

CHAPTER 168
STREET AND SEWER IMPROVEMENTS
S. F. 242

AN ACT to provide an alternative method and procedure for street and sewer improvements in cities and towns, including those organized and operating under special charter and for the levy of special assessments against benefited property in connection therewith and authorizing the issuance of bonds payable from such special assessments.

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

- 1 SECTION 1. Definitions. The following words or terms as used in
2 this Act shall have the respective meanings as stated:
- 3 1. Municipality. A city or town of any class, size or form of gov-
4 ernment, including a city or town organized and operating pursuant
5 to a special charter.
- 6 2. Council. The council, board of aldermen or other similar gov-
7 erning body of the municipality. The word clerk shall include
8 recorder.
- 9 3. Repair. The repair, reconstruction or resurfacing of a public
10 improvement.
- 11 4. Street. Any public street, highway, boulevard, avenue, alley,
12 parkway, or public place within the limits of such municipality.
- 13 5. Lot. Any lot, part of lot, tract or parcel of land.
- 14 6. Public improvements. Public improvements as referred to in
15 this Act shall include the principal structures or works and their
16 accessories of:
- 17 a. Sanitary, storm or combined sewers;
18 b. Drainage conduits, channels or levees;
19 c. Street grading, paving, curbing, guttering and surfacing with
20 oil, oil and gravel, or chloride;
21 d. Street lighting fixtures and connections;
22 e. Sewage pumping stations and disposal or treatment plants;
23 f. Underground connections to private property for gas, water,
24 sewers or electricity;
25 g. Permanent sidewalks;
26 h. Extensions to the water main system of waterworks systems.
- 27 7. Cost. The total cost of a public improvement may include the
28 cost of engineering, preliminary reports, estimates, plans, specifica-
29 tions, notices, legal services, the acquisition of lands, consequential
30 damages or costs, easements, rights-of-way, construction, super-
31 vision, inspection, testing and the printing and publishing notices and
32 proceedings, interest during construction, and for not more than six
33 months thereafter; and printing and sale of bonds or certificates.
- 34 8. Construction. All materials, labor, acts, operations and services
35 necessary to the completion of a public improvement from its incep-
36 tion to its completion.
- 37 9. Oil. Any asphaltic or bituminous material suitable for road
38 building purposes.
- 39 10. Gravel. Gravel, crushed rock, cinders, shale or similar mate-
40 rial suitable for road building purposes.
- 41 11. Main sewer. Any sewer that is commonly referred to as an
42 intercepting sewer, outfall sewer, or trunk sewer.

43 12. Lateral sewer. Any sewer which contributes sewage or surface
44 water to a main sewer or outlet.

45 13. Sewer system. The main sewers, lateral sewers, drainage con-
46 duits or channels within a sewer district including connections to
47 private property.

48 14. District. The lots or area within the boundaries of a district
49 as established by the council for the purpose of the assessment of cost
50 of a public improvement.

51 15. Privately owned property. All property except streets, prop-
52 erty owned by the United States, and property owned by the municipi-
53 ality.

54 16. Abutting lot. A lot which abuts or joins the street in which
55 the public improvement is located or which abuts the right-of-way of
56. said improvement.

57 17. Adjacent lot. Any lot which is not an abutting lot.

58 18. Proposal. A legal bid as received on work advertised as pro-
59 vided in this Act.

60 19. Paving. The word paving as used in this Act shall include
61 any kind of hard surfacing including, but not limited to, concrete,
62 bituminous concrete, brick, stabilized gravel or crushed stone or com-
63 binations of such materials, together with the necessary base. Paving
64 shall not include surfacing with oil, oil and gravel or chloride.

65 20. Engineer. A professional engineer registered in the State of
66 Iowa authorized by the council to render service in connection with
67 the public improvement.

68 21. Railways. The word railways shall not include street railways.

1 SEC. 2. Grant of power. Municipalities shall have the power to
2 construct or repair public improvements within and extending outside
3 their corporate limits and may assess all or any portion of the cost
4 thereof to private property within the municipality in the manner
5 and amounts as provided in this Act and subject to the limitations as
6 provided herein; except that the construction of permanent surfacing,
7 curbs, gutters, pavement or sidewalks shall not be ordered unless such
8 improvement when fully completed shall be to established grade. The
9 council may include as a part of a public improvement connections
10 from gas, water, steam heating pipes, sewers and underground
11 electric construction to the curb line of abutting property or by sep-
12 arate proceeding under any other law require same to be made or
13 to be relocated or repaired before the permanent improvement of a
14 street.

1 SEC. 3. Power of condemnation. Municipalities shall have the
2 power to condemn, in the manner provided for the condemnation of
3 lands for its needs, right-of-way through private property adequate
4 for the construction, repair and maintenance of all public improve-
5 ments authorized by this Act.

1 SEC. 4. Preliminary resolution. When the council shall deem it
2 necessary to construct or repair any public improvement or improve-
3 ments under the provisions of this Act and to assess the cost thereof
4 to private property, it shall adopt a preliminary resolution generally
5 describing the type or alternative types of improvement or improve-

6 ments proposed and the beginning and terminal points thereof, or
7 otherwise indicating the general location thereof, and directing the
8 engineer to prepare and file with the clerk of the municipality pre-
9 liminary plans and specifications for the work, an estimated total cost
10 thereof and a plat and schedule. A single resolution may embrace one
11 improvement only or two or more classes of improvements so related
12 by location or otherwise as to make it advisable in the opinion of the
13 council to proceed with all thereof simultaneously. An improvement
14 need not be continuous and may be in more than one locality or street
15 and that portion of a street may be excluded which has been improved
16 by any railway or which the municipality may be authorized under
17 the franchise or contract with such railway to require it to improve.
18 The resolution may generally describe the property which the council
19 at that time deems will be specially benefited thereby and may also
20 specify a particular proportion of the cost which the council at that
21 time deems should be assessed against the benefited property. Such
22 resolution may give any short and convenient designation to the pub-
23 lic improvement specified therein so as to distinguish it from any
24 other similar improvement and proceedings and thereafter it shall be
25 sufficient to refer to such improvement by such designation in all
26 proceedings thereafter taken under the provisions of this Act. The
27 preliminary plans and specifications need only be in sufficient detail
28 to advise any person interested of the general nature, character and
29 type of the improvement. The estimate of the cost of any public im-
30 provement shall set forth in one item the estimated amount to be paid
31 the contractor and separately the estimated cost of making and col-
32 lecting the assessments, engineering, inspection, interest during the
33 construction period, legal fees and other costs.

1 SEC. 5. Requirements of plat. The plat as prepared and filed by
2 the engineer shall show the following information:

3 1. The boundaries of the district embracing the lots proposed to
4 be assessed;

5 2. The location of each lot under separate ownership within the
6 district including the property of all railways subject to assessment;

7 3. The actual location and terminal points of all major parts of
8 the improvement proposed to be assessed.

1 SEC. 6. Requirements of schedule. The schedule as filed by the
2 engineer shall show the following detailed information for each lot
3 within the district:

4 1. A description of each lot or portion thereof within the district
5 and the name of the owner of each respective lot as shown by the
6 transfer books in the office of the county auditor of the county in
7 which such lot is located.

8 2. The valuation of each lot including the improvements thereon
9 as shown by the records of assessment in the city or county assessor's
10 office, as the case may be.

11 3. The amount proposed to be assessed to each lot.

12 4. The amount of deficiency, if any, between the amount proposed
13 to be assessed and the proportion of the estimated total cost of the
14 public improvement allocated to each lot.

1 SEC. 7. The council of such municipality shall have authority to
 2 contract for the services of engineers to prepare the necessary esti-
 3 mates, plats and schedules and other services in connection with any
 4 public improvement under the provisions of this Act and provision
 5 shall be made for payment of such services as a part of the cost of the
 6 respective improvements or such municipality may pay for such
 7 services from any other legally available funds.

1 SEC. 8. Plat, schedule and estimate adopted. When the plat,
 2 schedule and estimate of cost have been so filed the council may, before
 3 adopting a proposed resolution of necessity as hereinafter provided,
 4 cause the estimate, valuation or assessment of any lot or the bound-
 5 aries of the district as reported by the engineer to be amended or
 6 revised and adopt the same as revised or amended, or may adopt the
 7 same as filed.

1 SEC. 9. Introduction of proposed resolution of necessity. Upon
 2 the adoption of the plat, schedule and estimate, if the council then
 3 determines to proceed with the proposed public improvement or any
 4 part thereof, it shall cause to be prepared and introduced a proposed
 5 resolution of necessity and fix a date for hearing for the owners of
 6 property subject to assessment within the proposed district and give
 7 public notice of the time and place of such hearing. The proposed
 8 resolution of necessity shall include a statement that there is on file
 9 in the office of the clerk an estimated total cost of the proposed work
 10 and a preliminary plat and schedule showing the description of each
 11 lot proposed to be assessed, the actual valuation of each lot as shown
 12 by the records of assessment in city or county assessor's office, as the
 13 case may be, the amount proposed to be assessed to each lot for the
 14 proposed improvement, and the date, time and place when the council
 15 will hear objections or endorsements of property owners subject to
 16 assessment, as to the making of the proposed improvement, as to the
 17 boundaries established for the district, the cost of the improvement or
 18 the amount proposed to be assessed against any individual lot within
 19 the district.

1 SEC. 10. Notice to property owners. The clerk shall cause public
 2 notice of the time and place of the hearing to be given by two publica-
 3 tions in some newspaper published in the municipality, the first publi-
 4 cation of which shall be not less than fifteen nor more than twenty-
 5 five days prior to the date fixed for consideration; but if there is no
 6 such newspaper published within the municipality, such notices shall
 7 be given by posting copies thereof in at least two public places within
 8 its corporate limits. The U. S. Post Office and the regular meeting
 9 place of the council shall be considered as public places. The form
 10 of the published or posted notice may be substantially as follows:

11 NOTICE TO PROPERTY OWNERS

12 Notice is hereby given that there is now on file for public inspection
 13 in the office of the clerk of, Iowa, a proposed
 14 resolution of necessity, an estimate of cost and a plat and schedule
 15 showing the amounts proposed to be assessed against each and every
 16 lot and the valuation thereof within a district as approved by the

17 council of, Iowa, for a
 18 improvement of the type and in the location
 19 as follows:

20
 21 The council (or other governing body) will meet at.....
 22 o'clockM. on, 19....., at the.....
 23 at which time the owners of property subject to assessment for the pro-
 24 posed improvement or any other person having an interest in the
 25 matter may appear and make objection to or endorsement of the
 26 making of the proposed public improvement, to the boundaries of the
 27 proposed district, to the cost, to the amount proposed to be assessed
 28 against any lot or to the final adoption of a resolution of necessity.

29 Unless property owners have written objections to the proposed
 30 assessment on file with the clerk prior to the time fixed herein for the
 31 public hearing they shall be deemed to have waived all objections
 32 thereto. .

33
 34 Clerk.

1 SEC. 11. Hearing. The council shall meet at the time and place
 2 specified in the published or posted notice and shall cause to be read
 3 all written objections or endorsements theretofore filed and may hear
 4 any oral objections and endorsements from the owners of property or
 5 other persons having an interest in the matter. The council may at
 6 such scheduled meeting or at a subsequent meeting and after hearing
 7 and considering objections and endorsements, adopt the resolution of
 8 necessity as proposed or may amend the same and adopt the resolution
 9 as amended. Any amendment to the proposed resolution of necessity
 10 which extends the boundaries of the district to include lots not shown
 11 on the proposed plat and schedule shall not be effective as to such
 12 extension until a notice of hearing of objections for the revised district
 13 has been published or posted as provided in this Act and a hearing held
 14 by the council as provided in such notice or until signed waiver of such
 15 notice and hearing from the owners of all property affected or included
 16 by such amendment shall have been filed with the clerk.

1 SEC. 12. Adoption of the detailed plans and specifications. After
 2 the adoption of a resolution of necessity, the council may, by resolu-
 3 tion, order and direct detailed plans, specifications, notice to bidders
 4 and form of contract for the proposed work to be prepared by the
 5 engineer and filed with the clerk. Upon the approval by the council of
 6 such plans, specifications, notice to bidders and form of contract, the
 7 council may, by resolution, order the work included in the resolution
 8 of necessity as adopted and direct publication of the notice for con-
 9 struction bids.

1 SEC. 13. Notice for bids. A notice of a public letting for the con-
 2 struction or repair of a public improvement shall be given by two
 3 publications in a newspaper published within the municipality, the first
 4 of which shall be not less than twelve days before the date set for re-
 5 ceiving bids, which notice shall state the time and place for filing pro-
 6 posals, the time and place when such proposals will be opened and cons-
 7 sidered by the council, as nearly as practicable the nature and extent
 8 of the work, the kinds of materials to be used, when the work shall be

9 begun and the date of completion thereof, the terms and method of
10 payment and a statement that each bidder shall accompany his bid
11 with a cashier's or certified check on an Iowa bank in an amount at
12 least equal to ten per cent of the engineer's estimated total cost of the
13 improvement as security that the bidder will enter into the contract
14 for the work bid upon and will furnish a corporate surety bond ac-
15 ceptable to the council for the faithful performance of the contract.

16 If there be no newspaper published in the municipality such notice
17 for bids shall be given by two publications in a newspaper of general
18 circulation within the municipality.

19 The notice for bids may provide that bids will be received for fur-
20 nishing all labor and material required to complete all parts of the pro-
21 posed work under one contract, or for parts thereof in separate and
22 specified sections.

1 SEC. 14. Award of contract or rejection of bids. The council, after
2 opening and recording the proposals as received may, by resolution,
3 award the contract to the bidder determined to be the lowest bidder,
4 or may reject any or all bids and order readvertisement for bids for
5 the work on any specified section or sections thereof in the manner as
6 hereinbefore provided.

7 The check of the successful bidder shall be retained by the munici-
8 pality until the prescribed contract has been entered into and bond filed
9 and the contract and bond approved by the council. If the successful
10 bidder fails to sign the contract and furnish bond within ten days after
11 the award of contract to him, the check may be cashed and the funds
12 therefrom retained by the municipality as agreed liquidated damages.
13 The check of the unsuccessful bidders shall be returned to such bidders
14 by the clerk and a receipt therefor obtained and placed on file in
15 his office.

1 SEC. 15. Bond of contractor. Each contractor for a public im-
2 provement shall give bond to the municipality with corporate sureties
3 to be approved by the council, for the faithful performance of the
4 contract, in a sum equal to the contract price and suit on such bond
5 may be brought in the county in which the council may hold its sessions.

1 SEC. 16. Underground connections required. The council shall
2 have power to require the connections from gas, water, and steam
3 heating pipes, sewers, and underground electric construction, to the
4 curb line of abutting property, to be made before the permanent im-
5 provement of the street and, if such improvements have already been
6 made, to regulate the making of such connections, fix the charges
7 therefor, and make all needful rules in relation thereto, and the use
8 thereof. If the owners of property on such streets fail to make such
9 connections in the manner and within the time fixed by the council, it
10 may cause the same to be made, and assess the cost thereof against the
11 property for which they are made. The council shall direct the clerk
12 to certify the actual cost of the connection to each lot, to the county
13 auditor who shall place the amount so certified on the tax list to be
14 collected as other taxes against such lot.

1 SEC. 17. Water connections. Board of waterworks trustees.
2 Before any municipality having a board of waterworks trustees
3 orders any street permanently improved by paving, graveling, or

4 macadamizing, the council shall notify the board of the proposed reso-
5 lution of necessity. The board shall report to the council the lots and
6 names of the owners and the requirements in respect to connections
7 from any water mains or pipes to the curb line of the abutting prop-
8 erty and thereupon the council may pass a resolution requiring the
9 respective owners of the said abutting property to make said connec-
10 tions in the manner required by the rules of the board, and fixing a
11 time therefor. Notice thereof shall be given by one publication in some
12 newspaper of general circulation in such municipality of the time and
13 place of hearing objections to or endorsements of the proposed im-
14 provement, which shall be at least ten days prior to the time fixed in
15 said resolution. If there is no such newspaper published within the
16 municipality, such notice shall be given by posting copies thereof in
17 at least two public places within its corporate limits.

18 If the owner fails to put in the said water connections before the
19 time fixed or within such additional time, not exceeding thirty days,
20 as may be granted by the council, the board of waterworks trustees
21 shall put in said connections and certify the actual cost thereof to the
22 council. The council shall direct the clerk to certify the actual cost
23 of the connection to each lot, to the county auditor who shall place the
24 amount so certified on the tax list to be collected as other taxes
25 against such lot.

1 SEC. 18. State park and institutional roads. Municipalities may
2 assess the cost of a public improvement which extends through or
3 abuts upon lands owned by the state and the state, through the ex-
4 ecutive council, shall pay such portion of the cost of making said im-
5 provement through or along such lands as provided hereinafter.
6 Payment of such assessments shall be made by the executive council
7 from any funds of the state not otherwise appropriated.

8 When a state park or institutional road abutting on state lands is
9 improved by paving or the construction of curb and gutter and
10 permanent surfacing the state shall pay one-half the total assessed
11 cost of that portion of the improvement abutting on such lands, lots,
12 parts or portions thereof when a public improvement other than
13 paving or curb and gutter and permanent surfacing is constructed on
14 a state or park or institutional road abutting on state lands, the coun-
15 cil may assess the cost of making said improvement along such lands
16 as would be legally assessable against said lands were said lands other-
17 wise privately owned which amount shall be determined by the city
18 council.

19 Any municipality in which any state building may be situated shall
20 permit the officers in charge of such building and the persons con-
21 structing or improving the same to construct sewers therefor through
22 or under any of its streets, or to connect the same with its sewer
23 system under the same regulations that are provided for sewer con-
24 nections to private property.

1 SEC. 19. Monthly payments to contractor. When the specified
2 duration of time for the performance of a construction contract for a
3 public improvement exceeds sixty days, the municipality may con-
4 tract to pay the contractor monthly estimates based on ninety per cent
5 of the engineer's estimated value of the acceptable work completed

6 on such contract in warrants drawn on any fund from which such
7 work may be paid. Such warrants shall draw four per cent interest
8 per annum from and after the date of presentation for payment. If
9 such fund is depleted, anticipatory warrants may be issued and if the
10 collection of taxes or special assessments, or income from the sale of
11 bonds applicable to the public improvement shall be after the end of
12 the fiscal year in which the warrants are issued, said warrants shall
13 be held to be not in violation of section four hundred four point seven-
14 teen (404.17), Code 1946.

1 SEC. 20. Inspection and acceptance of work. All work included in
2 the construction or repair of a public improvement under this Act
3 shall be subject to inspection by and approval of an engineer for the
4 municipality, and within ten days after the final completion and
5 acceptance of the work by the engineer, he shall file with the clerk a
6 certificate stating that such work has been completed in accordance
7 with the construction contract and the total cost of such completed
8 construction or repair work. The council shall at its next regular
9 meeting and within ten days from the date of filing of such engineer's
10 certificate, by resolution, accept or reject the work and after ac-
11 ceptance of the work shall, at the same meetings or within ten days
12 thereafter, ascertain the total cost thereof and shall by resolution
13 determine the proportion or amount of such cost to be assessed
14 against private property within the assessment district. Upon final
15 completion and acceptance of the work by the council any amounts
16 due the contractor shall be paid by the delivery to him of warrants
17 issued in a like manner.

1 SEC. 21. Filing of assessment schedule. After the adoption of the
2 resolution by the council fixing the amount to be assessed against
3 private property, the engineer shall, within thirty days thereafter,
4 file with the clerk an assessment schedule showing the name of the
5 owner and a description of each lot to be assessed, together with the
6 valuation thereof as theretofore fixed by the council and the amount
7 to be assessed against each such lot.

1 SEC. 22. Adoption and certification of assessment schedule. Within
2 ten days from the date of filing of the assessment schedule by the
3 engineer the clerk shall cause a notice to be published in some news-
4 paper of general circulation within the municipality stating that
5 the assessment schedule is on file in the office of the city clerk and that
6 the council will consider same on a date to be contained in said notice,
7 which said date shall be not less than twenty (20) nor more than
8 thirty (30) days from the date of the filing of the assessment sched-
9 ule, which said notice will set the place of hearing and which said
10 notice shall be published two times prior to said hearing. If there is
11 no such newspaper within the municipality, such notice shall be given
12 by posting copies thereof in at least two public places within its
13 corporate limits, the council shall consider same and adopt it as pre-
14 pared or make any changes therein found necessary and adopt it in
15 revised form. Such resolution as finally adopted shall confirm and
16 levy the assessments, shall state the number of annual installments,
17 not exceeding fifteen, into which the assessments of \$10.00 or more
18 are to be divided, the rate of interest and the time when such assess-

19 ments are payable, and shall direct the clerk to certify such schedule
20 as finally adopted to the auditor of the county, or of each of the
21 counties in which the property assessed is located; and thereupon the
22 county auditor shall place such assessments on the tax list of the
23 county with the amounts to be assessed against each lot within such
24 assessment schedule as certified.

1 SEC. 23. Assessment of cost. The cost of construction or repair
2 of a public improvement, except for that part of which railways are
3 liable or which is to be otherwise paid, shall be assessed against all lots
4 within the assessment district in accordance to the special benefits con-
5 ferred upon the property thereby and not in excess of such benefits.

1 SEC. 24. Limitations on assessment costs. No special assessment
2 against any lot, for any public improvement as defined herein, shall be
3 in excess of the estimated amount of such assessment as shown on the
4 preliminary plat and schedule as adopted by the council and no such
5 assessment shall exceed twenty-five per cent of the value of the lot as
6 shown by the plat and schedule theretofore approved by the council.

7 Special assessments for the construction or repair of underground
8 connections to private property for gas, water, sewers or electricity
9 shall be assessed to each lot fronting on the proposed street improve-
10 ment for the actual cost of each such connection to such lot.

1 SEC. 25. Deficiencies. If the special assessment which may be
2 levied against any lot shall be insufficient to pay its proportion of the
3 cost of the improvement the deficiency, if for a street improvement,
4 may be paid out of the general fund, the improvement fund, or the
5 street construction fund of the municipality, and if for a sewer, may
6 be paid out of its general fund, its improvement fund or its sewer
7 fund. If there be property against which no special assessment can
8 be levied or collected, the portion of the cost of the improvement
9 which might otherwise be assessed against such property shall be
10 paid in like manner.

1 SEC. 26. Assessments against railway companies. Railway com-
2 panies operating within the limits of streets in municipalities shall
3 provide a suitable foundation for their track between the rails and
4 one foot outside of each rail, and may be assessed for the construc-
5 tion or repair of paving between the rails of their track or tracks, and
6 for one foot outside of each rail thereof in the amount that the cost
7 of such pavement exceeds the area cost of the remainder of the pave-
8 ment on such street.

9 All construction and maintenance of the pavement between the
10 rails and one foot outside of the rails of the railway company and any
11 construction or repairs made necessary by the operation of the rail-
12 way company shall be made by such company and if not so made the
13 municipality shall have the power to do such construction work or
14 make such repairs as may be necessary and assess the cost thereof to
15 such railway company in the manner provided herein for the assess-
16 ment of costs thereof against abutting property.

17 The right-of-way of any railway company shall be subject to special
18 assessments for all public improvements specified in this chapter as
19 is other private property, and such assessment shall constitute a debt

20 due personally from the railway company owning or leasing such
21 right-of-way. Any such assessment against a railway company shall
22 be a paramount lien upon the track thereof within the corporate
23 limits of the municipality. No part of the lien of any railway shall be
24 released from the lien for any part of any unpaid assessment until
25 the whole assessment shall have been paid.

1 SEC. 27. Installments, payment, delinquency. The first install-
2 ment of each assessment, or total amount thereof, if it be less than ten
3 dollars, with interest on the whole assessment from date of acceptance
4 of the work by the council, shall become due and be payable on January
5 1 next succeeding the date of such levy unless the assessment is filed
6 with the county auditor less than sixty days prior to such next suc-
7 ceeding January 1 in which event the due date shall be the second
8 succeeding January 1 after the date of levy. The succeeding annual
9 installments, with interest on the whole amount unpaid shall respec-
10 tively become due on January 1 annually thereafter at the same time
11 and in the same manner as the March semi-annual payment of ordi-
12 nary taxes.

13 All future installments of an assessment may be paid on the due
14 date of an installment upon terms of the principal amount thereof
15 plus interest thereon to the succeeding June 1st and plus the amount
16 of premiums, if any, required to be paid on such succeeding June 1st
17 for redemption of bonds prior to maturity that may have been issued
18 for account of such improvement.

19 All such assessment with interest shall become delinquent after the
20 thirty-first day of March next after their due date, and shall bear the
21 same interest with the same penalties as ordinary taxes, and when
22 collected the said interest and penalties shall be credited to the same
23 fund as the said special assessment.

24 Upon the payment of any assessment or installment thereof in-
25 terest shall be computed and collected as aforesaid up to the first day
26 of June following the date of such payment. All assessments shall
27 constitute liens on the lots assessed from the date they are certified
28 to the county auditor and such liens shall have the same preferences
29 and priorities as liens for ordinary taxes; provided, that in no case
30 shall the owner of any lot be liable for an assessment greater than
31 provided for in section twenty-four (24) of this Act.

1 SEC. 28. Limitation on litigation and right of appeal. Any person,
2 firm or corporation interested in any property included in any dis-
3 trict under the provisions of this Act shall have the right within
4 twenty days from the date of adoption of a resolution of necessity, or
5 the spread of such assessments as is described and set forth in section
6 twenty-two (22) of this Act, as hereinbefore required, by petition
7 filed in the district court of the county in which such property is
8 located, to question any action or proceedings preliminary to or in
9 connection therewith including any action taken on written objections
10 filed at the hearing provided for in section 11 and section twenty-two
11 (22) of the Act and failure to file such petition within such twenty
12 days shall constitute a waiver to thereafter assert such right or litigate
13 such question. Filing such petition shall not operate as a stay of
14 further action or proceedings by the council unless there is also filed

15 a bond in an amount equal to five per cent of plaintiff's assessment
16 appealed from and in no event less than two hundred fifty dollars,
17 conditioned for the payment of all costs which may be adjudged
18 against plaintiff and with surety approved by the court. Such peti-
19 tion shall be received, filed, and action had thereon in the district
20 court as for other ordinary actions. Nothing herein set forth shall be
21 construed to deny the property owner a right of appeal to the district
22 court on the grounds of fraud or to deny him the right to avail him-
23 self of such other legal remedy including certiorari as set out in
24 chapter six hundred sixty-two (662), Code 1946.

1 SEC. 29. Payments of assessments. Assessments levied and certi-
2 fied under the provisions of this Act and installments thereof and
3 interest thereon shall be payable at the office of the county treasurer
4 of the county wherein the property assessed is located, and assessments
5 may be there paid in full and without interest within thirty days after
6 the date of certification thereof to the county auditor.

1 SEC. 30. Special assessment bonds. At any time and from time
2 to time after the contract or contracts for the construction or repair
3 of a public improvement have been executed the municipality may by
4 resolution of the council authorize and issue bonds of the municipality
5 in anticipation of the collection of special assessments, provided, that
6 the aggregate principal amount of such bonds issued prior to the
7 certification of the assessment roll to the county auditor, as herein-
8 before provided, shall not exceed seventy per cent of the total amount
9 of such assessments as shown by the preliminary plat and schedule,
10 and provided also, that the total principal amount of bonds issued
11 for account of any public improvement shall not exceed the total
12 amount of special assessments. All such bonds shall be negotiable
13 and shall recite on their face that they have been issued under the
14 provisions of this Act and are payable as to both principal and in-
15 terest solely from the proceeds of the special assessments levied for
16 account of the public improvement. Such bonds shall bear interest
17 at a rate not exceeding five per cent and shall mature serially on June
18 1 of the years in which any of such principal is scheduled to become
19 due and shall contain a provision that the municipality reserves the
20 right and option of calling and redeeming any or all of the bonds
21 on June 1 of each year prior to maturity upon such terms as are
22 specified therein. The proceeds of the special assessments and interest
23 collected thereon shall be used and applied by the treasurer of the
24 municipality to the payment of the interest on the bonds and to the
25 retirement of the principal as rapidly as such proceeds are collected.
26 Said bonds shall be sold for not less than par and the proceeds,
27 exclusive of accrued interest, shall be used and applied to the pay-
28 ment of the cost of the public improvement. After all of the bonds
29 for account of a particular improvement have been paid and retired
30 any excess of proceeds of special assessments may be rebated to the
31 owners of the property assessed in proportion to the assessments
32 against the respective lots or may be transferred to the fund of the
33 municipality from which deficiencies on such improvement were paid
34 or if there are no deficiencies to the general fund of the city.

1 SEC. 31. Tax sale. Property against which a special assessment
2 has been levied for public improvements may be sold for any sum of
3 principal or interest due and delinquent at any regular or adjourned
4 tax sale, in the same manner, with the same forfeitures, penalties,
5 and right of redemption, and certificates and deeds on such sales shall
6 be made in the same manner and with like effect, as in case of sales
7 for the nonpayment of ordinary taxes. The purchaser at such sale
8 shall take the property charged with the lien of the remaining unpaid
9 installments and interest. At any such sale where bonds have been
10 issued in anticipation of such special assessments and interest the
11 municipality may be a purchaser and be entitled to all the rights of
12 purchasers at tax sales. The proceeds subsequently realized from
13 sales of any property so purchased by the municipality shall be
14 credited to the improvement fund, the general fund or the street con-
15 struction fund of the municipality.

1 SEC. 32. Improvement fund. The whole or any part of the cost of
2 the construction or repair of any public improvement may be paid
3 under the provisions of sections three hundred ninety-six point
4 twenty-two (396.22) and three hundred ninety-six point twenty-three
5 (396.23), Code 1946, or they may be paid from the improvement fund
6 and the municipality shall have the power by resolution to levy at one
7 time upon all the taxable property therein the percentage or amount
8 of annual improvement fund taxes necessary to pay the same not
9 exceeding in any one year the maximum annual limit of said taxes.

1 SEC. 33. Relevy. When by reason of nonconformity to any law or
2 resolution, or by reason of any omission, informality, or irregularity,
3 any special tax or assessment levied is determined by the council to
4 be invalid or is adjudged illegal, the council shall have power to cor-
5 rect the same by resolution, and may reassess and relevy the same,
6 with the same force and effect as if done at the proper time and in the
7 manner provided by law or by the resolution relating thereto.

1 SEC. 34. Joint municipal and state improvements. The provisions
2 of this Act shall apply to any street improvement undertaken jointly
3 by the municipality with the state highway commission pursuant to
4 the provisions of section three hundred thirteen point twelve (313.12)
5 to section three hundred thirteen point twenty-three (313.23) in-
6 clusive, Code 1946, and any such municipality may assess and pay its
7 portion of the cost of such street improvement as herein provided, but
8 any requirement of this Act in respect to approval of detailed plans
9 and specifications, calling for construction bids, awarding construc-
10 tion contracts and acceptance of the completed improvement shall
11 be carried out by such municipality with the state highway commis-
12 sion as may be provided in any agreement entered into as permitted
13 by section three hundred thirteen point twenty-two (313.22), Code
14 1946.

1 SEC. 35. Savings clause. This Act shall not repeal any other law
2 relating to the subject matter hereof but shall be deemed to provide
3 a supplemental and alternative method of procedure and if any sec-

4 tion or provision of this Act be declared unlawful it shall not affect
5 the remainder thereof.

1 SEC. 36. Special charter municipalities. This Act shall also apply
2 to cities and towns organized and operating under special charters.

Approved May 18, 1949.

CHAPTER 169

SEWER ASSESSMENTS

S. F. 243

AN ACT to amend the law as it appears in section three hundred ninety-one point forty-two (391.42), Code 1946, relating to the cost of sewers and relating to the limitation on the cost thereof assessable to abutting property, and to adjacent property.

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

1 SECTION 1. That section three hundred ninety-one point forty-
2 two (391.42), Code 1946, be amended by striking out the words "and
3 not in excess of three dollars per linear foot of sewer", as said words
4 appear in lines nine (9) and ten (10) of said section.

1 SEC. 2. All laws or parts of laws in conflict herewith are hereby
2 repealed to the extent of any such conflict.

Approved April 20, 1949.

CHAPTER 170

SEWER SYSTEMS IN ANNEXED CITIES AND TOWNS

H. F. 413

AN ACT authorizing cities comprised of annexed cities or towns to create and establish a sewer system and provide for the expense thereof under the provisions of either chapter three hundred fifty-eight* (358), or three hundred ninety-one* (391), Code 1946.

WHEREAS, in the early history of Iowa many small cities and towns were established, and

WHEREAS, economic progress, improved transportation, advanced communication, and the general welfare of the people resulted in the annexation to other cities and towns of close proximity, and

WHEREAS, the annexation of cities and towns was provided for by statute, and one of the legal requirements was that each city or town should discharge its own existing indebtedness, and

WHEREAS, many cities and towns entered into articles of annexation, and incorporated in such articles agreements which were wholly beyond the provisions and intent of such annexation statutes, and

*Words supplied by code editor, see §3.1 of the Code.