

January 26, 1961.
Cities and Towns.

House File 159
By HANRAHAN and DENMAN.

Passed House, Date.....4-14-61
Vote: Ayes.....82 Nays.....1
Approved.....

Passed Senate, Date.....
Vote: Ayes..... Nays.....

A BILL FOR

An Act relating to the special assessment of public improvements in cities of one hundred twenty-five thousand or more population and to amend chapter four hundred seventeen (417), Code 1958, relating thereto.

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

1 Section 1. Chapter four hundred seventeen (417), Code 1958,
2 is amended by adding thereto the following new section:
3 "The provisions of sections four hundred twenty point fifty-
4 nine (420.59) and four hundred twenty point sixty (420.60) shall
5 be applicable to cities constructing and maintaining storm sewers
6 or covered drains by the method contained in this chapter and the
7 same is hereby authorized."

1 Sec. 2. Section four hundred seventeen point forty-eight
2 (417.48), Code 1958, is hereby repealed and the following enacted
3 in lieu thereof:

4 "The provisions of section three hundred ninety-one point
5 sixty (391.60) shall be applicable to the payment of special
6 assessments under this chapter."

1 Sec. 3. Section four hundred seventeen point twenty-eight
2 (417.28), Code 1958, is amended by adding at the end of said
3 section the following:

4 "Said petition shall have the effect of precipitating and
5 determining in a single action matters that might otherwise
6 result in a multiplicity of actions and the burden of proof

- 7 shall remain with the property owner in the same manner and to
- 8 the same extent as would be the case were the action initiated
- 9 by such property owner and determined under the provisions of
- 10 sections three hundred ninety-one point eighty-nine (391.89) and
- 11 three hundred ninety-one point ninety (391.90)."

EXPLANATION OF HOUSE FILE 159

The purpose of section one of the bill is to authorize cities of 125,000 population to construct covered drains and storm sewers by special assessment as special charter cities now can under chapter 420 of the 1958 Code.

The purpose of section two is to eliminate conflict between chapters 391 and 417 of the Code and to legalize the procedure currently used by the county auditor with respect to collection of installments in cities of 125,000 or more population.

The purpose of section three is to clarify the point that the court confirmation under chapter 417 simply enables the city to precipitate all appeals in one action and does not shift the burden of proof from what it would have been under chapter 391. This has frequently been announced as true by the district court, but inserting it in the statute would eliminate the necessity for having to re-argue it in every confirmation proceeding.

HOUSE FILE 159

- 1 1. Amend House File 159 by inserting the following new section
- 2 immediately following section one (1):
- 3 Sec. 2. Section four hundred seventeen point forty-one
- 4 (417.41), Code 1958, is amended by striking from line three (3)
- 5 of said section the word "upon" and inserting in lieu thereof
- 6 the words "thirty days after".
- 7 2. Further amend House File 159 by renumbering the remaining
- 8 sections.

adopted
4-14-61

Filed
February 7, 1961.

COMMITTEE ON CITIES AND TOWNS,
GEORGE P. RAPSON, Chairman.