

Reprinted 3/26/86

FEB 21 1986

Place On Calendar

HOUSE FILE 2350
BY COMMITTEE ON LOCAL GOVERNMENT

(Formerly House Study Bill 588)

Passed House, Date 3-21-86 (1949) Passed Senate, Date 4-3-86 (P.1031)

Vote: Ayes 96 Nays 0 Vote: Ayes 45 Nays 0

Approved May 6, 1986

A BILL FOR

1 An Act relating to the publication of official public notices by
2 defining a newspaper, by establishing fees for the publication
3 of official notices, and by providing for enforcement of
4 official publication requirements, and subjecting violators to
5 penalties.

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

- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2350

1 Section 1. Section 349.7, subsection 2, Code 1985, is
2 amended to read as follows:

3 2. Those subscribers, ~~defined as in subsection 1~~ who have
4 been subscribers at least six consecutive months before the
5 date of application, whose papers are regularly delivered by
6 carrier regularly upon an order or subscription, or whose
7 papers are purchased from the publisher for resale and
8 delivery by independent carriers, ~~said independent carriers~~
9 having who have filed with the publisher a list of their
10 subscribers.

11 Sec. 2. Section 349.14, Code 1985, is amended to read as
12 follows:

13 349.14 PUBLICATION PENDING CONTEST.

14 After the selection by the board of supervisors of official
15 newspapers, no publisher shall receive pay for publishing
16 official proceedings until the contest is finally determined,
17 insofar as the publisher is concerned. After determination of
18 the contest, payment for publications made during the contest
19 shall include interest at the rate of one-half percent per
20 month calculated from date of publication to the date of
21 payment, less thirty days.

22 Sec. 3. Section 349.17, Code 1985, is amended to read as
23 follows:

24 349.17 COST.

25 The cost of official publications provided for in section
26 349.16 shall not exceed ~~three-fifths the legal fee provided by~~
27 statute three-fourths of the fee provided in section 618.11
28 for the publication of legal notices. ~~No such~~ An official
29 publication shall not be printed in type smaller than five six
30 point.

31 Sec. 4. Section 445.8, subsection 2, Code 1985, is amended
32 to read as follows:

33 2. The treasurer shall cause to be compiled a list of all
34 delinquent personal property taxes for the current assessment
35 year, as shown by the delinquent personal property tax list.

1 Such The list, which may be divided for publication in
2 different newspapers, shall show the amount of the taxes
3 delinquent when the amount of the tax is more than five
4 dollars and the amount of penalty, interest, and costs
5 thereon, the name of the owner, if known, or the person, if
6 any, to whom it is taxed, and shall be published in some an
7 official newspaper in the county once each week for two
8 consecutive weeks, the last of which shall be not more than
9 two weeks before the third Monday in June, and by immediately
10 posting a copy of the first publication thereof at the door of
11 the courthouse, ~~if there be one, if not, at the door of the~~
12 ~~place where the last term of district court was held.~~ The
13 ~~provisions of sections~~ Sections 446.10 and 446.11 shall
14 ~~prevail in connection with~~ apply to the publication of such
15 notice. The treasurer shall obtain a copy of the notice as
16 published, and a certificate of the publication thereof from
17 the printer or publisher, and file it in the office of the
18 auditor.

19 Sec. 5. Section 446.9, Code 1985, is amended to read as
20 follows:

21 446.9 NOTICE OF SALE -- SERVICE.

22 Notice of the time and place of the sale shall be given by
23 the treasurer by publication in ~~a~~ an official newspaper in the
24 county once each week for two consecutive weeks, the last of
25 which is not more than two weeks before the day of sale. The
26 notice, which may be divided for publication in different
27 newspapers, shall contain a description of each separate tract
28 to be sold as taken from the tax list, the amount of
29 delinquent taxes for which it is liable for each year, the
30 amount of penalty, interest, and costs accrued, and the name
31 of the owner, if known, or the person, if any, to whom it is
32 taxed. All of the delinquent tax, regular, special and those
33 charges certified pursuant to section 384.84, existing against
34 the property for the year in which the tax sale is held shall
35 be listed as a single sum. All property which has previously

1 been advertised and remains unsold and against which there
2 remain delinquent taxes, shall be indicated by an asterisk.

3 Sec. 6. Section 446.10, Code 1985, is amended to read as
4 follows:

5 446.10 COSTS.

6 The compensation for ~~such~~ each publication shall not exceed
7 ~~one-dollar~~ two dollars and fifty cents for each description,
8 and shall be paid by the county. Headings and other matter
9 shall be compensated for as provided in section 618.11. The
10 amount paid ~~therefor~~ shall be collected as a part of the costs
11 of sale and paid into the county treasury. If a taxpayer pays
12 the taxes owed before the date of sale, the amount paid for
13 publication shall be included as a part of the costs of
14 collecting the taxes which are payable by the taxpayer.

15 Sec. 7. Section 618.1, Code 1985, is amended by adding the
16 following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. All notices relating to real
18 property required by law or ordinance to be published in a
19 newspaper, shall contain a description of the property and a
20 street address, if available, when the property is located
21 within a city.

22 Sec. 8. Section 618.2, Code 1985, is amended by striking
23 the section and inserting in lieu thereof the following:

24 618.2 VIOLATION -- CIVIL PENALTIES.

25 1. A public official who violates section 618.1 or who
26 willfully fails to make publication of notice, report of
27 proceedings, or other matter as required by law, is guilty of
28 a simple misdemeanor.

29 2. Any aggrieved person, taxpayer, citizen of this state,
30 the attorney general, or county attorney may seek enforcement
31 of this chapter. Proceedings to enforce this chapter shall be
32 brought in the district court for the county in which the
33 violation is alleged to have occurred. Prior to initiation of
34 a suit, the party seeking judicial enforcement of this chapter
35 must first provide written notice to the official in question

1 of intent to initiate suit and the grounds therefor after
2 which the official shall have ten days in which to comply with
3 this chapter. Compliance within ten days shall eliminate any
4 right to suit created by this section.

5 3. When a party seeking enforcement of this chapter
6 demonstrates to the court that the official in question is
7 subject to this chapter and has failed to make a required
8 publication, the burden of proof is on the official to
9 demonstrate compliance with this chapter.

10 4. Upon a finding by a preponderance of the evidence that
11 an official has violated any provision of this chapter, a
12 court:

13 a. Shall assess against the official damages in the amount
14 of not more than five hundred dollars nor less than one
15 hundred dollars. These damages shall be paid to the state of
16 Iowa.

17 b. Shall order that the official pay all costs and
18 reasonable attorneys fees to any party successfully
19 establishing a violation of this chapter.

20 c. May issue an injunction punishable by civil contempt
21 ordering the official to refrain for one year from any future
22 violations of this chapter.

23 Sec. 9. Section 618.3, Code 1985, is amended by striking
24 the section and inserting in lieu thereof the following:

25 618.3 "NEWSPAPER" DEFINED.

26 For the purpose of establishing and giving assured
27 circulation to all notices and reports of proceedings required
28 by statute to be published within the state, if newspapers are
29 required to be used, only a newspaper which meets all of the
30 following requirements shall be designated for official
31 publication purposes:

32 1. Is a newspaper of general circulation issued at a
33 regular frequency that has been published within the area and
34 regularly mailed through the post office of entry for at least
35 two years.

1 2. Has a list of subscribers who have paid, or promised to
2 pay, at more than a nominal rate, for copies to be received
3 during a stated period.

4 3. Devotes at least twenty-five percent of its total
5 column space in more than one-half of its issues during any
6 twelve-month period to information of a public character other
7 than advertising.

8 4. Is paid for by at least fifty percent of the persons or
9 subscribers to whom it is distributed.

10 Sec. 10. Section 618.11, Code 1985, is amended to read as
11 follows:

12 618.11 FEES FOR PUBLICATION.

13 The compensation, when not otherwise fixed, for the
14 publication in a newspaper of any notice, order, citation, or
15 other publication required or allowed by law, shall not exceed
16 twenty-six cents for one insertion, and seventeen cents for
17 each subsequent insertion, for each line of eight-point type
18 two inches in length, or the its equivalent thereof.

19 Publication of matter which may be photographically reproduced
20 for printing instead of typeset shall be compensated at a rate
21 not to exceed the lowest available earned rate for any similar
22 advertising matter. Statements of itemized financial and
23 other like columnar matter shall be published in tabular form
24 without additional compensation. In case of controversy or
25 doubt regarding measurements, style, manner, or form, the
26 controversy is shall be referred to the executive council, and
27 its decision is final.

28 Sec. 11. NEW SECTION. 618.16 ZONED EDITIONS OF SAME
29 NEWSPAPER.

30 Publication requirements for governmental subdivisions of
31 the state shall be deemed satisfied when publication is made
32 in editions or zoned editions which are delivered to an area
33 comprising the jurisdiction of the subdivision making the
34 publication even though publication is not made in other
35 editions of the same newspaper delivered to other areas of the

1 state.

2

EXPLANATION

3 Section 1 provides that subscribers who obtain their
4 newspapers by carrier are counted as subscribers in a contest
5 situation.

6 Section 2 provides that when payments for publications are
7 not made because a contest for determination of an official
8 newspaper status exists, interest shall be included in the
9 payment following resolution of the contest. The interest
10 shall be paid at the rate of one-half percent per month and
11 the first thirty days shall be interest free.

12 Section 3 provides that the cost of publications in
13 official newspapers shall be made at the rate of three-fourths
14 of the fee provided in section 618.11 rather than at the
15 present three-fifths of that rate. Section 3 also raises the
16 minimum print size from five to six point.

17 Section 4 establishes that the delinquent personal property
18 tax list may be divided for publication in different official
19 newspapers.

20 Section 5 provides that a delinquent real estate tax list
21 may be divided and printed in two different newspapers in the
22 county.

23 Section 6 increases the compensation for publication of
24 notice regarding tax sales to two dollars and fifty cents for
25 each separate description for each publication from the
26 present one dollar.

27 Section 7 provides that notices with respect to real
28 property that are required to be made shall be published to
29 contain both a legal description and a local address, if
30 available, when that property is located in a city.

31 Section 8 provides an enforcement mechanism for officials
32 who fail to obey public notice requirements. In addition to
33 the present possible misdemeanor charge, civil remedies could
34 also be sought which would include a fine of not less than one
35 hundred dollars nor more than five hundred dollars plus costs

1 and attorney fees.

2 Section 9 changes the Code definition of a newspaper.

3 Section 10 provides that existing allowances for columnar
4 matter are eliminated and the lowest rate is required to be
5 charged for photographically reproduced matter which does not
6 need to be typeset.

7 Section 11 states that publication requirements are
8 satisfied when publication is made in an edition of a
9 newspaper which serves the locality requiring the notice.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

Spear
Miller
Renken

Handwritten: 2350

NSB 588

LOCAL GOVERNMENT

Study Bill 588

Local Government: Spear, Chair; Miller and Renken.

HOUSE/SENATE FILE 2350

BY (PROPOSED COMMITTEE ON LOCAL GOVERNMENT BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the publication of official public notices by
2 providing for the selection of official newspapers, by
3 establishing fees for the publication of official notices, and
4 by providing for enforcement of official publication
5 requirements, and subjecting violators to penalties.

6 WHEREAS, the general assembly finds that the goal of public
7 notice advertising is to ensure that as many citizens as possible
8 are notified on a regular basis in a permanent record of their
9 government's activities and expenditures; and

10 WHEREAS, paid public notices in newspapers enjoy faithful,
11 proven readership and offer taxpayers and public officials the
12 accuracy, convenience, and protection of an unabridged account of
13 government business that can be read, studied, and saved; and

14 WHEREAS, the public's right and need to know are served by
15 regular public notices in newspapers which historically reach the
16 greatest number of citizens at a reasonable cost; NOW THEREFORE,
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

18
19
20
21
22
23

1 Section 1. Section 331.302, subsection 10, Code 1985, is
2 amended to read as follows:

3 10. The compensation paid to a newspaper for a publication
4 required by this section shall not exceed three-fourths-of the
5 fee provided in section 618.11.

6 Sec. 2. Section 349.6, Code 1985, is amended by adding the
7 following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. In counties where there are more
9 newspapers than the number required for official county
10 newspapers, only one paid circulation official newspaper under
11 common ownership published in the same city shall be paid to
12 publish official county notices. Each paid circulation
13 official newspaper under common ownership may publish public
14 notices, but they shall be treated as one newspaper for
15 payment purposes to allow for flexibility in notice
16 publication schedules.

17 Sec. 3. Section 349.7, subsection 2, Code 1985, is amended
18 to read as follows:

19 2. Those subscribers, ~~defined as in subsection 1~~ who have
20 been subscribers at least six consecutive months before the
21 date of application, whose papers are regularly delivered by
22 carrier regularly upon an order or subscription, or whose
23 papers are purchased from the publisher for resale and
24 delivery by independent carriers, ~~said independent carriers~~
25 having who have filed with the publisher a list of their
26 subscribers.

27 Sec. 4. Section 349.14, Code 1985, is amended to read as
28 follows:

29 349.14 PUBLICATION PENDING CONTEST.

30 After the selection by the board of supervisors of official
31 newspapers, no publisher shall receive pay for publishing
32 official proceedings until the contest is finally determined,
33 insofar as the publisher is concerned. After determination of
34 the contest, payment for publications made during the contest
35 shall include interest at the legal rate calculated from date

1 of publication to the date of payment, less thirty days.

2 Sec. 5. Section 349.17, Code 1985, is amended to read as
3 follows:

4 349.17 COST.

5 The cost of official publications provided for in section
6 349.16 shall not exceed ~~three-fifths~~ the legal fee provided by
7 statute for the publication of legal notices. ~~No-such~~ An
8 official publication shall not be printed in type smaller than
9 five point.

10 Sec. 6. Section 380.9, Code 1985, is amended to read as
11 follows:

12 380.9 FEE FOR PUBLICATION.

13 The compensation paid to a newspaper for any publication
14 required by this chapter ~~may~~ shall not exceed ~~three-fourths-of~~
15 the fee provided in section 618.11.

16 Sec. 7. Section 445.8, subsection 2, Code 1985, is amended
17 to read as follows:

18 2. The treasurer shall cause to be compiled a list of all
19 delinquent personal property taxes for the current assessment
20 year, as shown by the delinquent personal property tax list.
21 Such The list, which may be divided for publication in
22 different newspapers, shall show the amount of the taxes
23 delinquent when the amount of the tax is more than five
24 dollars and the amount of penalty, interest, and costs
25 thereon, the name of the owner, if known, or the person, if
26 any, to whom it is taxed, and shall be published in some an
27 official newspaper in the county once each week for two
28 consecutive weeks, the last of which shall be not more than
29 two weeks before the third Monday in June, and by immediately
30 posting a copy of the first publication thereof at the door of
31 the courthouse, if there be is one, if not, at the door of the
32 place where the last term of district court was held. ~~The~~
33 ~~provisions-of-sections~~ Sections 446.10 and 446.11 ~~shall~~
34 ~~prevail-in-connection-with~~ apply to the publication of such
35 notice. The treasurer shall obtain a copy of the notice as

1 published, and a certificate of the publication thereof from
2 the printer or publisher, and file it in the office of the
3 auditor.

4 Sec. 8. Section 446.10, Code 1985, is amended to read as
5 follows:

6 446.10 COSTS.

7 The compensation for such each publication shall not exceed
8 one-dollar five dollars for each description, and shall be
9 paid by the county. Headings and other matter shall be
10 compensated for as provided in section 618.11. The amount
11 paid therefor shall be collected as a part of the costs of
12 sale and paid into the county treasury.

13 Sec. 9. Section 618.1, Code 1985, is amended by adding the
14 following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. All notices relating to real
16 property required by law or ordinance to be published in a
17 newspaper, shall contain both a legal description and a street
18 address when the property is located within a city.

19 Sec. 10. Section 618.2, Code 1985, is amended by striking
20 the section and inserting in lieu thereof the following:

21 618.2 VIOLATION -- CIVIL PENALTIES.

22 1. A public official who violates section 618.1 or who
23 willfully fails to make publication of notice, report of
24 proceedings, or other matter as required by law, is guilty of
25 a simple misdemeanor.

26 2. Any aggrieved person, taxpayer, citizen of this state,
27 the attorney general, or county attorney may seek enforcement
28 of this chapter. Proceedings to enforce this chapter shall be
29 brought in the district court for the county in which the
30 violation is alleged to have occurred.

31 3. When a party seeking enforcement of this chapter
32 demonstrates to the court that the official in question is
33 subject to this chapter and has failed to make a required
34 publication, the burden of proof is on the official to
35 demonstrate compliance with this chapter.

1 4. Upon a finding by a preponderance of the evidence that
2 an official has violated any provision of this chapter, a
3 court:

4 a. Shall assess against the official damages in the amount
5 of not more than five hundred dollars nor less than one
6 hundred dollars. These damages shall be paid to the state of
7 Iowa.

8 b. Shall order that the official pay all costs and
9 reasonable attorneys fees to any party successfully
10 establishing a violation of this chapter.

11 c. Shall void any action taken for which a required
12 publication was not made if the suit for enforcement of this
13 chapter is brought within six months of the date of the action
14 and the court finds under the facts of the particular case
15 that the public interest in the enforcement of the policy of
16 this chapter outweighs the public interest in sustaining the
17 validity of the action taken. This paragraph does not apply
18 to an action taken regarding the issuance of bonds or other
19 evidence of indebtedness of a governmental body if a public
20 hearing, election, or public sale has been held regarding the
21 bonds or evidence of indebtedness.

22 d. Shall issue an order removing the official from office
23 if the official has engaged in two prior violations of this
24 chapter for which damages were assessed against the official.

25 e. May issue an injunction punishable by civil contempt
26 ordering the official to refrain for one year from any future
27 violations of this chapter.

28 Sec. 11. Section 618.3, Code 1985, is amended by striking
29 the section and inserting in lieu thereof the following:

30 618.3 "NEWSPAPER" DEFINED.

31 For the purpose of establishing and giving assured
32 circulation to all notices and reports of proceedings required
33 by statute to be published within the state, if newspapers are
34 required to be used, only a newspaper which meets all of the
35 following requirements shall be designated for official

1 publication purposes:

2 1. Is a newspaper of general circulation that has been
3 published within the area and regularly mailed through the
4 post office of entry for at least two years.

5 2. Is sold to its subscribers for a definite price or
6 consideration of not less than fifty percent of its suggested
7 retail price and paid for by at least sixty percent of those
8 persons or subscribers to whom it is distributed.

9 3. Devotes at least twenty-five percent of its total
10 column space in more than one half of its issues during any
11 twelve-month period to passing events of a political,
12 business, educational, religious, or social nature and to
13 current happenings, announcements, and miscellaneous reading
14 matter other than advertising.

15 4. Maintains its principal office within the affected
16 jurisdiction for the purpose of gathering news, soliciting
17 advertising, and for the conduct of general business.

18 Sec. 12. Section 618.11, Code 1985, is amended to read as
19 follows:

20 618.11 FEES FOR PUBLICATION.

21 The compensation, when not otherwise fixed, for the
22 publication in a newspaper of any notice, order, citation, or
23 other publication required or allowed by law, shall not exceed
24 twenty-six the space cost for classified advertising regularly
25 charged by the newspaper for each insertion or thirty cents
26 for one insertion, and seventeen twenty-five cents for each
27 subsequent insertion, for each line of eight-point type two
28 inches in length, or the its equivalent thereof, whichever
29 compensation is more. Publication of matter which may be
30 photographically reproduced for printing instead of typeset
31 shall be compensated at a rate not to exceed the lowest
32 available earned rate for any similar advertising matter.
33 Statements of itemized financial and other like columnar
34 matter shall be published in tabular form without additional
35 compensation. In case of controversy or doubt regarding

1 measurements, style, manner, or form, the controversy ~~is~~ shall
2 be referred to the executive council, and its decision is
3 final.

4 Sec. 13. NEW SECTION. 618.16 ZONED EDITIONS OF SAME
5 NEWSPAPER.

6 Publication requirements for governmental subdivisions of
7 the state shall be deemed satisfied when publication is made
8 in editions or zoned editions which are delivered to an area
9 comprising the jurisdiction of the subdivision making the
10 publication even though publication is not made in other
11 editions of the same newspaper delivered to other areas of the
12 state. Compensation paid shall not exceed the zoned rate for
13 classified advertising charged by the newspaper.

14 EXPLANATION

15 Section 1 provides that certain required county
16 publications shall be made at the legal rate established by
17 law in lieu of the present three-quarter rate.

18 Section 2 provides that in the selection of official county
19 newspapers, only one paid newspaper under common ownership
20 published in the same city is eligible to become an official
21 county newspaper when there are more newspapers than are
22 required for county newspapers. Allowance is also made for
23 treating commonly owned newspapers as one paper for notice
24 publication.

25 Section 3 provides that subscribers who obtain their
26 newspapers by carrier are counted as subscribers in a contest
27 situation.

28 Section 4 provides that when payments for publications are
29 not made because a contest for determination of an official
30 newspaper status exists, interest shall be included in the
31 payment following resolution of the contest. The interest
32 shall be paid at the legal rate and the first thirty days
33 shall be interest fee.

34 Section 5 provides that the cost of publications in
35 official newspapers shall be made at the legal rate

1 established by law rather than at the present three fifths of
2 that rate. Section 5 also raises the minimum print size from
3 five to six point.

4 Section 6 provides that required city publications be
5 published at the fee established by law, not the present three
6 fourths of that fee.

7 Section 7 establishes that the delinquent personal property
8 tax list may be divided for publication in different official
9 newspapers.

10 Section 8 increases the compensation for publication of
11 notice regarding tax sales to five dollars for each separate
12 description for each publication from the present one dollar.

13 Section 9 provides that notices with respect to real
14 property that are required to be made shall be published to
15 contain both a legal description and a local address when that
16 property is located in a city.

17 Section 10 provides an enforcement mechanism for officials
18 who fail to obey public notice requirements. In addition to
19 the present possible misdemeanor charge, civil remedies could
20 also be sought which would include a fine of not less than one
21 hundred dollars nor more than five hundred dollars plus costs
22 and attorney fees. Repeated violations could lead to
23 dismissal from office.

24 Section 11 changes the Code definition of a newspaper.

25 Section 12 changes the fees for legal publications and
26 provides that those fees shall not exceed the rate of thirty
27 cents for one insertion and twenty-five cents for each
28 subsequent insertion of the same material for each line of
29 eight point two inch type or the equivalent or the fee for the
30 space cost for classified advertising charged by the
31 newspaper, whichever fee is more. In addition, existing
32 allowances for columnar matter are eliminated and the lowest
33 rate is required to be charged for photographically reproduced
34 matter which does not need to be typeset.

35 Section 13 states that publication requirements are

1 satisfied when publication is made in an edition of a
2 newspaper which serves the locality requiring the notice. The
3 charge for publication shall be at the zoned rate.

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

1 Amend House File 2350 as follows:

2 1. Page 1, by striking line 31 and inserting the
3 following:

4 "Sec. 4. Section 445.8, subsections 2 and 3, Code
5 1985, are amended".

6 2. Page 2, by striking lines 7 and 8 and
7 inserting the following: "official newspaper in the
8 county once-each-week-for-two-consecutive-weeks~~7~~-the
9 last-of which publication shall be not more than".

10 3. Page 2, by inserting after line 18 the
11 following:

12 "3. The treasurer shall, within ten days following
13 the ~~final~~ publication of such the notice, issue a
14 distress warrant in the form as prescribed in section
15 445.7. The publication of delinquent personal
16 property tax lists shall include a notice that, unless
17 such the delinquent personal property taxes are paid
18 within ten days of the date of ~~final~~ publication of
19 the notice, a distress warrant will be issued for the
20 collection thereof of the delinquent taxes."

21 4. Page 2, by striking lines 24 and 25 and
22 inserting the following: "county once-each-week-for
23 two-consecutive-weeks~~7~~-the-last-of which publication
24 is not more than two weeks before the day of sale.
25 The".

26 5. Page 3, by inserting after line 14 the
27 following:

28 "Sec. ____ . Section 446.12, Code 1985, is amended
29 to read as follows:
30 446.12 CERTIFICATE OF PUBLICATION.

31 The treasurer shall obtain a copy of the notice of
32 sale, with a certificate of the its publication
33 thereof, from the printer or publisher, and file it in
34 the office of the auditor, which certificate shall be
35 substantially in the following form:

36 I, A B, publisher (or
37 printer) of the, a newspaper printed
38 and published in the county of and state of
39 Iowa, do-hereby certify that the foregoing notice and
40 list were published in said that newspaper once-in
41 each-week-for-two-consecutive-weeks~~7~~-the-last-of-which
42 publications-was-made on the day of
43, A.D., and that copies of each
44 number of said the paper in which said the notice and
45 list were published were delivered by carrier or
46 transmitted by mail to each of the subscribers to said
47 the paper, according to the accustomed mode of
48 business in this office.

49
50 A B
Signature of publisher (or printer)

1 State of Iowa, ss.
2 County.

3 The above certificate of publication was subscribed
4 and sworn to before me by the above named A
5 B, who is personally known to me to be the
6 identical person described therein in the certificate,
7 on the day of, A.D.

8
9 Auditor County, Iowa."

HOUSE FILE 2350

H-5168

1 Amend the amendment, H-5154, to House File 2350 as
2 follows:

- 3 1. Page 1, line 43, by striking the letters
- 4 "A.D." and inserting the following: "A-D-".
- 5 2. Page 1, line 44, by striking the word "number"
- 6 and inserting the following: "number issue".
- 7 3. Page 1, by striking lines 47 and 48 and
- 8 inserting the following: "~~the paper, according to the~~
- 9 ~~accustomed mode of business in this office.~~"
- 10 4. Page 2, line 7, by striking the letters "A.D."
- 11 and inserting the following: "A-D-".

H-5168 FILED FEBRUARY 25, 1986 BY SPEAR of Lee

Adopted 3/14 (p. 743)

HOUSE FILE 2350

H-5256

1 Amend House File 2350 as follows:

- 2 1. Page 5, by striking lines 1 through 3 and
- 3 inserting the following:
- 4 "2. Has a list of subscribers or persons who have
- 5 requested copies to be received during a stated
- 6 period."
- 7 2. Page 5, by striking lines 8 and 9.

5256 FILED MARCH 6, 1986 BY OXLEY of Linn

Adopted 3/21 (p. 949)

HOUSE FILE 2350

H-5270

1 Amend House File 2350 as follows:

- 2 1. By striking page 3, line 22 through page 4,
- 3 line 22.
- 4 2. By renumbering sections as necessary.

H-5270 FILED MARCH 7, 1986 BY MUHLBAURE of Crawford

Adopted 3/14 (p. 745)

HOUSE FILE 2350

H-5288

- 1 Amend House File 2350 as follows:
- 2 1. Page 3, line 6, by striking the word "each".
- 3 2. Page 3, line 7, by striking the word
- 4 "description" and inserting the following:
- 5 "description separately described parcel".

H-5288 FILED MARCH 10, 1986 BY SPEAR of Lee
Placed o/c 3/14 (p. 744)

HOUSE FILE 2350

H-5294

- 1 Amend House File 2350 as follows:
- 2 1. Page 2, by striking lines 1 and 2 and
- 3 inserting the following: "Such The list shall show
- 4 the amount of the taxes".
- 5 2. Page 2, by striking lines 26 and 27 and
- 6 inserting the following: "notice shall contain a
- 7 description of each separate tract".

H-5294 FILED MARCH 10, 1986 BY SPEAR of Lee
Adopted 3/10 (p. 744)
Placed o/c 3/21 (p. 744)
5/20/86 (p. 744) HOUSE FILE 2350

H-5308

- 1 Amend House File 2350 as follows:
- 2 1. Page 3, by striking lines 11 and 12 and
- 3 inserting the following: "of sale and paid into the
- 4 county treasury. If the taxes are paid before the
- 5 date of sale, the amount paid for".
- 6 2. Page 3, by striking line 14 and inserting the
- 7 following: "collecting the taxes."

H-5308 FILED MARCH 11, 1986 BY SPEAR of Lee
Placed o/c 3/13 (p. 744)

HOUSE FILE 2350

H-5324

- 1 Amend House File 2350 as follows:
- 2 1. By striking page 2, line 19, through page 3,
- 3 line 2.
- 4 2. Page 3, by striking lines 3 through 14.

H-5324 FILED MARCH 12, 1986 BY JAY of Appanoose

Adopted 3/13 (p. 744) HOUSE FILE 2350

H-5329

HOUSE FILE 2350

- 1 Amend amendment H-5308 to House File 2350 as
- 2 follows:
- 3 1. Page 1, by striking lines 2 through 5 and
- 4 inserting the following:
- 5 "2. Page 3, by striking line 7 and inserting the
- 6 following: "one-dollar two dollars for each
- 7 description separately described parcel,"."

H-5329 FILED MARCH 13, 1986 BY RENSINK of Sioux
Placed o/c 3/14 (p. 745)

2409
HOUSE FILE 2350

H-5325

1 Amend House File 2350 as follows:
2 1. By striking everything after the enacting clause and
3 inserting the following:
4 "Section 1. Section 598.35, Code 1985, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 5. The parental rights of the
7 parent of the child, who is the child of the grandparents,
8 are terminated pursuant to section 232.117 or a petition
9 to terminate has been filed.

H-5325 FILED MARCH 12, 1986 BY JAY of Appanoose

H/D 3/14 (J 741)

HOUSE FILE 2350

H-5476

1 Amend the amendment, H-5256, to House File 2350 as
2 follows:
3 1. Page 1, by striking line 7 and inserting the
4 following:
5 "____. Page 5, by striking lines 4 through 9 and
6 inserting the following:
7 "3. Devotes space in more than one-half of its
8 issues during any twelve-month period to passing
9 events of a political, business, educational,
10 religious, or social nature and to current happenings,
11 announcements, and miscellaneous matter in addition to
12 advertising.""

H-5476 FILED MARCH 19, 1986 BY OXLEY of Linn

Adopted 3/21 (J 943)

HOUSE FILE 2350

H-5489

1 Amend House File 2350 as follows:
2 1. By striking page 1, line 31 through page 2,
3 line 18.
4 2. Page 4, line 2, by striking the word "ten" and
5 inserting the following: "thirty".
6 3. Page 4, line 3, by striking the word "ten" and
7 inserting the following: "thirty".
8 4. Page 4, line 13, by striking the word "Shall"
9 and inserting the following: "May".
10 5. Page 4, line 17, by striking the word "Shall"
11 and inserting the following: "May".

H-5489 FILED MARCH 20, 1986 BY O'KANE of Woodbury

Adopted 3/21 (J 949)

HOUSE FILE 2350

BY COMMITTEE ON LOCAL GOVERNMENT

(As Amended and Passed by the House March 21, 1986)

Passed House, Date 4-16-86 (p. 1519) Passed Senate, Date 4-3-86 (p. 1031)

Vote: Ayes 95 Nays 0 Vote: Ayes 45 Nays 0

Approved May 6, 1986

A BILL FOR

1 An Act relating to the publication of official public notices by
2 defining a newspaper, by establishing fees for the publication
3 of official notices, and by providing for enforcement of
4 official publication requirements, and subjecting violators to
5 penalties.

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

SENATE AMENDMENT TO HOUSE FILE 2350

H-5723

1 Amend House File 2350 as amended, passed and
2 reprinted by the House as follows:

3 1. By striking page 1, line 31 through page 2,
4 line 2.

5 2. By striking page 2, line 3 through page 3,
6 line 3.

7 3. Title page, by striking lines 2 through 5 and
8 inserting the following: "defining a newspaper and by
9 establishing fees for the publication of official
10 notices."

11 4. By renumbering, relettering, or redesignating
12 and correcting internal references as necessary.

H-5723 FILED APRIL 7, 1986

RECEIVED FROM THE SENATE

House amendments 4/16 (p. 1518)

- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Section 349.7, subsection 2, Code 1985, is
2 amended to read as follows:

3 2. Those subscribers ~~7-defined-as-in-subsection-1~~ who have
4 been subscribers at least six consecutive months before the
5 date of application, whose papers are regularly delivered by
6 carrier regularly upon an order or subscription, or whose
7 papers are purchased from the publisher for resale and
8 delivery by independent carriers ~~7-said-independent-carriers~~
9 having who have filed with the publisher a list of their
10 subscribers.

11 Sec. 2. Section 349.14, Code 1985, is amended to read as
12 follows:

13 349.14 PUBLICATION PENDING CONTEST.

14 After the selection by the board of supervisors of official
15 newspapers, no publisher shall receive pay for publishing
16 official proceedings until the contest is finally determined,
17 insofar as the publisher is concerned. After determination of
18 the contest, payment for publications made during the contest
19 shall include interest at the rate of one-half percent per
20 month calculated from date of publication to the date of
21 payment, less thirty days.

22 Sec. 3. Section 349.17, Code 1985, is amended to read as
23 follows:

24 349.17 COST.

25 The cost of official publications provided for in section
26 349.16 shall not exceed ~~three-fifths-the-legal-fee-provided-by~~
27 statute three-fourths of the fee provided in section 618.11
28 for the publication of legal notices. ~~No-such~~ An official
29 publication shall not be printed in type smaller than five six
30 point.

31 ~~Sec. 7.~~ Sec. 7. Section 618.1, Code 1985, is amended by adding the
32 following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. All notices relating to real
34 property required by law or ordinance to be published in a
35 newspaper, shall contain a description of the property and a

1 street address, if available, when the property is located
2 within a city.

3 Sec. 8. Section 618.2, Code 1985, is amended by striking
4 the section and inserting in lieu thereof the following:

5 618.2 VIOLATION -- CIVIL PENALTIES.

6 1. A public official who violates section 618.1 or who
7 willfully fails to make publication of notice, report of
8 proceedings, or other matter as required by law, is guilty of
9 a simple misdemeanor.

10 2. Any aggrieved person, taxpayer, citizen of this state,
11 the attorney general, or county attorney may seek enforcement
12 of this chapter. Proceedings to enforce this chapter shall be
13 brought in the district court for the county in which the
14 violation is alleged to have occurred. Prior to initiation of
15 a suit, the party seeking judicial enforcement of this chapter
16 must first provide written notice to the official in question
17 of intent to initiate suit and the grounds therefor after
18 which the official shall have thirty days in which to comply
19 with this chapter. Compliance within thirty days shall
20 eliminate any right to suit created by this section.

21 3. When a party seeking enforcement of this chapter
22 demonstrates to the court that the official in question is
23 subject to this chapter and has failed to make a required
24 publication, the burden of proof is on the official to
25 demonstrate compliance with this chapter.

26 4. Upon a finding by a preponderance of the evidence that
27 an official has violated any provision of this chapter, a
28 court:

29 a. May assess against the official damages in the amount
30 of not more than five hundred dollars nor less than one
31 hundred dollars. These damages shall be paid to the state of
32 Iowa.

33 b. May order that the official pay all costs and
34 reasonable attorneys fees to any party successfully
35 establishing a violation of this chapter.

1 c. May issue an injunction punishable by civil contempt
2 ordering the official to refrain for one year from any future
3 violations of this chapter.

4 Sec. 9. Section 618.3, Code 1985, is amended by striking
5 the section and inserting in lieu thereof the following:

6 618.3 "NEWSPAPER" DEFINED.

7 For the purpose of establishing and giving assured
8 circulation to all notices and reports of proceedings required
9 by statute to be published within the state, if newspapers are
10 required to be used, only a newspaper which meets all of the
11 following requirements shall be designated for official
12 publication purposes:

13 1. Is a newspaper of general circulation issued at a
14 regular frequency that has been published within the area and
15 regularly mailed through the post office of entry for at least
16 two years.

17 2. Has a list of subscribers who have paid, or promised to
18 pay, at more than a nominal rate, for copies to be received
19 during a stated period.

20 3. Devotes at least twenty-five percent of its total
21 column space in more than one-half of its issues during any
22 twelve-month period to information of a public character other
23 than advertising.

24 4. Is paid for by at least fifty percent of the persons or
25 subscribers to whom it is distributed.

26 Sec. 10. Section 618.11, Code 1985, is amended to read as
27 follows:

28 618.11 FEES FOR PUBLICATION.

29 The compensation, when not otherwise fixed, for the
30 publication in a newspaper of any notice, order, citation, or
31 other publication required or allowed by law, shall not exceed
32 twenty-six cents for one insertion, and seventeen cents for
33 each subsequent insertion, for each line of eight-point type
34 two inches in length, or the its equivalent thereof.

35 Publication of matter which may be photographically reproduced

1 for printing instead of typeset shall be compensated at a rate
2 not to exceed the lowest available earned rate for any similar
3 advertising matter. Statements of itemized financial and
4 other like columnar matter shall be published in tabular form
5 without additional compensation. In case of controversy or
6 doubt regarding measurements, style, manner, or form, the
7 controversy is shall be referred to the executive council, and
8 its decision is final.

9 Sec. 11. NEW SECTION. 618.16 ZONED EDITIONS OF SAME
10 NEWSPAPER.

11 Publication requirements for governmental subdivisions of
12 the state shall be deemed satisfied when publication is made
13 in editions or zoned editions which are delivered to an area
14 comprising the jurisdiction of the subdivision making the
15 publication even though publication is not made in other
16 editions of the same newspaper delivered to other areas of the
17 state.

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 2350

S-5485

- 1 Amend House File 2350, as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. By striking page 1, line 31 through page 2,
- 4 line 2.
- 5 2. By renumbering sections as necessary.

S-5485 Filed March 27, 1986 BY LIND, FRAISE

Adopted 4/3 (p 1030)

HOUSE FILE 2350

S-5490

- 1 Amend House File 2350 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. By striking page 2, line 3 through page 3,
- 4 line 3.
- 5 2. Title page, lines 3 and 4, by striking the
- 6 words "and by providing for enforcement of official
- 7 publication requirements,".
- 8 3. By renumbering as necessary.

S-5490 Filed March 27, 1986 BY COMM. ON LOCAL GOV'T,

Adopted as amended by

A. MILLER, CHAIR

HOUSE FILE 2350

S-5551

- 1 Amend the amendment, S-5490, to House File 2350 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 1, by striking lines 5 through 7 and
- 4 inserting the following:
- 5 " . Title page, by striking lines 2 through 5
- 6 and inserting the following: "defining a newspaper
- 7 and by establishing fees for the publication of
- 8 official notices."

S-5551 Filed April 2, 1986

BY LIND, A. MILLER

Adopted 4/3 (p 1030)

HOUSE FILE 2350
FISCAL NOTE
REQUESTED BY REPRESENTATIVE SPEAR

In compliance with a written request received February 19, 1986, a fiscal note for HOUSE FILE 2350 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2350 makes several changes in the statutes pertaining to official public notices. These changes include:

1. Increasing the limit on the cost of publishing official notices listed in section 349.16 from $3/5$ to $3/4$ of the fee allowed for legal notices (twenty-six cents for first insertion, seventeen cents for subsequent insertions, per two-inch column of eight-point type). The minimum print size is changed from five to six point.
2. Increasing the compensation for publication of notice regarding tax sales from \$1.00 to \$2.50 for each separate description for each publication. The notices may be published in different official newspapers. The cost of this publication may be collected from a taxpayer who pays the taxes owed prior to the tax sale.
3. Requiring that notices with respect to real property shall contain both a description of the property and a street address, if available, when the property is located in a city.
4. Requiring that an official newspaper must engage in delivery upon order or subscription at more than a nominal rate, and defining a subscriber as one who has subscribed for at least six months.
5. Providing that officials who fail to obey public notice requirements are subject to possible fines between \$100 and \$500, in addition to the present possible misdemeanor charge.

FISCAL EFFECT: The fiscal effect of this bill is difficult to determine because data on the counties' costs of publication is not centralized. The largest effect appears to relate to the increase in cost of publishing tax sale notices. Based upon a telephone survey of officials in several counties, the amount currently spent on publishing tax sale notices varies between \$1,400 and \$2,300 (Polk County spends \$52,000). The total state-wide increased expenditure is estimated to be approximately \$350,000; a portion of this increased expense could be recovered from taxpayers who pay their taxes prior to tax sales or who purchase the property at a tax sale.

The change in the amount that can be charged for official notices will increase costs to the counties approximately four cents per two-inch column line. The number of lines published varies by county and from year to year. This provision will result in increased expense to the counties, but the amount cannot be determined.

It is possible that making officials subject to fines for not obeying public notice requirements could increase insurance premium costs. These costs cannot be presently be calculated. The other provisions of this bill are estimated to have only minor fiscal effects that cannot be estimated.

Source: Survey of County Treasurers, League of Iowa Municipalities (LSB 7666H, JMN)

FILED MARCH 3, 1986

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2350
FISCAL NOTE
REVISED

REQUESTED BY REPRESENTATIVE SPEAR

In compliance with a written request received March 13, 1986, a fiscal note for HOUSE FILE 2350 - REVISED is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2350 makes several changes in the statutes pertaining to official public notices. These changes include:

1. Increasing the limit on the cost of publishing official notices listed in section 349.16 from 3/5 to 3/4 of the fee allowed for legal notices (twenty-six cents for first insertion, seventeen cents for subsequent insertions, per two-inch column of eight-point type). The minimum print size is changed from five to six point.
2. Increasing the compensation for publication of notice regarding tax sales from \$1.00 to \$2.50 for each separate description for each publication. The notices may be published in different official newspapers. The cost of this publication may be collected from a taxpayer who pays the taxes owed prior to the tax sale.
3. Requiring that notices with respect to real property shall contain both a description of the property and a street address, if available, when the property is located in a city.
4. Requiring that an official newspaper must engage in delivery upon order or subscription at more than a nominal rate, and defining a subscriber as one who has subscribed for at least six months.
5. Providing that officials who fail to obey public notice requirements are subject to possible fines between \$100 and \$500, in addition to the present possible misdemeanor charge.

FISCAL EFFECT: The fiscal effect of this bill is difficult to determine because data on the counties' costs of publication is not centralized. The largest effect appears to relate to the increase in cost of publishing tax sale notices. Based upon a telephone survey of officials in several counties, the amount currently spent on publishing tax sale notices in most counties varies between \$1,400 and \$2,300. In FY 1985 Polk County spent \$25,141. Because of a recent Attorney-General's opinion and the economy, the Polk county treasurer estimates that in future years the county will pay more than twice this amount. The total state-wide increased expenditure is estimated to be approximately \$350,000, most of this increased expense could be recovered from taxpayers who pay their taxes prior to tax sales or who purchase the property at a tax sale.

The change in the amount that can be charged for official notices will increase costs to the counties approximately four cents per two-inch column line. The number of lines published varies by county and from year to year. This provision will result in increased expense to the counties, but the amount cannot be determined.

It is possible that making officials subject to fines for not obeying public notice requirements could increase insurance premium costs. These costs cannot be presently accurately estimated. The other provisions of this bill are estimated to have only minor fiscal effects that cannot be estimated.

Source: Survey of County Treasurers, League of Iowa Municipalities (LSB 7666H 2/17/86)
 FILED MARCH 13, 1986 BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2350

AN ACT

RELATING TO THE PUBLICATION OF OFFICIAL PUBLIC NOTICES BY DEFINING A NEWSPAPER AND BY ESTABLISHING FEES FOR THE PUBLICATION OF OFFICIAL NOTICES.

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

Section 1. Section 349.7, subsection 2, Code 1985, is amended to read as follows:

2. Those subscribers ~~defined as in subsection 1~~ who have been subscribers at least six consecutive months before the date of application, whose papers are regularly delivered by carrier regularly upon an order or subscription, or whose papers are purchased from the publisher for resale and delivery by independent carriers ~~said independent carriers~~ having who have filed with the publisher a list of their subscribers.

Sec. 2. Section 349.14, Code 1985, is amended to read as follows:

349.14 PUBLICATION PENDING CONTEST.

After the selection by the board of supervisors of official newspapers, no publisher shall receive pay for publishing official proceedings until the contest is finally determined, insofar as the publisher is concerned. After determination of the contest, payment for publications made during the contest shall include interest at the rate of one-half percent per month calculated from date of publication to the date of payment, less thirty days.

Sec. 3. Section 349.17, Code 1985, is amended to read as follows:

349.17 COST.

The cost of official publications provided for in section 349.16 shall not exceed ~~three-fifths the legal fee provided by statute~~ three-fourths of the fee provided in section 618.11 for the publication of legal notices. ~~No such an official~~

publication shall not be printed in type smaller than five six point.

Sec. 4. Section 618.3, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

618.3 "NEWSPAPER" DEFINED.

For the purpose of establishing and giving assured circulation to all notices and reports of proceedings required by statute to be published within the state, if newspapers are required to be used, only a newspaper which meets all of the following requirements shall be designated for official publication purposes:

1. Is a newspaper of general circulation issued at a regular frequency that has been published within the area and regularly mailed through the post office of entry for at least two years.
2. Has a list of subscribers who have paid, or promised to pay, at more than a nominal rate, for copies to be received during a stated period.
3. Devotes at least twenty-five percent of its total column space in more than one-half of its issues during any twelve-month period to information of a public character other than advertising.
4. Is paid for by at least fifty percent of the persons or subscribers to whom it is distributed.

Sec. 5. Section 618.11, Code 1985, is amended to read as follows:

618.11 FEES FOR PUBLICATION.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law, shall not exceed twenty-six cents for one insertion, and seventeen cents for each subsequent insertion, for each line of eight-point type two inches in length, or the its equivalent thereof. Publication of matter which may be photographically reproduced for printing instead of typeset shall be compensated at a rate not to exceed the lowest available earned rate for any similar advertising matter. Statements of itemized financial and other like columnar matter shall be published in regular form

without additional compensation. In case of controversy or doubt regarding measurements, style, manner, or form, the controversy ~~is~~ shall be referred to the executive council, and its decision is final.

Sec. 6. NEW SECTION. 618.16 ZONED EDITIONS OF SAME NEWSPAPER.

Publication requirements for governmental subdivisions of the state shall be deemed satisfied when publication is made in editions or zoned editions which are delivered to an area comprising the jurisdiction of the subdivision making the publication even though publication is not made in other editions of the same newspaper delivered to other areas of the state.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2350, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 6, 1986

TERRY E. BRANSTAD
Governor