

APR 14 1975

HOUSE FILE 723

See Place On Calendar
House File 723 *5/27, Pass 6/12*
Ways and Means
Gluba, Chairman
Nolting
Schwengels

BY COMMITTEE ON CITIES AND TOWNS

Passed House, Date 4-21-75 (1215) Passed Senate, Date 4-24-75 (1091)

Vote: Ayes 83 Nays 0 Vote: Ayes 48 Nays 0

Approved 6-30

*Passed House as amended by Senate and
further amended by House
5-15-75 (1781)*

*Motion to reconsider filed 4-24 (1091)
prevailed 4-28. Passed Senate 4-28-75 (1125)
27-0*

A BILL FOR

See below

1 An Act correcting and clarifying provisions in the city
2 code of Iowa.

*Motion to reconsider filed 4-29 (1137)
prevailed 5-6 (1250)
Passed Senate
5-6-75 (1250)
45-0*

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

4 *Repassed House so further amended by Senate
6-14-75 (2543)*

*Repassed Senate again
6-13-75 (2044)
39-9*

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1 Section 1. Section three hundred sixty-two point one
2 (362.1), Code 1975, is amended to read as follows:

3 362.1 CITATION. This chapter and chapters 364, 368, 372,
4 376, 380, three hundred eighty-four (384) of the Code, 388
5 and 392 may be cited as the "City Code of Iowa".

6 Sec. 2. Section three hundred sixty-two point two (362.2),
7 Code 1975, is amended by striking subsections two (2), fifteen
8 (15), and sixteen (16).

9 Sec. 3. Section three hundred sixty-two point two (362.2),
10 subsection nineteen (19), Code 1975, is amended to read as
11 follows:

12 19. "Amendment" means a revision or repeal of an existing
13 ordinance or ~~city~~ code of ordinances.

14 Sec. 4. Section three hundred sixty-two point two (362.2),
15 Code 1975, is amended by adding the following new subsec-
16 tions:

17 NEW SUBSECTION. "City code" means the city code of Iowa.

18 NEW SUBSECTION. "Qualified elector" means the same as
19 it is defined in section thirty-nine point three (39.3),
20 subsection two (2) of the Code.

21 Sec. 5. Section three hundred sixty-two point nine (362.9),
22 Code 1975, is amended to read as follows:

23 362.9 APPLICATION OF CITY CODE. The provisions of this
24 chapter and chapters 364, 368, 372, 376, 380, three hundred
25 eighty-four (384) of the Code, 388 and 392 are applicable
26 to all cities.

27 Sec. 6. Section three hundred sixty-four point two (364.2),
28 subsection four (4), paragraph b, Code 1975, is amended to
29 read as follows:

30 b. No such ordinance shall become effective unless a
31 ~~majority-of-the-persons-voting-thereon-vote-in-favor-thereof~~
32 approved at an election. The proposal may be submitted by
33 the council on its own motion to the voters at any city
34 election. Upon receipt of a valid petition as defined in
35 section 362.4 requesting that a proposal be submitted to the

1 voters, the council shall submit the proposal at the next
2 regular city election or at a special election called for
3 that purpose prior to the next regular city election. If
4 a majority of those voting approves the proposal the city
5 may proceed as proposed.

6 Sec. 7. Section three hundred sixty-four point twelve
7 (364.12), subsection two (2), paragraph c, Code 1975, is
8 amended to read as follows:

9 c. The abutting property owner may be required by ordinance
10 to maintain all property outside the lot and property lines
11 and inside the curb lines upon the public streets, except
12 that the property owner shall not be required to remove
13 diseased trees or dead wood on the publicly-owned property
14 or right-of-way.

15 Sec. 8. Section three hundred sixty-eight point eleven
16 (368.11), unnumbered paragraph one (1), Code 1975, is amended
17 to read as follows:

18 A petition for incorporation, discontinuance, or boundary
19 adjustment may be filed with the board by a city council,
20 a county board of supervisors, a regional planning authority,
21 or ~~ten~~ five percent of the ~~voters~~ qualified electors of a
22 city or territory, ~~-based-upon-the-number-of-persons-who-voted~~
23 ~~for-governor-at-the-last-preceding-general-election~~ involved
24 in the proposal. Notice of the filing, including a copy of
25 the petition, must be served upon the council of each city
26 for which a discontinuance or boundary adjustment is proposed,
27 the board of supervisors for each county which contains a
28 portion of a city to be discontinued or territory to be
29 incorporated, annexed or severed, and any regional planning
30 authority for the area involved.

31 Sec. 9. Section three hundred sixty-eight point nine-
32 teen (368.19), Code 1975, is amended to read as follows:

33 368.19 TIME LIMIT--ELECTION. The committee shall approve
34 or disapprove the petition or plan as amended, within ninety
35 days of the final hearing, and shall file its decision for

1 record and promptly notify the parties to the proceeding of
2 its decision. If a petition or plan is approved, the board
3 shall set a date within ninety days for a special election
4 on the proposal and the county commissioner of elections shall
5 conduct the election. In a case of incorporation or
6 discontinuance, qualified ~~voters~~ electors of the territory
7 or city may vote, and the proposal is authorized if a majority
8 of those voting approves it. In a case of annexation or
9 severance, qualified ~~voters~~ electors of the territory and
10 of the city may vote, and the proposal is authorized if a
11 majority of the total number of persons voting approves it.
12 In a case of consolidation, qualified ~~voters~~ electors of each
13 city to be consolidated may vote, and the proposal is
14 authorized only if it receives a favorable majority vote in
15 each city. The county commissioner of elections shall publish
16 notice of the election as provided in section 368.15, and
17 shall conduct the election in the same manner as other special
18 city elections.

19 Sec. 10. Section three hundred sixty-eight point twenty-
20 one (368.21), Code 1975, is amended to read as follows:

21 368.21 SUPERVISION OF PROCEDURES. When an incorporation,
22 discontinuance, or boundary adjustment is complete, the board
23 shall supervise procedures necessary to carry out the proposal.
24 In the case of an incorporation, the county commissioner of
25 elections shall conduct an election for mayor and council
26 of the city, who shall serve until their successors take
27 office following the next regular city election. In the case
28 of a discontinuance, the board shall publish two notices as
29 provided in section 368.15 that it will receive and adjudi-
30 cate claims against the discontinued city for a period of
31 six months from the date of last notice, and shall cause
32 necessary taxes to be levied against the property within the
33 discontinued city to pay claims allowed. All records of a
34 discontinued city shall be deposited with the county auditor
35 of the county designated by the board, ~~except that court~~

1 ~~records shall be deposited with the clerk of the district~~
2 ~~court of the county.~~ Any remaining balances shall be deposited
3 in the general fund of the county where the former city was
4 located. In the case of boundary adjustments, the proper city
5 officials shall carry out procedures necessary to implement
6 the proposal.

7 Sec. 11. Section three hundred seventy-two point one
8 (372.1), unnumbered paragraph three (3), Code 1975, is amended
9 to read as follows:

10 ~~Upon the effective~~ Within thirty days of the date of the
11 ~~city code that this section becomes effective,~~ a city shall
12 adopt by ordinance a charter embodying its existing form of
13 government, which must be one of the forms provided in this
14 division, and shall file a copy of its charter with the
15 secretary of state, and maintain copies available for public
16 inspection.

17 Sec. 12. Section three hundred seventy-two point two
18 (372.2), subsection five (5), paragraph a, Code 1975, is
19 amended to read as follows:

20 a. The elective officers provided for in the adopted form
21 are to be elected at the next regular city election held more
22 than sixty days after the special election at which the form
23 was adopted, and the adopted form becomes effective at the
24 beginning of the ~~calendar year which follows such~~ new term
25 following the regular city election.

26 Sec. 13. Section three hundred seventy-two point four
27 (372.4), unnumbered paragraph two (2), Code 1975, is amended
28 to read as follows:

29 A However, a city governed, on the effective date of this
30 section, by the mayor-council form composed of a mayor and
31 a council consisting of two councilmen elected at large, and
32 one councilman from each of four wards, may continue until
33 the form of government is changed as provided in section 372.2
34 or section 372.9. While a city is thus operating with an
35 even number of councilmen, the mayor may vote to break a tie

1 vote on motions.

2 Sec. 14. Section three hundred seventy-two point five
3 (372.5), unnumbered paragraph three (3), Code 1975, is amended
4 to read as follows:

5 A However, a city governed, on the effective date of this
6 section, by the commission form and having a council composed
7 of a mayor and two councilmen elected at large may continue
8 with a council of three until the form of government is changed
9 as provided in section 372.2 or section 372.9.

10 Sec. 15. Section three hundred seventy-two point six
11 (372.6), unnumbered paragraph one (1), Code 1975, is amended
12 to read as follows:

13 A city governed by the council-manager-at-large form has
14 five councilmen elected at large for staggered four-year
15 terms. At the first meeting after of the new term following
16 each city election, the council shall elect one of the
17 councilmen to serve as mayor, and one to serve as mayor pro
18 tem. The mayor is a member of the council and may vote on
19 all matters before the council. As soon as possible after
20 the beginning of the new term following each city election,
21 the council shall appoint a manager.

22 Sec. 16. Section three hundred seventy-two point seven
23 (372.7), unnumbered paragraph two (2), Code 1975, is amended
24 to read as follows:

25 As soon as possible after the beginning of the new term
26 following each city election, the council shall appoint a
27 city manager, and a councilman to serve as mayor pro tem.

28 Sec. 17. Section three hundred seventy-two point nine
29 (372.9), subsection eight (8), paragraph a, Code 1975, is
30 amended to read as follows:

31 a. The elective officers provided for in the charter are
32 to be elected at the next regular city election held more
33 than sixty days after the special election at which the charter
34 was adopted, and the adopted charter becomes effective at
35 the beginning of the ~~fiscal-year-which-follows-such~~ new term

1 following the regular city election.

2 Sec. 18. Section three hundred seventy-six point two
3 (376.2), unnumbered paragraph two (2), Code 1975, is amended
4 to read as follows:

5 Except as otherwise provided by state law or the city
6 charter, terms for elective offices are two years. However,
7 the term of an elective office may be changed to two or four
8 years by petition and election. Upon receipt of a valid
9 petition as defined in section 362.4, requesting that the
10 term of an elective office be changed, the council shall
11 submit the question at a special city election to be held
12 within thirty days. If a majority of the persons voting at
13 the special election approves the changed term, it becomes
14 effective at the beginning of the term following the next
15 regular city election. If a majority does not approve the
16 changed term, the ~~mayer~~ council shall not submit the same
17 proposal to the voters within the next four years.

18 Sec. 19. Section three hundred seventy-six point three
19 (376.3), Code 1975, is amended to read as follows:

20 376.3 NOMINATIONS. Candidates for elective city offices
21 must be nominated as provided in sections 376.4 to 376.9
22 unless by ordinance a city chooses the provisions of chapters
23 44 or 45. However, a special charter city may continue to
24 hold partisan elections as provided in sections 43.112 to
25 43.118 and 420.126 to ~~420.438~~ four hundred twenty point one
26 hundred thirty-seven (420.137) of the Code.

27 Sec. 20. Section three hundred seventy-six point nine
28 (376.9), unnumbered paragraph two (2), Code 1975, is amended
29 to read as follows:

30 Runoff elections must be held two weeks after the date
31 of the regular city election and must be conducted in the
32 same manner as regular city elections except that only ~~voters~~
33 persons who were qualified to vote electors in the last
34 preceding regular city election are qualified to vote in the
35 runoff.

1 Sec. 21. Section three hundred eighty point two (380.2),
2 Code 1975, is amended to read as follows:

3 380.2 AMENDMENT. An amendment to an ordinance or to a
4 ~~city~~ code of ordinances must specifically repeal the ordinance
5 or code, or the section or subsection to be amended, and must
6 set forth in full the ordinance, code, section or subsection
7 as amended.

8 Sec. 22. Section three hundred eighty point eight (380.8),
9 Code 1975, is amended to read as follows:

10 380.8 ~~CITY~~ CODE OF ORDINANCES PUBLISHED. At least once
11 every five years, a city shall compile a ~~city~~ code of
12 ordinances containing all of the city ordinances in effect,
13 except grade ordinances, bond ordinances, zoning ordinances,
14 and ordinances vacating streets and alleys.

15 If a proposed ~~city~~ code of ordinances contains only existing
16 ordinances edited and compiled without change in substance,
17 the council may adopt the code by ordinance.

18 If a proposed ~~city~~ code of ordinances contains a proposed
19 new ordinance or amendment, the council shall hold a public
20 hearing on the proposed code before adoption. The clerk shall
21 publish notice of the hearing as provided in section 362.3.
22 Copies of the proposed ~~city~~ code of ordinances must be
23 available at the city clerk's office and the notice must so
24 state. Within thirty days after the hearing, the council
25 may adopt the proposed ~~city~~ code of ordinances, which becomes
26 law upon publication of the ordinance adopting it. If the
27 council substantially amends the proposed ~~city~~ code of
28 ordinances after a hearing, notice and hearing must be
29 repeated.

30 Ordinances and amendments which become effective after
31 adoption of a ~~city~~ code of ordinances may be compiled as
32 supplements to the code, and upon adoption of the supplement
33 by ordinance, become part of the ~~city~~ code of ordinances.

34 An adopted ~~city~~ code of ordinances is presumptive evidence
35 of the passage, publication, and content of the ordinances

1 therein as of the date of the clerk's certification of the
2 ordinance adopting the code or supplement.

3 Sec. 23. Section three hundred eighty-four point seven
4 (384.7), unnumbered paragraph two (2), Code 1975, is amended
5 to read as follows:

6 The question of the establishment of a capital improvements
7 reserve fund, the time period during which a levy will be
8 made for the fund, and the millage amount to be levied therefor
9 is subject to approval by the voters, and may be submitted
10 at any city election upon the council's motion, or shall be
11 submitted at the next regular city election upon receipt of
12 a valid petition as provided in section 362.4.

13 Sec. 24. Section three hundred eighty-four point twelve
14 (384.12), subsections two (2) and three (3), Code 1975, are
15 amended to read as follows:

16 2. A tax not to exceed ~~one-dollar-and-thirty-five~~ eighty-
17 one cents per thousand dollars of assessed value for
18 development, operation, and maintenance of a memorial building
19 or monument, subject to the ~~procedure-provided-in~~ provisions
20 of subsection 1.

21 3. A tax not to exceed ~~three-and-three-eighths~~ thirteen
22 and one-half cents per thousand dollars of assessed value
23 for support of a symphony orchestra, subject to the provi-
24 sions of subsection 1.

25 Sec. 25. Section three hundred eighty-four point fifteen
26 (384.15), subsection three (3), Code 1975, is amended to read
27 as follows:

28 3. Establish guidelines for program-performance budgeting
29 and accounting and the preparation of capital improvement
30 plans by cities. The guidelines should provide that budgets,
31 accounts, and financial reports of cities account for all
32 city receipts and expenditures in terms of city government
33 programs and anticipated or actual performance levels within
34 each program wherever practicable. The guidelines and the
35 deadlines for initiation of program-performance budgeting

1 and accounting and for preparation of capital improvement
2 plans may be modified for different cities. However, as soon
3 as practicable, the committee may require all cities of over
4 two thousand population to prepare and adopt a tentative
5 budget for a ~~two-year~~ one-year or a ~~three-year~~ two-year period
6 following the budget to be adopted for the next fiscal year
7 and a capital improvement plan for a five-year period. The
8 budget for the second and third following years may be less
9 detailed than that for the next ~~following~~ fiscal year. A
10 city shall hold a public hearing on its capital improvement
11 plan before adoption of the plan. The committee shall, where
12 practicable, utilize recommendations from the national
13 committee on governmental accounting.

14 Sec. 26. Section three hundred eighty-four point sixteen
15 (384.16), subsection five (5), Code 1975, is amended to read
16 as follows:

17 5. After the hearing, the council shall adopt by resolution
18 a budget for at least the ~~following~~ next fiscal year, and
19 the clerk shall certify the necessary tax levy for the
20 ~~following~~ next fiscal year to the county auditor and the
21 county board of supervisors. The tax levy certified may be
22 less than but not more than the amount estimated in the
23 proposed budget submitted at the final hearing, unless an
24 additional tax levy is approved at a city election. ~~A copy~~
25 Two copies each of the complete detailed budget as adopted
26 and of the tax certificate must be transmitted to the county
27 auditor ~~and~~ , who shall complete the certificates and transmit
28 a copy of each to the state comptroller.

29 Sec. 27. Section three hundred eighty-four point nineteen
30 (384.19), unnumbered paragraph one (1), Code 1975, is amended
31 to read as follows:

32 Within a period of ten days after the final date that a
33 budget or amended budget may be certified to the county
34 auditor, persons affected by the budget may file a written
35 protest with the county auditor, specifying their objections

1 to the budget or any part of it. A protest must be signed
2 by qualified ~~voters~~ electors equal in number to one-fourth
3 of one percent of the votes cast for governor in the last
4 preceding general election in the city, but not less than
5 ten persons, and at least three of the signers must have filed
6 a written objection or appeared and objected to the budget
7 at the budget hearing held by the council.

8 Sec. 28. Section three hundred eighty-four point thirty-
9 four (384.34), Code 1975, is amended to read as follows:

10 384.34 LOCAL BUDGET LAW. The provisions of ~~chapter-24~~
11 division two (II) of this chapter do not apply to any bonds
12 issued pursuant to this division.

13 Sec. 29. Section three hundred eighty-four point forty-
14 two (384.42), unnumbered paragraph one (1), Code 1975, is
15 amended to read as follows:

16 To construct or repair a public improvement to be paid
17 for in whole or in part by special assessments, the council
18 shall proceed as follows:

19 Sec. 30. Section three hundred eighty-four point fifty-
20 six (384.56), subsections one (1) and five (5), Code 1975,
21 are amended to read as follows:

22 1. Cities may assess the cost of a public improvement
23 which extends through, abuts upon, or is adjacent to lands
24 owned by the state, and the executive council shall pay the
25 assessable portion of the cost of the improvement through
26 or along the lands as provided. The executive council shall
27 pay assessments as provided in section ~~307.70~~ three hundred
28 seven A point five (307A.5) of the Code.

29 5. Subsections 1 and 3 of this section do not apply to
30 lands under the jurisdiction and control of the ~~state-highway~~
31 commission department of transportation.

32 Sec. 31. Section three hundred eighty-four point seventy-
33 one (384.71), Code 1975, is amended to read as follows:

34 384.71 COSTS PAID FROM APPLICABLE FUNDS. The whole or
35 any part of the cost of construction or repair of a public

1 improvement may be paid from the proceeds of the issuance
2 of general obligation bonds under the provisions of section
3 384.25 or three hundred eighty-four point twenty-six (384.26)
4 of the Code, as applicable, or from the fund or funds of the
5 city authorized to be used for the particular type of
6 improvement, and the council shall provide that the tax
7 authorized for purposes of the fund or funds must be annually
8 levied to the full extent necessary to reimburse the fund
9 or funds for the amount paid for the construction or repair
10 of the improvement.

11 Sec. 32. Section three hundred ninety-two point one
12 (392.1), Code 1975, is amended to read as follows:

13 392.1 ESTABLISHMENT BY ORDINANCE. If the council wishes
14 to establish an administrative agency, it shall do so by an
15 ordinance which indicates the title, powers, and duties of
16 the agency, the method of appointment, qualifications,
17 compensation, and term of members, and other appropriate
18 matters relating to the agency. The title of an administrative
19 agency must be appropriate to its function. The council
20 may not delegate to an administrative agency any of the powers,
21 authorities, and duties prescribed in division V of chapter
22 384 or in chapter 388, except that the council may delegate
23 to an administrative agency power to establish and collect
24 charges, and ~~disburse~~ disburse the moneys received for the
25 use of a city facility, including a city enterprise, as defined
26 in section 384.24, so long as there are no revenue bonds or
27 pledge orders outstanding which are payable from the revenues
28 of the city enterprise. Except as otherwise provided in this
29 chapter, the council may delegate rule-making authority to
30 the agency for matters within the scope of the agency's powers
31 and duties, and may prescribe penalties for violation of
32 agency rules which have been adopted by ordinance. Rules
33 governing the use by the public of any city facility must
34 be made readily available to the public.

35 Sec. 33. Section three hundred sixty-eight point six

1 (368.6), Code 1975, is repealed.

2 Sec. 34. This Act, being deemed of immediate importance,
3 shall take effect and be in force from and after its
4 publication in The Mount Vernon Hawkeye and The Lisbon Herald,
5 a newspaper published in Mount Vernon, Iowa, and in The
6 Fairfield Daily Ledger, a newspaper published in Fairfield,
7 Iowa.

8 EXPLANATION

9 This bill makes a number of minor changes in the City Code
10 of Iowa, in order to correct some errors where words or phrases
11 were omitted or used inaccurately, or where requirements
12 needed clarification. Several sections make the City Code
13 language compatible with other recent legislation such as
14 the election laws and department of transportation laws.

S-3612

1 Amend House File 723, page 4, line 32, by insert-
2 ing after the comma the words "or a special charter
3 city governed, on the effective date of this section,
4 by the mayor-council form composed of a mayor and a
5 council consisting of two councilmen elected at large
6 and one councilman elected from each of eight wards,".

S-3612 FILED - *Adopted 4/24(1091)* BY ELIZABETH SHAW
APRIL 24, 1975

S-3617

1 Amend House File 723, page 8, line 21 by strik-
2 ing thirteen and inserting in lieu thereof twelve.

S-3617 FILED AND ADOPTED BY WARREN E. CURTIS
APRIL 25, 1975 (1125)

Revised and withdrawn 5/6 (1250)

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S-3633

1 Amend House File 723, page 8, lines 21 and 22 by
2 striking the words "~~three-and-three-eighths~~ thirteen
3 and one-half" and inserting in lieu thereof the words
4 "three and three eighths".

S-3633 FILED - *Adopted 5/6* BY WARREN E. CURTIS
APRIL 29, 1975 (*1250*)

HOUSE AMENDMENT TO SENATE AMENDMENT
TO HOUSE FILE 723

S-3845

1 Amend the Senate amendment H-3782, to page 8 of
2 House File 723, as follows:
3 1. By striking lines 7, 8 and 9 and inserting in
4 lieu thereof the following:
5 "2. Amend the title page, line 2, by inserting
6 after the word "Iowa" the words "and increasing
7 the allowable levy for support of a symphony
8 orchestra".

S-3845 FILED
MAY 19, 1975

RECEIVED FROM THE HOUSE

Senate Amendment to House File 723

H-3782

1 Amend House File 723 as follows:
2 1. Page 4, line 32, by inserting after the comma the
3 words "or a special charter city governed, on the effective
4 date of this section, by the mayor-council form composed of a
5 mayor and a council consisting of two councilmen elected at
6 large and one councilman elected from each of eight wards,".
7 2. Page 8, lines 21 and 22 by striking the words "~~three~~
8 ~~and-three-eighths~~ thirteen and one-half" and inserting in
9 lieu thereof the words "three and three eighths".

H-3782 FILED, RECEIVED FROM THE SENATE
MAY 7, 1975

*House concurred or amended
by H-3828 5/15 (1781)*

Senate Amendment to House Amendment
to Senate Amendment to House File 723

H-4284

1 Amend S-3845, the House amendment to the Senate
2 Amendment to House File 723 as amended and passed
3 by the House, by inserting after line 8 the
4 following:

5 "2. By inserting after line 9 the following:

6 "3. Page 5, line 1, by inserting after the word
7 "motions" the words ", and in a special charter
8 city operating with ten councilmen under this
9 section, the mayor may vote to break a tie vote on
10 all measures".

11 4. Page 7, insert after line 7 the following:

12 "Sec. ____ . Section three hundred eight point
13 four (380.4), Code 1975, is amended to read as
14 follows:

15 380.4 MAJORITY REQUIREMENT. Passage of an
16 ordinance, amendment, or resolution requires an
17 affirmative vote of not less than a majority of
18 the council members except when the mayor may
19 vote to break a tie vote in a city with an even
20 number of councilmen, as provided in section
21 three hundred seventy-two point four (372.4) of the
22 Code. A motion to spend public funds in excess of
23 ten thousand dollars on any one project, or a motion
24 to accept public improvements and facilities upon
25 their completion, also requires an affirmative vote
26 of not less than a majority of the council members.
27 Each councilman's vote on an ordinance, amendment,
28 or resolution must be recorded."

29 5. Renumber sections and correct internal
30 references in accordance with this amendment.

31 6. Amend the title, line 1, by inserting after
32 the word "correcting" the words ", amending".".

H-4284 FILED, RECEIVED FROM SENATE
JUNE 13, 1975

Have concurred 6/14(2542)

S-4187

1 Amend S-3845, the House amendment to the Senate
2 Amendment to House File 723 as amended and passed
3 by the House, by inserting after line 8 the
4 following:

5 "2. By inserting after line 9 the following:

6 "3. Page 5, line 1, by inserting after the word
7 "motions" the words "and in a special charter
8 city operating with ten councilmen under this
9 section, the mayor may vote to break a tie vote on
10 all measures".

11 4. Page 7, insert after line 7 the following:

12 "Sec. _____. Section three hundred eighty point
13 four (380.4), Code 1975, is amended to read as
14 follows:

15 380.4 MAJORITY REQUIREMENT. Passage of an
16 ordinance, amendment, or resolution requires an
17 affirmative vote of not less than a majority of
18 the council members except when the mayor may
19 vote to break a tie vote in a city with an even
20 number of councilmen, as provided in section
21 three hundred seventy-two point four (372.4) of the
22 Code. A motion to spend public funds in excess of
23 ten thousand dollars on any one project, or a motion
24 to accept public improvements and facilities upon
25 their completion, also requires an affirmative vote
26 of not less than a majority of the council members.
27 Each councilman's vote on an ordinance, amendment,
28 or resolution must be recorded."

29 5. Renumber sections and correct internal
30 references in accordance with this amendment.

31 6. Amend the title, line 1, by inserting after
32 the word "correcting" the words ",amending".".

S-4187 FILED - *Adopted 6/13/75 (2044)* BY WILLIAM E. GLUBA
JUNE 12, 1975

H-3828

1 Amend the Senate amendment H-3782, to page 8 of
2 House File 723, as follows:

3 1. By striking lines 7, 8 and 9 and inserting
4 in lieu thereof the following:

5 "2. Amend the title page, line 2, by inserting
6 after the word "Iowa" the words "and increasing the
7 allowable levy for support of a symphony orchestra".

H-3828 FILED - *Adopted 5/15 (1781)*
MAY 12, 1975

BY RINAS of Linn

HOUSE FILE 723

AN ACT

CORRECTING, AMENDING AND CLARIFYING PROVISIONS IN THE CITY CODE OF IOWA AND INCREASING THE ALLOWABLE LEVY FOR SUPPORT OF A SYMPHONY ORCHESTRA.

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

Section 1. Section three hundred sixty-two point one (362.1), Code 1975, is amended to read as follows:

362.1 CITATION. This chapter and chapters 364, 368, 372, 376, 380, three hundred eighty-four (384) of the Code, 388 and 392 may be cited as the "City Code of Iowa".

Sec. 2. Section three hundred sixty-two point two (362.2), Code 1975, is amended by striking subsections two (2), fifteen (15), and sixteen (16).

Sec. 3. Section three hundred sixty-two point two (362.2), subsection nineteen (19), Code 1975, is amended to read as follows:

19. "Amendment" means a revision or repeal of an existing ordinance or city code of ordinances.

Sec. 4. Section three hundred sixty-two point two (362.2), Code 1975, is amended by adding the following new subsections:

NEW SUBSECTION. "City code" means the city code of Iowa.

NEW SUBSECTION. "Qualified elector" means the same as it is defined in section thirty-nine point three (39.3), subsection two (2) of the Code.

Sec. 5. Section three hundred sixty-two point nine (362.9), Code 1975, is amended to read as follows:

362.9 APPLICATION OF CITY CODE. The provisions of this chapter and chapters 364, 368, 372, 376, 380, three hundred eighty-four (384) of the Code, 388 and 392 are applicable to all cities.

Sec. 6. Section three hundred sixty-four point two (364.2), subsection four (4), paragraph b, Code 1975, is amended to read as follows:

b. No such ordinance shall become effective unless a ~~majority-of-the-persons-voting-thereon-vote-in-favor-thereof~~ approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose prior to the next regular city election. If a majority of those voting approves the proposal the city may proceed as proposed.

Sec. 7. Section three hundred sixty-four point twelve (364.12), subsection two (2), paragraph c, Code 1975, is amended to read as follows:

c. The abutting property owner may be required by ordinance to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly-owned property or right-of-way.

Sec. 8. Section three hundred sixty-eight point eleven (368.11), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or ~~ten five percent of the voters~~ qualified electors of a city or territory, based upon the number of persons who voted for governor at the last preceding general election involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed,

the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, and any regional planning authority for the area involved.

Sec. 9. Section three hundred sixty-eight point nineteen (368.19), Code 1975, is amended to read as follows:

368.19 TIME LIMIT--ELECTION. The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date within ninety days for a special election on the proposal and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, qualified voters electors of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, qualified voters electors of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, qualified voters electors of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 368.15, and shall conduct the election in the same manner as other special city elections.

Sec. 10. Section three hundred sixty-eight point twenty-one (368.21), Code 1975, is amended to read as follows:

368.21 SUPERVISION OF PROCEDURES. When an incorporation, discontinuance, or boundary adjustment is complete, the board shall supervise procedures necessary to carry out the proposal. In the case of an incorporation, the county commissioner of elections shall conduct an election for mayor and council of the city, who shall serve until their successors take

office following the next regular city election. In the case of a discontinuance, the board shall publish two notices as provided in section 368.15 that it will receive and adjudicate claims against the discontinued city for a period of six months from the date of last notice, and shall cause necessary taxes to be levied against the property within the discontinued city to pay claims allowed. All records of a discontinued city shall be deposited with the county auditor of the county designated by the board, ~~except that court records shall be deposited with the clerk of the district court of the county.~~ Any remaining balances shall be deposited in the general fund of the county where the former city was located. In the case of boundary adjustments, the proper city officials shall carry out procedures necessary to implement the proposal.

Sec. 11. Section three hundred seventy-two point one (372.1), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

~~Upon the effective~~ Within thirty days of the date of the city code that this section becomes effective, a city shall adopt by ordinance a charter embodying its existing form of government, which must be one of the forms provided in this division, and shall file a copy of its charter with the secretary of state, and maintain copies available for public inspection.

Sec. 12. Section three hundred seventy-two point two (372.2), subsection five (5), paragraph a, Code 1975, is amended to read as follows:

a. The elective officers provided for in the adopted form are to be elected at the next regular city election held more than sixty days after the special election at which the form was adopted, and the adopted form becomes effective at the beginning of the ~~calendar year which follows such~~ new term following the regular city election.

Sec. 13. Section three hundred seventy-two point four

(372.4), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

A However, a city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen elected at large, and one councilman from each of four wards, or a special charter city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen elected at large and one councilman elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of councilmen, the mayor may vote to break a tie vote on motions, and in a special charter city operating with ten councilmen under this section, the mayor may vote to break a tie vote on all measures.

Sec. 14. Section three hundred seventy-two point five (372.5), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

A However, a city governed, on the effective date of this section, by the commission form and having a council composed of a mayor and two councilmen elected at large may continue with a council of three until the form of government is changed as provided in section 372.2 or section 372.9.

Sec. 15. Section three hundred seventy-two point six (372.6), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A city governed by the council-manager-at-large form has five councilmen elected at large for staggered four-year terms. At the first meeting ~~after~~ of the new term following each city election, the council shall elect one of the councilmen to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election,

the council shall appoint a manager.

Sec. 16. Section three hundred seventy-two point seven (372.7), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

As soon as possible after the beginning of the new term following each city election, the council shall appoint a city manager, and a councilman to serve as mayor pro tem.

Sec. 17. Section three hundred seventy-two point nine (372.9), subsection eight (8), paragraph a, Code 1975, is amended to read as follows:

a. The elective officers provided for in the charter are to be elected at the next regular city election held more than sixty days after the special election at which the charter was adopted, and the adopted charter becomes effective at the beginning of the ~~fiscal year which follows such~~ new term following the regular city election.

Sec. 18. Section three hundred seventy-six point two (376.2), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Except as otherwise provided by state law or the city charter, terms for elective offices are two years. However, the term of an elective office may be changed to two or four years by petition and election. Upon receipt of a valid petition as defined in section 362.4, requesting that the term of an elective office be changed, the council shall submit the question at a special city election to be held within thirty days. If a majority of the persons voting at the special election approves the changed term, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed term, the ~~mayer~~ council shall not submit the same proposal to the voters within the next four years.

Sec. 19. Section three hundred seventy-six point three (376.3), Code 1975, is amended to read as follows:

376.3 NOMINATIONS. Candidates for elective city offices

must be nominated as provided in sections 376.4 to 376.9 unless by ordinance a city chooses the provisions of chapters 44 or 45. However, a special charter city may continue to hold partisan elections as provided in sections 43.112 to 43.118 and 420.126 to ~~420-438~~ four hundred twenty point one hundred thirty-seven (420.137) of the Code.

Sec. 20. Section three hundred seventy-six point nine (376.9), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Runoff elections must be held two weeks after the date of the regular city election and must be conducted in the same manner as regular city elections except that only voters persons who were qualified to vote electors in the last preceding regular city election are qualified to vote in the runoff.

Sec. 21. Section three hundred eighty point two (380.2), Code 1975, is amended to read as follows:

380.2 AMENDMENT. An amendment to an ordinance or to a city code of ordinances must specifically repeal the ordinance or code, or the section or subsection to be amended, and must set forth in full the ordinance, code, section or subsection as amended.

Sec. 22. Section three hundred eighty point four (380.4), Code 1975, is amended to read as follows:

380.4 MAJORITY REQUIREMENT. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the council members except when the mayor may vote to break a tie vote in a city with an even number of councilmen, as provided in section three hundred seventy-two point four (372.4) of the Code. A motion to spend public funds in excess of ten thousand dollars on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of the council members. Each councilman's vote on an ordinance, amendment, or

resolution must be recorded.

Sec. 23. Section three hundred eighty point eight (380.8), Code 1975, is amended to read as follows:

380.8 ~~CITY~~ CODE OF ORDINANCES PUBLISHED. At least once every five years, a city shall compile a city code of ordinances containing all of the city ordinances in effect, except grade ordinances, bond ordinances, zoning ordinances, and ordinances vacating streets and alleys.

If a proposed city code of ordinances contains only existing ordinances edited and compiled without change in substance, the council may adopt the code by ordinance.

If a proposed city code of ordinances contains a proposed new ordinance or amendment, the council shall hold a public hearing on the proposed code before adoption. The clerk shall publish notice of the hearing as provided in section 362.3. Copies of the proposed city code of ordinances must be available at the city clerk's office and the notice must so state. Within thirty days after the hearing, the council may adopt the proposed city code of ordinances, which becomes law upon publication of the ordinance adopting it. If the council substantially amends the proposed city code of ordinances after a hearing, notice and hearing must be repeated.

Ordinances and amendments which become effective after adoption of a city code of ordinances may be compiled as supplements to the code, and upon adoption of the supplement by ordinance, become part of the city code of ordinances.

An adopted city code of ordinances is presumptive evidence of the passage, publication, and content of the ordinances therein as of the date of the clerk's certification of the ordinance adopting the code or supplement.

Sec. 24. Section three hundred eighty-four point seven (384.7), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The question of the establishment of a capital improvements

reserve fund, the time period during which a levy will be made for the fund, and the ~~mitage~~ amount to be levied therefor is subject to approval by the voters, and may be submitted at any city election upon the council's motion, or shall be submitted at the next regular city election upon receipt of a valid petition as provided in section 362.4.

Sec. 25. Section three hundred eighty-four point twelve (384.12), subsections two (2) and three (3), Code 1975, are amended to read as follows:

2. A tax not to exceed ~~one-dollar-and-thirty-five~~ eighty-one cents per thousand dollars of assessed value for development, operation, and maintenance of a memorial building or monument, subject to the ~~procedure-provided-in~~ provisions of subsection 1.

3. A tax not to exceed ~~three-and-three-eighths~~ thirteen and one-half cents per thousand dollars of assessed value for support of a symphony orchestra, subject to the provisions of subsection 1.

Sec. 26. Section three hundred eighty-four point fifteen (384.15), subsection three (3), Code 1975, is amended to read as follows:

3. Establish guidelines for program-performance budgeting and accounting and the preparation of capital improvement plans by cities. The guidelines should provide that budgets, accounts, and financial reports of cities account for all city receipts and expenditures in terms of city government programs and anticipated or actual performance levels within each program wherever practicable. The guidelines and the deadlines for initiation of program-performance budgeting and accounting and for preparation of capital improvement plans may be modified for different cities. However, as soon as practicable, the committee may require all cities of over two thousand population to prepare and adopt a tentative budget for a ~~two-year~~ one-year or a ~~three-year~~ two-year period following the budget to be adopted for the next fiscal year

and a capital improvement plan for a five-year period. The budget for the second and third following years may be less detailed than that for the next ~~following~~ fiscal year. A city shall hold a public hearing on its capital improvement plan before adoption of the plan. The committee shall, where practicable, utilize recommendations from the national committee on governmental accounting.

Sec. 27. Section three hundred eighty-four point sixteen (384.16), subsection five (5), Code 1975, is amended to read as follows:

5. After the hearing, the council shall adopt by resolution a budget for at least the ~~following next~~ following next fiscal year, and the clerk shall certify the necessary tax levy for the ~~following next fiscal~~ following next fiscal year to the county auditor and the county board of supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a city election. A copy Two copies each of the complete detailed budget as adopted and of the tax certificate must be transmitted to the county auditor and, who shall complete the certificates and transmit a copy of each to the state comptroller.

Sec. 28. Section three hundred eighty-four point nineteen (384.19), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Within a period of ten days after the final date that a budget or amended budget may be certified to the county auditor, persons affected by the budget may file a written protest with the county auditor, specifying their objections to the budget or any part of it. A protest must be signed by qualified voters electors equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but not less than ten persons, and at least three of the signers must have filed a written objection or appeared and objected to the budget

at the budget hearing held by the council.

Sec. 29. Section three hundred eighty-four point thirty-four (384.34), Code 1975, is amended to read as follows:

384.34 LOCAL BUDGET LAW. The provisions of ~~chapter-24~~ division two (II) of this chapter do not apply to any bonds issued pursuant to this division.

Sec. 30. Section three hundred eighty-four point forty-two (384.42), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

To construct or repair a public improvement to be paid for in whole or in part by special assessments, the council shall proceed as follows:

Sec. 31. Section three hundred eighty-four point fifty-six (384.56), subsections one (1) and five (5), Code 1975, are amended to read as follows:

1. Cities may assess the cost of a public improvement which extends through, abuts upon, or is adjacent to lands owned by the state, and the executive council shall pay the assessable portion of the cost of the improvement through or along the lands as provided. The executive council shall pay assessments as provided in section ~~307.40~~ three hundred seven A point five (307A.5) of the Code.

5. Subsections 1 and 3 of this section do not apply to lands under the jurisdiction and control of the ~~state-highway~~ commission department of transportation.

Sec. 32. Section three hundred eighty-four point seventy-one (384.71), Code 1975, is amended to read as follows:

384.71 COSTS PAID FROM APPLICABLE FUNDS. The whole or any part of the cost of construction or repair of a public improvement may be paid from the proceeds of the issuance of general obligation bonds under the provisions of section 384.25 or three hundred eighty-four point twenty-six (384.26) of the Code, as applicable, or from the fund or funds of the city authorized to be used for the particular type of improvement, and the council shall provide that the tax

authorized for purposes of the fund or funds must be annually levied to the full extent necessary to reimburse the fund or funds for the amount paid for the construction or repair of the improvement.

Sec. 33. Section three hundred ninety-two point one (392.1), Code 1975, is amended to read as follows:

392.1 ESTABLISHMENT BY ORDINANCE. If the council wishes to establish an administrative agency, it shall do so by an ordinance which indicates the title, powers, and duties of the agency, the method of appointment, qualifications, compensation, and term of members, and other appropriate matters relating to the agency. The title of an administrative agency must be appropriate to its function. The council may not delegate to an administrative agency any of the powers, authorities, and duties prescribed in division V of chapter 384 or in chapter 388, except that the council may delegate to an administrative agency power to establish and collect charges, and ~~dispense~~ disburse the moneys received for the use of a city facility, including a city enterprise, as defined in section 384.24, so long as there are no revenue bonds or pledge orders outstanding which are payable from the revenues of the city enterprise. Except as otherwise provided in this chapter, the council may delegate rule-making authority to the agency for matters within the scope of the agency's powers and duties, and may prescribe penalties for violation of agency rules which have been adopted by ordinance. Rules governing the use by the public of any city facility must be made readily available to the public.

Sec. 34. Section three hundred sixty-eight point six (368.6), Code 1975, is repealed.

Sec. 35. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Mount Vernon Hawkeye and The Lisbon Herald, a newspaper published in Mount Vernon, Iowa, and in The

Fairfield Daily Ledger, a newspaper published in Fairfield,
Iowa.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 723, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved _____, 1975

ROBERT D. RAY
Governor