

CHAPTER 73.

SINKING FUND USED FOR PURCHASE OF WATER WORKS.

S. F. 277.

AN ACT to authorize the use and expenditure of the sinking fund provided for in chapter five (5) of title V of the code.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. **Water works.** In all cities of the first class, where a sinking fund has been accumulated as provided in chapter five (5) title V, of the code, and in which waterworks have not been purchased under said chapter, such cities are hereby authorized to use and apply such sinking fund and all accumulations thereof upon the cost of waterworks purchased or erected under the provisions of sections seven hundred twenty (720), seven hundred twenty one (721), seven hundred twenty two (722) of the supplement to the code, 1907, as amended by chapter forty five (45), acts of the thirty third general assembly, and chapter thirty five (35), acts of the thirty fourth general assembly.

SEC. 2. **In effect.** This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Register and Leader and the Des Moines Capital, newspapers published in the city of Des Moines, Iowa, without expense to the state.

Approved April 18 A. D. 1913.

I hereby certify that the foregoing act was published in the Register and Leader April 26, 1913, and in the Des Moines Capital April 25, 1913.

W. S. ALLEN,
Secretary of State.

CHAPTER 74.

POWER GIVEN TO CERTAIN CITIES AND TOWNS TO CREATE A DEPARTMENT OF PUBLIC DOCKS.

S. F. 380.

AN ACT to provide for the improvement of the water and harbor fronts of incorporated or chartered cities and towns situated on navigable waterways within or bordering on the state of Iowa; for the acquirement, construction, maintenance and operation of public docks, and for the acquirement by condemnation or otherwise of lands or rights or interest therein for same; to create a department to be administered by a board to carry on such work and to regulate and control the construction, maintenance and operation of belt railways, wharves, docks, slips, quay walls, piers, basins, other water-front lands or rights or interests therein, in said cities and towns; to authorize the issuance and sale of bonds and to levy a tax for carrying out the above purposes. [Additional to chapter four (4) of title five (V) of the code, relating to the general power of cities and towns.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. **Departments—how created.** The city council or board of commissioners in any incorporated town or city, including cities under commission plan and those under special charter now or hereafter situated on any natural or artificial navigable waterway within or bordering upon the state of Iowa, may when in their judgment expedient create a department known as the "department of public docks", providing that before said commission may go into operation, the question shall be submitted to the qualified electors of said city or town at a regular or special election called for that purpose, and

provided further, that a majority of those voting at said election shall vote in favor of the creation of such department of public docks.

SEC. 2. Appointed by mayor—term of office—organization—rules and regulations—removal. The department of public docks shall be administered by a dock board consisting of three members to be known as commissioners of public docks. Within three months, or as soon as possible after the time when this act shall go into effect, the mayor of the municipality shall appoint with the approval of the municipal council as members of the dock board, three commissioners of public docks who have been residents of the municipality in which they are appointed for a period of not less than five years, and who shall not at the time of their appointment or during their term of office be interested in or be employed by any common carrier, and said board shall act without compensation. Said commissioners when first appointed shall hold office for a term of one, two and three years respectively and shall determine by lot among themselves which commissioners shall hold the said respective terms. Thereafter, one commissioner with the said qualifications shall be appointed annually by the mayor and the term of office of such commissioner shall be three years. The members of the board shall qualify by taking oath for the faithful performance of their duties. Within ten days after their appointment the commissioners shall meet and organize the dock board by the election from among their number of a president and a secretary of said board, and shall from time to time adopt rules and regulations for the government of their department and to govern their proceedings, which shall be adopted by resolution recorded in a book kept by the board and known as "book of rules and regulations", and said rules and regulations shall be in force after publication in some newspaper published and circulated in the municipality. The dock board shall maintain an office and keep a record of all of its proceedings and acts, and books of account showing all of its financial transactions, which records and books of accounts shall at all times be open to public inspection. If any commissioner shall at any time during his said incumbency cease to have the qualifications required by this act for his appointment, or shall willfully violate any of his duties under the law, such commissioner shall be removed by the mayor after written charges have been preferred against him and a due hearing of such charges has been had by the mayor upon reasonable notice to such commissioner. Vacancies occurring in the board through resignation, or otherwise shall be filled by the mayor for the unexpired term.

SEC. 3. Powers—duties. The board shall have power and it shall be its duty for and in behalf of the city or town hereinafter called the municipality, for which it is organized;

(a) **General plan.** To prepare or cause to be prepared a comprehensive general plan for the improvement of its harbor and water-front making provision for the needs of commerce and shipping and providing for the construction of such docks, basins, piers, quay walls, wharves, warehouses, tunnels, belt railway connecting with all railway lines within the municipality, and such cranes, dock apparatus and machinery equipment as it may deem necessary for the convenient and economical accommodation and handling of water craft of all kinds and of freight and passengers, and the free interchange of traffic between the waterway and the railways and the railways and the waterway; which plan shall be filed in the office of the board and be open to public inspection, and which may from time to time be changed, altered or amended by the board as the requirements of shipping and commerce and the advance of knowledge and information on the subject may suggest.

(b) **Power to condemn.** To purchase or acquire by condemnation or other lawful means, such personal property, lands or rights or interests therein, including easements, as may be necessary for use in the provision and in the construction of any public owned harbor, dock, basin, pier, slip, quay wall, wharf, warehouse, or other structures, and in the construction of a belt railway and railway switches, and appurtenances as provided for in such plan as may be adopted by the board. If the board shall deem it proper and expedient that the municipality shall acquire possession of such wharf property, lands or rights or interests therein, including easements, and no price can be agreed upon between the board and the owner or owners thereof, the board may direct the municipal corporation attorney to take legal proceedings to acquire same for the municipality in manner as is or may be provided by the general laws of the state of Iowa in the case of corporations having the right of eminent domain. The title of all lands, property and rights acquired by the board shall be taken in the name of the municipality it represents.

(c) **Exclusive control.** The board shall have exclusive charge and control of the wharf property belonging to the municipality including belt railway located in whole or in part thereon, all the wharves, piers, quay walls, bulkheads, and structures thereon and waters adjacent thereto, and all the slips, basins, docks, water-fronts, the structures thereon and the appurtenances, easements, uses, reversions and rights belonging thereto, which are now owned or possessed by the municipality, or to which the municipality is or may become entitled, or which the municipality may acquire under the provision hereof or otherwise. The board shall have the exclusive charge and control of the building, rebuilding, alteration, repairing, operation and leasing of said property and every part thereof, and of the cleaning, grading, paving, sewer-ing, dredging and deepening necessary in and about the same.

(d) **Jurisdiction over abutting public property—right to construct certain improvements.** The board is hereby vested with jurisdiction and authority over that part of the streets and alleys and public grounds of the municipality which abut upon or intersect its navigable waters, lying between the harbor line and the first intersecting street measuring backward from high water mark, to the extent only that may be necessary or requisite in carrying out the powers vested in it by this act; and it is hereby declared that such jurisdiction and authority shall include the right to build retaining or quay walls, docks, levees, wharves, piers, warehouses, or other constructions, including belt railway and railway switches, across and upon such streets and alleys and public grounds, and to grade, fill and pave the same to conform to the general level of the wharf, or for suitable approaches thereto; Provided that such improvements shall be paid for out of funds in the hands of the board and not by assessments against abutting property.

(e) **Control—collect tolls.** The board is also vested with exclusive government and control of the harbor and water-front consistent with the laws of the United States governing navigation, and of all wharf property, belt railway, wharves, piers, quay walls, bulkheads, docks, structures and equipment thereon, and all the slips, basins, waters adjacent thereto and submerged lands and appurtenances belonging to the municipality, and may make reasonable rules and regulations governing the traffic thereon and the use thereof, with the right to collect reasonable dockage, wharfage, sheddage, storage, cranage fees, and tolls thereon, as hereinafter provided.

(f) **Buildings—approval of plans—rules—ordinances—publication.** The board shall have power to make general rules and regulations for the carrying out of the plans prepared and adopted by it for the building, rebuilding,

repairing, alteration, maintenance and operation of all structures, erections, or artificial constructions upon or adjacent to the water-front of the municipality, whether the same shall be done by the board or by others; and except, as provided by the general rules of the board, no new structures, or repairs upon or along said water-front shall be undertaken, except upon application to the board and under permit by it and in accordance with the general plans of the board and in pursuance of specifications submitted to the board and approved by it upon such application. The general rules and regulations of the board whenever adopted by it shall be embodied in the form of ordinances and certified copies thereof shall, forthwith upon their passage, be transmitted to the clerk of the municipality who shall cause the same to be transcribed at length in a book kept for that purpose and the same shall be included in any compilation or publication of the ordinance of the municipality. Upon filing any such certified copy of any such ordinances, the said clerk shall forthwith cause the same to be published once in some newspaper of general circulation published in the municipality, or if none is there published then in the next nearest newspaper published in this state and the said ordinance shall be in force and effect from and after the date of said publication. Provided, however, that if the said ordinances are included in any book or pamphlet of ordinances published by said municipality, no other publication shall be required, and they shall be in force and effect from the date said book or pamphlet is published. The said ordinances of the board shall not be considered or construed as ordinances of said municipality, except as they may be adopted as ordinances of said municipality, and the provisions of the code and statutes of the state now or hereafter enacted relative to ordinances of cities and towns, shall not apply to ordinances passed by said board unless express reference be made thereto in said statutes.

(g) **Tolls—fees—schedule.** The board shall have the power to fix and regulate and from time to time to alter the tolls, fees, dockage, wharfage, crantage, sheddage, storage and other charges for all public owned docks, levees, belt railway, piers, quay walls, slips, basins, wharves and their equipment, or the use of any portion of the water-front of the municipality, which charges and rates shall be collectible by the board and shall be reasonable with a view only of defraying the necessary annual expenses of the board in constructing and operating the improvements and works herein authorized; a schedule of such charges and regulations shall be enacted by the board in the form of ordinances and a certified copy thereof shall be transmitted to the clerk of the municipality in like manner as other ordinances of the board before the same shall go into or be in effect, and a copy of same shall be kept posted in a conspicuous place in the office of the board.

(h) **Assistants—additional employes.** The board shall have power to employ such assistants, employees, clerks, workmen and laborers as may be necessary in the efficient and economical performance of the work authorized by this act. All officers, places and employments in the permanent service of the board shall be provided for by ordinance duly passed by the board and the same shall be transmitted to the clerk of the municipality as provided for other ordinances of the board.

(i) **Complete plans approved—proposal for bids.** In the construction of docks, levees, wharves and their appurtenances, or in contracting for the construction of any work or structures authorized by this act, the board shall proceed only after full and complete plans, (approved by the board) and specifications for said work have been prepared and submitted and filed with the

board by its engineer for public inspection, and after public notice asking for bids for the construction of such work based upon such plans and specifications has been published in some newspaper of general circulation published within the municipality, or if none so published, then in the nearest newspaper published in this state, which publication shall be made at least thirty days before the time fixed for the opening of said bids and contracting for such work, and such contract may then be made with the lowest responsible bidder therefor; unless the board deems the bids excessive or unsuitable, in which event it may proceed to re-advertise for bids, or the board may do the work directly purchasing such materials and contracting for such labor as may be necessary without further notice or proposals for bids; except that it shall make no purchase of materials in amounts exceeding \$500.00 except by public letting upon ten day's notice published as aforesaid specifying the materials proposed to be purchased. Provided, however, that said public letting shall not be required in case no satisfactory bids are received, or in case of an emergency where the delay of advertising and public letting might cause serious loss or injury to the work. The board shall, in all cases, have the right to reject any and all bids, and may either re-advertise therefor, contract with others at a figure not exceeding the lowest bidder without further advertising, or do the work directly as hereinbefore provided.

(j) **Tax levy—dock fund.** To defray the expense of exercising the powers conferred by this act, or any portion of such expense in excess of the income from the aforesaid rates and charges to be collected by the board, the council of the municipality shall levy a special tax upon the taxable property of the municipality, not exceeding two (2) mills on the dollar and which if there is a bond issue as herein provided may be levied and made payable for a period not exceeding ten (10) years or the term for which the bonds may be issued, and any portion of which may be pledged to the payment of such bonds and which portion shall be set apart as a sinking fund for the payment thereof, and which bonds may be by said municipality made payable out of said funds, only, or may be made payable as general indebtedness of said municipality. The provisions of section 1306-b of the supplement to the code of Iowa shall not apply to said indebtedness evidenced by such bonds. The board shall annually make to the council a report of the receipts and disbursements made by or on account of said board, and shall file with the council an estimate of the amounts necessary to be raised by taxation to defray the expenses of the board. The council shall at the time of levying annual taxes levy a sufficient tax not exceeding said two (2) mills to meet the said estimate and which shall be collected as other taxes and paid over to the treasurer of the municipality and by him credited to the fund to be known as the "dock fund".

(k) **Bonds.** Whenever said dock board shall deem it necessary or advisable to issue bonds for the purpose of constructing any of the works or improvements herein authorized or purchasing property for said purpose, the said board shall petition the council of the municipality to issue such bonds stating the purpose for which said bonds are requested and thereupon the council shall issue the said bonds if the municipality is not thereby indebted in excess of the limit imposed by section 3 of article II of the constitution of the state of Iowa; or if the council does not deem it advisable to issue said bonds, if the same would not be in excess of said limitation, the council shall submit the question of issuing said bonds to the voters of said municipality and if a majority of said voters voting at a special election or general election vote in favor thereof said bonds shall be issued. The proceeds of said bonds when issued shall be paid to the municipal treasurer and credited to the "dock

fund". If the municipality is already indebted beyond the said limitation the council may if it deem it advisable, levy a special tax not exceeding two (2) mills on the dollar per annum for the purpose of paying bonds and which may be levied for a period not exceeding ten years or the term of the bonds and in anticipation of the collection of the said tax, bonds may be issued for the said purpose designated in said petition, and which bonds shall be payable only out of the proceeds of said special tax already levied at the time of their issuance and the municipality shall not be indebted on said bonds or any further obligated than to collect and apply the proceeds of said tax to the liquidation of said bonds.

(1) **Funds—how disbursed.** All funds collected by the dock board, of [or] by the municipality for dock purposes from the proceeds of taxes, bonds or otherwise, shall be deposited with the treasurer of the municipality and disbursed by him only upon warrants or orders duly signed by the president and countersigned by the secretary of the dock board and which shall state distinctly the consideration for which same are drawn, and a permanent record shall be kept by the board of all warrants or orders so drawn showing the date, amount, consideration and to whom payable, when paid the same shall be cancelled and kept on file by the treasurer of the municipality. The books of the board shall from time to time be audited by the municipal auditor under the direction of the mayor in such manner and at such times as he may direct or prescribe, and all of said books and records of the board shall at all times be open to public inspection.

SEC. 4. Applicable to special charter cities. This act shall be applicable also to cities acting under special charter, or exercising powers conferred by special charter.

SEC. 5. Acts in conflict repealed—under control state railroad commissioners. All laws in conflict with this act are hereby repealed. That all state regulations for the control and operation of railroads, common carriers and public utilities shall apply to and have full force and effect in regard to all powers, duties and actions of the department of public docks and the same shall be subject to and under the control of the state board of railroad commissioners or the public utility commission now or hereafter established by law.

SEC. 6. In effect. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Register and Leader, and the Des Moines Capital, newspapers published at Des Moines, Iowa.

Approved April 23 A. D. 1913.

I hereby certify that the foregoing act was published in the Register and Leader May 16, 1913 and in the Des Moines Capital May 15, 1913.

W. S. ALLEN,
Secretary of State.