

19 or use, the governor shall order such surplus turned over to the general  
20 fund of the state.

Approved June 3, 1965.

---

CHAPTER 78  
MUNICIPAL BONDS

S. F. 582

AN ACT relating to the issuance of bonds by municipal corporations.

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

1 SECTION 1. Chapter twenty-three (23), Code 1962, is hereby  
2 amended by adding thereto the following new section:  
3 "Any other law to the contrary notwithstanding, any municipality  
4 may authorize, sell, issue and deliver its bonds without regard to  
5 whether or not notice and hearing on the plans, specifications and form  
6 of contract for the public improvement to be paid for in whole or in  
7 part from the proceeds of said bonds has theretofor been given, and  
8 without regard to whether or not any contract has theretofor been  
9 awarded for the construction of said improvement. The foregoing  
10 provision shall not apply to bonds which are payable solely from special  
11 assessments levied against benefited property."

1 SEC. 2. This Act being of immediate importance shall be in full  
2 force and effect from and after its passage and publication in the West  
3 Des Moines Express, a newspaper published at West Des Moines, Iowa,  
4 and the Nashua Reporter, a newspaper published at Nashua, Iowa.

Approved June 30, 1965.

I hereby certify that the foregoing Act, Senate File 582, was published in the West Des Moines Express, West Des Moines, Iowa, July 8, 1965, and in the Nashua Reporter, Nashua, Iowa, July 8, 1965.

GARY L. CAMERON, *Secretary of State.*

---

CHAPTER 79  
STATE TORT CLAIMS ACT

S. F. 322

AN ACT to create and establish a state tort claims Act; defining terms and conferring upon the state appeal board on behalf of the state the power to determine certain claims against the state; permitting the state to be sued and waiving the state's immunity from liability to the extent provided herein; conferring jurisdiction in the district court to hear, determine, and render judgment; and generally providing for the practice and procedure to establish liability of the state on tort claims.

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

1 SECTION 1. This Act may be cited as the "Iowa Tort Claims Act".

1 SEC. 2. As used in this Act, unless the context otherwise requires:

2 1. "State agency" includes all executive departments, agencies,  
3 boards, bureaus, and commissions of the state of Iowa, and corpora-  
4 tions whose primary function is to act as, and while acting as, instru-  
5 mentalities or agencies of the state of Iowa, whether or not authorized  
6 to sue and be sued in their own names. This definition shall not be  
7 construed to include any contractor with the state of Iowa.

8 2. "State appeal board" means the state appeal board as defined in  
9 section twenty-three point one (23.1) of the Code.

10 3. "Employee of the state" includes any one (1) or more officers or  
11 employees of the state or any state agency, and persons acting on  
12 behalf of the state or any state agency in any official capacity, tem-  
13 porarily or permanently in the service of the state of Iowa, whether  
14 with or without compensation.

15 4. "Acting within the scope of his office or employment" means act-  
16 ing in his line of duty as an employee of the state.

17 5. "Claim" means any claim against the state of Iowa for money  
18 only, on account of damage to or loss of property or on account of  
19 personal injury or death, caused by the negligent or wrongful act or  
20 omission of any employee of the state while acting within the scope of  
21 his office or employment, under circumstances where the state, if a  
22 private person, would be liable to the claimant for such damage, loss,  
23 injury, or death, in accordance with the law of the place where the act  
24 or omission occurred. However, "claim" includes only such claims  
25 accruing on or after January 1, 1963; and does not include any claim  
26 which was presented to the Sixtieth General Assembly and which is  
27 barred under the provisions of section twenty-five point seven (25.7)  
28 of the Code.

29 6. "Award" means any amount determined by the state appeal  
30 board to be payable to a claimant under section three (3) of this Act,  
31 and the amount of any compromise or settlement under section nine  
32 (9) of this Act.

1 SEC. 3. Authority is hereby conferred upon the state appeal board,  
2 acting on behalf of the state of Iowa, subject to the advice and ap-  
3 proval of the attorney general, to consider, ascertain, adjust, compro-  
4 mise, settle, determine, and allow any claim as defined in this Act. If  
5 any claim is compromised, settled, or allowed in an amount of more  
6 than five thousand (5,000) dollars, the unanimous approval of all  
7 members of the state appeal board and the attorney general shall be  
8 required and the approval of the district court of the State of Iowa  
9 for Polk County shall also be required.

10 Claims made under this Act shall be filed with the state comptroller,  
11 who shall acknowledge receipt on behalf of the state appeal board.

12 The state appeal board may adopt rules, regulations, and procedures  
13 for the handling, processing, and investigation of claims.

1 SEC. 4. The district court of the state of Iowa for the district in  
2 which the plaintiff is resident or in which the act or omission com-  
3 plained of occurred, sitting without a jury, shall have exclusive juris-  
4 diction to hear, determine, and render judgment on any suit or claim  
5 as defined in this Act. However, the laws and rules of civil proce-  
6 dure of this state on change of place of trial shall apply to such suits.

7 The state shall be liable in respect to such claims to the same claim-  
8 ants, in the same manner, and to the same extent as a private indi-  
9 vidual under like circumstances, except that the state shall not be  
10 liable for interest prior to judgment or for punitive damages. Costs  
11 shall be allowed in all courts to the successful claimant to the same  
12 extent as if the state were a private litigant.

13 The immunity of the state from suit and liability is waived to the  
14 extent provided in this Act.

1 SEC. 5. No suit shall be permitted under this Act unless the state  
2 appeal board has made final disposition of the claim; except that if  
3 the state appeal board does not make final disposition of a claim within  
4 six (6) months after the claim is made in writing to the state appeal  
5 board, the claimant may, by notice in writing, withdraw the claim  
6 from consideration of the state appeal board and begin suit under this  
7 Act. Disposition of or offer to settle any claim made under this Act  
8 shall not be competent evidence of liability or amount of damages in  
9 any suit under this Act.

1 SEC. 6. In suits under this Act, the forms of process, writs, plead-  
2 ings, and actions, and the practice and procedure, shall be in accord-  
3 ance with the rules of civil procedure promulgated and adopted by the  
4 supreme court of the state. The same provisions for counterclaims,  
5 setoff, interest upon judgments, and payment of judgments, shall be  
6 applicable as in other suits brought in the district courts of the state.  
7 However, no writ of execution shall issue against the state or any  
8 state agency by reason of any judgment under this Act.

1 SEC. 7. Judgments in the district courts in suits under this Act  
2 shall be subject to appeal to the supreme court of the state in the same  
3 manner and to the same extent as other judgments of the district  
4 courts.

1 SEC. 8. The final judgment in any suit under this Act shall consti-  
2 tute a complete bar to any action by the claimant, by reason of the  
3 same subject matter, against the employee of the state whose act or  
4 omission gave rise to the claim. However, this section shall not apply  
5 if the court rules that the claim is not permitted under this Act.

1 SEC. 9. With a view to doing substantial justice, the attorney gen-  
2 eral is authorized to compromise or settle any suit permitted under  
3 this Act, with the approval of the court in which suit is pending.

1 SEC. 10. Any award made under this Act and accepted by the  
2 claimant shall be final and conclusive on all officers of the state of  
3 Iowa, except when procured by means of fraud, notwithstanding any  
4 other provisions of law to the contrary.

5 The acceptance by the claimant of such award shall be final and  
6 conclusive on the claimant, and shall constitute a complete release by  
7 the claimant of any claim against the state and against the employee  
8 of the state whose act or omission gave rise to the claim, by reason of  
9 the same subject matter.

1 SEC. 11. Any award to a claimant under this Act, and any judg-  
2 ment in favor of any claimant under this Act, shall be paid promptly

3 out of appropriations which have been made for such purpose, if any;  
4 but any such amount or part thereof which cannot be paid promptly  
5 from such appropriations shall be paid promptly out of any money in  
6 the state treasury not otherwise appropriated. Payment shall be made  
7 only upon receipt of a written release by the claimant in a form ap-  
8 proved by the attorney general.

1 SEC. 12. The state comptroller shall annually report to the gen-  
2 eral assembly all claims and judgments paid under this Act. Such  
3 report shall include the name of each claimant, a statement of the  
4 amount claimed and the amount awarded, and a brief description of  
5 the claim.

1 SEC. 13. Every claim against the state permitted under this Act  
2 shall be forever barred, unless within two (2) years after such claim  
3 accrued or prior to July 1, 1967, whichever is later, the claim is made  
4 in writing to the state appeal board under this Act and a suit is begun  
5 under this Act. The time to begin a suit under this Act shall be ex-  
6 tended for a period of six (6) months from the date of mailing of  
7 notice to the claimant by the state appeal board as to the final dis-  
8 position of the claim or from the date of withdrawal of the claim from  
9 the state appeal board under section five (5) of this Act, if the time  
10 to begin suit would otherwise expire before the end of such period.

11 If a claim is made or filed under any other law of this state and a  
12 determination is made by a state agency or court that this Act pro-  
13 vides the exclusive remedy for the claim, the time to make a claim and  
14 to begin a suit under this Act shall be extended for a period of six (6)  
15 months from the date of the court order making such determination  
16 or the date of mailing of notice to the claimant of such determination  
17 by a state agency, if the time to make the claim and to begin the suit  
18 under this Act would otherwise expire before the end of such period.  
19 The time to begin a suit under this Act may be further extended as  
20 provided in the preceding paragraph.

21 This section is the only statute of limitations applicable to claims as  
22 defined in this Act.

1 SEC. 14. The provisions of this Act shall not apply to:

2 1. Any claim based upon an act or omission of an employee of the  
3 state, exercising due care, in the execution of a statute or regulation,  
4 whether or not such statute or regulation be valid, or based upon the  
5 exercise or performance or the failure to exercise or perform a dis-  
6 cretionary function or duty on the part of a state agency or an em-  
7 ployee of the state, whether or not the discretion be abused.

8 2. Any claim arising in respect to the assessment or collection of  
9 any tax or fee, or the detention of any goods or merchandise by any  
10 law enforcement officer.

11 3. Any claim for damages caused by the imposition or establishment  
12 of a quarantine by the state, whether such quarantine relates to per-  
13 sons or property.

14 4. Any claim arising out of assault, battery, false imprisonment,  
15 false arrest, malicious prosecution, abuse or process, libel, slander,  
16 misrepresentation, deceit, or interference with contract rights.

17 5. Any claim by an employee of the state which is covered by the

18 Iowa workmen's compensation law or the Iowa occupational disease  
19 law.

1 SEC. 15. The court rendering a judgment for the claimant under  
2 this Act, or the state appeal board, with the advice and approval of  
3 the attorney general, making an award under section three (3) of this  
4 Act, or the attorney general making an award under section nine (9)  
5 of this Act, as the case may be, shall, as a part of the judgment or  
6 award, determine and allow reasonable attorney's fees and expenses,  
7 to be paid out of but not in addition to the amount of judgment or  
8 award recovered, to the attorneys representing the claimant. Any  
9 attorney who charges, demands, receives, or collects for services rendered  
10 in connection with such claim any amount in excess of that  
11 allowed under this section, if recovery be had, shall be guilty of a  
12 misdemeanor, and shall, upon conviction thereof, be subject to a fine  
13 of not more than one thousand (1,000) dollars or imprisonment for  
14 not more than one (1) year, or both.

1 SEC. 16. From and after the effective date of this Act, the author-  
2 ity of any state agency to sue or be sued in its own name shall not be  
3 construed to authorize suits against such state agency on claims as  
4 defined in this Act. The remedies provided by this Act in such cases  
5 shall be exclusive.

1 SEC. 17. Nothing contained herein shall be deemed to repeal any  
2 provision of law authorizing any state agency to consider, ascertain,  
3 adjust, compromise, settle, determine, allow, or pay any claim other  
4 than a claim as defined in this Act.

1 SEC. 18. If a claim is made or a suit is begun under this Act, and  
2 if a determination is made by the state appeal board or by the court  
3 that the claim or suit is not permitted under this Act for any reason  
4 other than lapse of time, the time to make a claim or to begin a suit  
5 under any other applicable law of this state shall be extended for a  
6 period of six (6) months from the date of the court order making  
7 such determination or the date of mailing of notice to the claimant of  
8 such determination by the state appeal board, if the time to make the  
9 claim or begin the suit under such other law would otherwise expire  
10 before the end of such period.

1 SEC. 19. Upon the effective date of this Act, all claims as defined  
2 in this Act which have been filed with the clerk of the house of repre-  
3 sentatives and the secretary of the senate under section twenty-five  
4 point two (25.2) of the Code shall be returned to and processed by  
5 the state appeal board in accordance with this Act.

1 SEC. 20. Section twenty-five point seven (25.7) of the Code shall  
2 not apply to claims as defined in this Act, except as expressly pro-  
3 vided in section one (1) of this Act. The other provisions of chapter  
4 twenty-five (25) of the Code shall not apply to claims as defined in  
5 this Act. However, any or all of the provisions of sections twenty-  
6 five point one (25.1), twenty-five point four (25.4), and twenty-five  
7 point five (25.5) of the Code may be made applicable to claims as  
8 defined in this Act by agreement between the attorney general and  
9 the state appeal board from time to time.

1 SEC. 21. Whenever a claim or suit against the state is covered by  
 2 liability insurance, the provisions of the liability insurance policy on  
 3 defense and settlement shall be applicable notwithstanding any incon-  
 4 sistent provisions of this Act. The attorney general and the state  
 5 appeal board shall cooperate with the insurance company.

1 SEC. 22. Section five hundred seventeen A point one (517A.1),  
 2 Code 1962, is hereby amended by adding the following at the end  
 3 thereof:

4 "The form and liability limits of any such liability insurance policy  
 5 purchased by any commission, department, board, or agency of the  
 6 state of Iowa shall be subject to the approval of the attorney general."

1 SEC. 23. This Act, being deemed of immediate importance, shall  
 2 be in full force and effect from and after its publication in The Mus-  
 3 catine Journal, a newspaper published at Muscatine, Iowa, and the  
 4 Cedar Rapids Gazette, a newspaper published at Cedar Rapids, Iowa.

Approved March 26, 1965.

I hereby certify that the foregoing Act, Senate File 322, was published in The Muscatine Journal, Muscatine, Iowa, March 30, 1965, and in the Cedar Rapids Gazette, Cedar Rapids, Iowa March 30, 1965.

GARY L. CAMERON, *Secretary of State.*

## CHAPTER 80

### IOWA DEVELOPMENT PLANNING ASSISTANCE

#### H. F. 632

AN ACT to authorize the Iowa development commission to perform or provide for planning assistance to Iowa governmental units and agencies to insure the economic and orderly development of the state.

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

1 SECTION 1. Section twenty-eight point ten (28.10), Code 1962, is  
 2 hereby repealed and the following enacted in lieu thereof:

3 "To insure the economic and orderly development of the state, the  
 4 Iowa development commission is authorized to:

5 1. Perform state and interstate comprehensive planning and related  
 6 activities.

7 2. Perform planning for metropolitan or regional areas or areas of  
 8 rapid urbanization including interstate areas.

9 3. Provide planning assistance to cities, other municipalities, coun-  
 10 ties, groups of adjacent communities, metropolitan and regional areas,  
 11 and official governmental planning agencies.

12 4. To assist public or private universities and colleges and urban  
 13 centers to:

14 a. Organize, initiate, develop, and expand programs which will pro-  
 15 vide special training in skills needed for economic and efficient com-  
 16 munity development.

17 b. Support state and local research that is needed in connection with  
 18 community development.