

FEB 15 1973

HOUSE FILE 219

Place On Calendar

Sen. Way & Moore 2/27, Pass per amendment 4/24

BY COMMITTEE ON WAYS AND MEANS

House File 219
Griffin, Chairman
Palmer
Potter

Passed House, Date 2-22-73 (392) Passed Senate, Date 4-30-73 (1037)

Vote: Ayes 77 Nays 9 Vote: Ayes 24 Nays 13

Approved 6-13-73

*Passed House as amended by Senate
5-12-73 (1433)
79-0*

*Motion to reconsider filed 4/30, prevailed 4/15
Passed Senate 5-15-73 (1263)
27 18*

A BILL FOR

1 An Act relating to special assessment deficiencies.

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

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1 Section 1. Acts of the General Assembly, 1972 Session
2 of the Sixty-fourth General Assembly, Chapter one thousand
3 eighty-eight (1088), Section one hundred twenty-eight (128),
4 is amended to read as follows:

5 Sec. 128. The schedule, as prepared by the engineer, must
6 show the following information for each lot within the
7 district:

8 1. A description of each lot and the name of the property
9 owner.

10 2. The valuation of each lot as determined by the council.

11 3. The total amount proposed to be assessed to each lot,
12 including the assessment for the default fund, if any.

13 4. The proportion of the estimated total cost of the
14 public improvement which is allocated to each lot.

15 45. The amount of deficiency, if any, between the amount
16 proposed to be assessed and the proportion of the estimated
17 total cost of the public improvement allocated to each lot.

18 The amount of deficiency shall be shown as a conditional
19 deficiency assessment as authorized by sections three (3)
20 through five (5) of this Act.

21 Sec. 2. Acts of the General Assembly, 1972 Session of
22 the Sixty-fourth General Assembly, Chapter one thousand eighty-
23 eight (1088), Section one hundred forty (140), is amended
24 to read as follows:

25 Sec. 140. Within thirty days after the council adopts
26 a resolution fixing the amount to be assessed against private
27 property, the engineer shall file with the clerk an assessment
28 schedule showing:

29 1. A description of each lot to be assessed.

30 2. The valuation of each lot as fixed by the council.

31 3. The amount to be assessed against each lot, which shall
32 include the assessment for the default fund, if any, and the
33 amount of deficiency, if any, which may be subsequently
34 assessed against each lot under section five (5) of this Act.

35 No special assessment against any lot shall be more than ten

1 percent in excess of the estimated cost, as provided in the
2 preliminary schedule required under section one hundred twenty-
3 eight (128) of this Act.

4 Sec. 3. Acts of the General Assembly, 1972 Session of
5 the Sixty-fourth General Assembly, Chapter one thousand eighty-
6 eight (1088), Section one hundred forty-one (141), Subsection
7 one (1), is amended to read as follows:

8 1. Confirm and levy assessments, including a conditional
9 levy of the amount of deficiencies which may be subsequently
10 assessed against each lot under section five (5) of this Act.

11 Sec. 4. Acts of the General Assembly, 1972 Session of
12 the Sixty-fourth General Assembly, Chapter one thousand eighty-
13 eight (1088), Section one hundred forty-three (143), Unnumbered
14 paragraph one (1), is amended to read as follows:

15 Sec. 143. A special assessment against a lot for a public
16 improvement may not be in excess of the amount of the assess-
17 ment, including the conditional deficiency assessment, as
18 shown in the schedule confirmed by the court, or if court
19 confirmation is not utilized, then on the original plat and
20 schedule adopted by the council, and an assessment may not
21 exceed twenty-five percent of the value of the lot as shown
22 by the plat and schedule approved by the council or as reduced
23 by the court.

24 Sec. 5. Acts of the General Assembly, 1972 Session of
25 the Sixty-fourth General Assembly, Chapter one thousand eighty-
26 eight (1088), Section one hundred forty-four (144), is amended
27 by adding the following new paragraph:

28 NEW PARAGRAPH. The council shall, by ordinance, provide
29 that the deficiencies for the lots specially benefited by
30 a public improvement shall be certified to the county auditor,
31 who shall record them in a separate book entitled "Special
32 Assessment Deficiencies", and to the appropriate city official
33 charged with the responsibility of issuing building permits,
34 who shall notify the council when a private improvement is
35 subsequently constructed on any lot subject to a deficiency.

1 The council shall establish by ordinance a period of amorti-
2 zation for a public improvement for which there are deficien-
3 cies, based upon the useful life of the public improvement,
4 but not to exceed twenty years. Deficiencies may be assessed
5 only during the period of amortization, which shall also be
6 certified to the county auditor and the city official charged
7 with the responsibility of issuing building permits. When
8 a private improvement is constructed on a lot subject to a
9 deficiency, during the period of amortization, the council
10 shall, by resolution, assess a pro rata portion of the
11 deficiency on that lot, in the same proportion to the total
12 deficiency on that lot as the number of full calendar years
13 remaining in the period of amortization is to the total number
14 of years in the period of amortization, subject to the twenty-
15 five percent limitation of section one hundred forty-three
16 (143) of this division. A deficiency assessment becomes a
17 lien on the property and is payable in the same manner, and
18 subject to the same interest and penalties as the other special
19 assessments. The council shall direct the clerk to certify
20 a deficiency assessment to the county auditor, and to send
21 a notice of the deficiency assessment by certified mail to
22 each owner, as provided in section one hundred forty-one
23 (141), subsection five (5), of this division, but publication
24 of the notice is not required. An owner may appeal from the
25 amount of the assessment within thirty days of the date notice
26 is mailed. County officials shall collect a deficiency
27 assessment, commencing in the year following the assessment,
28 in the manner provided for the collection of other special
29 assessments. Upon collection, the county auditor shall make
30 the appropriate credit entries in the "Special Assessment
31 Deficiencies" book, and shall credit the amounts collected
32 as provided for other special assessments on the same public
33 improvement, or to the city, to the extent that the deficiency
34 has been previously paid from other city funds.

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EXPLANATION

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2 Present law, including the Home Rule Act, provides no
3 method for collecting special assessment deficiencies on
4 unimproved property, when the property is subsequently improved
5 by a developer. This bill provides a method within the special
6 assessments division of the Home Rule Act for the city council
7 to assess and collect a deficiency assessment in such
8 instances, since the developer benefits from the improvements
9 which were previously made and assessed to the surrounding
10 property. The bill requires the possible deficiency assessment
11 for each lot to be specified in the preliminary and final
12 schedules, and assessed conditionally, subject to later private
13 improvements and the twenty-five percent limitation, so that
14 there will be adequate notice on record for all interested
15 parties.

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H-93

- 1 Amend House File 219 as follows:
- 2 Page 3, by striking from line 28 the word "ordinance"
- 3 and insert in lieu thereof the word "resolution".

Filed - *Adopted 2/22*
February 21, 1973

By JUNKER of Woodbury

S-429

- 1 Amend House File 219 as follows:
- 2 1. Page 3, by inserting after line 35 the following new
- 3 sentence: "Certification to county auditor shall include a
- 4 legal description of each lot."
- 5 2. Page 4, by inserting in line 7 after the word
- 6 "permits" the following: " , certification to the county
- 7 auditor shall include a legal description of each lot".

S-429 Filed - *Adopted 4/30* By COMMITTEE ON WAYS AND MEANS
April 24, 1973

S-473

- 1 Amend House File 219, page 4, line 4, by striking the word
- 2 "twenty" and inserting in lieu thereof the word "ten".

S-473 Filed - *Adopted 5/15*
April 30, 1973

By DE KOSTER

SENATE AMENDMENT TO HOUSE FILE 219

- 1 Amend House File 219 as follows:
- 2 1. Page 3, by inserting after line 35 the following new
- 3 sentence: "Certification to county auditor shall include
- 4 a legal description of each lot."
- 5 2. Page 4, line 4, by striking the word "twenty" and
- 6 inserting in lieu thereof the word "ten".
- 7 3. Page 4, by inserting in line 7 after the word "permits"
- 8 the following: " , certification to the county auditor
- 9 shall include a legal description of each lot".

Received from the Senate
May 17, 1973

House concurred 5/15