

## CHAPTER 147

## ANIMALS

S. F. 236

AN ACT to amend section fifty-four hundred fifty-seven (5457), code, 1935, relating to use of domestic animal fund.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section fifty-four hundred fifty-seven (5457), code,  
2 1935, is amended by striking the period after the word "county" in  
3 line five (5) and substituting a comma in lieu thereof and adding the  
4 words "or the board of supervisors may authorize the use of said  
5 excess or any part thereof in payment of the claim or claims of duly  
6 organized societies for the prevention of cruelty to animals within  
7 the county for the care, keep and maintenance of abandoned or injured  
8 domestic animals or fowls."

Senate File 236. Approved May 7, 1937.

## CHAPTER 148

## BENEFITED WATER DISTRICTS

H. F. 165

AN ACT to repeal chapter two hundred eighty-two (282) of the code of Iowa, 1935; to provide for the establishment of benefited water districts and the construction of a water system to serve such district; to provide for submission of the question of the establishment of such district and the construction of said system to the voters in such district and to create a board of trustees to supervise and manage such system; to provide for the issuance of bonds for the purpose of constructing said system and for a levy of a tax to retire said bonds and to pay the cost of upkeep and maintenance of such system.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Chapter two hundred eighty-two (282) of the code of  
2 Iowa, 1935, is hereby repealed and the following enacted in lieu thereof.  
3 The board of supervisors of any county shall, on the petition of  
4 twenty-five (25) per cent of the resident property owners in any pro-  
5 posed benefited water district, grant a hearing relative to the estab-  
6 lishment of such proposed water district; such petition shall set out  
7 the following and any other pertinent facts:  
8 (a) The need of a public water supply;  
9 (b) The approximate district to be served;  
10 (c) The approximate number of families in the district;  
11 (d) The proposed source of supply;  
12 (e) The type of service desired, whether domestic only or for fire  
13 protection and other uses.  
14 The board of supervisors may, at its option, require a bond of the  
15 petitioners as provided in section seventy-four hundred thirty (7430),  
16 code, 1935.

1 SEC. 2. The benefited water district may include part or all of any  
2 incorporated city or town, or cities and towns, together with or with-

3 out surrounding territory including cemeteries and all publicly owned  
4 land.

1 SEC. 3. The special assessment hereinafter provided for may be  
2 used to cover the costs of installing all the necessary elements of a  
3 water system, for both production and distribution.

1 SEC. 4. When the board of supervisors receives a petition for the  
2 establishment of a benefited water district, a public hearing shall be  
3 held within twenty (20) days of the presentation of the petition. No-  
4 tice of such hearing shall be given by posting bills in three (3) public  
5 places within the district, or by publication in two (2) successive is-  
6 sues of any paper of general circulation within the district. The last  
7 publication or posting shall be not less than one (1) week before the  
8 proposed hearing.

1 SEC. 5. On the day fixed for such hearing, the board of supervisors  
2 shall by resolution establish the benefited water district or disallow  
3 the petition. For adequate reasons the board of supervisors may  
4 defer action on such petition for not to exceed ten (10) days after the  
5 day first set for a hearing.

1 SEC. 6. When the board of supervisors shall have established the  
2 benefited water district, they shall appoint a competent disinterested  
3 civil engineer and instruct him to examine the proposed improvement,  
4 make preliminary designs in sufficient detail to make an accurate esti-  
5 mate of the cost of the proposed water system. He shall also report  
6 as to the suitability of the proposed source of water supply.

1 SEC. 7. When in any proposed benefited water district, it is an-  
2 ticipated that the source of supply will be without the district, and  
3 not under its control, the board of supervisors shall instruct the en-  
4 gineer who is appointed to make the preliminary design and dummy  
5 assessment, to also obtain from the corporation or municipality which  
6 controls the proposed source of supply, a statement in writing, outlin-  
7 ing the terms upon which water will be furnished to the district, or  
8 to the individuals within the district and on what terms in either case.

9 This preliminary proposal from the governing body of the source of  
10 supply shall be binding, and shall be in the nature of an option to pur-  
11 chase water by the district, or the individual within the same, if and  
12 when the proposed benefited water district shall have completed its  
13 construction, and is ready to use water. This proposal shall accom-  
14 pany and be a part of the engineer's preliminary report to the board of  
15 supervisors.

1 SEC. 8. The said engineer shall prepare a preliminary plat showing  
2 the proper design in general outline, the size and location of the water  
3 mains, the general location of hydrants, if such are included in said  
4 petition, valves and other appurtenances, and shall show the lots and  
5 parcels of land within the proposed district as they appear on the  
6 county auditor's plat books, together with the names of the owners and  
7 the amount which it is estimated that such lot or parcel will be assessed.

1 SEC. 9. The compensation of such engineer on the preliminary in-  
2 vestigation shall be determined by the board of supervisors and may  
3 be by percentage or per diem.

1     **SEC. 10.** The engineer's report, together with the dummy plat show-  
2 ing the tentative design and assessment, shall be filed with the county  
3 auditor within thirty (30) days of such engineer's appointment, unless  
4 for adequate reasons it is impossible for him to do so, in which case the  
5 board of supervisors may extend the time therefor.

1     **SEC. 11.** On receipt of the engineer's report, the board of super-  
2 visors shall give notice in the same manner as before, of a hearing on  
3 the engineer's tentative design and dummy plat. On the day set, or  
4 within ten (10) days thereafter, the board of supervisors shall ap-  
5 prove or disapprove the engineer's plan and proposed assessment. If  
6 it shall appear advisable, the board of supervisors may make changes  
7 in the design and assessment, as they appear on the dummy plat.

1     **SEC. 12.** When the preliminary design and assessment have been  
2 approved by the board of supervisors, a date not more than thirty (30)  
3 days after such approval shall be set for an election within the district  
4 to determine whether or not the proposed improvement shall be con-  
5 structed and to choose candidates for the offices of trustee within the  
6 district. Notice of the election, including the time and place of hold-  
7 ing the same, shall be given in the same manner as for the public hear-  
8 ing heretofore provided for. The vote shall be by ballot which shall  
9 state clearly the proposition to be voted upon, and any legal voter resid-  
10 ing within the district at the time of the election shall be entitled to  
11 vote. Judges will be appointed to serve without pay, by the board of  
12 supervisors from among the qualified voters of the district who will  
13 have charge of the election. The proposition shall be deemed to have  
14 carried if a majority of those voting thereon vote in favor of the same.

1     **SEC. 13.** At the election provided for in the preceding section, the  
2 name of the trustees shall be written by the voter on blank ballots with-  
3 out formal nomination and the board of supervisors shall appoint three  
4 (3) from among the five (5) receiving the highest number of votes as  
5 trustees for the district, one (1) to serve for one (1) year, one (1)  
6 for two (2) years, and one (1) for three (3) years, which trustees  
7 and their successors shall give bond in the amount the board of super-  
8 visors may require, the premium of which shall be paid by the district  
9 said trustees represent. Vacancies may thereafter be filled by elec-  
10 tion, or by appointment by the board of supervisors, at the option of  
11 the remaining trustees. The term of succeeding trustees shall be for  
12 three (3) years.

1     **SEC. 14.** If the result of said election be in favor of said improve-  
2 ment, the board of supervisors shall instruct the engineer to complete  
3 the plans and specifications, ready for receiving bids for construction  
4 of the project, which he shall do within thirty (30) days of receiving  
5 notice to do so, unless for adequate reason the board shall extend the  
6 time.

7     When the completed plans and specifications are on file with the  
8 county auditor, the board of supervisors shall advertise for bids and  
9 shall cause notice to be given by publication once each week for two  
10 (2) consecutive weeks in some newspaper published in the county  
11 wherein the improvement is to be constructed, setting forth the loca-  
12 tion and nature of the improvement and the date and place where bids  
13 will be received by the board. The last published notice to bidders

14 shall be at least seven (7) days before the time set for receiving bids.  
15 Bidders will be required to submit certified checks for five (5) per cent  
16 of the amount of the bid.

1 SEC. 15. When bids have been received, if it is apparent that the  
2 final assessment will need to be increased more than ten (10) per cent  
3 over the preliminary assessment, the board of supervisors shall, at its  
4 option, reject bids and readvertise for bids as provided herein, or  
5 reject bids and revise the dummy assessment. If the dummy assess-  
6 ment is revised, another election shall be held within the district in the  
7 same manner and with the same notices as the first, except that the  
8 candidates for trustees shall not be voted for.

1 SEC. 16. If the majority of the votes cast at said second election be  
2 in favor of said improvement, the board of supervisors shall again  
3 advertise for bids in the same manner as before. If the bids at the  
4 second letting will not necessitate raising the second preliminary as-  
5 sessment more than ten (10) per cent, the board may let the contract  
6 to the lowest responsible bidder.

1 SEC. 17. The successful bidder, when awarded a contract, shall be  
2 required to give an approved surety bond for one hundred (100) per  
3 cent of the contract price, guaranteeing completion of the work in ac-  
4 cordance with the plans and specifications, and for maintenance, in-  
5 cluding backfilling, for one year after the final acceptance of the work.  
6 If the contractor shall fail to complete the work as provided in his  
7 contract, or shall abandon the same, or fail to proceed in a reasonable  
8 manner toward its final completion, the board may proceed against the  
9 contractor and bondsman as provided in sections seven thousand five  
10 hundred thirty-five (7535) and seven thousand five hundred thirty-six  
11 (7536) of the code, 1935.

1 SEC. 18. When in the opinion of the engineer in charge, the con-  
2 struction in any benefited water district has been completed in ac-  
3 cordance with the plans, specifications, and contract, he shall certify  
4 this fact to the board of supervisors, and recommend the acceptance  
5 of the work by the said board. The board of supervisors shall proceed  
6 in accordance with sections seven thousand five hundred thirty-two  
7 (7532) and seven thousand five hundred thirty-three (7533), code,  
8 1935.

1 SEC. 19. After the final acceptance of the work by the board of su-  
2 pervisors, the engineer shall complete the final assessment, which shall  
3 be made on all the property within the district, whether abutting or  
4 not, for an amount approximately ten per cent (10%) greater than  
5 the total cost of the project. The assessment shall be made according  
6 to benefits and shall take into consideration the location and value of  
7 the property assessed. The final assessment on any lot or parcel of  
8 land shall not exceed the final preliminary assessment by more than  
9 ten per cent (10%), and shall in no case exceed twenty-five per cent  
10 (25%) of the actual value of the property. The board of supervisors  
11 may alter an assessment to increase or decrease it within the limits  
12 outlined above, and must approve by resolution the final assessment as  
13 made.

1     **SEC. 20.** Assessments of less than ten dollars (\$10.00) will come  
2 due at the first tax paying date after the approval of the final assess-  
3 ment, and assessments of ten dollars (\$10.00) or more may be paid in  
4 twenty (20) annual installments with interest at six (6) per cent on  
5 the unpaid balance. The board of supervisors shall issue bonds against  
6 the completed assessment in an amount equal to the total cost of the  
7 project, so that the amount of the assessment will be approximately  
8 ten (10) per cent greater than the amount of the bonds.

1     **SEC. 21.** Each of such bonds shall be numbered, and have printed  
2 upon its face that it is a benefited water district bond, stating the  
3 county and the number of the district for which it is issued, and the  
4 date of maturity; that it is in pursuance of a resolution of the board  
5 of supervisors, and that it is to be paid for only from special assess-  
6 ment theretofore levied and taxes levied as hereinafter provided for  
7 that purpose within the said district for which the bond is issued. The  
8 provisions of sections seventy-five hundred five (7505) and seventy-  
9 five hundred eight (7508) of the code, 1935, shall govern the issuance  
10 of these bonds except that the contractor will not be paid anything on  
11 the work until its completion and final acceptance.

1     **SEC. 22.** When the assessment has been completed and the bonds  
2 sold and the schedule of assessment shall be turned over to the county  
3 auditor, the installments due thereon shall be collected in the same  
4 manner as ordinary taxes and shall constitute a lien on the property  
5 against which they are made. If the treasurer does not receive suf-  
6 ficient funds to enable him to pay the interest and retire the bonds as  
7 they become due, he shall levy a one-half ( $\frac{1}{2}$ ) mill annual tax on all  
8 property within the district to pay such deficiency, and the county  
9 treasurer shall apply the proceeds of such levy to the payment of the  
10 bonds and the interest on the same so long as the bonds are in arrears  
11 on either interest or principal.

1     **SEC. 23.** The board of supervisors shall be required to levy such  
2 one-half ( $\frac{1}{2}$ ) mill annual tax so long as the bonds are in arrears.  
3 When the bonds are all retired any surplus remaining with the county  
4 treasurer shall be turned back and pro rated among those property  
5 owners who have not caused such deficiency by their failure to pay the  
6 taxes assessed against their property.

1     **SEC. 24.** The fee for engineering services shall be fixed by the board  
2 of supervisors and he may be paid either a percentage or a per diem,  
3 from proceeds of the bond sale or by cash from the contractor, if the  
4 contractor takes bonds in settlement for his work under his contract.

1     **SEC. 25.** When the construction, assessment, and bond sale in any  
2 district have been completed, and final settlement made with the con-  
3 tractor, the management of the utility shall automatically go to the  
4 three trustees previously appointed by the board of supervisors. The  
5 trustees shall have power to levy an annual tax not to exceed one-half  
6 ( $\frac{1}{2}$ ) mill, on the district, for the maintenance of the system. This  
7 levy shall be optional with the trustees. The trustees may purchase  
8 material and employ labor to properly maintain and operate the utility.  
9 The trustees shall be allowed necessary expenses in the discharge of  
10 their duties, but shall not receive any salary.

1     **SEC. 26.** It is anticipated that this law will usually be utilized to  
2 finance a distribution system where the source of supply is without  
3 the district, and not under its control, and that individuals within the  
4 district will pay water rent to a municipality or corporation without  
5 the district. It is intended that the trustees may so operate the utility  
6 as will best serve the users, and they are expressly authorized to buy  
7 and sell water, to fix the rates to consumers and make all contracts  
8 reasonable or necessary to accomplish the purpose of this act, and to  
9 carry on all the operations incident to maintaining and operating said  
10 utility and to the procuring and furnishing of water to the consumers  
11 therein. If the development of a source of supply is within the means  
12 of the district, the trustees may install wells, tanks, meters and any  
13 other equipment properly pertaining to operate it.

1     **SEC. 27.** Whenever property of the state of Iowa, or any political  
2 subdivision thereof, shall be included either wholly or in part within  
3 such water district and shall own facilities which may be used as a  
4 part of such water system, the executive council, board of supervisors,  
5 city or town council, as the case may be, may permit such use of said  
6 facilities for such consideration and on such terms as may be agreed  
7 upon with the board of trustees.

1     **SEC. 28.** Any person or persons within any water district, who  
2 may, after the initial installation of the improvement in any such dis-  
3 trict, desire to construct additional mains, and who have been assessed  
4 on the original assessment, may with the consent of the trustees, con-  
5 nect such lateral mains as they desire with the original system to serve  
6 property within the district which has been assessed, provided that the  
7 entire cost thereof shall be borne by the parties so interested.

1     **SEC. 29.** If the cost of the desired extensions will be as much as five  
2 thousand (\$5,000.00) dollars, the interested parties may petition the  
3 board of supervisors to organize a subdistrict, and in such case the  
4 board shall proceed in the same manner as for a new district, and may  
5 take in territory not originally assessed.

6     The board of supervisors shall have power at any time to alter the  
7 boundaries of any district prior to the time of posting or publishing  
8 notice of the election within the district.

1     **SEC. 30.** When the district is under the control of trustees, they  
2 are empowered to deal with parties without the district who desire to  
3 be taken into the district or to obtain water from the district. The  
4 trustees shall have power in such cases to make agreements for the  
5 district, and may, with the consent of the board of supervisors, alter  
6 the district boundaries to take in additional territory. No lot or par-  
7 cel of land shall be put out of a district without the consent of the  
8 owner, after it has paid any assessment to the district.

1     **SEC. 31.** The board of supervisors shall have power to condemn, in  
2 the same manner as provided for the condemnation of land, right of  
3 way through private property, sufficient for the construction and main-  
4 tenance of water mains. The cost of such right of way shall constitute  
5 a part of the expense of the improvement and shall be covered by the  
6 special assessment.

1     **SEC. 32.** The board of supervisors shall provide a record book which  
2 shall be in the custody of the auditor, in which shall be kept a full

3 and complete record of the proceedings relative to water districts, so  
4 arranged and indexed, as to enable any proceedings relative to any  
5 district to be readily examined.

1 SEC. 33. Any person aggrieved, may appeal from any final action  
2 of the board of supervisors in relation to any matter involving his  
3 rights, to the district court of the county in which the district is lo-  
4 cated. The procedure in such appeals shall be governed by the pro-  
5 visions of sections seventy-five hundred fifteen (7515) to seventy-five  
6 hundred thirty (7530) inclusive, code of Iowa, 1935, provided that  
7 whenever in the above sections the words "drainage district" occur,  
8 the words "benefited water district" shall be substituted.

1 SEC. 34. The act, being deemed of immediate importance, shall take  
2 effect from and after its publication in The Plain Talk, a newspaper  
3 of general circulation, published in Des Moines, Iowa, and in The Mer-  
4 chants Messenger and Park Avenue News, a newspaper of general  
5 publication, published in Polk County, Iowa.

House File 165. Approved May 1, 1937.

I hereby certify that the foregoing act was published in the Plain Talk, May 20, 1937,  
and the Merchants Messenger and Park Avenue News, May 20, 1937.

ROBERT E. O'BRIAN, *Secretary of State.*

## CHAPTER 149

### EMERGENCY FEED LOAN FUND

#### H. F. 1

AN ACT creating an emergency feed loan fund for drought areas and providing for the  
levying of taxes therefor.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Counties of the state of Iowa, through their boards of  
2 supervisors, in addition to the powers already possessed by them, are  
3 hereby authorized by resolution of their boards of supervisors, to im-  
4 mediately establish what shall be known as the "Emergency Feed  
5 Loan Fund".

1 SEC. 2. That the fund for said Emergency Feed Loan Fund may be  
2 created as hereinafter set out.

1 SEC. 3. Said Emergency Feed Loan Fund shall be under the super-  
2 vision of the county treasurer, and no funds shall be drawn therefrom  
3 except upon an order drawn against the same as hereinafter provided.

1 SEC. 4. For the purpose of creating said fund to make the loans  
2 herein provided, the board of supervisors is hereby authorized to  
3 provide a fund not in excess of \$75,000 for such purpose, and shall  
4 provide by resolution for the issuance of anticipatory warrants by  
5 the county auditor and the sale thereof by the county treasurer, said  
6 warrants to be drawn against the fund in denominations of \$100, \$500,  
7 and \$1,000, as hereinafter set out, and for such purpose said board  
8 shall make a millage levy accordingly to provide for said fund. Said  
9 levy shall be pledged exclusively to the payment of the warrants here-