

CHAPTER 1050**CLERKS OF COURT — PROBATE SCHEDULING ORDERS***H.F. 2284*

AN ACT authorizing clerks of the district court to enter scheduling orders in probate matters.

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

Section 1. Section 633.22, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The entering of routine scheduling orders in probate matters as established by the chief judge in each judicial district.

Approved April 8, 1994

CHAPTER 1051**ADMINISTRATION OF DRAINAGE DISTRICTS***H.F. 2313*

AN ACT providing for the administration of drainage districts, and providing for assessments.

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

Section 1. Section 468.10, subsections 4 and 5, Code 1993, are amended to read as follows:

~~4. Assistants may be employed by the engineer only with the approval of the board, which shall fix their compensation.~~

~~5~~ 4. The engineer shall keep an accurate record of the kind of work done by the engineer and each assistant, the place where done, and the time engaged therein, and shall file an itemized statement thereof with the auditor. No expenses shall be incurred by the engineer except upon authority of the board, and vouchers shall be filed with the claims therefor.

Sec. 2. Section 468.34, Code 1993, is amended to read as follows:

468.34 ADVERTISEMENT FOR BIDS.

The board shall publish notice once each week for two consecutive weeks in a newspaper published in the county where the improvement is located, and publish additional advertisement and publication elsewhere as the board may direct. The notice shall state the time and place of letting the work of construction of the improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion of the work, that bids will be received on the entire work and in sections or divisions of it, and that a bidder will be required to deposit with the bid cash, a certified check on and certified by a bank in Iowa, or a certified share draft from a credit union in Iowa payable to the auditor or the auditor's order, at the auditor's office, in an amount equal to ten percent of the bid, in no case to exceed ten thousand dollars. If the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in a contractors' journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and name and address of the county auditor. All notices shall fix the date to which bids will be received and upon which the work will be let. However, when the estimated cost of the improvement is less than ~~five~~ ten thousand dollars, the board may let the contract for the construction without taking bids and without publishing notice.

Sec. 3. Section 468.35, subsection 2, Code 1993, is amended to read as follows:

2. A bid shall be in writing, specifying the portion of the work upon which the bid is made, and filed with the auditor. The bid shall be accompanied with a bid security. The bid security

~~shall be in the form of a deposit of cash, or a certified check on and certified by a bank in Iowa, or a certified share draft drawn on a credit union in Iowa, or a bid bond with a corporate surety satisfactory to the board as provided in section 73A.20. The bid security must be payable to the auditor or the auditor's order at the auditor's office in a sum equal to ten percent of the amount of the bid, but not to exceed ten thousand dollars. However, if the maximum limit on a bid deposits security would cause a denial of funds or services from the federal government which would otherwise be available, or if the maximum limit would otherwise be inconsistent with the requirements of federal law, the maximum limit may be suspended to the extent necessary to prevent denial of federal funds or services or to eliminate the inconsistency with federal requirements. The checks cash, check, or share drafts draft of an unsuccessful bidders bidder shall be returned to them, but the checks and the bid bond of an unsuccessful bidder shall be canceled. The bid security of a successful bidders bidder shall be held maintained as a guarantee that they the bidder will enter into contract in accordance with their the bids.~~

Sec. 4. Section 468.50, Code 1993, is amended to read as follows:

468.50 LEVY — INTEREST.

When the board has finally determined the matter of assessments of benefits and apportionment, ~~it the board~~ shall levy the assessments as fixed by it upon the lands within the district, but an assessment on a tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars. All assessments shall be levied at that time as a tax and shall bear interest at not to exceed the rate permitted by chapter 74A from that date, payable annually, except as provided as to cash payments within a specified time.

Sec. 5. Section 468.52, Code 1993, is amended to read as follows:

468.52 LEVY FOR DEFICIENCY.

If the first assessment made by the board for the original cost or for repairs of any improvement is insufficient, the board shall make an additional assessment and levy in the same ratio as the first for either purpose, payable at the next taxpaying period after such indebtedness is incurred subject, however, to the provisions of section 468.57. Any assessment made under this section on any tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 6. Section 468.66, Code 1993, is amended to read as follows:

468.66 BIDS REQUIRED.

In case the board shall finally determine that any such changes as defined in section 468.62 shall be made involving an expenditure of ~~five~~ ten thousand dollars or more, ~~said~~ the work shall be let by bids in the same manner as is provided for the original construction of such improvements.

Sec. 7. Section 468.126, subsection 2, Code 1993, is amended to read as follows:

2. In the case of minor repairs, or in the eradication of brush and weeds along the open ditches, not in excess of ~~five~~ ten thousand dollars where the board finds that a saving to the district will result ~~it the board~~ may cause the repairs or eradication to be done by secondary road equipment, or weed fund equipment, and labor of the county and then reimburse the secondary road fund or the weed fund from the fund of the drainage district thus benefited.

Sec. 8. Section 468.126, subsection 4, paragraph a, Code 1993, is amended to read as follows:

a. When the board determines that improvements are necessary or desirable, ~~it the board~~ shall appoint an engineer to make surveys as seem appropriate to determine the nature and extent of the needed improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed ~~five~~ ten thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done without notice. ~~If the estimated cost of the improvements does not exceed ten thousand dollars or twenty-five percent of the original~~

cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done after holding a hearing and publishing notice of that hearing in a newspaper of general circulation published in the county not less than twenty days before the day set for the hearing. The board shall also mail a copy of the notice to any state agency which is a landowner in the district. The board shall not divide proposed improvements into separate programs in order to avoid the limitation for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds the ten thousand dollar or twenty-five percent limit, it the board shall set a date for a hearing on the matter of constructing the proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of the proposed improvements, and shall give notice as provided in sections 468.14 through 468.18. At the hearing the board shall hear objections to the feasibility of the proposed improvements and arguments for or against a reclassification presented by or for any taxpayer of the district. Following the hearing the board shall order that the improvements it deems desirable and feasible be made, and shall also determine whether there should be a reclassification of benefits for the cost of improvements. If it is determined that a reclassification of benefits should be made the board shall proceed as provided in section 468.38. In lieu of publishing the notice of a hearing as provided by this subsection the board may mail a copy of the notice to each address where a landowner in the district resides by first class mail if the cost of mailing is less than publication of the notice. The mailing shall be made during the time the notice would otherwise be required to be published.

Sec. 9. Section 468.127, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The costs of the repair or improvements provided for in section 468.126 shall be paid for out of the funds of the levee or drainage district. If the funds on hand are not sufficient to pay such expenses, the board within two years shall levy an assessment sufficient to pay the outstanding indebtedness and leave the balance which the board determines is desirable as a sinking fund to pay maintenance and repair expenses. Any assessment made under this section on any tract, parcel or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 10. Section 468.136, Code 1993, is amended to read as follows:

468.136 LEVY UNDER ORIGINAL CLASSIFICATION.

If the amount finally charged against a district does not exceed twenty-five percent of the original cost of the improvement in ~~said~~ the district, the board shall proceed to levy ~~said~~ the amount against all lands, highways, and railway rights of way and property within the district, in accordance with the original classification and apportionment. Any assessment made under this section on any tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 11. Section 468.137, Code 1993, is amended to read as follows:

468.137 LEVY UNDER RECLASSIFICATION.

If the amount finally charged against a district exceeds twenty-five percent of the original cost of the improvement, the board may order a reclassification as provided for the original classification of a district and upon the final adoption of the new classification and apportionment shall proceed to levy that amount upon all lands, highways, and railway rights of way and property within the district, in accordance with the new classification and apportionment. An assessment made under this section on a tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 12. Section 468.291, Code 1993, is amended to read as follows:

468.291 MONTHLY ESTIMATE — PAYMENT.

The engineer in charge of the work shall furnish the contractor a monthly estimates of state-
ment estimating the amount of work done on each section and the amount thereof done in each
county, a. A duplicate copy of which the statement shall be filed with the auditor of each of

the several counties county where the work is done. Upon the filing of such When the auditor files the statement, each the auditor shall draw a warrant for the contractor or give the contractor an order directing the treasurer to deliver to the contractor improvement certificates or drainage bonds, as the case may be, in favor of the contractor for eighty ninety percent of the amount due from the auditor's county. Drainage warrants, bonds, or improvement certificates when so issued shall be in such amounts as the auditor determines, but shall not however be in amounts in excess of one thousand dollars.

Approved April 8, 1994

CHAPTER 1052

LEASES — UNIFORM COMMERCIAL CODE

H.F. 2321

AN ACT relating to leases, by providing for leasing agreements, and amending the uniform commercial code by establishing a new article relating to leases.

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

Section 1. NEW SECTION. 321.51 TERMINAL RENTAL ADJUSTMENT CLAUSE — VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS.

An agreement involving the leasing of a motor vehicle or trailer does not create a sale or security interest solely because the agreement provides for an increase or decrease adjustment in the rental price of the motor vehicle or trailer based upon the amount realized upon sale or other disposition of the motor vehicle or trailer following the termination of the lease.

Sec. 2. Section 554.1105, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 3. Section 554.1201, subsection 37, Code 1993, is amended to read as follows:

37. a. "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 554.2401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of such those goods to a contract for sale under section 554.2401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease ~~or~~ consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment is in any event is subject to the provisions on consignment sales (section 554.2326).

b. Whether a transaction creates a lease is intended as or security interest is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(1) the original term of the lease is equal to or greater than the remaining economic life of the goods,