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House File 281

February 14, 1947.
Passed on File.

By CITIES and TOWNS.

A BILL FOR

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
2 used in this Act shall have the respective meanings as stated:

3 1. "Municipality"—A city or town of any class, size
4 or form of government, including a city or town organized and
5 operating pursuant to a special charter.

6 2. "Council"—The Council, Board of Aldermen or other
7 similar governing body of the municipality. The word "Clerk"
8 shall include "Recorder".

9 3. "Repair"—The repair, reconstruction or resurfacing
10 of a public improvement.

11 4. "Street"—Any public street, highway, boulevard, ave-
12 nue, alley, parkway, or public place within the limits of such
13 municipality.

14 5. "Lot"—Any lot, part of lot, tract or parcel of land.

15 6. "Public Improvements"—Public improvements as referred
16 to in this Act shall include the principal structures or works and
17 their accessories of:

18 a. Sanitary, storm or combined sewers;

19 b. Drainage conduits, channels or levees;

20 c. Street grading, paving, curbing, guttering and surfacing
21 with oil, oil and gravel, or chloride;

22 d. Street lighting fixtures and connections;

23 e. Sewage pumping stations and disposal or treatment plants;

24 f. Underground connections to private property for gas,
25 water, sewers or electricity;

26 g. Permanent sidewalks;

27 h. Extensions to the water main system of waterworks systems.

28 7. "Cost"—The total cost of a public improvement may
29 include the cost of technical and financing investigation, pre-
30 liminary reports, estimates, plans, specifications, notices, legal
31 services, the acquisition of lands, consequential damages or costs,
32 easements, rights-of-way, construction, supervision, inspection,
33 testing and the printing and publishing notices and proceedings,
34 interest during construction, and for not more than six months
35 thereafter; and printing and sale of bonds or certificates.

36 8. "Construction"—All materials, labor, acts, operations
37 and services necessary to the completion of a public improvement
38 from its inception to its completion.

39 9. "Oil"—Any asphaltic or bituminous material suitable
40 for road building purposes.

41 10. "Gravel"—Gravel, crushed rock, cinders, shale or
42 similar material suitable for road building purposes.

43 11. "Main sewer"—Any sewer that is commonly referred to
44 as an "intercepting sewer", "outfall sewer", or "trunk sewer".

45 12. "Lateral sewer"—Any sewer which contributes sewage
46 or surface water to a main sewer or outlet.

47 13. "Sewer system"—The main sewers, lateral sewers, drainage
48 conduits or channels within a sewer district.

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

52 15. "Privately owned property"—All property except street
53 property owned by the United States, and property owned by the
54 municipality. Property owned by the State of Iowa and railway
55 property shall be considered privately owned property.

56 16. "Abutting lot"—A lot which abuts or joins the street
57 in which the public improvement is located or which abuts the
58 right-of-way of said improvement.

59 17. "Adjacent lot"—Any lot which is not an abutting lot.

60 18. "Proposal"—A legal bid as received on work adver-
61 tised as provided in this Act.

62 19. "Paving"—The word "paving" as used in this Act
63 shall include any kind of hard surfacing including, but not
64 limited to, concrete, bituminous concrete, brick, stabilized
65 gravel or crushed stone or combinations or such materials, to-
66 gether with the necessary base. Paving shall not include surfac-

67 ing with oil, oil and gravel or chloride.

68 20. "Engineer"—A professional engineer registered in the
69 State of Iowa authorized by the Council to render service in con-
70 nection with the public improvement.

71 21. "Railways"—The word "railways" shall include street
72 railways.

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

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

1 Sec. 4. Preliminary resolution. When the Council shall

2 deem it necessary to construct or repair any public improvement
3 or improvements under the provisions of this Act and to assess
4 the cost thereof to private property, it shall adopt a preliminary
5 resolution generally describing the type or alternative types of
6 improvement or improvements proposed and the beginning and
7 points thereof, or otherwise indicating the general location thereof,
8 and directing the engineer to prepare and file with the clerk of
9 the municipality preliminary plans and specifications for the work,
10 an estimated total cost thereof and a plat and schedule. A single
11 resolution may embrace one improvement only or two or more classes
12 of improvements so related by location or otherwise as to make
13 it advisable in the opinion of the Council to proceed with all
14 thereof simultaneously. An improvement need not be continuous and
15 may be in more than one locality or street and that portion of a
16 street may be excluded which has been improved by any railway or
17 which the municipality may be authorized under the franchise or
18 contract with such railway to require it to improve; provided,
19 that notwithstanding any provision of any law, franchise or con-
20 tract requiring any railway to improve any portion of a street or
21 to pay the cost of such portion, such municipality may relieve
22 such railway of all or any part of such requirement and such cost
23 and may include all or any part thereof in the portion of the
24 improvement constructed under this act and for the account of
25 which assessments are levied hereunder. The resolution may
26 generally describe the property which the council at that time
27 deems will be specially benefited thereby and may also specify a

28 particular proportion of the cost which the council at that time
29 deems should be assessed against the benefited property. Such
30 resolution may give any short and convenient designation to the
31 public improvement specified therein so as to distinguish it from
32 any other similar improvement and proceedings and thereafter it
33 shall be sufficient to refer to such improvement by such designation
34 in all proceedings thereafter taken under the provisions of this act.
35 The preliminary plans and specifications need only be in
36 sufficient detail to advise any person interested of the
37 general nature, character and type of the improvement. The
38 estimate of the cost of any public improvement shall set
39 forth in one item the estimated amount to be paid the con-
40 tractor and separately the estimated cost of making and
41 collecting the assessments, engineering, inspection, interest
42 during the construction period, legal fees and other costs.

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

- 3 1. The boundaries of the district embracing the lots
4 proposed to be assessed;
- 5 2. The location of each lot under separate ownership
6 within the district including the property of all railways sub-
7 ject to assessment;
- 8 3. The location and terminal points of all major parts
9 of the improvement proposed to be assessed.

1 Sec. 6. Requirements of schedule. The schedule as filed
2 by the engineer shall show the following detailed information

3 for each lot within the district:

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

8 2. The valuation of each lot including the improvements
9 thereon as fixed by the engineer.

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

11 4. The amount of deficiency, if any, between the
12 amount proposed to be assessed and the estimated total
13 cost of the public improvement.

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

1 Sec. 8. Plat and schedule adopted. When the plat, schedule
2 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
5 boundaries of the district as reported by the engineer to be amended
6 or revised and adopt the report as revised or amended, or may adopt
7 the report as filed.

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

1 Sec. 10. Notice to property owners. The clerk shall
2 cause public notice of the time when the council will hear objec-
3 tions to the adoption of a resolution of necessity to be given
4 by two publications in some newspaper published in the munici-
5 pality, the last publication of which shall be not less than
6 ten nor more than eighteen days prior to the date fixed for
7 consideration; but if there is no such newspaper published

8 within the municipality such notices shall be given by posting
 9 copies thereof in at least two public places within its corporate
 10 limits. The U. S. Postoffice and the regular meeting place of
 11 the council shall be considered public places. The form of the
 12 published or posted notice may be substantially as follows :

13 NOTICE TO PROPERTY OWNERS

14 Notice is hereby given that there is now on file for
 15 public inspection in the office of the clerk of,
 16 Iowa, a proposed resolution of necessity, an estimate of
 17 cost and a plat and schedule showing the amounts proposed
 18 to be assessed against each and every lot and the valua-
 19 tion thereof within a district as approved by the
 20 council of, Iowa, for a improve-
 21 ment of the type and in the location as follows :

22
 23

24 The council (or other governing body) will meet at
 25 o'clockM. on, 19....., at the
 26
 27 at which time the owners of pro-

28 (Place of meeting)

29 perty subject to assessment for the proposed improvement
 30 or any other person having an interest in the matter may
 31 appear and make objections to the making of the proposed
 32 public improvement, to the boundaries of the proposed dis-
 33 trict, to the cost, to the amount proposed to be assessed

34 against any lot or to the final adoption of a resolution of
35 necessity.

36 Unless property owners have written objections to the
37 proposed assessment on file with the clerk prior to the time
38 fixed herein for the public hearing they shall be deemed
39 to have waived all objections thereto.

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Clerk.

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

1 Sec. 12. Adoption of the detailed plans and specifications.

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

1 Sec. 13. Notice for bids. A notice of a public letting

2 for the construction or repair of a public improvement shall be
3 given by two publications in a newspaper published within the
4 municipality, the first of which shall be not less than twelve
5 days before the date set for receiving bids, which notice shall
6 state the time and place for filing proposals, the time and
7 place when such proposals will be opened and considered by the
8 council, as nearly as practicable the nature and extent of the
9 work, the kinds of materials to be used, when the work shall
10 be begun and the date of completion thereof, the terms and
11 method of payment and a statement that each bidder shall accom-
12 pany his bid with a cashier's or certified check on a state or
13 national bank in an amount at least equal to ten per cent of
14 the engineer's estimated total cost of the improvement as
15 security that the bidder will enter into the contract for the
16 work bid upon and will furnish a corporate surety bond accept-
17 able to the council for the faithful performance of the contract.

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

21 The notice for bids may provide that bids will be received
22 for furnishing all labor and material required to complete all
23 parts of the proposed work under one contract, or for parts thereof
24 in separate and specified sections.

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

7 The check of the succesful bidder shall be retained by
8 the municipality until the prescribed contract has been entered
9 into and bond filed and the contract and bond approved by the
10 council. The check of the unsuccessful bidders shall be re-
11 turned to such bidders by the clerk and a receipt therefor
12 obtained and placed on file in his office.

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

1 Sec. 16. Underground connections required. The council

2 shall have power to require the connections from gas, water,
3 and steam-heating pipes, sewers, and underground electric
4 construction, to the curb line of abutting property, to be made
5 before the permanent improvement of the street and, if such
6 improvements have already been made, to regulate the making of
7 such connections, fix the charges therefor, and make all needful
8 rules in relation thereto, and the use thereof. If the owners
9 of property on such streets fail to make such connections in
10 the manner and within the time fixed by the council, it may
11 cause the same to be made, and assess the cost thereof against
12 the property for which they are made. The council shall direct
13 the clerk to certify the actual cost of the connection to each
14 lot, to the county auditor who shall place the amount so certified
15 on the tax list to be 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
5 resolution of necessity. The board shall report to the council
6 the lots and names of the owners and the requirements in respect
7 to connections from any water mains or pipes to the curb line of
8 the abutting property and thereupon the council may pass a
9 resolution requiring the respective owners of the said
10 abutting property to make said connections in the manner
11 required by the rules of the board, and fixing a time therefor.
12 Notice thereof shall be given by one publication in some

13 newspaper of general circulation in such municipality, which
14 shall be at least ten days prior to the time fixed in said
15 resolution.

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

1 Sec. 18. State lands and buildings. Municipalities may
2 assess the cost of a public improvement which extends through
3 or abuts upon lands owned by the state and the state, through
4 the executive council, shall pay such portion of the cost of
5 making said improvement through or along such lands as would be
6 legally assessable against said lands were said lands privately
7 owned, which amount shall be determined by the council. Payment
8 of such assessments shall be made by the executive council from
9 any funds of the state not otherwise appropriated.

10 Any municipality in which any state building may be situated
11 shall permit the officers in charge of such building and the
12 persons constructing or improving the same to construct sewers
13 therefor through or under any of its streets, or to connect the
14 same with its sewer system under the same regulations that are

15 provided for sewer connections to private property.

1 Sec. 19. Monthly payments to contractor. When the
2 specified duration of time for the performance of a construction
3 contract for a public improvement exceeds sixty days, the
4 municipality shall pay the contractor monthly estimates based
5 on ninety per cent of the engineer's estimated value of the
6 acceptable work completed on such contract in warrants drawn
7 on any fund from which such work may be paid. Such warrants
8 shall draw four per cent interest per annum from and after the
9 date of presentation for payment.

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

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

1 Sec. 22. Adoption and certification of assessment
2 schedule. Within thirty days but not less than fifteen days
3 from the date of filing of the assessment schedule by the
4 engineer the council shall consider same and adopt it as prepared
5 or make any changes therein found necessary and adopt it in
6 revised form. Such resolution as finally adopted shall confirm
7 and levy the assessments, shall state the number of annual
8 installments, not exceeding fifteen, into which the assessments
9 of \$10.00 or more are to be divided, the rate of interest and
10 the time when such assessments are payable, and shall direct the
11 clerk to certify such schedule as finally adopted to the auditor
12 of the county, or of each of the counties in which the property
13 assessed is located; and thereupon the county auditor shall
14 place such assessments on the tax list of the county with the
15 amounts to be assessed against each lot within such assessment
16 schedule as certified.

1 Sec. 23. Assessment of cost. The cost of construction
2 or repair of a public improvement, except for that part for

3 which railways are liable or which is to be otherwise paid, shall
4 be assessed against all lots within the assessment district in
5 accordance to the special benefits conferred upon the property
6 thereby and not in excess of such benefits.

1 Sec. 24. Limitations on assessment costs.

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

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

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

11 paid in like manner.

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

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

18 The right-of-way of any railroad company shall be subject
19 to special assessments for all public improvements specified in
20 this chapter as is other private property, and such assessment
21 shall constitute a debt due personally from the railroad company
22 owning or leasing such right-of-way. Any such assessment
23 against a railway company shall be a paramount lien upon the
24 track thereof within the corporate limits of the municipality.
25 No part of the lien of any railway shall be released from the

26 lien for any part of any unpaid assessment until the whole
27 assessment shall have been paid.

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

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

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

24 Upon the payment of any assessment or installment thereof

25 interest shall be computed and collected as aforesaid up to the
26 first day of June following the date of such payment. All
27 assessments shall constitute liens on the lots assessed from the
28 date they are certified to the county auditor and such liens
29 shall have the same preferences and priorities as liens for
30 ordinary taxes; provided, that in no case shall the owner of
31 any lot be liable for an assessment beyond the value of the
32 property assessed.

1 Sec. 28. Limitation on litigation. Any person, firm or
2 corporation interested in any property included in any district
3 under the provisions of this Act shall have the right within
4 twenty days from the date of adoption of a resolution of necessity,
5 as hereinbefore required, by petition filed in the District
6 Court of the county in which such property is located, to question
7 the legality or regularity of any action or proceedings preliminary
8 to or in connection therewith and failure to file such petition
9 within such twenty days shall constitute a waiver to thereafter
10 assert such right or litigate such question. Filing such petition
11 shall not operate as a stay of further action or proceedings by
12 the council unless there is also filed a bond in an amount and
13 with surety approved by the court conditioned to indemnify
14 the municipality for all loss and costs in the event it is
15 adjudicated that such questioned action or proceedings of the
16 council are legal and regular. Such petition shall be received,
17 filed, and action had thereon in the District Court as for
18 other ordinary actions.

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

1 Sec. 30. Special assessment bonds. At any time and from
2 time to time after the contract or contracts for the construction
3 or repair of a public improvement have been executed the
4 municipality may by resolution of the council authorize and
5 issue bonds of the municipality in anticipation of the
6 collection of special assessments, provided, that the aggregate
7 principal amount of such bonds issued prior to the certification
8 of the assessment roll to the county auditor, as hereinbefore
9 provided, shall not exceed seventy per cent of the total amount
10 of such assessments as shown by the preliminary plat and
11 schedule, and provided also, that the total principal amount
12 of bonds issued for account of any public improvement shall not
13 exceed the total amount of special assessments. All such bonds
14 shall be negotiable and shall recite on their face that they
15 have been issued under the provisions of this Act and are
16 payable as to both principal and interest solely from the proceeds
17 of the special assessments levied for account of the public
18 improvement. Such bonds shall bear interest at a rate not
19 exceeding the rate of interest to be paid on the special assess-

20 ments and shall mature serially on June 1 of the years in which
21 any of such principal is scheduled to become due and shall
22 contain a provision that the municipality reserves the right
23 and option of calling and redeeming any or all of the bonds
24 on June 1 of each year prior to maturity upon such terms as
25 are specified therein. The proceeds of the special assessments
26 and interest collected thereon shall be used and applied by the
27 Treasurer of the municipality to the payment of the interest on
28 the bonds and to the retirement of the principal as rapidly as
29 such proceeds are collected. Said bonds shall be sold for cash
30 and the proceeds, exclusive of accrued interest, shall be used
31 and applied to the payment of the cost of the public improvement.
32 After all of the bonds for account of a particular improvement
33 have been paid and retired any excess of proceeds of special
34 assessments may be rebated to the owners of the property assessed
35 in proportion to the assessments against the respective lots or
36 may be transferred to the fund of the municipality from which
37 deficiencies on such improvement were paid.

1 Sec. 31. Tax sale. Property against which a special
2 assessment has been levied for public improvements may be sold
3 for any sum of principal or interest due and delinquent at any
4 regular or adjourned tax sale, in the same manner, with the
5 same forfeitures, penalties, and right of redemption, and
6 certificates and deeds on such sales shall be made in the same
7 manner and with like effect, as in case of sales for the
8 nonpayment of ordinary taxes. The purchaser at such sale shall

9 take the property charged with the lein of the remaining unpaid
10 installments and interest. At any such sale where bonds have
11 been issued in anticipation of such special assessments and
12 interest the municipality may be a purchaser and be entitled to
13 all the rights of purchasers at tax sales. The proceeds subse-
14 quently realized from sales of any property so purchased by the
15 municipality shall be credited to the improvement fund, the
16 general fund or the street construction fund of the municipality.

1 Sec. 32. Improvement fund. The whole or any part of the
2 cost of the construction or repair of any public improvement
3 may be paid from the improvement fund and the municipality
4 shall have the power, after the completion of the work, by
5 resolution to levy at one time upon all the taxable property
6 therein the percentage or amount of annual improvement fund taxes
7 necessary to pay the same not exceeding in any one year the
8 maximum annual limit of said taxes.

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

1 Sec. 34. Joint municipal and state improvements. The
2 provisions of this act shall apply to any street improvement

3 undertaken jointly by the municipality with the state highway
4 commission pursuant to the provisions of sections 313.12 to
5 313.23 inclusive of the code and any such municipality may
6 assess and pay its portion of the cost of such street improvement
7 as herein provided, but any requirement of this act in respect
8 to approval of detailed plans and specifications, calling for
9 construction bids, awarding construction contracts and acceptance
10 of the completed improvement shall be carried out by such
11 municipality with the state highway commission as may be provided
12 in any agreement entered into as permitted by section 313.22
13 of the code.

1 Sec. 35. Savings clause. This act shall not repeal
2 any other law relating to the subject matter hereof but shall
3 be deemed to provide a supplemental and alternative method of
4 procedure and if any section or provision of this act be
5 declared unlawful it shall not affect the remainder thereof.

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

EXPLANATION OF H. F. 281

The following explanation of this bill is presented herewith:

This bill provides a complete, alternative procedure to that provided in Chapter 391 which the officials of any municipality may follow, at their option, for financing municipal improvements which are to be paid for, in whole or in part, by special assessments against benefited property.

The need for clarifying, simplifying, and shortening special assessment procedure provided in chapter 391 and elsewhere in the Code has long been realized by municipal officials, and by all other agencies directly concerned with the construction and financing of municipal improvements. Existing procedure consists of a series of acts and amendments thereto by succeeding legislatures, each act or amendment intended to cure some particular weakness or fault in the procedure that had been discovered. No general revision or modernizing of special assessment procedure has been undertaken since the first legislation of this kind was enacted more than seventy years ago. It is not surprising, therefore, that the Highway Committee of the Iowa Postwar Rehabilitation Commission said, on page 119 of its report that "It is recommended that the laws

governing the improvements of roads and streets in municipalities and the financing thereof be completely rewritten, revised, and modernized.”

This act is sponsored by the Iowa League of Municipalites, and was prepared by a committee appointed by the president of the League which included representatives of the League, cities and towns, the Highway Commission, contractors, bonding houses, and attorneys specializing in municipal law. This bill has also been reviewed and approved by a representative of Chapman and Cutler, attorneys of Chicago, whose opinion on municipal bond issues is widely sought by investors. The committee did not have the time, nor did it consider it advisable to attempt to go through the entire code and to propose the repeal or amendment of all existing sections affecting special assessment procedure. The existing procedure has been the subject of much litigation and much of it has been adjudicated by the Supreme Court. The committee felt that if a complete, clear and understandable alternate procedure could be provided, which municipal officials, at their option, could follow in lieu of the present procedure, the desired results could be accomplished. It is believed that if this bill is enacted, other procedure provided by the code will not be used, and in due course of time will be eliminated when future code revisions are under consideration by the legislature.

The advantages of using the procedure provided by this bill, over that provided by the present code are:

1. The procedure is clear, concise, and understandable. It is arranged in chronological order and is complete. Existing procedure is vague, indefinite, and bewildering, not only to municipal officials, but to most attorneys as well.
2. It requires less time to initiate and place a proposed improvement under construction, than is required by existing procedure.
3. The same procedure is applicable to all types of municipal improvements that are to be financed in whole or in part by special assessments. The present code provides different and conflicting procedure for different types of improvements, and consequently, is confusing, and is conducive to errors in procedure.
4. This bill provides for paying the contractor's progress estimates on work performed, as is customary on all types of public construction. This is not possible under existing procedure. This provision will lessen a contractor's financing costs, and will permit small contractors, who are not able to finance their operations under existing procedure, to bid upon this special assessment work. This reduction of financing costs, and broadening of competition should result in lowered costs for completed improvements, with resultant saving to property owners.
5. This bill preserves to the property owner all of the rights and privileges, including preliminary hearing as to necessity of proposed improvement, notice of proposed assessment, right of appeal, etc., as is provided by the present statutes. This bill not only carries the same limitation as to maximum assessments against individual properties as is provided by existing laws, but further protects the property owner from any increase in the assessment as proposed at the original hearing.
6. This bill makes possible the construction and financing of municipal improvements, to be paid for in whole or in part by special assessments, in a clear-cut, understandable way. Municipalities and property owners alike will benefit through simplified and shortened procedure, lessened financing costs, increased competition, and consequently lowered costs for the completed improvements.