

February 26, 1963.  
Elections, Political and  
Judicial Districts.

**House File 363**  
By NIELSEN of Emmett, PALAS,  
HAGEDORN, JARVIS, MUELLER,  
MAULE and FISHER of Greene.

Passed House, Date..... Passed Senate, Date.....  
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....  
Approved.....

## A BILL FOR

An Act to provide for a contest board in election contests for seats in the house of representatives in counties where all voting is done by paper ballot and to define the membership, powers, duties and procedure of such board.

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

1 Chapter fifty-nine (59), Code 1962, is hereby amended by add-  
2 ing thereto the following new sections:

1 Section 1. When any candidate for a seat in the house of  
2 representatives from a county in which all voting was done by  
3 paper ballot, contests an election in whole or in part on the  
4 grounds stated in subsection six (6) of section fifty-seven  
5 point one (57.1) of the Code, a contest board shall be  
6 established.

1 Sec. 2. The contest board shall be established within ten  
2 (10) days after statement of contest has been served and filed.  
3 The contest board shall consist of the chairman of the board of  
4 supervisors of the county in which the incumbent was a candidate  
5 and two (2) other persons, one (1) of whom shall be named by the  
6 contestant and one (1) by the incumbent. The chairman of the  
7 board of supervisors shall be the presiding officer.

1 Sec. 3. Within five (5) days after the statement of contest  
2 has been served and filed, the contestant and incumbent shall  
3 each file in the office of the auditor of the county in which the

4 incumbent was a candidate a written nomination of one (1) member  
5 of such contest board. All members of the contest board shall be  
6 sworn in manner and form as are jurors in trials of civil actions.  
7 If either the contestant or the incumbent fails, within the re-  
8 quired time to nominate a member of the contest board the pre-  
9 siding officer shall appoint a member for him.

1 Sec. 4. The chairman of the board of supervisors shall be  
2 clerk of the contest board and keep a record of the proceedings.  
3 If unable to serve, he shall appoint another member of the  
4 county board of supervisors to serve in his place.

1 Sec. 5. The contest board shall fix a time for a hearing  
2 which shall be not less than four (4) nor more than ten (10) days  
3 after the establishment of the board and shall fix the place of  
4 hearing.

1 Sec. 6. The proceedings shall be conducted in a manner simi-  
2 lar to those in a civil action and shall be under the control  
3 and direction of the contest board. The contest board shall have  
4 authority to conduct such hearing and may compel the attendance  
5 of witnesses, swear witnesses and direct their examination, ad-  
6 journ from day to day, and make any order concerning immediate  
7 costs. The contestant and incumbent may be present at all times  
8 and may be represented by counsel.

1 Sec. 7. The contest board shall have power to procure for  
2 examination, by subpoena or order, the ballot boxes and ballots  
3 of any voting precincts designated in the statement of contest as  
4 served and filed or as amended, and tally sheets and books of any  
5 board of canvassers of the vote involved in the contest. The  
6 district court of the county in which the contest is held shall  
7 have jurisdiction upon application of the contest board, to en-

8 force all lawful orders of the contest board under this Act.

1 Sec. 8. The contest board may proceed to recount the votes  
2 for the contested office. It may receive stipulations of the  
3 parties to the contest as to uncontested ballots. It may sepa-  
4 rate and keep together by precincts, contested ballots with no-  
5 tations of the objections thereto.

1 Sec. 9. In no case shall the contest board intermingle ballots  
2 of different precincts nor make any marks upon any ballot.

1 Sec. 10. Upon the close of the hearing, the board shall seal  
2 the ballots of the contested voting precincts and shall transmit  
3 the same to the office of the county auditor, with an endorsement  
4 thereon stating the result of the recount and the names of the  
5 contesting parties. Such ballots shall be kept securely locked  
6 in the office of the county auditor and shall not be released  
7 except upon the direction of the house of representatives. The  
8 contest board shall also transmit to the secretary of state the  
9 names of the contesting parties and the result of the recount.

1 Sec. 11. So far as consistent with this Act the provisions of  
2 chapter sixty-two (62) of the Code shall govern the proceedings  
3 of the contest board.

1 Sec. 12. After a recount of the contested ballots has been  
2 made, the contest board shall execute a certificate which shall  
3 specify the person receiving the plurality of the votes cast and  
4 shall transmit such certificate to the speaker of the house of  
5 representatives. The person so designated as receiving the  
6 plurality of votes cast shall be seated, but the house of repre-  
7 sentatives may take such further action as it may deem necessary  
8 to determine the person who is entitled to be seated.

1 Sec. 13. The members of the board shall receive the same com-

2   pensation as judges of a contest court provided by chapter sixty-  
 3   two (62) of the Code. Each county in which an election is con-  
 4   tested shall pay the costs incident thereto. The costs of the  
 5   proceeding shall be assessed against the person who contests the  
 6   election, and he shall reimburse the county for all costs paid  
 7   relative to the election contest. A certificate of such costs  
 8   shall be given by the board. A judgment for the costs may be  
 9   obtained in district court.

1   Sec. 14. The county attorney shall give his advice or opinion  
 2   in writing and without compensation to the county contest board  
 3   relative to the duties and powers of the board.

1   Sec. 15. Section fifty-nine point one (59.1), Code 1962, is  
 2   hereby amended by inserting in line four (4) after the word  
 3   "incumbent" the words "and file in the office of the auditor of  
 4   the county in which the incumbent was a candidate".

#### EXPLANATION OF HOUSE FILE 363

The Iowa Constitution states that each house of the General Assembly is the judge of the qualifications, election and return of its own members and that a contested election shall be determined in the manner directed by law. Presently where an election to the assembly is contested, much time is taken up by the affected house in making recounts. This act directs that a contest board shall be established whenever a candidate for a seat in the House of Representatives is from a county in which all the voting was done by paper ballot and where such candidate alleges recount as the ground or one of the grounds of the contest. The parties to the contest may stipulate as to certain ballots and the results of the recount and a statement as to contested ballots will be sent to the House of Representatives with the intent to simplify its work in determining the contest. The act leaves unchanged the requirement that a contest must be initiated within 30 days.