

SENATE FILE 245

FILED FEB 22 1973

Citizen & Town 2/23 Pass 5/17

Schwengels, Chairman
Miller of Marshall
Plymat

By WILLITS
(Byerly)

Passed Senate, Date 6-11-73 (1648) Passed House, Date 6-11-73 (1835)

Vote: Ayes 42 Nays 0 Vote: Ayes 94 Nays 0

Approved 6-19-73

A BILL FOR

1 An Act relating to the conveyance of sanitary districts to
2 a city or town.

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

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1 Section 1. Chapter three hundred fifty-eight (358),
2 Code 1973, is amended by adding the following new section:
3 NEW SECTION. If a city or town is situated wholly or
4 partly within a sanitary district or the depository for the
5 sanitary district is a municipal sanitary sewage system,
6 the trustees of the sanitary district may, by resolution,
7 convey to the city or town all rights which the board of
8 trustees have in and to the sanitary district. However,
9 the conveyance shall not become effective until accepted
10 and confirmed by a resolution of the council of the city
11 or town, and until all existing indebtedness of the district
12 has been fully discharged or has been assumed by the city
13 or town.

14 Upon acceptance by the council all assets and contract
15 rights of the district, including the plant and collection
16 system, as well as all funds and credits shall become the
17 property of the city or town and be operated and used by it
18 to the same extent as if acquired under the provisions of
19 law under which the city or town is then operating its
20 sanitary sewage system. Upon acceptance by the council,
21 the corporate existence of the district shall cease, the
22 offices of the trustees shall be abolished and the trustees'
23 duties shall immediately cease. The rights of holders of
24 existing indebtedness assumed by the city or town, shall con-
25 tinue to be recognized for purposes of securing the indebt-
26 edness, and shall not be impaired by reason of termination of
27 the district.

28 Sec. 2. This Act, being deemed of immediate importance,
29 shall take effect and be in force from and after its publica-
30 tion in the Ankeny Press-Citizen, a newspaper published in
31 Ankeny, Iowa, and in the Highland Park News, a newspaper pub-
32 lished in Des Moines, Iowa.

33 EXPLANATION

34 This bill allows a sanitary sewer district to convey all
35 its rights to a city or town which receives and treats the

1 sewage of the district. This provision is similar to
2 present laws relating to the benefited water districts in
3 chapter 357 and will provide for a method, not presently
4 available, for more efficient operation of some sanitary
5 sewer facilities. Because the home rule Act is not fully
6 effective until July 1, 1974, it is necessary to continue
7 to refer to cities and towns.

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1 Amend Senate File 245 by striking all after the
2 enacting clause and inserting in lieu thereof the
3 following:

4 Section 1. Chapter three hundred fifty-eight (358),
5 Code 1973, is amended by adding sections two (2) through
6 ten (10) of this Act.

7 Sec. 2. NEW SECTION. A board of trustees of a
8 sanitary district may, by resolution, authorize the
9 filing of a petition in the office of the county auditor
10 of the county in which the sanitary district or a major
11 portion of it is located, requesting the conveyance
12 and discontinuance of the sanitary district. The
13 petition shall be addressed to the board of supervisors
14 of the county where it is filed and must set forth:

- 15 1. The name of the sanitary district.
- 16 2. That the sanitary district lies wholly or
17 partially within the corporate limits of a city or town,
18 or the depository for the sanitary district is a
19 municipal sanitary sewage system.
- 20 3. That the public health, comfort, convenience
21 or welfare will be promoted by the conveyance and
22 discontinuance of the sanitary district and the
23 assumption of the duties, responsibilities and functions
24 of the sanitary district by the city or town.
- 25 4. A statement that the city or town has agreed

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1 to assume the duties, responsibilities and functions
2 of the sanitary district upon the conveyance and
3 discontinuance. A copy of the agreement shall be
4 attached to the petition.

5 5. A listing of the assets and liabilities of the
6 sanitary district, including a complete statement of
7 indebtedness.

8 6. A copy of the resolution of the board of trustees
9 of the sanitary district.

10 Sec. 3. NEW SECTION. The board of supervisors of
11 the county in which the sanitary district or a major
12 portion of it is located shall have jurisdiction of
13 the proceedings on the petition, and the decision of
14 a majority of the members of the board shall be necessary
15 for approval of the petition for conveyance and
16 discontinuance. Orders of the board made under this
17 section shall be spread upon the records of the
18 proceedings of the board of supervisors, and shall be
19 filed with the county recorder but need not be published
20 under section three hundred forty-nine point sixteen
21 (349.16) of the Code.

22 Sec. 4. NEW SECTION. It shall be the duty of the
23 board of supervisors to whom the petition is addressed,
24 at its next regular meeting to set the time and place
25 when it shall meet for a hearing on the petition, and

1 it shall direct the county auditor in whose office the
2 petition is filed to cause notice to be given to all
3 persons whom it may concern, without naming them, of
4 the pendency and request of the petition for the
5 conveyance and discontinuance by publication of a notice
6 once each week for two consecutive weeks in a newspaper
7 of general circulation in the sanitary district, the
8 last of the publications to be not less than twenty
9 days prior to the date set for hearing on the petition.
10 Proof of giving notice shall be made by affidavit of
11 the publisher and shall be filed with the county auditor
12 at the time the hearing begins.

13 Sec. 5. NEW SECTION. The notice of hearing shall
14 state the following:

15 1. That a petition has been filed with the county
16 auditor of the county for the conveyance and
17 discontinuance of the sanitary district.

18 2. An intelligible description of the boundaries
19 of the sanitary district.

20 3. The date, hour and place where the petition will
21 be heard before the board of supervisors of the county.

22 4. That the board of supervisors will hear all
23 persons having an interest in the matter and that after
24 the hearing, the board of supervisors will take action
25 as is in the best interest of the sanitary district.

1 Sec. 6. NEW SECTION. The board of supervisors to
2 whom the petition is addressed shall preside at the
3 hearing and shall continue the same in session with
4 adjournments from day to day, if necessary, and until
5 completed, without being required to give further notice.
6 At the hearing, all persons interested in the matter
7 of the conveyance and discontinuance of the sanitary
8 district may appear and shall be heard, for and against
9 the conveyance and discontinuance, and the board shall
10 examine into the matter and the equitable distribution
11 of the assets, and equitable distribution and assumption
12 of the liabilities which have accrued during the time
13 the sanitary district has been in existence. The board
14 shall receive evidence on the question from the parties
15 interested, and, after hearing and reviewing the
16 statements, evidence, and suggestions made and offered
17 at the hearing, if it finds that the sanitary district
18 lies wholly or partially within the corporate limits
19 of a city or town or that the depository of the district
20 is a municipal sanitary sewage system, that the public
21 health, comfort, convenience or welfare will be promoted
22 by the conveyance and discontinuance of the sanitary
23 district and the assumption of the duties, responsi-
24 bilities and functions of the sanitary district by the
25 city or town, and that the city or town has agreed to

1 assume the duties, responsibilities and functions of
2 the sanitary district, shall enter an order specifying
3 the matter and specifying the equitable distribution
4 of the assets, and the equitable distribution and
5 assumption of the liabilities and responsibilities
6 of the sanitary district and setting an effective date
7 of the conveyance and discontinuance.

8 Sec. 7. NEW SECTION. When a sanitary district has
9 been discontinued by order of the board of supervisors,
10 as provided in this Act, the order of the board of
11 supervisors shall be filed in the office of the recorder
12 in the county or counties in which the sanitary district
13 is located. The agreement of the city or town in which
14 the sanitary district is located and which has agreed
15 to assume the duties, responsibilities and functions
16 of the sanitary district shall also be filed along with,
17 and as part of the order of the board of supervisors
18 conveying and discontinuing the district.

19 Sec. 8. NEW SECTION. The assumption by the city
20 or town shall not affect or impair any rights or
21 liabilities then existing for or against either the
22 sanitary district or the city or town, and they may
23 be enforced as provided in this Act.

24 Sec. 9. NEW SECTION. The indebtedness of the
25 sanitary district shall be assumed and paid by the city

1 or town, and may be paid by a tax to be levied
2 exclusively upon the property within the jurisdiction
3 of the sanitary district as it existed prior to the
4 conveyance and discontinuance, or by the issuance of
5 such bonds as cities or towns may issue for purchasing
6 and acquiring any sanitary sewer system or sewage
7 disposal works and facilities or both.

8 Sec. 10. NEW SECTION. Suits to enforce claims or
9 demands existing at the time of the conveyance,
10 discontinuance and assumption may be prosecuted or
11 brought against the city or town which assumes the
12 obligations of the sanitary district, and judgments
13 obtained shall be paid as provided in section nine (9)
14 of this Act for the payment of the indebtedness.

15 Sec. 11. This Act, being deemed of immediate
16 importance, shall take effect and be in force from and
17 after its publication in the Ankeny Press-Citizen, a
18 newspaper published in Ankeny, Iowa, and in the Evening
19 Democrat, a newspaper published in Fort Madison, Iowa.