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Failed to Pass House .....

Senate File 400

February 26, 1947.  
Passed on File.

By WATSON.

## A BILL FOR

An Act to enable levee and drainage districts heretofore organized under the laws of this state, to cooperate with any agency of the United States Government engaged in flood control or reclamation projects which will benefit the lands in such districts and to cooperate toward the construction of improvements by such agencies.

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

1 Section 1. Chapter 455 of the 1946 Code of Iowa is amended  
2 by adding the following:  
1 Sec. 2. Whenever the Government of the United  
2 States acting through its proper agencies or instrumentalities  
3 will undertake the original construction or improvements or the  
4 repair or alteration of existing improvements which will accomplish  
5 the purposes for which the district was established or aid in  
6 the accomplishment thereof and shall cause to be filed in the  
7 office of the auditor of the county in which said district is  
8 located a plan of such improvement or for the repair or altera-  
9 tion of existing improvements, the Board shall have jurisdiction,  
10 power and authority, upon the notice, hearing and determination  
11 hereinafter provided, to adopt such plan of improvement or of  
12 repair or alteration of existing improvements and to provide  
13 necessary right of way therefor, and to pay such portion of all

14 costs and damages incident to the adoption of such plan, the con-  
15 struction thereunder and the maintenance and operation of the  
16 works as will not be discharged by the Federal Government under  
17 legislation existing at the time of adoption; also to enter into  
18 such agreements with the United States Government as may be  
19 necessary to meet Federal requirements including the taking over  
20 repair and maintenance of the works and to perform under such  
21 agreements.

1 Sec. 3. The agreement with the Federal Government contem-  
2 plated in the preceding section may be entered into by the  
3 Board in advance of the filing of the plan—such agreement to  
4 be effective if the plan is finally adopted. If the plan is  
5 approved the Board shall make a record of any such cooperative  
6 agreement.

1 Sec. 4. After the filing of the plan contemplated in  
2 Section 1 hereof the Board shall, at its first session there-  
3 after, regular, special or adjourned, appoint a disinterested  
4 and competent civil engineer who shall give bond in an amount  
5 to be fixed by the board conditioned for the faithful and  
6 competent performance of his duties.

1 Sec. 5. The engineer shall examine the plan filed by the  
2 Federal agency and the lands affected thereby and shall make  
3 and file with the county auditor a full written report  
4 which, together with the Federal plan, will show the following:

5 (a) The character and location of all contemplated im-  
6 provements, and the plats, profiles and specifications thereof.

7 (b) The particular description and acreage of land re-  
8 quired from each 40 acre tract or fraction thereof for right of  
9 way, borrow pits or other purposes together with Congressional  
10 or other description of each tract and the names of the owners  
11 thereof as shown by the transfer books in the office of the  
12 auditor.

13 (c) A particular description of each forty (40) acre tract or  
14 fraction thereof that will be excluded from benefit by adoption  
15 of the plan as filed, together with the name of the owners there-  
16 of as shown by the transfer books in the office of the auditor.

17 (d) A particular description of each forty (40) acre  
18 tract or fraction thereof outside the district which will benefit  
19 from adoption of the plan as filed and the name of the owner  
20 thereof as shown by the transfer books in the office of the  
21 auditor.

22 (e) Such rights of way or portions thereof previously  
23 established or acquired as will be rendered unnecessary by  
24 adoption of the Federal plan and any unpaid damages awarded  
25 therefor.

26 (f) Such other damages previously awarded as will be  
27 affected by adoption of the federal plan.

28 (g) The recommendation of the engineer with respect to the  
29 adoption of the plan.

1 Sec. 6. Upon the filing of such report the board shall  
2 examine and consider the same together with the plan and the  
3 commitments involved in its adoption and may require supple-

4 mental reports of the engineer or of another disinterested  
5 engineer with such data as they may deem necessary or  
6 desirable including recommendations for any change or modifica-  
7 tion, negotiate with the Federal agency involved and amend the  
8 plan in such manner as may be mutually agreed upon. The engineer  
9 shall make such supplemental reports as may be required by the  
10 board or necessitated by amendment of plan.

1 Sec. 7. If upon consideration of the plan or amended plan  
2 and the report or reports of the engineer and the commitments  
3 involved in the adoption of the plan the board finds that the  
4 district will benefit therefrom or the purposes for which the  
5 district was established will be promoted thereby, the board  
6 shall adopt the same as a tentative plan, entering order to that  
7 effect and fixing a date for hearing thereon not less than thirty  
8 (30) days thereafter and directing the auditor to cause notice  
9 to be given of such hearing as hereinafter provided.

1 Sec. 8. Such notice shall be captioned in the name of the  
2 district and shall be directed to the owners, including railroad  
3 companies having rights of way, lien holders, encumbrancers and  
4 occupants of all lands within the district without naming them,  
5 and to all other persons whom it may concern and, naming them,  
6 to all owners lien holders or encumbrancers of lands which an  
7 adoption of the plan would exclude from benefits and of lands  
8 outside the district which will benefit therefrom, and shall set  
9 forth that there is on file in the office of the auditor a plan  
10 of construction of the Federal agency (naming it) together with

11 reports of an engineer thereof which the board has tentatively  
12 approved, and that such plan may be amended before final action ;  
13 also the day and hour set for hearing on the adoption of said  
14 plan, and that all claims for damages, except claims for land  
15 required for right of way or construction, and all objections  
16 to the adoption of said plan for any reason must be made in  
17 writing and filed in the office of the auditor at or before the  
18 time set for hearing. Provisions of this chapter for giving  
19 notice, waiver of notice, waiver of objection and damages and  
20 adjournment for service contained in sections 455.21 to 455.26  
21 inclusively which apply with the exception that if notice be  
22 given by publication the last publication need not be more than  
23 ten (10) days prior to the time set for hearing.

1     Sec. 9. The board may continue the hearing pending decision  
2 and may amend the plan but in the event of amendment the board  
3 shall continue further hearing to a fixed date. All parties  
4 over whom the board then has jurisdiction shall take notice of  
5 such further hearing but any new parties rendered necessary by  
6 the modification or change of plans shall be served with notice  
7 as for the original hearing.

1     Sec. 10. If the board, after consideration of the special  
2 meeting, including all objections filed to the adoption of the  
3 plan and all claims for damages, shall find that the district  
4 will be benefited by adoption of the plan or the purposes for  
5 which the district was established furthered thereby they shall  
6 enter order approving and adopting such final plan. Such order

7 shall have the effect of:

8 (a) Altering the boundaries of the district to conform  
9 to the changes effected by the plan adopted.

10 (b) Cancelling all existing awards for damages for property  
11 not appropriated for right of way or construction and rendered  
12 unnecessary by the plan so adopted.

13 (c) Cancelling all awards previously made for damages  
14 other than for right of way or construction by reinstating the  
15 claims for such damages which said claim may be amended by the  
16 claimants within ten days thereafter.

17 (d) Cancelling all unpaid assessments for benefits or  
18 lands excluded from the district by adoption of the plan  
19 the assessments so cancelled shall become part of the costs of  
20 the improvement.

21 (e) Establishing as benefited thereby the lands added to  
22 the district by adoption of the plan and rendering same subject  
23 to classification and assessment.

1 Sec. 11. The board shall thereupon appoint three appraisers  
2 of the qualifications described in section 455.30, who shall  
3 qualify in the manner therein provided, and shall fix a time for  
4 hearing on their report of which all interested parties shall  
5 take notice. The appraisers shall view the premises and fix  
6 and determine the damages to which each claimant is entitled,  
7 including claimants whose awards for damages were cancelled by  
8 the order of adoption, and shall place a separate valuation upon  
9 the acreage of each owner taken for right of way or other pur-

10 poses necessitated by adoption of the plan and shall file a  
11 report thereof in writing in the office of the auditor at least  
12 five days before the date fixed by the board for hearing thereon.  
13 Should the report not be filed on time or should good cause for  
14 delay exist the board may postpone the time for final action on  
15 the subject and, if necessary, may appoint other appraisers.  
16 Thereafter the provisions of section 455.32 shall apply.

1 Sec. 12. Appointment of commissioners to assess benefits  
2 and classify lands within the district and all proceedings  
3 relative to such assessment and classification shall be as  
4 otherwise provided in this chapter except that when the lands  
5 of the district have previously been classified. The commissioner  
6 shall classify and assess only such lands as have been added to  
7 the district by adoption of the plan and recommend such changes  
8 in existing classifications as are materially affected by the  
9 plan so adopted. The board may, upon hearing, adjust the  
10 classification of lands affected by the plan.

1 Sec. 13. The board shall levy the costs contemplated in  
2 section one hereof upon all of the lands of the district on the  
3 basis of the classification for benefits as finally established  
4 and the assessments so levied shall be paid in one installment  
5 unless the board in its discretion shall provide for the pay-  
6 ment thereof in not more than three equal installments with  
7 interest at four percent (4%) per annum against assessments.

1 Sec. 14. The board shall make such subsequent levies as  
2 may be necessary to meet the expenses of the district including

3 costs of maintainance, repair and operation of the works.

1 Sec. 15. Except as otherwise provided herein all provisions  
2 of chapters 455 to 467 inclusive of the Code of 1946 relative  
3 to assessment of damages, appointment of an engineer, employment  
4 of counsel, payment for work, levy and collection of drainage  
5 and levee assessments and taxes, the issue of improvement  
6 certificates and drainage or levee bonds, the taking of appeals  
7 and the manner of trial therof and all other proceedings re-  
8 lating thereto.

1 Sec. 16. The provisions of this act shall be applicable  
2 to districts organized or established under the provisions of  
3 chapters 457, 458, 459, 460, 461, 462, 466 and 467 of the 1946  
4 Code of Iowa.

1 Sec. 17. When a district is in the management of Trustees  
2 as provided in Chapter 462 the Board of Trustees shall have the  
3 jurisdiction to adopt the Federal plan as provided herein and  
4 exercise all other powers herein granted except that any levy  
5 shall be made by the Board of Supervisors upon certificate of  
6 the amount necessary by the Trustees as provided in Code section  
7 462.28.

1 Sec. 18. If any of the provisions of this chapter shall  
2 be held invalid or unconstitutional such invalidity or  
3 unconstitutionality shall not affect other provisions of  
4 this chapter and to these ends the provisions of this  
5 chapter as amended are declared to be severable.

1 Sec. 19. This act being deemed of immediate importance