

FEB 22 2006  
LOCAL GOVERNMENT

HOUSE FILE 2458  
BY HUSER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to water treatment basins constructed in drainage  
2 districts, and providing for related assessments.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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TLSB 5670YH 81  
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1 Section 1. Section 468.1, Code 2005, is amended to read as  
2 follows:

3 468.1 JURISDICTION TO ESTABLISH.

4 The board of supervisors of any county shall have  
5 jurisdiction, power, and authority at any regular, special, or  
6 adjourned session, to establish a drainage district or  
7 districts, and to locate and establish levees, and cause to be  
8 constructed ~~as hereinafter provided~~ any related levee, ditch,  
9 drain, or watercourse, water treatment basin, or settling  
10 ~~basins-in-connection-therewith~~, basin; or to straighten,  
11 widen, deepen, or change any natural watercourse, in such  
12 county, whenever the same will be of public utility or  
13 conducive to the public health, convenience, or welfare.

14 Sec. 2. NEW SECTION. 468.190 WATER TREATMENT BASINS.

15 1. As used in this section, unless the context otherwise  
16 requires:

17 a. "Construction" means creation, major alteration,  
18 enlargement, major reconstruction, or major renovation.

19 b. "Maintenance" means repair, minor alteration, minor  
20 reconstruction, or minor renovation.

21 c. "Water treatment basin" means an existing, enhanced,  
22 restored, or created wetlands, dam, dike, excavated basin, or  
23 other structure necessary to create a water impoundment and  
24 includes all of the following:

25 (1) Drains, pipes, ditches, pumps, or spillways which  
26 convey water to or from the impoundment.

27 (2) A vegetative area or other structure, which is used as  
28 a buffer to mitigate the effects of concentrated runoff  
29 contamination upon surface water quality.

30 d. "Wetlands" means the same as defined in section 456B.1.

31 e. "Wetlands mitigation banking" means the process of  
32 restoring or creating self-sustaining, functioning wetlands,  
33 or, in exceptional circumstances, preserving high-quality,  
34 threatened wetlands, as a prior replacement for wetlands that  
35 are expected to be unavoidably impacted by development.

1     2. A board may enter into a construction agreement with a  
2 person who has constructed or is seeking to construct a water  
3 treatment basin under a state or federal program, including  
4 the conservation reserve enhancement program established  
5 pursuant to section 466.5, for purposes of benefiting the  
6 district. To the extent applicable, the construction  
7 agreement shall provide for all of the following:

8     a. The duration of the construction agreement.  
9     b. Moneys to be received or expended by the board or the  
10 person as a consequence of constructing the water treatment  
11 basin.  
12     c. An accounting of moneys contributed by sources other  
13 than the board or the person, which are used as financial  
14 incentives to construct or maintain the water treatment basin.  
15     d. An assignment of rights and responsibilities for the  
16 construction and maintenance of the water treatment basin.  
17     e. A description of the land which is used or may be used  
18 for the treatment of discharge water. A system used for the  
19 treatment of discharge water must comply with applicable  
20 regulations of the federal government or the state or  
21 political subdivision, or requirements of applicable programs  
22 in which the person is participating.  
23     f. The assignment of the control of credits or other value  
24 acquired or transferred as part of wetlands mitigation  
25 banking.  
26     g. The disposition of the water treatment basin after the  
27 construction agreement expires, including but not limited to  
28 plans for the continuance of the associated wetlands.

29     3. a. When a board and a person enter into a construction  
30 agreement, the construction or maintenance of the water  
31 treatment basin is an improvement for purposes of section  
32 468.126, and the requirements in that section shall apply to  
33 this section in the same manner as provided in that section,  
34 including but not limited to the appointment of an engineer,  
35 the filing of an engineer's report, and the filing of a

1 remonstrance against the proposed improvement. However, the  
2 requirements for notice and a hearing and the right to file a  
3 remonstrance shall apply regardless of cost.

4 b. If the board determines that a separate benefit  
5 classification schedule is to be adopted for the payment of  
6 costs under the agreement, the provisions in section 468.126,  
7 subsection 2, and section 468.131 shall not apply to  
8 reclassify other district improvements.

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#### EXPLANATION

10 This bill amends Code chapter 468, which authorizes a  
11 "board" to establish a drainage district or levee district,  
12 including the construction of related improvements (Code  
13 section 468.1). The term "board" means a board of  
14 supervisors, a joint board of supervisors establishing or  
15 managing an intercounty levee or drainage district, or a board  
16 of trustees in districts under trustee management (Code  
17 section 468.3). Improvements in a drainage district are borne  
18 by the landholders of the district, who pay an assessment  
19 based on a system of classification (see Code section  
20 468.184).

21 The bill authorizes a board to enter into a construction  
22 agreement with a person who has constructed or is seeking to  
23 construct a water treatment basin which may include wetlands.  
24 There are federal and state regulations which govern the  
25 conversion of wetlands for development, and programs such as  
26 the conservation reserve enhancement program, which provide  
27 for the restoration or construction of wetlands for the  
28 purposes of intercepting tile line runoff, reducing nutrient  
29 loss, and improving water quality.

30 The bill regulates the provisions contained in a  
31 construction agreement, including by requiring that the  
32 construction agreement contain items relating to its duration,  
33 moneys to be received and expended, moneys contributed by  
34 other sources, rights and responsibilities of persons for  
35 construction and maintenance, and a description of the land.

1 A construction agreement must provide for any credits or value  
2 received as part of a wetlands mitigation banking process in  
3 which wetlands are restored or preserved in exchange for  
4 wetlands that are expected to be impacted by development.

5 The bill provides that construction is considered as an  
6 improvement which in part means that an engineer appointed by  
7 the board must complete a report detailing the project and its  
8 costs, notice must be provided to affected landowners, and the  
9 board must conduct a hearing of the landowners. The  
10 landowners may act in concert to veto a board decision by  
11 filing a remonstrance. Ordinarily, these requirements for  
12 notice, hearing, and a right of remonstrance do not apply to  
13 improvements of less than a certain dollar amount. The bill  
14 provides that the requirement applies regardless of the  
15 construction agreement's cost. The bill also provides that  
16 any reclassification of the affected land not trigger a  
17 reclassification of other improvements in the district.

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