

Senate File 776

May 4, 1967

Passed On File

*On Calendar 5/4*

*Cities and Towns 5/17, Passed 5/25*

By COMMITTEE ON GOVERNMENTAL  
SUBDIVISIONS

Passed Senate, Date 5-12-67

Passed House, Date 6-30-67

Vote: Ayes 47 Nays 6

Vote: Ayes 71 Nays 28

Approved \_\_\_\_\_

*Motion to Reconsider lost 6-30.*

## A BILL FOR

An Act to authorize certain cities to lease and operate a civic center and levy taxes therefor.

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

1 Section 1. When used in this Act, unless the context  
2 otherwise requires:

3 1. "Building" may include the equipment thereof  
4 and the site upon which located, not to exceed five (5) acres  
5 in size.

6 2. "Complex of buildings" means two (2) or more  
7 individual buildings located upon a single site not exceeding  
8 five (5) acres in size and may include the equipment thereof  
9 and the site upon which located.

10 3. "Civic center" means a building or complex of  
11 buildings used primarily as auditoriums, concert halls,  
12 music halls, opera houses, theatres, sports arenas, field  
13 houses, exhibit halls, meeting rooms, recreation rooms and  
14 convention halls, or any combination of such primary uses,  
15 and may include parking facilities, either indoors or  
16 outdoors, to the extent that such parking facilities are  
17 beneficial to the successful operation of such building or  
18 complex of buildings for such primary uses, and may also  
19 include restaurants and retail shops to the extent that  
20 such facilities are beneficial to the successful operation

21 of such building or complex of buildings for such primary  
22 uses, provided that the space devoted to such restaurants and  
23 retail shops is not currently needed for any of such primary  
24 uses, but under no circumstances shall the amount of floor  
25 space devoted to such restaurants and retail shops exceed  
26 twenty (20) percent of the total floor space of the building  
27 or complex of buildings being used as a civic center.

1 Sec. 2. It is hereby found, determined, and declared  
2 that urban living conditions in cities of more than ninety  
3 thousand (90,000) population create a need for certain  
4 recreational facilities not required by municipalities of  
5 smaller size and that the operation of civic centers by cities  
6 having a population of more than ninety thousand (90,000) will  
7 promote the health, happiness, and general welfare of the  
8 inhabitants of such cities and will be for a public purpose.

1 Sec. 3. Any city now having or hereafter attaining a  
2 population in excess of ninety thousand (90,000), as  
3 determined by the most recent certified and published general  
4 federal census, is hereby authorized and empowered to lease  
5 from any nonprofit corporation which is then organized under  
6 or has then voluntarily adopted the provisions of chapter  
7 five hundred four A (504A) of the Code and operate a building  
8 or complex of buildings as a civic center, either within or  
9 without its corporate limits; provided, that, no member,  
10 director, or officer of such lessor nonprofit corporation  
11 shall be an official, officer, or employee of such lessee city.

1 Sec. 4. Any such lease of a building or complex of  
2 buildings pursuant to the authority granted by this Act shall  
3 be for such period of time, not to exceed thirty (30) years,  
4 as the governing body of such city shall determine to be  
5 reasonable and proper, taking into account the probable  
6 duration of the necessity for such lease. The lease shall  
7 provide for such rental payments as the governing body of

8 such city shall determine to be reasonable and proper, taking  
9 into account the value of the building or complex of buildings,  
10 the benefit to be derived by such city and its inhabitants  
11 from the operation of such building or complex of buildings  
12 as a civic center, and the extent to which and the terms  
13 upon which a building or complex of buildings adequate to  
14 satisfy the needs of such city and its inhabitants is  
15 available or unavailable from an alternative source. The  
16 lease may provide that the cost of maintaining and repairing  
17 such building or complex of buildings, including the cost of  
18 insurance and all taxes and assessments levied against or on  
19 account of such property, shall be borne by the lessor  
20 nonprofit corporation, in which event the cost thereof may  
21 be taken into account in determining the lease rental  
22 payments, or such lease may provide that the city will bear  
23 the cost of maintaining and repairing such building or  
24 complex of buildings, including the cost of insurance and  
25 all taxes and assessments levied against or on account of  
26 such property. The lease may contain provisions permitting  
27 but not obligating the city to renew such lease at the time  
28 of its expiration for a period of time not exceeding twenty  
29 (20) years and may contain provisions granting to the city  
30 an option to purchase such building or complex of buildings,  
31 or any part of a complex of buildings, but not obligating  
32 the city to exercise such option, and any renewals of such  
33 lease may contain similar provisions. The rental payments  
34 required to be made under such lease shall be for and in  
35 consideration of the use and occupancy of the building or  
36 complex of buildings and the continued quiet use and  
37 enjoyment thereof. The lease shall not provide for the  
38 payment of any lease rentals until the building or complex  
39 of buildings is completed and ready for occupancy, but it  
40 may be executed prior to the actual construction of the  
41 building or complex of buildings. The lease shall provide

42 that during any period in which there is a substantial  
43 interference with the use of all or any portion of the building  
44 or complex of buildings by reason of damage or destruction the  
45 rental payments required thereunder shall be proportionately  
46 abated on a reasonable basis to be specified in such lease,  
47 including total abatement of such rental payments during  
48 any period in which there is a substantial interference with  
49 the use of the entire building or complex of buildings by  
50 reason of damage or destruction. The lease may provide that  
51 in the event of the partial or total abatement of the rental  
52 payments as a result of damage or destruction, such lease  
53 shall nevertheless continue in full force and effect, the  
54 city and the lessor nonprofit corporation thereby waiving any  
55 and all rights to the contrary, and that the term of the lease  
56 shall be extended by a period equal to the period during which  
57 the rental payments were abated, which additional period may  
58 cause the term of the lease as extended to run beyond the  
59 maximum term hereinbefore specified. The lease shall provide  
60 that it will terminate if substantially the entire building or  
61 complex of buildings is taken under the power of eminent domain,  
62 but such lease may provide that it will continue in full force  
63 and effect in the event that less than substantially the entire  
64 building or complex of buildings is taken under the power of  
65 eminent domain, the city and the lessor nonprofit corporation  
66 thereby waiving any and all rights to the contrary, in which  
67 event the rental payments shall be proportionately abated on  
68 a reasonable basis to be specified in such lease. The lease  
69 may contain an agreement by the city not to condemn all or any  
70 portion of such building or complex of buildings for the same  
71 or any similar use. The lease may contain an agreement by  
72 the city not to condemn all or any portion of such building or  
73 complex of buildings for the same or any similar use. The  
74 lease may contain any additional agreements and provisions as  
75 would customarily be included in the lease of a building or  
76 complex of buildings.

1       Sec. 5. After the governing body of any such city has  
2 determined that it will promote the health, happiness, and  
3 general welfare of the inhabitants of such city to lease a  
4 building or complex of buildings and operate the same as a  
5 civic center, and after the terms of such lease have been  
6 agreed upon, the governing body of the city shall fix a date,  
7 time, and place for a hearing on the necessity of entering  
8 into such lease and the reasonableness of its terms,  
9 including the rental payments. Notice of the hearing shall  
10 be published at least once in a newspaper having a general  
11 circulation in such city at least fifteen (15) days prior  
12 to the date fixed for the hearing. The notice shall state  
13 the date, time, and place fixed for the hearing, and shall  
14 contain a brief summary of the principal terms of the proposed  
15 lease, including the name of the lessor nonprofit corporation,  
16 a general description of the building or complex of buildings  
17 and the location thereof, a brief summary of the uses to  
18 which the building or complex of buildings is to be devoted,  
19 the term of the lease, including a reference to any provisions  
20 for renewal, the rental payments required to be made by the  
21 city under such lease, and whether or not such lease contains  
22 provisions permitting the city to purchase such building or  
23 complex of buildings. If at any time before the date fixed  
24 for the hearing, a petition is filed with the clerk or  
25 recorder of such city signed by qualified voters of the city  
26 equal in number to at least five (5) percent of the total  
27 number of votes cast in such city for the office of governor  
28 at the then last preceding general election, as shown by the  
29 election registers and poll lists, requesting that the  
30 proposition of entering into such lease be submitted to the  
31 qualified voters of the city, the governing body of such city  
32 shall at the hearing or any adjournment thereof within thirty  
33 (30) days call a special election to vote upon the question  
34 of entering into such lease. The proposition submitted to

35 the voters at such election shall be in substantially the  
36 following form:

37 "Shall the City of \_\_\_\_\_, Iowa, enter  
38 into a lease of a building (or complex of buildings)  
39 to be operated as a civic center, such lease being  
40 now on file in the office of the city clerk (or  
41 recorder) of the City of \_\_\_\_\_, Iowa?"

42 Notice of such election, stating the date of the election,  
43 the hours of opening and closing the polls, the precincts and  
44 polling places therefor and the proposition to be submitted,  
45 shall be published once each week for at least four (4)  
46 consecutive weeks in a newspaper of general circulation in the  
47 city, the last publication of such notice to appear not less  
48 than five (5) nor more than twenty (20) days prior to the  
49 date of such election. The notice shall be sufficient and  
50 shall be in lieu of the notice required by any other statute.  
51 The proposition of entering into such lease shall be considered  
52 to be approved by the voters if the votes cast in favor of such  
53 proposition are equal to at least a majority of the total number  
54 of votes cast for and against such proposition at such election,  
55 and such city shall be authorized to enter into such lease. If  
56 no petition is filed with the clerk or recorder of the city  
57 requesting the calling of an election on the proposition of  
58 entering into such lease, the governing body of the city shall  
59 at the date, time, and place fixed for the hearing on the  
60 question of entering into such lease consider any objections  
61 which may be offered by interested parties regarding the necessity  
62 of such lease and the terms and provisions thereof, including  
63 the reasonableness of the rental payments required to be made  
64 by the city under such proposed lease. If the governing body  
65 of such city, after considering all such objections, shall  
66 determine that it will promote the health, happiness, and  
67 general welfare of the inhabitants of such city to enter into  
68 such lease and that the terms and provisions of such lease,

69 including the rental payments, are reasonable and proper,  
70 such city shall be authorized to enter into such lease. If  
71 the governing body of such city, after considering all such  
72 objection, shall determine that it will promote the health,  
73 happiness, and general welfare of the inhabitants of such  
74 city to enter into such lease, but that one (1) or more of  
75 the terms and provisions of such lease should be revised or  
76 changed, and that the terms and provisions of such lease as  
77 revised and changed are reasonable and proper, including the  
78 rental payments, such city shall be authorized to enter into  
79 such lease as revised and changed without the necessity of  
80 another hearing on such lease, provided that the rental  
81 payments specified in the published notice of such hearing  
82 shall not be increased in any way whatsoever. If the governing  
83 body of such city, after considering all such objections, shall  
84 finally determine that it will not promote the health,  
85 happiness, and general welfare of the inhabitants of such  
86 city to enter into such lease, the proposal to enter into  
87 such lease may be abandoned.

1     Sec. 6. Any such city which leases a building or complex  
2 of buildings for operation as a civic center is hereby  
3 authorized and empowered to levy by resolution an annual tax  
4 on all the taxable real and personal property in such city,  
5 exclusive of moneys and credits, in amounts sufficient to pay  
6 the installments of rent required to be paid under such lease  
7 as the same become due and to pay the costs of maintaining and  
8 repairing such building or complex of buildings, including the  
9 cost of insurance and all taxes or assessments levied against  
10 or on account of such property, to the extent that the same  
11 are not included in the lease rental payments. A certified  
12 copy of the resolution shall be filed with the county  
13 auditor of the county in which such city is located and the  
14 filing thereof shall impose a duty upon such county auditor  
15 to enter such tax annually for collection, and such annual  
16 tax shall be collected by the county treasurer as other taxes

17 are collected. The proceeds derived from such annual tax  
18 collections shall be deposited in a separate and distinct fund  
19 to be used solely and only to pay the cost of maintaining and  
20 repairing such building or complex of buildings and to pay the  
21 installments of rent becoming due under such lease and for no  
22 other purpose whatsoever; provided, that, moneys on hand  
23 in such fund and not currently needed for the authorized purposes  
24 of such fund may be invested in accordance with the laws of the  
25 state of Iowa regarding investment of public funds. Such annual  
26 tax shall be in addition to all other taxes and shall not be  
27 included within any statutory limitation as to rate or amount.

1 Sec. 7. Any such city which has leased and is operating  
2 a building or complex of buildings as a civic center is hereby  
3 authorized and empowered to impose and prescribe by resolution  
4 reasonable rates and charges for the use of any or all of the  
5 facilities, products, and services afforded by such civic  
6 center, including the parking facilities, restaurants, and  
7 retail shops, and to revise such rates and charges from time  
8 to time by resolution.

1 Sec. 8. Any such city which has leased and is operating a  
2 building or complex of buildings as a civic center is hereby  
3 authorized and empowered to sublease any portion of such  
4 building or complex of buildings for operation consistent with  
5 the uses to which the building or complex of buildings is  
6 devoted or to be devoted consistent with the provisions of this  
7 Act, upon such terms and rentals as the governing body of such  
8 city shall by resolution determine to be reasonable and proper  
9 and for the best interests of such city and its inhabitants.

1 Sec. 9. The rental payments required to be made by any  
2 city under the terms of a lease entered into pursuant to the  
3 provisions of this Act and the cost of maintaining and repairing  
4 such building or complex of buildings, including the cost of  
5 insurance and all taxes and assessments levied against or on

6 account of such property, shall be payable solely and only out  
7 of the income derived from the operation of such building or  
8 complex of buildings as a civic center and the special annual  
9 tax herein authorized, and neither such special annual tax  
10 nor said lease nor the rental payments required to be made  
11 thereunder nor any obligations incurred by the lessor  
12 nonprofit corporation shall be in any manner whatsoever a  
13 general obligation of such city or an indebtedness of such  
14 city within the meaning of any statutory or constitutional  
15 debt limitation.

1 Sec. 10. No action shall be brought questioning the  
2 legality of any lease entered into pursuant to authority  
3 contained in this Act more than three (3) months from and  
4 after the date of execution of such lease, and no action shall  
5 be brought questioning the legality of any levy of taxes  
6 authorized by this Act more than three (3) months from and  
7 after the date of filing of the resolution levying such taxes  
8 in the office of the county auditor.

1 Sec. 11. This Act shall be construed as granting  
2 additional powers to cities now having or hereafter attaining  
3 a population in excess of ninety thousand (90,000), as shown  
4 by the then most recent certified and published general  
5 federal census, without limiting the powers already existing  
6 in such cities.

1 Sec. 12. If any one (1) or more sentences, clauses,  
2 phrases, provisions, or sections of this Act or the application  
3 thereof to any set of circumstances shall be held by final  
4 judgment of any court of competent jurisdiction to be invalid,  
5 the remaining sentences, clauses, phrases, provisions, and  
6 sections hereof and the application of this Act to other sets  
7 of circumstances shall nevertheless continue to be valid and  
8 effective, all provisions of this Act being hereby declared  
9 to be severable.

1 Amend Senate File 776 as follows:  
2 1. By striking in section 6 the words "Such annual" in line 25  
3 and all of lines 26 and 27.

Filed and lost  
May 12, 1967

By BALLOUN

1 Amend Senate File 776 by adding the following new

2 section:

3 "Sec. 5. After the governing body of any such city has  
4 determined that it will promote the health, happiness and  
5 general welfare of the inhabitants of such city to lease  
6 a building or complex of buildings and operate the same as  
7 a civic center, and after the terms of such lease have been  
8 agreed upon, the governing body of such city shall call a  
9 special election to vote upon the question of entering into  
10 such lease. The proposition submitted to the voters at such  
11 election shall be in substantially the following form:

12 'Shall the City of \_\_\_\_\_, Iowa, lease a building  
13 (or complex of buildings) from \_\_\_\_\_ to be  
14 operated as a civic center under the terms of a lease now on  
15 file in the office of the city clerk (or recorder) of the  
16 City of \_\_\_\_\_, Iowa?'

17 Notice of such election shall state the date of the election,  
18 the hours of opening and closing the polls, the precincts and  
19 polling places therefor and the proposition to be submitted,  
20 and such notice shall also contain a brief summary of the  
21 principal terms of the proposed lease, a general description  
22 of the building or complex of buildings and the location  
23 thereof, a brief summary of the uses to which the building or  
24 complex of buildings is to be devoted, the term of the lease,  
25 including a reference to any provisions for renewal, the  
26 rental payments required to be made by the city under such  
27 lease, and whether or not such lease contains provisions  
28 permitting the city to purchase such building or complex of  
29 buildings. Such notice shall be published once each week for  
30 at least four (4) consecutive weeks in a newspaper of general  
31 circulation in the city, the last publication of such notice to  
32 appear not less than five (5) nor more than twenty (20) days  
33 prior to the date of such election. Such notice shall be  
34 sufficient and shall be in lieu of the notice required by any  
35 other statute. The proposition of entering into such lease shall  
36 be considered to be approved by the voters if the votes cast  
37 in favor of such proposition are equal to at least a majority  
38 of the total number of votes cast for and against such proposition  
39 at such election, and in the event of a favorable vote as  
40 aforesaid, such city shall be authorized to enter into such  
41 lease. If the proposition of entering into such lease is not  
42 approved by the voters as herein provided, such city shall  
43 not be authorized to enter into such lease unless the voters of  
44 such city approve the same at a subsequent election held as  
45 herein provided. When a proposition of entering into a lease  
46 of a building or complex of buildings pursuant to authority  
47 contained in this act is disapproved by the voters at an  
48 election, no subsequent election on a proposition of entering  
49 into the same or any similar lease shall be held in such city  
50 on a date earlier than three months from and after the date of  
51 the election at which such proposition was disapproved.

Filed - *Adopted 5-12-67*  
May 8, 1967

By MESSERLY AND RILEY