

House File No. 228.
BY GRIFFIN.

Municipal corporations.
February 12, 1919.

A BILL FOR AN ACT

To repeal chapter 8-a of title V of the supplement to the code, 1913, and to enact a substitute therefore authorizing cities to protect property within their limits from danger and damage from floods and high water, by deepening, widening, straightening, altering, diverting, changing or otherwise improving water courses within their limits, by constructing levies, embankments, or conduits therefore, and to provide for the levy of special assessments and other taxes to defray the expenses of such improvements, and the issuance of bonds and certificates in anticipation of such taxes and special assessments. Additional to chapters seven (7) and eight (8) of title V of the code:

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

1 Section 1. That in addition to the powers they now
2 have, cities shall have the power, in accordance with the pro-
3 visions of this act, to protect lots, lands, and property within
4 their limits from danger and damage from floods and high water,
5 by deepening, widening, straightening, altering, changing, divert-
6 ing or otherwise improving water courses within their limits, by
7 constructing levies, embankments, or conduits therefore, and to
8 provide for levy of special assessments and other taxes to defray
9 the expenses of such improvements, and the issuance of bonds and
10 certificates in anticipation of such taxes and special assessments.

1 Sec. 2. Upon the filing of a petition requesting
2 the exercise of the powers mentioned in the preceding section,
3 signed by one hundred resident taxpayers of such city, the city
4 council may direct the city engineer to make necessary surveys, to

5 prepare plans and specifications for doing the work, to furnish the
6 council with an estimate of the cost thereof, including an estimate
7 of the damages to property, if any, and a map or plat showing
8 the boundaries of the territory or district which will be specially
8 benefited by such improvement, a schedule showing as nearly as
9 may be the ownership and value of each lot or parcel of land, and
10 other property therein, as shown by the last assessment roll, and
11 an estimate of the benefit to each lot or parcel of land, and to
12 any railway or street railway within such improvement district.
13 The plans, specifications, estimates, maps, plats, and schedules
14 so prepared shall be filed with the city clerk.

1 Sec. 3. If the council upon receiving the said
2 plans, specifications, estimates, maps, plats and schedules,
3 shall approve, or modify and approve, the same, it shall in a pro-
4 posed resolution, of which the plat and schedule is made a part by
5 reference, declare the necessity and advisability of such improve-
6 ment, describing the same in general terms, stating the estimated
7 cost thereof, and fixing the boundaries of the territory or dis-
8 trict specially benefited, and shall cause fourteen days' notice
9 of the time when said resolution will be considered for passage
10 to be given by two publications in some newspaper of general cir-
11 culation published in the city, the last of which shall be not
12 less than two, nor more than four weeks prior to the time fixed
13 for its consideration, at which time the owners of the property
15 benefited by such improvement may appear and make objections in
16 writing to the contemplated improvement, to the assessment district,

17 or to their assessments, as shown by the plat and schedule, or to
18 the passage of such proposed resolution, at which hearing the
19 district, or the assessments, may be changed, and the resolution
20 be amended and passed, or passed as proposed.

1 Sec. 4. When the making of any such improvement
2 is ordered, the council shall advertise for bids and enter into
3 a contract or contracts for furnishing the labor and materials for
4 doing the work.

1 Sec. 5. All contracts for such improvement shall be
2 let in the name of the city to the lowest bidder, by sealed pro-
3 posals, upon giving notice for at least ten (10) days by two
4 publications in a newspaper published in said city, which notice
5 shall state as nearly as practicable the extent of the work, the
6 one or more kinds of material for which bids will be received,
7 when the work shall be done, the terms of payment, and the time
8 the proposals will be received and acted upon. All bids must be
9 accompanied, in a separate envelope, with a certified check
10 payable to the order of the city treasurer, in the sum named
11 in the notice for bids, as security that the bidder will, if his
12 bid is accepted, enter into a contract for the doing of the work,
13 and will give bond as required by this act. All such checks,
14 where the bid has not been accepted, shall be returned to the
15 respective bidders. All bids may be rejected and new bids in-
16 vited.

1 Sec. 6. All contracts for making such improvement
2 may contain a provision obligating the contractor and his bonds-

3 men to keep the improvement in good repair for one year after
4 the acceptance of the same by the city, and bond shall be so
5 conditioned as to conform to such provision.

1 Sec. 7. Each contractor for such improvement, or
2 part thereof, shall give bond to the city, with sureties to be
3 approved by the council, for the faithful performance of the
4 contract, and suit on such bond may be brought in the county in
5 which the council holds its sessions.

1 Sec. 8. When the work is contracted for, as here-
2 in provided, the council shall assess the lands and other proper-
3 ty, included within the improvement district, for such proportion
4 of the cost of the improvement, including the cost of filling the
5 old channel if it is proposed to divert a stream from its course
6 and conduct it through a new channel or conduit, as shall be
7 equal and in proportion to the benefit conferred by the improve-
8 ment, but not in excess of twenty-five per cent of the actual
9 value of the lot or tract at the time of the levy, and the last
10 preceding assessment roll shall be taken as prima facie evidence
11 of such value.

1 Sec. 9. The levy of the assessment, the filing of
2 the certificate of assessment, the payment of interest on install-
3 ments, the payment of the installments of assessment, and the
4 sale of property for unpaid assessments shall all be in conformity
5 with sections eight hundred twenty-five (825), eight hundred twenty-
6 six (826), eight hundred twenty-seven (827), eight hundred twenty-
7 eight (828) and eight hundred twenty-nine (829), of the code, and

8 acts amendatory thereof.

1 Sec. 10. Any person aggrieved by the action of
2 the council in making any of the assessments herein provided for,
3 may appeal therefrom to the district court of the county in which
4 it is made, within 20 days of the date of the assessment, and
5 have the right to review the action of the council in the said
6 court, in the manner now provided by law. All objections to
7 errors, irregularities, or inequalities in the making of said
8 special assessments, or in any of the prior proceedings or
9 notices not made before the council at the time and in the manner
10 herein provided, shall be waived.

1 Sec. 11. If the improvement contracted for is to
2 cross the right-of-way of a railroad, or street railway, company,
3 the city clerk shall cause to be served upon such company, in
4 manner for the service of original notices, a notice in writ-
5 ing stating the nature of the improvement, the place where it
6 will cross the right-of-way of such company, and full require-
7 ments for its complete construction across such right-of-way as
8 shown by the plans, specifications, maps and plats of the engi-
9 neer, and directing such company to construct, within a time
10 fixed by the city council, not exceeding six months from the
11 date of service of the notice, in such manner as not to
12 interfere with the construction of the diverted channel, and in
13 such manner as not to obstruct, impede, or interfere with the
14 free flow of water, the necessary bridge, or bridges, where the
15 diverted channel crosses the right-of-way. Upon receiving such

16 notice it shall be the duty of such railroad, or street railway,
17 company, to provide the necessary temporary structure to carry
18 its tracks during the constructing of the channel, and to con-
19 struct the necessary permanent bridge, or bridges, within the time
20 specified in said notice. If such company shall fail, neglect, or
21 refuse to comply with the notice, within the time fixed, the
22 temporary structure may be provided, and the bridge, or bridges,
23 may be built, under the supervision of the engineer in charge of
24 the channel improvement, and such railroad, or street railway,
25 company, shall be liable for the cost of the construction of such
26 structures, in addition to its liability for assessment for
27 special benefits as other property is assessed, and the cost of
28 such structures may be collected by the city from the company in
29 any court having jurisdiction.

1 Sec. 12. Such cities may purchase or condemn, and
2 appropriate, such private property, including railroad right-of-
3 way, and property, as may be necessary to carry into effect the
4 provisions of this act, and the cost of the improvement.

1 Sec. 13. A street or alley intersecting the stream
2 or old channel may be projected across it so as to make a con-
3 tinuous street or alley, and if such street or alley is shown upon
4 the recorded plat as terminating on one side of such stream or
5 old channel, the plat may be corrected so as to show a continuous
6 street or alley, and the expense of filling all such streets or
7 alleys shall be included in and paid as a part of the costs of
8 such improvements.

1 Sec. 14. After the contract, or contracts, for
2 making such improvement has been entered into, as herein pro-
3 vided, the council shall ascertain the cost of the work, includ-
4 ing the cost of property purchased, or condemned and appropriated,
5 for the purpose of carrying into effect the provisions of this
6 act, and the cost of filling the old channel where it is to be
7 abandoned, and the cost of surveys, plans and specifications,
8 estimates, notices, inspection, and supervision, and the prepar-
9 ing of plats, and schedules of assessments, and shall thereupon
10 by resolution, levy the whole of the said cost remaining, after
11 deducting the amount of the special assessments for benefits con-
12 ferred upon the lands and other property within the improvement
13 district, at one time as a special tax, which levy shall not ex-
14 ceed in the aggregate five (5) mills for all improvements made
15 under this act in any one year, upon all the taxable property of
16 the city, including that within the improvement district, except-
17 ing moneys and credits. A certificate of such levies and of the
18 special assessments for benefits conferred upon lands and proper-
19 ty within the improvement district, shall then be filed by the
20 city clerk with the auditor of the county in which the city is lo-
21 cated, and thereupon such taxes and assessments shall be placed
22 upon the tax lists. The proceeds of such taxes and assessments
23 shall be kept as a separate fund and shall be used for the purpose
24 of paying the cost of such improvement, or in paying bonds and
25 certificates with interest issued in anticipation thereof, and
26 for no other purpose.

1 Sec. 15. Any city constructing an improvement
2 authorized by this act may issue bonds and assessment certificates
3 in anticipation of any special tax or special assessment; said
4 bonds and certificates shall be issued and sold in accordance with
5 the provisions of title V., chapter 8, of the code and acts amendatory
6 thereof.

1 Sec. 16. The entire cost of constructing any im-
2 provement authorized by this act, and any bonds or certificates
3 issued in anticipation thereof, shall be paid out of the special
4 taxes and special assessments authorized by this act, and no
5 part of said cost, and no part of any such bonds or certificates,
6 shall ever be a charge upon or paid out of any other fund or the
7 proceeds of any other assessment, tax, or levy.

1 Sec. 17. Cities, including cities acting under
2 commission form of government, having fifty thousand (50,000)
3 population, or more, are hereby authorized to contract indebted-
4 ness and to issue bonds for the purpose of paying for improve-
5 ments contemplated by this act. Such bonds shall be payable in
6 not to exceed twenty-five equal annual installments, shall bear
7 interest not to exceed five per cent per annum, payable semi-
8 annually, and shall be made payable at such place, and be of such
9 form as the city council, by ordinance, designate. For the purpose
10 of this act a city may become so indebted in an amount which with
11 all other municipal indebtedness for general purposes may equal,
12 but not exceed, five per centum of the actual value of the taxable
13 property of said city as shown by the last preceding assessment

14 roll.

1 Sec. 18. This act shall be construed as granting
2 additional powers, without limiting the power already existing in
3 cities, including cities acting under the commission form of
4 government.

1 Sec. 19. This act being deemed of immediate import-
2 ance shall take effect and be in force from and after its publica-
3 tion in the Des Moines Capital and Des Moines Register newspapers,
4 published in Des Moines, Iowa.