

Local Gov. Bill 3/12/87 (p. 669)  
Senate File 129

LOCAL GOVERNMENT: Fraise, Chair: Goodwin and C. Miller

Local Gov. 3/27/87 Bill Pass 4/8/87 (p. 1231)

SENATE FILE 129  
BY MILLER of Des Moines

FILED FEB 05 1987

Passed Senate, Date 3-23-87 (p. 851) Passed House, Date 4-13-87 (p. 1275)  
Vote: Ayes 45 Nays 0 Vote: Ayes 95 Nays 0  
Approved April 23, 1987 (p. 1498)

A BILL FOR

1 An Act relating to the sale of unused highway right of way by the  
2 county board of supervisors.

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

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SF-129

1 Section 1. Section 306.23, Code 1987, is amended to read  
2 as follows:

3 306.23 NOTICE -- PREFERENCE OF SALE.

4 For the sale of unused right of way~~,-except-right-of-way~~  
5 ~~under-the-jurisdiction-of-a-county,~~ notice of intention to  
6 sell the tract, parcel, or piece of land, or part thereof,  
7 must be sent, not less than ten days prior to the sale, ~~be~~  
8 ~~sent~~ by certified mail, by the agency in control of the land,  
9 to the last known address of the present owner of adjacent  
10 land from which the tract, parcel, piece of land, or part  
11 thereof, was originally bought or condemned for highway  
12 purposes, and if located in a city, to the mayor. The notice  
13 shall give an opportunity to the present owner of adjacent  
14 property to be heard and make offers for the tract, parcel, or  
15 piece of land to be sold, and if the offer is equal to or  
16 exceeds in amount any other offer received, it shall be given  
17 preference by the agency in control of the land. Neglect or  
18 failure for any reason, to comply with the notice, ~~shall-in-no~~  
19 way does not prevent the giving of a clear title to the  
20 purchaser of the tract, parcel, or piece of land. ~~A-county~~  
21 ~~shall-dispose-of-unused-right-of-way-in-the-manner-specified~~  
22 ~~under-section-331.361,-subsections-2-and-3-~~

23 Sec. 2. Section 331.361, subsection 2, Code 1987, is  
24 amended by adding the following new lettered paragraph:

25 NEW LETTERED PARAGRAPH. c. When unused highway right of  
26 way is not being sold or transferred to another governmental  
27 authority, the county shall comply with the requirements of  
28 section 306.23.

29 EXPLANATION

30 Under current law, where an agency is in control of unused  
31 highway right of way, notice must be given first to the  
32 present owner of the adjacent land from which the property was  
33 acquired. The owner of the adjacent land has first  
34 opportunity to submit a bid for the property and if the bid  
35 exceeds or equals the highest bid received, the property will

1 be sold to the adjacent property owner. This section is not  
2 applicable to unused highway right of way held by a county  
3 which must be offered to the public on bid. The bill provides  
4 that the county will follow the same procedure followed by the  
5 state or a city in the sale of unused highway right of way  
6 unless the right of way is being sold or transferred to  
7 another governmental authority.

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SENATE FILE 129

AN ACT  
RELATING TO THE SALE OF UNUSED HIGHWAY RIGHT OF WAY BY THE  
COUNTY BOARD OF SUPERVISORS.

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

Section 1. Section 306.23, Code 1987, is amended to read  
as follows:

306.23 NOTICE -- PREFERENCE OF SALE.

For the sale of unused right of way, ~~except right-of-way  
under the jurisdiction of a county,~~ notice of intention to  
sell the tract, parcel, or piece of land, or part thereof,  
must be sent, not less than ten days prior to the sale, be  
sent by certified mail, by the agency in control of the land,  
to the last known address of the present owner of adjacent  
land from which the tract, parcel, piece of land, or part  
thereof, was originally bought or condemned for highway  
purposes, and if located in a city, to the mayor. The notice  
shall give an opportunity to the present owner of adjacent  
property to be heard and make offers for the tract, parcel, or  
piece of land to be sold, and if the offer is equal to or  
exceeds in amount any other offer received, it shall be given  
preference by the agency in control of the land. Neglect or  
failure for any reason, to comply with the notice, ~~shall in no  
way does not~~ prevent the giving of a clear title to the  
purchaser of the tract, parcel, or piece of land. A county  
~~shall dispose of unused right of way in the manner specified  
under section 331.361, subsections 2 and 3:~~

Sec. 2. Section 331.361, subsection 2, Code 1987, is  
amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. c. When unused highway right of  
way is not being sold or transferred to another governmental

authority, the county shall comply with the requirements of  
section 306.23.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and  
is known as Senate File 129, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate  
Approved *April 23*, 1987

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TERRY E. BRANSTAD  
Governor

S.F. 129