

LEGISLATIVE BILL 1053

Approved by the Governor January 19, 1972

Introduced by William F. Swanson, 27th District

AN ACT to amend sections 31-202.02, 31-202.03, 31-333, and 31-335, Reissue Revised Statutes of Nebraska, 1943, and sections 31-411 and 31-414, Revised Statutes Supplement, 1969, relating to drainage; to harmonize the provisions with previous legislation; to remove obsolete matter; to correct internal references; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 31-202.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-202.02. Whenever any natural watercourse in a county ~~of the class described in section 31-202.04~~ is filled with trees, silt, or debris in such a manner as to obstruct the natural flow thereof and cause damage by flooding of adjacent lands, any five landowners owning land in such county abutting on the natural watercourse may, by petition, request the county board to cause same to be cleaned out and rendered free of obstructions.

Sec. 2. That section 31-202.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-202.03. The county board, ~~of a county of the class described in section 31-202.04~~, upon receipt of such request, may, if they find natural flow is being obstructed, cause the natural watercourse to be cleaned out. The cost thereof shall be apportioned among the property owners specially benefited thereby and collected in the same manner as special assessments are levied and collected for drainage improvements under sections 31-121 to 31-124.

Sec. 3. That section 31-333, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-333. The board of supervisors shall annually thereafter determine, order, and levy the amount of the installment of the tax hereinbefore named, which shall

become due and be collected during the year at the same time that ~~state-and~~ county taxes are due and collected, and in case bonds are issued, then the amount of the interest which will accrue on such bonds shall be included and added to the tax. The annual installment and levy shall be evidenced and certified by the board, not later than August 1 of each year, to the county clerk of each county in which lands of the district are situated, which certificate shall be substantially in the following form:

State of Nebraska,)
) ss.
County of)
To county clerk of said
county:

This is to certify that by virtue of the provisions of sections 31-330 to 31-333, Reissue Revised Statutes of Nebraska, 1943, the board of supervisors of drainage district, including lands and property in the counties of in the State of Nebraska, have determined to, and do hereby levy the annual installment of the total tax, heretofore certified to you under the direction of said sections, on the lands and property situated in your county described in the following table, in which are (1) the names of the owners of such lands and properties as they appeared in the decree of the district court organizing the district, or as shown by the certificate heretofore filed showing the total assessment against the property, (2) the description of the lands and property opposite the names of owners, and (3) the amount of the annual installment and interest levied on each tract of land or piece of property: (Here insert table). The installments of tax shall be collectible and payable the present year at the same time that ~~state--and~~ county taxes are due and collected. Witness the signature of the chairman of the board of supervisors, attested by the seal of the district and the signature of the secretary of the board this day of, A.D., 19.....

.....
Secretary (Seal) Chairman

The certificate shall be filed in the office of the clerk, and the annual installment of the total tax so certified shall be extended by the county clerk on the tax books of the county against the real estate, right-of-way, road or property to be benefited, situated in such drainage district, in the same manner that other taxes are now extended on the tax books of the county in a column under the head of Drainage Tax, and shall be collected by the treasurer of the county in which the

real estate is situated on which the tax is levied, at the same time and in the same manner that the state--and county taxes on such property are collected. The county clerk shall be allowed the same fees as he receives for like services in other cases.

Sec. 4. That section 31-335, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-335. When any ditch, drain, improved watercourse, dike, levee or other drainage improvement, located and established under sections 31-301 to 31-369, crosses, drains, or protects either in whole or in part any street, highway, public or corporate road of any railroad, or benefits any or either of such streets, roads or railroads, the board of supervisors shall apportion and set off to the county or a township, if a county road, or to a company, if incorporated, or a railroad, and to a city or village, if a street or alley, a portion of the cost and expense of the whole drainage improvements, the same as to private individuals, and in proportion to the benefits conferred by such drainage improvements on such street, roads and railroads. Any apportionment of the cost and expenses of the drainage improvements that may be levied as a special tax or assessment against the property of any incorporated road, or any railroad, or any telegraph or telephone company for benefits accruing to the property of such corporations situated within the physical boundaries of such drainage district, shall be enforced and collected in the same manner that state--and county taxes are enforced against them under the general revenue laws of the state. Any apportionment of the costs and expenses aforesaid to a county, township, city or village, shall be filed as a claim with the county, township, city or village clerk, as the case may be, and may be enforced and collected as other judgments against such county, township or municipal corporation are enforced and collected.

Sec. 5. That section 31-411, Revised Statutes Supplement, 1969, be amended to read as follows:

31-411. The board of directors having adopted the plans of public works and apportionment of benefits method of financing, shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received.

Nothing contained herein shall prevent the district from establishing separate areas within the district so as to permit future allocation of costs for particular portions of the work to specific areas. This area method of allocation shall not be used in any district which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in sections 31-411 to ~~31-413~~ 31-412.

Sec. 6. That section 31-414, Revised Statutes Supplement, 1969, be amended to read as follows:

31-414. The apportionment, when finally adjusted, shall continue as the basis of all levies of special assessments to pay all expenditures for organization, construction, improvement, enlargement, extension, damages, costs, maintenance, bonds and interest thereon, and all other expenses; Provided, if (1) there is such a change of plans or enlargement or extension of the work of the district, (2) some of the tracts of land within the district are increased in value since the time of the original apportionment of benefits by the addition of improvements or otherwise, such as in either case to make a different apportionment necessary or desirable, then the board of directors as to the future expenditures shall make a new apportionment of benefits, in which event all the procedure prescribed in sections 31-411 to ~~31-413~~ 31-412 for the original apportionment shall apply, or (3) the board of directors elects to use the mill levy method of financing, all expenditures for organization, construction, improvement, enlargement, extension, damages, costs, maintenance, bonds and interest thereon, and all other expenses shall be paid out of such levies.

Sec. 7. That original sections 31-202.02, 31-202.03, 31-333, and 31-335, Reissue Revised Statutes of Nebraska, 1943, and sections 31-411 and 31-414, Revised Statutes Supplement, 1969, are repealed.