinclosed

Sec. 989, code, amended.

Supervisors must use diligence in drainage.