

Roads and Highways.
March 8, 1929.

House File No. 406. ⁴¹
By HOLLIS. —

A BILL FOR

An Act to amend, revise, and codify chapter two hundred forty-one (241), Code, 1927, relating to special assessments for the improvement of secondary roads.

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

1 That chapter two hundred forty-one (241), Code, 1927, is
2 amended, revised, and codified to read as follows:

1 Section 1. Definition of term. The term "board" as used
2 in this chapter shall mean the board of supervisors.

1 Sec. 2. Secondary road system. The secondary road system
2 of a county shall embrace all public highways within the county
3 except primary roads, state roads, and highways within cities and
4 towns.

1 Sec. 3. Assessment districts. In order to provide for the
2 graveling, oiling, or other suitable surfacing, except paving,
3 of roads of the secondary system, the board shall have power,
4 on petition therefor, to establish road assessment districts.

1 Sec. 4. Petition. Said petition shall be signed by twenty
2 per cent (20%) of the owners of the lands within the proposed
3 district who are residents of the county, shall be filed with
4 the county auditor, and shall intelligently describe:

5 1. The lands within said proposed district.

6 2. The road or roads within said proposed district which
7 the petitioners desire improved.

8 3. The general nature of the improvement proposed on each
9 of said roads, but improvements may be proposed in the
10 alternative.

1 Sec. 5. Filing—duty of board and engineer. On the filing
2 of said petition, the board shall cause the county engineer to
3 personally examine all the roads within such proposed district
4 and to determine the relation of such roads to the lands within
5 such proposed district, and the relation of such roads to any of
6 the roads of the primary road system, and the necessity, if any,
7 for further grading or draining of such roads.

1 Sec. 6. Report of engineer. The engineer shall embody his
2 findings in a written report to said board. He may recommend that
3 the petition be denied, or that the district be established as
4 requested, or with such modifications as, in his judgment, are
5 advisable, including a recommendation as to an increase or decrease
6 of the size of the district as proposed by the petitioners. The
7 report shall include a plat showing, in accordance with his
8 recommendations, the lands within the recommended district, the
9 roads therein proposed to be improved, the general nature of the
10 recommended improvement, and the estimated cost thereof.

1 Sec. 7. Order as to hearing. Upon the filing of said report
2 the board shall fix a time for hearing thereon, and shall cause
3 the county auditor to serve notice by publication, as hereinafter
4 provided, of the pendency of said petition on all owners of said
5 land lying within said proposed district, as recommended by the
6 engineer.

1. Sec. 8. Notice. Said notice shall contain the time and
2 place of hearing on said petition, and a general description of
3 the roads proposed to be improved, and the names of all persons
4 owning land within said proposed district as shown by the transfer
5 books in the auditor's office.

1 Sec. 9. Publication of notice. Said notice shall be
2 published in one issue of some newspaper of the county having a
3 general circulation in the district affected by the proposed
4 improvement, such publication to be not less than five (5) days
5 before said hearing.

1 Sec. 10. Hearings. Hearings on said petition may be
2 adjourned from time to time without loss of jurisdiction on the
3 part of the board. On final hearing, the board may reject
4 the proposal or it may approve the same and establish the
5 district as petitioned for. It may modify the proposal either
6 by excluding lands therefrom or by adding lands thereto, or
7 otherwise modify the same, or the board may withhold final
8 order in such matter until such roads, or any designated part
9 thereof, are drained or graded to their satisfaction.

1 Sec. 11. Nonjurisdictional defects. No lack of definiteness,
2 either in the petition or in the engineer's report, shall be
3 deemed a jurisdictional defect. The order of the board
4 establishing the district shall be final.

1 Sec. 12. Nature of improvement—order. In establishing a
2 district, the board shall determine and enter of record the
3 general nature of the improvement to be constructed on the

4 different roads within the district, and may determine on one
5 class of improvement for some roads and a different class for
6 other roads.

1 Sec. 13. Plans. Upon the establishment of a district, the
2 county engineer shall prepare the plans for the improvements
3 contemplated by the order establishing the district, which plans
4 shall be accompanied by the standard specifications of the state
5 highway commission for the class of improvements contemplated.

1 Sec. 14. Bids. Upon the filing of said plans and
2 specifications, the board shall carry out the improvement or
3 improvements in accordance with their order under the same
4 procedure as provided for the contracting of secondary road
5 construction projects in general.

1 Sec. 15. Payment for improving county trunk roads. The
2 total cost of improving a county trunk road within said district
3 shall be apportioned and paid in the proportion of seventy-five
4 per cent (75%) from the secondary road construction fund pledged
5 to the county trunk system and twenty-five per cent (25%) from
6 any special assessments on benefited lands.

1 Sec. 16. Payment for improving local county roads. The
2 total cost of improving the local county roads within said
3 district may be apportioned and paid in the proportion of:

4 1. Twenty-five per cent (25%) from the secondary road
5 construction fund pledged to the county trunk system, fifty per
6 cent (50%) from the said construction fund pledged to local
7 county roads, and twenty-five per cent (25%) from the special

8 assessments on benefited lands, or

9 2. Seventy-five per cent (75%) from the said construction
10 fund pledged to the county trunk system and twenty-five per cent
11 (25%) from the special assessments on benefited lands.

1 17. Local optional financing plan. Whenever the
2 funds that may be raised by the maximum levies provided by law
3 are insufficient to pay, as heretofore provided, for grading,
4 draining, and surfacing local county roads, included in road
5 assessment districts petitioned for or established in such
6 township, and any township or district desires to proceed more
7 rapidly with the improvement of its roads, the board of
8 supervisors, in order to meet such deficiency, may, upon petition
9 of thirty-five per cent (35%) of the rural freeholders of such
10 township, residing in the township, outside of cities and towns,
11 levy an additional tax, not exceeding ten (10) mills in any one
12 year on all taxable property in such township outside of cities
13 and towns.

14 Or in case of such deficiency the board of supervisors may,
15 upon petition of fifty per cent (50%) of the resident freeholders
16 in such district, assess more than twenty-five per cent (25%) of
17 the cost of the grading, draining, and surfacing of the roads
18 proposed to be improved within said district. In such event the
19 same may be paid in ten (10) equal annual installments.

1 18. Advancing costs. The total cost of said improvement
2 shall, in the first instance, be paid from said secondary road
3 funds, or jointly from said funds and from the proceeds of said

4 special assessments and road certificates, or by direct application
5 of such certificates to such costs.

1 Sec. 19. Reimbursements. Said secondary road funds shall be
2 reimbursed (for amounts so advanced in excess of their legal
3 contribution) from the proceeds of special assessments and from
4 the proceeds of road certificates.

1 Sec. 20. Road certificates. In order to render immediately
2 available that part of the cost which is assessable, the board
3 may cause road certificates to be issued and sold. In such case
4 the board shall proceed substantially in the manner provided for
5 the issuance of road certificates in anticipation of secondary
6 road construction funds, but with such modifications as will
7 adjust said certificates to the subject matter of this chapter.

1 Sec. 21. Special assessments. Special assessments shall be
2 levied upon the lands within said districts, in the aggregate
3 amount of twenty-five per cent (25%) of the total cost of said
4 improvement.

1 Sec. 22. Classification of lands. Whenever the total
2 expense of such improvement within said district has been
3 approximately determined, said board shall cause the county
4 engineer, with all reasonable dispatch, personally to inspect
5 and classify in some uniform manner, and under some intelligent
6 description, and in a graduated scale of benefits, all real
7 estate within said districts.

1 Sec. 23. Relevant and material matters. Said engineer
2 shall, among other relevant and material matters, if any, give

3 due consideration to the fair market value per acre of each of
4 the different tracts of real estate, to their relative location
5 and productivity, to their relative proximity and accessibility
6 to said improvement, and to any other districts established or
7 likely to be established affecting said lands.

1 Sec. 24. Apportionment. The engineer shall, in writing,
2 and to the different described tracts of real estate within said
3 district, make an approximately equitable apportionment of
4 twenty-five per cent (25%) of the total expense of said improvement.

1 Sec. 25. Public property. In making said apportionment,
2 real estate owned by the state or any county shall be treated as
3 other real estate, but no other publicly-owned real estate shall
4 be included, and in apportioning benefits to real estate owned
5 by the county or state no consideration shall be given to the
6 buildings thereon.

1 Sec. 26. Details of apportionment—filing. Said
2 apportionment report shall specify each tract of real estate by
3 some intelligent description, the amount apportioned thereto,
4 and the ownership thereof, as the same appears on the transfer
5 books in the auditor's office, and shall be filed with the
6 county auditor.

1 Sec. 27. Optional commission. In lieu of having said
2 classifications of lands and said preliminary apportionment of
3 the assessment made and returned by the engineer, the board may,
4 on its own motion, and shall, on the petition of five (5)
5 freeholders of the district, appoint two (2) disinterested

6 freeholders residing in the county together with the county
7 engineer as a board of apportionment to perform said duties.
8 Said two additional members of said board of apportionment
9 shall, in the discharge of their duties, receive the same per
10 diem and mileage as provided by law for members of the board of
11 supervisors, to be paid from the funds of the district.

1 Sec. 28. Date of hearing—publication. Upon receipt of
2 said apportionment, the county auditor shall fix a day for
3 hearing before the board, and cause notice to be served by
4 publication as hereinafter provided upon each person whose name
5 appears in said apportionment report, as owner, and also upon
6 the person or persons in actual occupancy of any such real
7 estate.

1 Sec. 29. Notice. Said notice shall state the time and
2 place set for hearing before the board, and a general description
3 of the roads to be improved within said district, and the total
4 amount proposed to be assessed against the lands within said
5 district, and the names of all persons owning land within said
6 district as shown by the transfer books in the auditor's office,
7 and shall state that there is on file, and open to public
8 inspection in the auditor's office a plat and schedule of the
9 proposed assessments against each tract of land within said
10 district, that at said hearing any apportionment may be
11 increased without further notice, that all objections to said
12 report, or any part thereof, by reason of any irregularity in
13 prior proceedings, or by reason of any irregularity, illegality,

14 or inequality in making such apportionment, must be specifically
15 made in writing and filed with the county auditor on or before
16 noon of the day set for such hearing, and that a failure to so
17 make and file such objections will be deemed a conclusive waiver
18 of all such objections.

1 Sec. 30. Publication of notice. The county auditor shall
2 cause such notice to be served by publishing the same in one
3 issue of a newspaper of the county having a general circulation
4 in the district affected by the improvement. Such publication
5 shall not be less than five (5) days prior to the day set for
6 said hearing.

1 Sec. 31. Omitted parties. Omission to serve any party with
2 notice herein provided shall work no loss of jurisdiction on the
3 part of the board over such proceeding, and such omission shall
4 only affect the persons upon whom service has not been had, and,
5 if, before or after the board has entered its final order in
6 apportionment proceedings, it be discovered that service of said
7 notice has not been had on any necessary person as herein provided
8 the board shall fix a time for hearing as to such omitted parties
9 and shall cause such service to be then made upon them, either by
10 publication as heretofore provided or by personal service in
11 the time and manner required for service of original notices in
12 the district court, and after such hearing shall proceed as to such
13 person as though such service had been originally complete.

1 Sec. 32. Appearance by party. The appearance of any
2 interested party, either in writing or personally, or by authorized

3 agent, before the board at any stage of a pending proceeding for
4 the improvement of the highways of a district, shall be deemed a
5 full appearance. Only interested parties shall have the right to
6 appear before the board in proceedings provided for in this
7 chapter, and all persons so appearing shall be required to state
8 for whom they appear, and the clerk of the board shall make
9 definite entry accordingly in the minutes of the board.

1 Sec. 33. Standard forms. The state highway commission shall
2 prescribe standard forms for apportionment reports and notice of
3 hearings thereon.

1 Sec. 34. Hearing and determination. The final hearing on
2 said apportionment report may be adjourned from time to time
3 without loss of jurisdiction on the part of the board. On such
4 final hearing the board shall hear and determine all objections
5 filed, and may increase, diminish, annul, or affirm the
6 apportionment made in said report, or any part thereof, as may
7 appear to the board to be just and equitable.

1 Sec. 35. Levy. On the final determination, the board shall
2 levy such apportionment and all installments thereof upon the
3 real estate within said district, as finally established.

1 Sec. 36. Apportionment permanent—presumption. Said
2 apportionment, when finally established, shall remain as a basis
3 for all future assessments to cover deficiencies, if any, unless
4 the board, for good cause, shall authorize a revision thereof,
5 and shall carry the presumption, in the absence of a contrary show-
6 ing, that the same is fair, just, equitable, and in proportion to

7 benefits, and not in excess thereof.

1 Sec. 37. Waiver of objections. The owner of any tract of
2 land who fails to interpose objections of illegality or
3 irregularity as to said levy on his land, within twenty (20) days
4 after said levy, shall be deemed to have waived such objections.

1 Sec. 38. Certifying assessments and levy. When the board
2 has entered its final order as to the amounts of all special
3 assessments on a given improvement, the county auditor shall at
4 once certify a list of such assessments and a list of the real
5 estate upon which each assessment has been levied, with the
6 specific designation of the district embracing such real estate,
7 to the county treasurer, who shall enter each assessment upon the
8 tax books and continue such entry until such assessment is paid.

1 Sec. 39. Lien of assessments. Each special assessments and
2 all installments thereof shall be a lien upon the real estate
3 upon which it is levied from the date of such certification by
4 the county auditor, to the same extent and in the same manner as
5 taxes levied for state and county purposes.

1 Sec. 40. Correction because of court orders. Changes in
2 the amount of any special assessment by reason of any ruling of
3 the district court on appeals, shall be likewise certified and
4 the county treasurer shall make the proper corrections on his
5 books.

1 Sec. 41. Payment of assessments. When the aggregate of
2 the assessments against the property of any person is less than
3 ten dollars (\$10), the same shall be paid within twenty (20)

4 days after the levy thereof, and may be so paid if in excess of
5 that amount; otherwise said assessments shall be payable in
6 seven (7) equal installments, the first of which shall mature and
7 be payable on the expiration of twenty (20) days after said levy,
8 and the other installments, with interest on the whole amount
9 unpaid, annually thereafter, at the same time and in the same
10 manner as the March semi-annual payment of ordinary taxes.

1 Sec. 42. When delinquent—interest and penalty. All such
2 amounts shall become delinquent on the first day of March next
3 after their maturity, shall bear the same interest, the same
4 penalties, and be attended with the same rights and remedies
5 for collection, as ordinary taxes.

1 Sec. 43. Optional right to pay. Any owner of land may
2 at any time discharge his assessment by paying the balance
3 then due on all unpaid installments.

1 Sec. 44. Maturity against state or county. Assessments
2 against lands owned by the state or county shall be due and
3 payable from the date of levy by the board, or in the case of
4 any appeal, from the date of final confirmation of the levy by
5 the court.

1 Sec. 45. Assessment against county. In case of assessments
2 on lands owned by the county, the same shall be paid from the
3 county general fund.

1 Sec. 46. Assessment against state. In case of assessments
2 on lands owned by the state, the same shall be payable out of
3 any funds in the state treasury not otherwise appropriated.

1 Sec. 47. Invalid or defective assessment. In case an
2 assessment appears to be invalid or, in the judgment of the
3 board, seriously defective, the board may proceed to the making
4 of a new assessment as though no assessment had ever been made.

1 Sec. 48. Reassessments to meet deficit. In case an
2 assessment as originally made is later found insufficient to pay
3 that portion of the cost assessable against said district, an
4 additional assessment to meet the deficiency may be made.

1 Sec. 49. Appeal. Any owner of land may appeal to the
2 district court from the order of the board in levying the
3 assessment against his real estate, by filing with the county
4 auditor within twenty (20) days from the date of such levy, a
5 bond conditioned to pay all costs in case the appeal is not
6 sustained, and a written notice of appeal wherein he shall,
7 with particularity, point out the specific objection which he
8 desires to lodge against such levy.

1 Sec. 50. Appeal transcript. When an appeal is taken,
2 the county auditor shall at once make a transcript of the
3 notice of appeal and appeal bond, and transmit the same to the
4 clerk of the district court.

1 Sec. 51. Docketing appeal and filing petition. The
2 appellant shall, on or before the first day of the first term of
3 the court, after taking said appeal, docket said appeal and file
4 a petition setting forth the order or decision of the board
5 appealed from and his specific objections thereto. A failure
6 to comply with either of these requirements shall be deemed a

7 conclusive waiver of the appeal, and in such case, the court
8 shall dismiss the same. Appellee need not file answer, but
9 may do so.

1 Sec. 52. Speedy determination. The appearance term shall
2 be the trial term, and said appeal shall have precedence over
3 all other business of the term except criminal matters.

1 Sec. 53. Trial of appeal. The appeal shall be heard as in
2 equity, and the court may raise or lower or affirm the assessment.

1 Sec. 54. Certification of order—adjustment. The clerk of
2 the district court shall certify such final order to the county
3 auditor, and the board shall at once so adjust the assessments
4 as to comply with such final order.

1 Sec. 55. Account for each district. All funds received by
2 the county treasurer for the improvement of such district shall
3 be carried as a distinct and separate account.