

January 29, 1965.

House File 132

Governmental Subdivisions. *Pass 2/23* By RADL, CROSIER, OXLEY, McNAMARA, KENNEDY and SMITH of Linn.

Passed House, Date *3/31* Passed Senate, Date *4/22*

Vote: Ayes *105* Nays *9* Vote: Ayes *56* Nays *0*

Approved *May 19 1965*
passed House as amended 4/23 (92-3) *passed on file 4/1*

A BILL FOR

An Act relating to public parking facilities in cities and to authorize purchase or condemnation of sites therefor and improvement thereof from the proceeds of special assessments upon benefited private property within a benefited district and to anticipate the collection of such special assessments by issuance of certificates or bonds.

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

1 Section 1. Grant of power. Cities shall have power to
2 acquire sites by gift, purchase or condemnation, and to
3 improve and maintain same for the purpose of establishing
4 public parking facilities in or near commercial or industrial
5 districts in such city. This act shall be construed as
6 granting additional power without limiting the power already
7 existing in cities and towns.

1 Sec. 2. Condemnation. In acquiring such sites by
2 condemnation the provisions of chapter four hundred seventy-
3 two (472) shall be followed.

1 Sec. 3. Benefited districts. The cost of the acquisition
2 of sites and improvement and maintenance of same for public
3 parking facilities under the provisions of this act may be
4 assessed, in whole or in part, against benefited privately owned
5 property within such districts as may be established by the
6 council for such purposes. Benefited districts shall be
7 established by ordinance. A single benefited district may

8 be established for the acquisition and improvement of one or
9 several parking facilities. Prior to establishment of a
10 benefited district the council may cause to be conducted a
11 survey and investigation for the purpose of determining
12 suitable locations for parking facilities, the approximate
13 cost of acquiring and improving the land therefor, the area
14 to be included in the benefited district or districts and
15 the percentage of the cost of acquiring such sites and improving
16 the same to be assessed against private property in such
17 benefited districts.

1 Sec. 4. Survey and investigation. For the purpose of
2 conducting said survey and investigation, the council may
3 cause the same to be done by city employees or may contract
4 with such appraisers, engineers, or recognized experts and
5 other persons as it may deem necessary. The cost of such
6 survey and investigation shall be included as a part of the
7 cost of acquiring and improving the land for such parking
8 facilities but if no land be acquired, the cost may be paid
9 from the street fund.

1 Sec. 5. Division of cost. In establishing a benefited
2 district the council may fix the percentage of acquiring and
3 improving land for parking facilities to be assessed against
4 benefited privately owned property within said benefited
5 district and make provision for payment of the remainder of
6 such cost by any of the methods authorized in chapter three
7 hundred ninety (390).

1 Sec. 6. General procedure. All necessary proceedings
2 forms and requirements not included in or contemplated or
3 regulated by the provisions hereof shall be in accordance with

4 the provisions of chapter three hundred ninety-one (391)
5 including definitions and regulations relating to valuations,
6 benefited property, estimates, assessments, plans, specifications,
7 schedules, resolutions, protests, objections, remonstrances,
8 bids, deposits and contracts.

1 Sec. 7. Resolution of necessity—contents. When the
2 council shall deem it necessary to acquire sites by gift
3 purchase or condemnation and improve and maintain the same
4 as public parking facilities under the provisions of this act
5 and has established a benefited district for the purpose of
6 assessing all or part of the cost thereof, it shall, in a
7 proposed resolution declare it a necessity, describing the
8 location of the proposed site or sites, the type of facility
9 or construction to be placed thereon, the percentage of the
10 cost of acquisition and improvement to be assessed against
11 private property in such benefited district, and that the
12 plat and schedule are on file in the office of the city clerk.

1 Sec. 8. Additional contents—bonds. The council may,
2 in addition to the requirements of section seven (7) incorporate
3 in the resolution of necessity notice of its intention to
4 issue bonds as provided in section three hundred ninety-six
5 point six (396.6), as hereinafter made application to parking
6 facilities and sites therefor, and may also provide that
7 unless property owners at the time of consideration of said
8 resolution have on file with the clerk objections to the
9 amount of the proposed assessment they shall be deemed to have
10 waived all objections thereto.

1 Sec. 9. Plat and schedule. Before the resolution of
2 necessity is introduced, the council shall prepare and file

3 with the clerk a plat and schedule showing:

4 1. The boundaries of the benefited district.

5 2. The location of each proposed parking facility in
6 the district.

7 3. Each lot proposed to be assessed together with a
8 valuation fixed by the council.

9 4. An estimate of the cost of each parking facility
10 proposed within the district and the estimated total cost of
11 the facilities proposed.

12 5. In each case the amount thereof which is estimated
13 to be assessed against each lot.

1 Sec. 10. Cost of schedule. The cost of making the plat
2 and schedule shall be paid from the general fund.

1 Sec. 11. Time of hearing—objections permitted.

2 The council shall fix the time for the consideration of the
3 proposed resolution of necessity, at which time the owners
4 of property subject to assessment for the proposed parking
5 facilities may appear and make objection to the cost, to the
6 amount proposed to be assessed against any lot, and to the
7 passage of the proposed resolution.

1 Sec. 12. Remonstrance—vote required—amendment. No
2 resolution providing for the acquisition, of parking facilities
3 shall be passed except by unanimous vote of the entire council,
4 if, at the time set for its consideration, a remonstrance
5 shall have been filed with the council signed by sixty percent
6 of the property owners and by the owners of property subject
7 to pay seventy-five percent of the total assessable cost. At
8 the hearing the resolution may be amended and passed or passed
9 as proposed.

1 Sec. 13. Notice. The council shall cause notice of the
2 time when said resolution will be considered by it for passage
3 to be given by two publications in some newspaper of general
4 circulation in the city, the last of which shall be not less
5 than two nor more than four weeks prior to the day fixed for
6 its consideration; but if there be no such newspaper such
7 notice shall be given by posting copies thereof in three public
8 places within the limits of the benefited district.

9 The clerk shall send by certified mail to each property
10 owner, whose property is subject to assessment for said
11 parking facility, as shown by the records in the office of
12 county auditor, a copy of the above mentioned notice, said
13 mailing to be made at least two weeks prior to the date
14 fixed for hearing on said resolution. Failure to receive
15 such mailed notice shall not constitute a defense to the special
16 assessment.

1 Sec. 14. Improvement ordered. After the passage of the
2 resolution of necessity, the council may by other resolutions
3 order the acquisition of the site or sites by condemnation or
4 otherwise and the improvement thereof by construction of the
5 parking facility.

1 Sec. 15. Contract—bids—bond. The provisions of
2 sections three hundred ninety-one point twenty-eight (391.28)
3 to three hundred ninety-one point thirty-three (391.33),
4 inclusive, shall be applicable to the improvement of sites
5 acquired for parking facilities under the provisions of this
6 act.

1 Sec. 16. Certification to county auditor—record book.
2 The provisions of section three hundred ninety-one point

3 thirty-four (391.34) shall be applicable to the special assess-
4 ment of the cost of parking facilities under this act.

1 Sec. 17. Lien generally. The provisions of section
2 three hundred ninety-one point thirty-five (391.35) shall apply
3 to the cost of parking facilities assessed against private
4 property under the provisions of this act.

1 Sec. 18. Cost of repairs. The cost, or any part thereof,
2 of the repair of any parking facility may be assessed against
3 benefited property within such district or may be paid from
4 the general fund.

1 Sec. 19. Deficiencies—nonassessable property. If the
2 special assessments which may be levied against any lot shall be
3 insufficient to pay its proportion of the cost of parking
4 facilities the deficiency may be paid out of the general fund.

1 Sec. 20. Assessment. The provisions of section three
2 hundred ninety-one point forty-five (391.45) shall be applicable
3 to the assessment of the cost of parking facilities under this act.

1 Sec. 21. "Privately owned property" defined. The
2 definition of "privately owned property" contained in section
3 three hundred ninety-one point forty-six (391.46) shall be
4 applicable for purposes of this act, except that property
5 upon which is situated a one-family or two-family dwelling and
6 which is used exclusively for residential purposes shall be
7 exempt from assessment.

1 Sec. 22. State property. When any state property other
2 than highways is located within a benefited district established
3 under the provisions of this act it shall be subject to assess-
4 ment for the cost of parking facilities in the same manner and
5 to the same extent as other privately owned property as here-

6 inabove defined. Notices mailed to property owners required
 7 under the provisions of this act shall be mailed to the secretary
 8 of the executive council. Payment of assessments shall be made
 9 by the executive council from any funds of the state not otherwise
 10 appropriated.

1 Sec. 23. Assessment rate—additional limitations. The
 2 provisions of sections three hundred ninety-one point forty-
 3 eight (391.48) and three hundred ninety-one point forty-nine
 4 (391.49) shall be applicable to assessments made under this
 5 act.

1 Sec. 24. Plat and schedule. In assessing the cost of
 2 parking facilities against private property, the council shall
 3 cause to be prepared a plat of the benefited district, showing
 4 the location of the sites on which the parking facilities
 5 have been constructed or repaired, showing the separate lots
 6 or specified portion thereof, subject to assessment for such
 7 parking facility, the names of the owners thereof so far as
 8 practicable, and the amount to be assessed against each lot,
 9 and shall file said plat and schedule in the office of the
 10 clerk, which shall be subject to public inspection.

1 Sec. 25. Cost of oiling lots. Upon the completion of
 2 oiling, oiling and graveling, shaling or chloriding of a
 3 parking facility site, the officer designated by the council to
 4 have charge thereof shall, within thirty days, file with the
 5 clerk a statement of the amount due, if the work was done by
 6 contract; or if done by the city, an itemized, verified
 7 statement of expenditures for materials and labor used in
 8 making such improvement.

1 Sec. 26. City engineer—duties. The city engineer or

2 other person employed by the council shall, under its direction,
3 make or assist in making plans and specifications, see that
4 the work conforms thereto, and make or assist in making each
5 required assessment, plat, and schedule.

1 Sec. 27. Notice of assessment. After filing the plat and
2 schedule or the report of cost of oiling, oiling and graveling,
3 or shaling sites, the council shall give notice by two publications
4 in a newspaper of general circulation within the city, or if
5 there be no such newspaper by posting copies thereof in three
6 public places within the limits of the benefited district. Said
7 notice shall state that said plat and schedule or report are
8 on file in the office of the clerk, and that within twenty
9 days (20) from the date of publication or posting all objections
10 thereto, or to the prior proceedings, on account of errors,
11 irregularities, or inequalities, must be made in writing and
12 filed with the clerk.

13 The clerk shall send by certified mail to each property
14 owner, whose property is subject to assessment for said parking
15 facility, as shown by the records in the office of county
16 auditor, a copy of the above mentioned notice, said mailing
17 to be made at least two weeks prior to the date fixed for
18 the hearing. Failure to receive such mailed notice shall not
19 constitute a defense to the special assessment.

1 Sec. 28. Hearing and decision. The council having heard
2 such objections and made the necessary corrections, shall then
3 make the special assessments as shown in said plat and schedule
4 as corrected and approved.

1 Sec. 29. Objections waived. All objections to errors,
2 irregularities, and inequalities in the making of said special

3 assessments or in any of the prior proceedings or notices,
4 not made before the council at the time and in the manner
5 provided in section twenty-seven (27), shall be waived except
6 where fraud is shown.

1 Sec. 30. Levy. The special assessments in said plat and
2 schedules, as corrected and approved, shall be levied at one
3 time, by resolution, against the property affected thereby.

1 Sec. 31. Maturity. The provisions of sections three
2 hundred ninety-one point fifty-eight (391.58) and three
3 hundred ninety-one point fifty-nine (391.59) shall be applicable
4 to special assessments made under this act.

1 Sec. 32. Installments—payment—delinquency. The
2 provisions of section three hundred ninety-one point sixty
3 (391.60) shall be applicable to special assessments made under
4 this act.

1 Sec. 33. Certification of levy. The provisions of section
2 three hundred ninety-one point sixty-one (391.61) shall be
3 applicable to special assessments made under this act.

1 Sec. 34. Right of payment. The provisions of section
2 three hundred ninety-one point sixty-two (391.62) shall be
3 applicable to special assessments made under this act.

1 Sec. 35. Division of property. The provisions of section
2 three hundred ninety-one point sixty-three (391.63) shall be
3 applicable to special assessments made under this act.

1 Sec. 36. Tax sales—city's interest. The provisions of
2 sections three hundred ninety-one point sixty-four (391.64) to
3 three hundred ninety-one point sixty-eight (391.68) inclusive
4 shall be applicable in the case of property against which
5 a special assessment has been imposed under this act and, in

6 the event of purchase of such property by the city and
7 subsequent sale thereof, proceeds realized by the city shall
8 be covered into the general fund.

1 Sec. 37. Relevy, reassessment, corrections, time. The
2 provisions of section three hundred ninety-one point eighty-
3 four (391.84) to three hundred ninety-one point eighty-seven
4 (391.87), inclusive, shall be applicable to special
5 assessments made under this act.

1 Sec. 38. Appeals, trial, payment after appeal or
2 objection. The provisions of sections three hundred ninety-
3 one point eighty-eight (391.88) to three hundred ninety-one
4 point ninety-one (391.91), inclusive, shall be applicable to
5 special assessments made under this act.

1 Sec. 39. "Parking facility" defined. For purposes of
2 this act "parking facility" shall mean real estate acquired
3 by gift, purchase or condemnation for the purpose of
4 providing space for parking motor vehicles and all improvements
5 thereon, including surfacing of such lots by asphalt,
6 macadam, portland cement, oil, gravel, oil and gravel, shale
7 or chloride and shall further include the erection or
8 improvement of buildings or other off-street parking areas
9 thereon, including areas above, at, or below street-level
10 for the parking of vehicles.

1 Sec. 40. Bonds and certificates. The provisions of
2 chapter three hundred ninety-six (396) relating to bonds and
3 certificates for street improvements and sewers shall also
4 be applicable to parking facilities and sites therefor
5 established under the provisions of this Act and bonds,

- 6 issued pursuant hereto, shall be denominated parking facility
- 7 bonds.

EXPLANATION OF HOUSE FILE 132

This bill is to empower cities and towns to establish public parking facilities and assess the cost of same against privately-owned property within a benefited district and to finance the same by issuance of bonds payable from such assessments. Such has been held to be a proper public purpose within commercial and industrial districts in the case of Whittier v. Dixon, 151 P. 2d 5. The provisions of this act have been drawn from the California statute upheld in the cited case, chapters 390, 391, 391A, 396 and 417, Code of Iowa, chapter 13, article 13, Code of Kansas. Such facilities benefit merchants and businesses in the district, their customers and the overall local economy. The latter two items make such facilities a public purpose. The first-named provides the special benefit justifying special assessment of the cost.

HOUSE FILE 132

- 1 Amend House File 132 as follows:
- 2 1. By striking from line five (5) of section eight (8)
- 3 the word "application" and inserting in lieu thereof the
- 4 word "applicable".
- 5 2. By inserting in line eight (8) of section eight (8)
- 6 following the second word "the" the words "proposed project
- 7 or".
- 8 3. By inserting in line one (1) of section twenty-five
- 9 (25) following the second word "of" the words "paving,
- 10 surfacing,";

Filed *division 2+3 withdrawn 3/31*
division 1 adopted
 March 25, 1965. MEACHAM of Poweshiek.

HOUSE FILE 132

- 1 1. Amend House File 132, section 21, line 6,
- 2 by striking the word "exclusively" and inserting in lieu thereof
- 3 the word "primarily".

Filed *adopted 3/31*
 March 30, 1965. SHIRLEY of Dallas.

HOUSE FILE 132

- 1 Amend House File 132, section eight (8), by striking from
- 2 line ten (10) the word "thereto" and inserting in lieu thereof
- 3 the following: "as provided in section three hundred ninety-
- 4 one point fifty-six (391.56) of the Code".

Filed and adopted
 March 31, 1965. GAUDINEER of Polk.

HOUSE FILE 132

- 1 Amend the title to House File 132 by inserting in line one
- 2 (1) after the word "cities" the words "and towns".

Filed and adopted
 March 31, 1965. RADL of Linn.

HOUSE FILE 132

(By request)

- 1 Amend House File 132 by inserting after the word
- 2 "property" in line four (4) of section twenty-one (21)
- 3 the following: "zoned for residential use or".

Filed and lost
 March 31, 1965. O'MALLEY of Polk.

HOUSE FILE 132

- 1 Amend House File 132, section one (1), by striking from
- 2 line two (2) the words "or condemnation".

Filed and lost *approved*
 March 31, 1965. *may 56* GRAHAM of Ida-Sac.

HOUSE FILE 132

(By request)

- 1 Amend House File 132 by adding thereto in section
- 2 forty-one (41) the following:
- 3 "Section 41. Zoning of Assessed Property. No
- 4 property subjected to a special assessment under the
- 5 provisions of this Act shall be rezoned to a more
- 6 restrictive classification for a period of eleven (11)
- 7 years after the special assessment is spread upon the
- 8 books of the Treasurer's office."

Filed and lost
March 31, 1965.

O'MALLEY of Polk.

- 1 Amend House File 132 as follows:
- 2 1. By inserting the words "and towns" after the
- 3 word "cities" in line 1 of section 1.
- 4 2. By striking the word "city" in line 5 of
- 5 section 1 and inserting in lieu thereof the words "cities
- 6 and towns".
- 7 3. By inserting the words "or town" after the word
- 8 "city" in line 3 of section 4.
- 9 4. By inserting the words "or town" after the word
- 10 "city" in line 12 of section 7.
- 11 5. By inserting the words "or town" after the word
- 12 "city" in line 4 of section 13.
- 13 6. By inserting the words "or town" after the word
- 14 "city" in line 6 of section 25.
- 15 7. By inserting the words "or town" after the word
- 16 "city" in line 4 of section 27.
- 17 8. By inserting the words "or town's" after the word
- 18 "city's" in line 1 of section 36.
- 19 9. By inserting the words "or town" after the word
- 20 "city" in line 6 of section 36.
- 21 10. By inserting the words "or town" after the word
- 22 "city" in line 7 of section 36.

Filed and adopted.
April 22, 1965.

House concurred 4/23 By RILEY and ELY.