CODE OF IOWA SUMMARY

Introduction

This information is presented as an overview of selected sections of the 2003 Iowa Code pertinent to drainage issues and represents the opinion of the authors as to the general intent of the described code sections. The reader may draw different conclusions and should use this information as a quick reference only. Please refer to the official current code for actual language, and always consult an attorney if a legal interpretation is needed.

Chapter 28E: Joint Exercise of Governmental Powers

Levee and drainage districts have broad discretion to enter into cooperative agreements with other public or private agencies and in jointly exercising powers to accomplish improvements. Included as potential partners are state offices, other local governmental agencies such as soil and water conservation districts, municipalities, and even private companies. Creation of separate entities for special projects is possible. Appropriate action by ordinance, resolution, or other as required by law is needed before any such agreement can be effective.

Chapter 161A: Soil and Water Conservation

Division I – Division of Soil Conservation (Sections 161A.1–4)

This chapter is also known as “Soil Conservation Districts Law.” The policy of the legislature is described in Section 161A.2: “It is hereby declared to be the policy of the legislature to integrate the conservation of soil and water resources into the production of agricultural commodities to insure the long-term protection of the soil and water resources of the state of Iowa, and to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist and maintain the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and promote the health, safety, and public welfare of the people of this state.”

A committee is established to perform the functions and duties described, consisting of a chairperson and eight voting members appointed by the governor for six-year terms. Several ex-officio members without voting privileges also serve. The Iowa county engineers can appoint a non-voting advisor. The committee recommends an administrative director to the secretary of agriculture and an annual budget. The committee also assists soil and water conservation districts across the state, providing advice, financial assistance, etc. and files a state conservation plan. The committee also establishes a state drainage coordinator for drainage and levee districts to communicate and facilitate with districts, provide advice, and disseminate information.

Division II – Soil and Water Conservation Districts (Sections 161A.5–12)

The 100 soil and water districts in existence prior to 1975 are continued, each governed by five commissioners with staggered four-year terms. Commissioners serve without compensation, although expenses may be reimbursed. Powers of soil and water districts include conducting surveys of erosion, floodwaters, etc., undertaking demonstration projects for control of erosion, cooperating with the Iowa State University experiment station, carrying out methods, entering agreements, assisting landowners, developing a comprehensive plan, and administering state cost-sharing funds for conservation projects. A prescribed number of landowners can petition for dissolution of a district. Upon a 65 percent affirmative vote, the district
is dissolved. The division of soil conservation must report annually to the governor on the number and acreage of districts and submit a statement of expenditures to the department of management.

Division III – Subdistricts (Sections 161A.13–22)

Subdistricts may be formed upon the proper submittal of a petition by landowners. Notices and a hearing are required. Commissioners can establish and then act as governing board. Authority to impose a special tax for improvements is allowed as is the power of eminent domain for acquisition of land. Warrants and bonds can be issued for improvements.

Division IV – Alternate Method of Taxation for Watershed Protection and Flood Prevention (Sections 161A.23–41)

After agreements have been reached and at least 50 percent of farm plans received, the governing board may proceed to assess benefits as a means of determining tax for improvements. The process is similar to that described for levee and drainage districts, using appraisers to assess benefits and a hearing to consider the report. Appeals can be heard. Recommended assessments are then transmitted to the board of supervisors for imposition of property tax. Lands can be reclassified for benefits, if needed. The governing board decides which taxing method to apply for subdistricts, special annual tax or special benefits assessment.

Division V – Soil and Water Conservation Practices
Part I – Duties and Obligations (Sections 161A.42–69)

Landowners have a duty to establish and maintain good erosion control practices, but liability is limited in this regard primarily to matters of gross negligence. Soil and water districts shall establish maximum soil loss limits in tons per acre based on a land classification of topography, soil characteristics, and use (different classification for varying soils), and work with landowners to achieve compliance. Any proposed regulations must be submitted to the state committee for review and a hearing held to consider. Upon a complaint, commissioners shall inspect land for excess sediment or erosion. If findings are positive, commissioners may issue an administrative order to correct the problem. Non-compliance with an administrative order can be petitioned to district court. Cost-sharing programs are made available to landowners for permanent or temporary erosion control measures.

Commissioners have the right to enter private lands to make classifications or determine the extent of soil erosion. Soil and water conservation districts may enter into cooperative agreements with federal, state, and local agencies to prevent and control erosion. State agencies owning agricultural land are required to enter agreements with soil and water districts. Commissioners may also inspect lands suspected of large erosion loss or of improperly maintaining a previously cooperatively funded permanent practice.

Commissioners may prepare a soil conservation plan for each farm unit, or owners may prepare their own plan. Certain land disturbing projects may require filing of an affidavit with the soil and water conservation district assuring that erosion will not exceed prescribed limits.

Part 2 – Financial Incentives (Sections 161A.70–76)

Financial incentive programs are established to protect productivity of soil and water resources from erosion and sediment damage and to encourage adoption of good agricultural management practices. A conservation practices revolving fund exists for providing loans to landowners for establishing new permanent soil and water conservation practices as approved by the district commissioners. Funds are provided by the legislature. This loan fund may be used in lieu of other cost-sharing funds.
Financial incentives can be offered for establishment of conservation practices such as terraces, grassed waterways, stabilization structures, and installation of fencing to protect forests from grazing livestock. Most practices are voluntary but some might be mandated as determined by the district commissioners. Certain lands, such as those not cropped for 15 years, may be restricted from receiving cost-sharing funds for conservation practices.

Chapter 161B: Agricultural Energy Management (Section 161B.1)

The agricultural energy management fund was created to fund educational and demonstration projects that use tillage practices and management of fertilizer and pesticides to reduce potential groundwater contamination and energy use. An advisory committee has been formed of several prescribed state officials, with the secretary of agriculture as chair. Members of the legislature are also appointed as non-voting members. An annual report is made to the legislature on projects conducted using this fund.

Chapter 161C: Water Protection Projects and Practices (Sections 161C.1–6)

Each district alone or with other districts shall carry out projects to protect groundwater and surface water from contamination with emphasis on agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants. Various funding opportunities are available to landowners for establishing water protection practices. Cooperation with other agencies through agreements is allowed. A water protection fund exists, appropriated by the legislature and other sources. There are two accounts in the fund: water quality protection projects and the establishment of water protection practices of prescribed uses. An organic nutrient management fund is also provided by the legislature and other sources to support this program primarily through management of livestock wastes.

Chapter 161D: Loess Hills Development and Conservation Authority (Sections 161D.1–2)

A Loess Hills development and conservation authority was created. Several western Iowa counties are eligible to participate in developing plans to restore and protect infrastructure and natural resources in this unique area. A Loess Hills development and conservation fund was created to assist in funding projects. Gifts are also accepted to augment legislative appropriations.

Chapter 161E: Flood and Erosion Control (Sections 161E.1–15)

A board of supervisors may authorize construction, operation and maintenance of flood or erosion control improvements in cooperation with federal agencies. Federal funds may be accepted for this purpose and cooperation with other agencies also allowed. Counties are authorized to levy a tax for flood and erosion control projects. Payments from the federal government for operation of flood control projects are allocated in a prescribed manner: to the secondary road fund, school districts, local fire departments, etc.

Chapter 161F: Soil Conservation and Flood Control Districts (Sections 161F.1–6)

Conservation of water resources, flood damage prevention, and drainage of surface waters are presumed to be a public benefit. Boards of supervisors have the power and authority to establish districts for soil conservation and flood control, including mining
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areas. A board can require replacement of top soil removed in strip mining of coal. Levee and drainage districts can include soil conservation and flood control projects, and a board can establish a new district for that purpose, upon petition. If so affected, soil and water conservation district commissioners shall approve such a combination of districts as shall the Department of Natural Resources. Provisions of Chapter 468 shall apply.

Chapter 306: Establishment, Alteration, and Vacation of Highways

Changes in Roads, Streams, or Dry Runs (Sections 306.27–37)

The state Department of Transportation or county boards of supervisors may change the course of a stream, watercourse, or dry run and/or may pond water as part of prescribed construction or maintenance activities. Acquisition of land for this purpose by eminent domain is allowed, if necessary. Proper notices and a hearing are necessary and appeals are permitted.

Soil and Water Conservation Impact (Sections 306.50–54)

Highway authorities shall provide copies of annual construction programs to soil and water conservation district commissions in each county. Commissioners shall determine any impacts on soil and water drainage from the program and may also review any plans that include a drainage structure. Soil and water commissioners shall submit recommendations to highway authorities, including possible cost-sharing for erosion control structures. A report of any disagreements between highway authorities and soil and water districts must be made to the legislature annually.

Chapter 314: Administrative Provisions for Highways (Sections 314.1–28)

Highway agencies are prohibited from removing trees in certain locations that do not materially interfere with the roadway or obstruct the highway or tile. Agencies are also prohibited from denying reasonable access to any property or diverting drainage if injury results. However, drainage of surface water from roadways in the natural channel is required and, if needed, agencies can enter adjacent lands to remove obstructions that impede the flow of water (Section 314.7).

Chapter 352: County Land Preservation and Use Commissions (Sections 352.1–13)

A farm or farming operation in an agricultural area is exempt from nuisance claims with certain exceptions such as negligent operations, pollution, excessive erosion, and changed conditions in drainage. If necessary to allocate water use, the Department of Natural Resources shall give priority to farm operations, exclusive of irrigation, except for ordinary household use (Section 352.11).

Chapter 427: Property Exempt and Taxable

Structures and areas used for impoundment purposes are not taxable (Section 427.1, Part 20). Any real estate acquired as use for public roads, levees, and established, open, public drainage improvements is not to be taxed (Section 427.2).
Chapter 455A: Department of Natural Resources (Sections 455A.1–21)

The Department of Natural Resources (DNR) has the primary responsibility for state parks and forests, protecting the environment, and managing energy, fish, wildlife, and land and water resources in the state. The Iowa Resources Enhancement and Protection Fund (REAP) is described along with the allocation of funds there from. County resource enhancement committees are created in each county with a prescribed membership to coordinate plans and projects.

Chapter 455B: Jurisdiction of Department of Natural Resources

Division III – Water Quality

Part 1 – General (Sections 455B.171–199)

Jurisdiction of the DNR and local boards is outlined. Duties of the commission include developing comprehensive plans and programs for prevention, control and abatement of water pollution, establishing rules and standards, and cooperating with other agencies. Director’s duties include investigating water pollution, conducting surveys and random inspections, and issuing permits for disposal systems or water supply systems. Violations are handled by the director. Criteria considered by the commission in establishing, modifying, or repealing water standards are listed. Written permits are required for several activities, such as construction or modification of disposal or public water supply systems, construction or use of new point source for discharge of pollutants, and operation of waste disposal or public water supply system. A water quality protection fund is created, funded by the legislature and fees collected. A program to assist public water supply systems is established. Water well contractors must be registered or certified. Procedures for construction of wells are defined. Plugging of abandoned wells is described and several definitions are listed. Penalties for violations are established.

Part 4 – Water Allocation and Use: Flood Plain Control (Sections 455B.261–290)

Duties of the commission include developing a general ground water protection strategy, coordinating planning with other groups, and approving agreements with the federal government. Jurisdiction of the DNR over public and private waters is described. Permits are required for diversions, storage, or withdrawal of waters over 25,000 gallons per day (regulated use). Under prescribed conditions, the DNR may prioritize water use. Details pertaining to permits are explained including, when required, modifications or cancellations, termination, and disposal. Prohibited acts are enumerated. The commission shall adopt rules addressing development in flood plains and cooperate with and assist local agencies in establishing encroachment limits and flood plain regulations.

Part 5 – Water Pollution Control Works and Drinking Water Facilities (Sections 455B.291–300)

It is in the public interest to establish a water pollution control works and drinking water facilities program and revolving loan fund for projects. Four separate funds are created for water pollution control and drinking water facilities. Loans are made to eligible entities to finance projects.

Chapter 455E: Groundwater Protection (Sections 455E.1–11)

The chapter is also known as the “Groundwater Protection Act.”

The legislature has found that groundwater is an important resource and must be protected. Groundwater has been contaminated in the past by chemicals, hazardous substances, and wells. Prevention of contamination is of paramount importance. Liability is
not imposed on agricultural producers for clean-up or damages associated with nitrates and pesticides if proper application procedures were followed. All state and local agencies shall consider groundwater protection policies in their programs and cooperate with the DNR in these efforts.

Chapter 459: Animal Agriculture Compliance Act

Subchapter III – Animal Feeding Operations-Water Quality (Sections 459.301–318)

Construction of confinement feeding operations may be restricted in 100-year flood plains. The DNR shall approve applications for construction or expansion of certain confinement feeding operations per adopted rules. Separation distance requirements for confinement feeding operations exist for major water sources, wells, sinkholes, and designated wetlands. Confinement feeding operations shall not discharge manure directly into waters of the state or into tiles that discharge into water of the state. Manure shall be disposed of in a manner that will not pollute surface or groundwater.

Subchapter VI – Violations (Sections 459.601–605)

Investigations of complaints of violations shall be conducted by the board of supervisors and the DNR.

Chapter 460: Agricultural Drainage Wells and Sinkholes (Sections 460.101–305)

The owner of land with an agricultural drainage well shall be closed by owners. Owners of agricultural drainage wells shall register the well with the DNR. Alternatives to agricultural drainage wells shall be sought by owners, assisted by the DNR, including funding of replacements.

Chapter 461A: Public Lands and Waters

Water Recreational Areas (Section 461A.76)

Governing boards for levee and drainage districts are allowed to enter into contracts and agreements with municipalities and corporations for establishment of water recreational areas. Any agreements must be in writing and can be negotiated in advance or after establishment of such an area. Certain prescribed subjects must be addressed in the agreements, including funding and easements. If expenditure from district funds for a cooperative project will exceed 50 percent of the original cost of the district, notice and a hearing is required.

Chapter 468
Subchapter I – Establishment

Part 1 – General (Sections 468.1–200)

Any county board of supervisors is authorized to establish a drainage district whenever that action will be of public utility or conducive to public health, convenience, and welfare. Included in this power is the authority to construct levees, ditches, drains, water-courses and settling basins as well as straightening, widening, deepening, or changing of a natural water-course. Drainage of surface water from agricultural lands and the protection of such lands from flooding is presumed to be a public benefit and the provisions of Iowa drainage laws are to be liberally construed to promote reclamation of wet and swampy lands. As a general rule, drainage improvements should be located
along natural drainage courses, but where more economical and practical, straightening and shortening of a natural channel is allowed.

**Landowner petition for establishment of a drainage or levee district**

Two or more landowners may petition the county auditor for establishment of a drainage or levee district. The petition must include a description of the land involved, statement that public benefit will result, a proposed drainage or levee layout, and possible land classification. A bond is required with the petition covering the incurred costs if the district is not established. If the board of supervisors accepts the validity of the petition, an engineer is appointed to survey the lands in question, plus adjacent others that might also benefit. The engineer’s report to the board will include a detailed survey, construction recommendations, and estimated cost. A classification of lands will be included if requested by landowners.

If the engineer’s report is approved, the board will set a hearing date and serve notice to all affected landowners. Following the hearing and receipt of any damage claims, the board may approve establishment of the district if it is concluded to be in the public interest. At that point, three qualified appraisers are appointed to assess damages and right-of-way needs. After reviewing the engineer’s and appraisers’ cost estimates to determine comparative economic benefit, the board shall establish the district. Right of way for drainage improvements is normally acquired by permanent easement. If a prescribed majority of landowners remonstrate against the establishment of the district at or before the final hearing or if no progress toward construction is made in a two-year period, the board shall dissolve the proposed district. After appointment of a supervisory engineer, the drainage improvement work is advertised and let for bids.

**Process for establishing a drainage or levee district**

Following establishment of a drainage or levee district, three commissioners are appointed by the board to classify the lands to be improved, determine benefits, and assess costs to each property served, in 40-acre or less tracts. Benefits are prorated to each. Lands owned by railroad companies and the state of Iowa are included in the assessment of benefits. The commissioners must submit a detailed report of benefits and cost assessments to the board. Then a hearing is set and objections heard. Once the classification of lands is adopted, that will remain the basis for all future drainage assessments in that district unless a reclassification takes place. For any subdivision of tracts following classification, the assessment of costs is prorated by mutual agreement of owners, or as directed by the board if agreement cannot be made.

**Tax assessments**

Assessments are levied as a tax against each benefited tract. Collected taxes are kept in a separate fund known as the “county drainage or levee fund.” The county auditor keeps records of each district’s funds. Dispersal only for proper purposes is made on order of the governing board. If surplus funds are accumulated, the board may refund to landowners on a prorated basis.

If changed conditions are encountered before construction has been completed, the initial plan may be modified. An additional hearing is not required if costs are not increased more than 25 percent.

**After district is established**

After the district is established, other owners wishing to connect to the main ditch or drain across the land of others may petition the board for establishment of a sub-district. The board will add to the district if public benefit will result. For changed conditions or substantial needed repairs, the board may order a reclassification of lands for assessment of costs.
A governing board may also add other adjacent benefited lands to the district with or without a petition and establish a levy of taxes for benefits received. Affected landowners may appeal, but right of remonstrance does not apply. If desired, the board may establish a new district if the old district is insufficient to drain all tributary lands.

**Paying for the work**

Improvement costs can be funded by drainage warrants, certificates, or bonds at the board’s discretion. Records of bonds issued are kept by the county auditor. Aggrieved parties can appeal any board action to district court for resolution. During construction the supervising engineer shall provide the auditor with monthly estimates of work completed and payments due to the contractor. At completion of the work, the engineer shall file a report to the board and certify completion. Board shall set a date to consider the report and notify landowners. Following the hearing of any objections and settlement of claims, the board will accept the work and authorize final payment to the contractor.

**Construction and right of way**

Construction of a drainage improvement near a highway shall not interfere with public travel (468.106). Highways may be established on levees or embankments, but not so as to obstruct any drain or ditch. Building or modification of bridges to accommodate drains or levees may be necessary on either primary or secondary highways.

When a district drain or ditch crosses railroad property, the company is directed to construct a bridge or culvert to accommodate the crossing. If the company fails to responds, the district may proceed with that work and bill the company for costs.

Passage across private utilities’ right of way by drainage contractors and improvements is allowed. If a railroad or utility right of way is abandoned after establishment of the drainage or levee district, a permanent easement for the drainage improvements is granted.

**Repairs**

Repairs needed in a drainage district are the responsibility of the governing board. Routine repairs may be ordered whenever needed and an engineer’s report may also be ordered. If the estimated cost of repairs exceeds $10,000 or 75 percent of the original district cost, a hearing is necessary. Repairs cannot be divided to avoid need for a hearing.

A report by the soil and water conservation district may also be required. Minor maintenance, such as brush removal, may be accomplished by county forces and billed to the district. Repairs of private tile outlets may be assessed directly to the owners.

**Improvements**

An “improvement” to an existing drain or ditch is defined as a project that expands, enlarges, or increases the capacity of the drain or ditch above the original design. If improvements are deemed necessary, the board shall appoint an engineer to make a survey and submit a report. If the work does not exceed $10,000 or 25 percent of the original cost of the district, no hearing or notice is required, but the work cannot be divided to avoid notice.

Following a hearing, the board shall order feasible improvements and a reclassification of benefits if necessary. If additional right of way is required, acquisition is authorized. Payment for repairs or improvements must be from district funds or additional assessments. If the proposed improvements exceed either $25,000 or the original cost of the district, a prescribed majority of landowners may remonstrate (plead in opposition) against the improvement. If a remonstrance (an act of objecting) is filed, the governing board must dismiss any further action.

Improvement of a common outlet of two or more districts, when needed, requires a hearing. Cost of such work is prorated to contributing districts. Commis-
sioners shall be appointed to determine benefits and assessment of costs. A report is presented at the hearing, following which the board will take final action. Levy of costs by district shall be made under the original classification if costs are less than 25 percent of the original district cost. If more than 25 percent, a reclassification may be ordered by the board.

If a public improvement, including drainage, levees, or highways separates a district such that one part no longer benefits, the governing board may, upon notice and hearing, remove the lands so severed without reclassification or may divide the district, with each part operating independently. Any inequalities in value of improvements, contribution of lands, and maintenance between divided sections shall be settled by the governing board.

Obstructions

Any obstructions to drains or ditches shall be removed following board direction. Trees and hedges outside the right of way causing obstructions can also be removed, even if acquisition of additional right of way is needed. (468.138 & 468.139)

Subdistricts

Boards may establish subdistricts in adjoining areas, even when located in another county. Boards are allowed to construct suitable outlets for drainage in other counties or even other states. If a properly executed mutual agreement for combined drainage is filed with the county auditor, the board shall establish a drainage district therein.

Damage liability

Any person who willfully damages or obstructs a ditch, drain, or levee is liable for twice the cost of any damages caused. Any subsequent similar offense is cause for triple damages. (468.148) Repair costs shall be assessed to persons causing damages. (468.149) Damages and trespass are deemed serious misde-

meanors. Any obstructions are declared a nuisance and can be removed upon board action.

Assistance for county auditor

If drainage district work becomes burdensome for a county auditor, the board can authorize assistance and pay from district funds. Outside counsel and appraisers can also be sought by the governing board and paid from district funds.

Tax delinquent land

Governing boards may purchase lands delinquent in taxes at a tax sale and pay from district funds. Any excess lands or property so acquired can be disposed as desired and any acquired funds from rents or sales deposited in the district fund. Tax certificates may be purchased by the governing board and terms of redemption negotiated between the board and property owner of the land involved.

A receiver may be appointed by the district court to take charge of tax delinquent real estate, upon application by the governing board.

Inspections

Periodic inspections of levee and drainage improvements by a competent engineer shall be periodically ordered by the governing board. Watchpersons can also be employed by the board to observe levees and make needed repairs during emergencies.

Assessing value

When a levee district is established or improved or if the assessed benefits are determined to be deficient, the county auditor shall determine the assessed taxable value to be used as a basis for classification or reclassification as ordered by the board. A hearing is required and notices to property owners provided. If a remonstrance is filed by a prescribed majority of landowners, the board shall abandon this alternative method and proceed with classification or reclassification as described previously, on the basis of benefits.
received. If this method is also remonstrated by a prescribed majority of landowners, the board shall dismiss any reclassification plan. If no remonstrance is received, the board shall decide the most appropriate method of classification or reclassification. In lieu of a hearing, the board may decide the matter based on a vote by landowners, either at a regular or special election. A 60 percent affirmative vote is required for approval.

Under certain conditions, a levee district may elect to classify benefits and assess costs equally on a per acre basis across the district. This method may be adopted by either a hearing or vote of landowners. Similar procedures can be used for classification or reclassification for maintenance or repair work in drainage districts, but assessment of costs only apply to lands served by drains and laterals, not for improvements to the general drainage system.

Utilities

If a person or company desires to construct a utility on or across a drainage or levee district right-of-way, an easement is required in advance. Any resultant adjustment of drainage facilities are paid by the person or company. Any future modification or relocation of the utility due to drainage improvements shall be at the expense of the person or company. If highway or utility work permanently exposes a tile drain of less than 20 inches in diameter, that section shall be replaced with a steel or polyvinyl chloride pipe of prescribed dimensions, gauge, and wall thickness.

Flood control

Levee and drainage districts are empowered to construct impoundment areas and/or flood control devices when found to be cost effective.

Income

Income from incidental use of drainage facilities is permissible, including contracting with cities to permit discharge of properly treated sewage into district drains.

Damage from locks and dams

Levee and drainage districts are authorized to take legal action or negotiate with the United States government for any damages suffered as a result of locks and dams on the Mississippi or Missouri Rivers.

Waste banks

Landowners may use waste banks from ditches provided no adverse effects result.

Drainage records

The board shall cause drainage records to be kept by the auditor; all pertinent accumulated records and documents are the property of the district.

National Drainage Association

Any district may be a member of the National Drainage Association and pay prescribed membership fees from district funds.

Service agreements

Drainage or levee district agreements may be reached with landowners, other districts, or municipalities to furnish certain services provided district facilities are not overburdened, no cost accrues to the district, and the written agreement contains prescribed considerations.

Part 2 – Federal Flood Control Co-operation (Sections 468.201–219)

When U.S. Government agencies plan improvements or repairs of existing improvements that will further the purposes for which an existing district has been established, a county board of supervisors is authorized to enter into an agreement of cooperation with the U.S. Government. If a repair or alteration is contemplated, and its cost is less than 25 percent of the original improvement cost to a district, a board may proceed without notice, hearing, and appraisement. Procedures for these cooperative ventures are similar
to those described for establishment and/or repair of drainage or levee districts, including appointing of an engineer, reports required, notices, hearings, appraisement, and assessment of benefits. Payment of assessments can be made in a single installment or over a longer period, at the discretion of the board. Warrants may also be authorized by the board to pay initial costs. All procedures described above for boards of supervisors also apply to boards of trustees, if a district is so governed.

Part 3 – State Lands (Sections 468.220–229)

A levee or drainage district may occupy and use for any lawful purpose land owned by the state of Iowa with proper permission from the controlling agency. The state of Iowa is held responsible for any drainage or special assessments against state land that is located in established drainage districts.

Part 4 – Board of County Drainage Administrators (Sections 468.230–234)

A county board of supervisors may by resolution elect to establish a board of county drainage administrators to oversee all activities related to drainage or levee districts in a prescribed area. Part 4 describes details of this action including areas of coverage, compensation, and payment from district funds. Drainage and levee districts must adhere to duly adopted rules and plans of soil and water conservation districts.

Part 5 – County-City Drainage District (Sections 468.240–249)

Counties with populations over 200,000 may use federal grants, revenue sharing moneys, or other funds not derived from local tax levies to pay for improvements in drainage districts that have been established partly within the corporate limits of a city. General obligation bonds issued to pay for drainage improvements are also allowed by this section.

Part 6 – Dissolution of Drainage Districts (Sections 468.250–269)

Drainage or levee districts may be dissolved, abandoned, or assimilated under certain conditions outlined in this part. If a district is debt free but no longer provides cost effective service to lands in that district, a board of supervisors or board of trustees, upon petition of a majority of landowners, may proceed to dissolve and abandon the district. In addition, if a district is wholly encompassed by a larger district, a board of supervisors or board of trustees may elect to dissolve the contained district. Part 6 includes a description of the process for dissolution including hearings, abandonment of rights-of-way, and refund of expenses. For dissolution of contained districts, Part 6 also allows voting by drainage district members in lieu of a hearing to decide approval. The obligations and responsibilities of the overlying district relative to the contained district following dissolution are listed.

Subchapter II – Jurisdictions

Part 1 – Intercounty Levee or Drainage Districts (Sections 468.270–304)

One commissioner is to be appointed for each county and a competent engineer, who also serves as a commissioner, is selected by joint action of the counties. Duplicate reports from the commissioners and engineer must be filed in each county. If establishment of a district is recommended, notices to owners in each county and hearings by joint boards are comparable to those required for single county application. Appointment, duties, and reports of appraisers for each county are also similar to those described in previous Code sections for establishment in a single county. Joint board meetings are described and procedures for equalizing voting when boards are of unequal sizes are explained. After benefits and costs have been determined, each county shall levy and collect apportioned
Part 2 – Converting Intracounty Districts into Intercounty District (Sections 468.304–314)

Whenever drainage districts in one county outlet into a common ditch, drain, or watercourse as a drainage district in an adjacent county, a new, intercounty district may be established. Only benefited lands can be included in the combined district. Either property owners or boards of trustees may appeal such a district’s establishment.

Part 3 – Drainage Districts Embracing City in Whole or Part (Sections 468.315–334)

Boards of supervisors have authority to include all or part of any city in an established drainage or levee district. Notices for inclusion of cities and assessments are required. Options for funding of improvements include bonds, certificates, and waivers. A board of supervisors may relinquish control of a drainage district to a city if it finds that 25 percent or more of the area of a district is located within that city’s boundaries (Section 468.322). Cities are bound to accept control of said districts upon relinquishment by a county. This part also describes the jurisdiction authority and control of drainage districts by a city, either by the city council or delegated to a board of trustees.

Part 4 – Highway Drainage Districts (Sections 468.335–354)

A county board of supervisors may elect to establish a drainage district for any public highway under its jurisdiction together with any abutting lands, including railroad property and primary highways. This action may be initiated without petition. An engineer must be appointed to provide surveys and a report; the county engineer is eligible for this duty. Various funding options for improvements include payment from the primary and secondary road funds. A county board of supervisors may use eminent domain procedures, if necessary, to establish a suitable outlet for the drainage of highways. Trees and hedges that cause damage to ditches or drains may need to be removed (Sections 468.346–347).

Part 5 – Drainage and Levee Districts with Pumping Stations (Sections 468.355–389)

Boards of supervisors may establish and maintain pumping stations when needed to provide a proper outlet for a drainage or levee district. Pumping stations cannot be established without a petition from at least one-third of the property owners in that district. Additional pumps may be installed and existing pumps transferred; several payment options exist. A board of supervisors is allowed to divide districts served with pumping stations upon petition by at least one-third of the property owners of the land served. If a settling basin is needed to improve drainage and reduce flooding damage, the board of supervisors may acquire land for the basin by eminent domain power if needed. Bonds may be used for funding. Bankruptcy proceedings are allowed for governing bodies regarding indebtedness for drainage districts with pumping stations. Any construction of buildings, ditches, or removal of earth within 300 feet of a levee is prohibited, and there are penalties for such action, including liability.
Part 6 – Drainage Districts in Connection with United States Levees (Sections 468.390–399)

Drainage or levee districts may be established by a board of supervisors in cooperation with the United States government in relation to an existing U.S. government levee along a navigable stream that forms a boundary of the state. Costs may be assessed for improved lands, and taxes may be collected for improvements and incurred maintenance.

Part 7 – Interstate Drainage Districts (Sections 468.400–499)

When a drainage area lies partially in an adjacent state, a board of supervisors may seek to establish a drainage district using the necessary agreements between states, letting of construction contracts, and assessment of costs for improvements and management of the district.

Subchapter III – Management of Drainage or Levee Districts by Trustees (Sections 468.500–539)

For any drainage or levee district in which the original construction has been completed and paid for, management may be placed under control of a board of trustees by a city council or county board of supervisors following receipt of a petition signed by a majority of landowners. Three trustees are elected from prescribed sub-districts if the drainage or levee district exceed 3,000 acres or extends into more than one county. Trustees must be United States citizens, at least 18 years of age, and landowners or stockholders of land in the district. Landowners, 18 years of age and older and corporations owning land in the district may vote for trustees. Elected trustees serve for three years on a staggered term basis. Trustees have the same powers and duties in the control, supervision, and management of districts as those described for county boards of supervisors or city councils. Certificates and bonds to fund improvements may be issued by boards of trustees and periodic reports of activities must be filed with the county auditors.

Subchapter IV – Financing

Part 1 – Drainage Refunding Bonds (Sections 468.540–569)

A board of supervisors may elect to extend the time of payment for any outstanding drainage bonds and assessments and may renew or extend payment of legal bonded indebtedness. Drainage refunding bonds may then be issued. Refunding bonds are issued in denominations of $100–$1,000, with a life not exceeding 40 years and at an interest rate prescribed by code. A resolution of the board is required for this action and a record of issued bonds maintained by the county treasurer. The treasurer shall sell the bonds at the best rate available or exchange them for outstanding drainage bonds. Existing property liens are not affected by issuance of refunding bonds. Other agreements with creditors may be sought by the governing board of the district, including refinancing with the Reconstruction Finance Corporation.

Part 2 – Defaulted Drainage Bonds (Sections 468.570–584)

When drainage bonds that have been issued for improvements are in default for failure to pay either principal installments or accrued interest, a specified number of land owners or bond holders may apply to District Court requesting an extension of payment time, a re-amortization of assessments, a revised schedule of payments, and issuance of new bonds. The court has the jurisdiction and power to fully adjudicate all issues in the matter.

Part 3 – Funding of County Drainage Districts (Sections 468.585–599)

A county may assess costs for improvements in urban drainage districts, using the same procedures as described in Iowa Code Section 384, Division IV, City
Finance. Issuance of special assessment bonds by a county is allowed. Cities and counties cooperating in a drainage district improvement may enter into a 28E agreement outlining cost sharing, amount of special assessments, methods of determining benefits, amount of other funds to be contributed to the project, and rates to be imposed upon property to pay for expenses and maintenance.

Subchapter V – Individual Drainage Rights (Sections 468.600–634)

When an owner or owners of land desire to make drainage improvements by construction of levees, ditches, tiles, or underground drains for agricultural or mining purposes across the land of others, including railroads and highways, a descriptive application may be filed with the county auditor. The auditor must fix a hearing time with the board of supervisors and issue notices to all affected property owners. If the board finds the petitioned improvement to be beneficial, general specifications shall be drawn, including details of construction, repair procedures, connections, and any compensation due to affected property owners. Damages and compensation for property must be paid before any construction begins. Railroad companies may elect to undertake construction on that property.

If anyone obstructs an outlet, he/she is liable for double the cost of damages sustained by upstream owners. If such action occurs a second time, liability increases to triple the cost of sustained damages (468.618). A board of supervisors can decide disputes between adjoining landowners.

Owners may drain their land in the course of natural drainage using open or covered drains without liability to downstream owners, unless substantial changes in quantity or manner of discharge occurs. Replacement drains are covered in the same manner, if due care is exercised with the improvement (468.621).

When natural drainage runs to a highway, a land owner may enter the right-of-way to make the necessary outlet connection, but must follow specifications established by the highway authorities and leave the right-of-way in good condition. If a tile or ditch must extend across a highway right of way, payment for materials, installation, and repairs must be paid from highway funds (468.622).

A county recorder may be requested to make private drainage systems a matter of record, using prescribed methods and procedures. Such records are not considered an essential part of the title to lands.

When mutual drain records are incomplete or when an owner believes cost apportionment is not equitable, the board of supervisors may be petitioned for relief. A hearing on the petition must be held after which the board will decide equitable assessments and re-establish records.

If land owners do not pay apportioned costs or if a needed repair is not made in a timely manner, the board shall by resolution establish a drainage district. Owners of a mutual drain can petition a board of supervisors to combine with an existing drainage district. Following a required hearing, the board may by resolution dissolve the mutual drain and combine with the drainage district.

Chapter 568: Islands and Abandoned River Channels

When a formerly navigable river shifts its channel, land found within the former channel, if not previously surveyed, can be sold or leased by the State of Iowa. Occupants of the subject land have the first right to purchase, but if none, advertisement and sale proceeds. If sale does not occur, lands may be reappraised, re-advertised for sale, or leased. Any title disputes are decided by the state. Islands in the Mississippi and Missouri rivers are not included.
Chapter 657: Nuisances

Nuisances are anything that is injurious to health, indecent, unreasonably offensive, or an obstruction to free use of property. An extensive list of potential nuisances is given, but other code sections also describe particular nuisances, such as Section 468.149 for levees and drainage ditches. Penalties for nuisances include an aggravated misdemeanor and court action may also order nuisances removed. Animal feeding operations are mostly exempted from this section.

Chapter 670: Tort Liability of Governmental Subdivisions

All local governmental units including their officers and employees, except soil and water conservation districts, are described in this section as liable in tort for any wrongful death or injury caused to persons or property by negligence, error or omission, breach of duty, or other deficient official act. Several types of claims are exempted however, including some arising from negligent design and/or construction. Advice of an attorney should always be sought when issues of potential tort arise.