

FILED MAY 2 1978

SENATE FILE 2260

By COMMITTEE ON JUDICIARY  
*Approved 5/2 (78 1240)*

Passed Senate, Date 5-3-78 (78 1208) Passed House, Date 5-11-78 (78 1208)  
Vote: Ayes 42 Nays 1 Vote: Ayes 52 Nays 3  
Approved 6-5-78

### A BILL FOR

1 An Act legalizing the proceedings of the city council of  
2 Polk City, Iowa in connection with the making of a  
3 contract for the construction of water main improvements.  
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1 WHEREAS, on August 2, 1976, the City Council of Polk City,  
2 Iowa, passed a resolution adopting a Resolution of Necessity  
3 for the construction of certain water main improvements in  
4 said City, designated as the "1976 Water Main Extension  
5 Project"; and

6 WHEREAS, on November 12, 1976 the District Court of the  
7 State of Iowa entered its decree confirming as correct, lawful  
8 and proper all assessments made, subject to certain  
9 modifications therein provided, and confirming all acts of  
10 the City of Polk City and its Council with respect thereto  
11 and further ordered that said assessments were to be collected  
12 following award of contract for the construction of the  
13 improvement and final levy of said assessments by resolution  
14 of the Council of the City of Polk City upon completion of  
15 the improvements pursuant to the provisions of Chapter 384,  
16 City Code of Iowa, and the same constitute a lien on a parity  
17 with the lien of ordinary taxes against the properties of  
18 defendants to the extent assessed, no appeal having been taken  
19 therefrom; and

20 WHEREAS, on August 2, 1976, the City Council of said City  
21 passed a resolution ordering the construction of said water  
22 main improvements and directing publication of a Notice of  
23 Hearing and Letting, pursuant to the provisions of Chapter  
24 384 of the Code of Iowa, and

25 WHEREAS, a notice to bidders of hearing and letting was  
26 published in various trade journals, and mailed to eight  
27 contractors; five bids were received and the low bid resulted  
28 in costs below the engineers estimate; and

29 WHEREAS, on November 15, 1976, said City entered into a  
30 contract for the construction of the water main improvements  
31 covered by the Resolution of Necessity and the Resolution  
32 Ordering Construction, hereinabove mentioned, with the low  
33 bidder Hurst Excavating of Waterloo, Iowa, which company  
34 thereafter filed its performance and maintenance bond; and

35 WHEREAS, said construction work, has been completed by

1 said Contractor and said Contractor has been partially paid  
2 from available cash funds of the City on hand; and

3 WHEREAS, after satisfactory completion of the construction  
4 work doubts have arisen concerning the sufficiency of  
5 publication of said Notice of Hearing and Letting, the legality  
6 of the construction contract, and concerning the power of  
7 the Council to order disbursement of City funds to the  
8 contractor, to levy special assessments against benefited  
9 property, and to issue and sell bonds to pay the costs of  
10 said improvements, and it is deemed advisable to put such  
11 doubts forever at rest: NOW THEREFORE,

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

13 Section 1. All proceedings heretofore taken by the City  
14 Council of Polk City, Iowa, including all legal notices given,  
15 in connection with and pertaining to the execution of the  
16 contract with Hurst Excavating, Inc., on November 15, 1976,  
17 for the construction of certain water main improvements in  
18 said City pursuant to said Resolution of Necessity adopted  
19 August 2, 1976, and said contract itself, are hereby legalized,  
20 validated and confirmed, and shall constitute full authority  
21 for the acts of said City Council ordering the disbursement  
22 of the funds of said City, levying special assessments against  
23 benefited property, pursuant to said Resolution of Necessity  
24 adopted August 2, 1976, and issuing and selling bonds in  
25 anticipation of the collection of said assessments and general  
26 obligation bonds to pay for the balance of the costs of said  
27 improvements, in the manner otherwise prescribed by law, and  
28 said bonds, when so issued, shall be valid, legal and binding  
29 obligations of said City in accordance with their terms.

30 Sec. 2. This Act, being deemed of immediate importance,  
31 shall take effect and be in force from and after its  
32 publication in the Ankeny Press-Citizen, a newspaper published  
33 in Ankeny, Iowa, and in The Marion Sentinel, a newspaper  
34 published in Marion, Iowa, without expense to the State.

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EXPLANATION

1 This bill legalizes proceedings taken by the city council  
2 of Polk City, Iowa relating to the legal notices required  
3 in connection with the execution of a contract for improvements  
4 of a water main.

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SENATE FILE 2260

AN ACT

LEGALIZING THE PROCEEDINGS OF THE CITY COUNCIL OF POLK CITY, IOWA IN CONNECTION WITH THE MAKING OF A CONTRACT FOR THE CONSTRUCTION OF WATER MAIN IMPROVEMENTS.

WHEREAS, on August 2, 1976, the City Council of Polk City, Iowa, passed a resolution adopting a Resolution of Necessity for the construction of certain water main improvements in said City, designated as the "1976 Water Main Extension Project"; and

WHEREAS, on November 12, 1976 the District Court of the State of Iowa entered its decree confirming as correct, lawful and proper all assessments made, subject to certain modifications therein provided, and confirming all acts of the City of Polk City and its Council with respect thereto and further ordered that said assessments were to be collected following award of contract for the construction of the improvement and final levy of said assessments by resolution of the Council of the City of Polk City upon completion of the improvements pursuant to the provisions of Chapter 384, City Code of Iowa, and the same constitute a lien on a parity with the lien of ordinary taxes against the properties of defendants to the extent assessed, no appeal having been taken therefrom; and

WHEREAS, on August 2, 1976, the City Council of said City passed a resolution ordering the construction of said water main improvements and directing publication of a Notice of Hearing and Letting, pursuant to the provisions of Chapter 384 of the Code of Iowa, and

WHEREAS, a notice to bidders of hearing and letting was published in various trade journals, and mailed to eight contractors; five bids were received and the low bid resulted in costs below the engineers estimate; and

WHEREAS, on November 15, 1976, said City entered into a

contract for the construction of the water main improvements covered by the Resolution of Necessity and the Resolution Ordering Construction, hereinabove mentioned, with the low bidder Hurst Excavating of Waterloo, Iowa, which company thereafter filed its performance and maintenance bond; and

WHEREAS, said construction work, has been completed by said Contractor and said Contractor has been partially paid from available cash funds of the City on hand; and

WHEREAS, after satisfactory completion of the construction work doubts have arisen concerning the sufficiency of publication of said Notice of Hearing and Letting, the legality of the construction contract, and concerning the power of the Council to order disbursement of City funds to the contractor, to levy special assessments against benefited property, and to issue and sell bonds to pay the costs of said improvements, and it is deemed advisable to put such doubts forever at rest: NOW THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. All proceedings heretofore taken by the City Council of Polk City, Iowa, including all legal notices given, in connection with and pertaining to the execution of the contract with Hurst Excavating, Inc., on November 15, 1976, for the construction of certain water main improvements in said City pursuant to said Resolution of Necessity adopted August 2, 1976, and said contract itself, are hereby legalized, validated and confirmed, and shall constitute full authority for the acts of said City Council ordering the disbursement of the funds of said City, levying special assessments against benefited property, pursuant to said Resolution of Necessity adopted August 2, 1976, and issuing and selling bonds in anticipation of the collection of said assessments and general obligation bonds to pay for the balance of the costs of said improvements, in the manner otherwise prescribed by law, and

said bonds, when so issued, shall be valid, legal and binding obligations of said City in accordance with their terms.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Ankeny Press-Citizen, a newspaper published in Ankeny, Iowa, and in The Marion Sentinel, a newspaper published in Marion, Iowa, without expense to the state.

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ARTHUR A. NEU  
President of the Senate

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DALE M. COCHRAN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2260, Sixty-seventh General Assembly.

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KEVIN P. LIGHT  
Acting Secretary of the Senate

Approved June 5, 1978

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ROBERT D. RAY  
Governor