

FEB 20 1990

HOUSE FILE 2495
BY COMMITTEE ON LOCAL
GOVERNMENT

Place On Calendar

(SUCCESSOR TO HSB 778)
Substituted for 2351
S.F. 2351 3/12

Passed House, Date 2/23/90 (p. 608) Passed Senate, Date 4/6/90 (p. 1641)
Vote: Ayes 91 Nays 1 Vote: Ayes 47 Nays 0

Approved April 27, 1990

Proposed House for 6164 4/6/90 (p. 2214)
95-0

A BILL FOR

1 An Act relating to the establishment, maintenance, and operation
2 of storm water drainage systems and the payment of rates or
3 charges.

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

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HF 2495

1 Section 1. Section 362.2, subsection 22, Code 1989, is
2 amended to read as follows:

3 22. "City utility" means all or part of a waterworks,
4 gasworks, sanitary sewage system, storm water drainage system,
5 electric light and power plant and system, or heating plant
6 any of which are owned by a city, including all land,
7 easements, rights of way, fixtures, equipment, accessories,
8 improvements, appurtenances, and other property necessary or
9 useful for the operation of the utility.

10 Sec. 2. Section 384.84, subsection 1, Code 1989, is
11 amended to read as follows:

12 1. The governing body of a city utility, combined utility
13 system, city enterprise, or combined city enterprise may
14 establish, impose, adjust, and provide for the collection of
15 rates to produce gross revenues at least sufficient to pay the
16 expenses of operation and maintenance of the city utility,
17 combined utility system, city enterprise, or combined city
18 enterprise and, when revenue bonds or pledge orders are issued
19 and outstanding pursuant to this division, shall establish,
20 impose, adjust, and provide for the collection of rates to
21 produce gross revenues at least sufficient to pay the expenses
22 of operation and maintenance of the city utility, combined
23 utility system, city enterprise, or combined city enterprise,
24 and to leave a balance of net revenues sufficient at all times
25 to pay the principal of and interest on the revenue bonds and
26 pledge orders as they become due and to maintain a reasonable
27 reserve for the payment of principal and interest, and a
28 sufficient portion of net revenues must be pledged for that
29 purpose. Rates must be established by ordinance of the
30 council or by resolution of the trustees, published in the
31 same manner as an ordinance. All rates or charges for the
32 services of sewer systems, storm water drainage systems,
33 sewage treatment, solid waste collection, water, solid waste
34 disposal, or any of these, if not paid as provided by
35 ordinance of the council, or resolution of the trustees, are a

1 lien upon the premises served by any of these services upon
2 certification to the county treasurer that the rates or
3 charges are due. However, the lien shall not be less than
4 five dollars. The county treasurer may charge two dollars for
5 each lien certified as an administrative expense, which amount
6 shall be added to the amount of the lien to be collected at
7 the time of payment of the assessment from the payor and
8 credited to the county general fund. The lien has equal
9 precedence with ordinary taxes, may be certified to the county
10 treasurer and collected in the same manner as taxes, and is
11 not divested by a judicial sale. A governing body may declare
12 all or a certain portion of a city as a storm water drainage
13 system district for the purpose of establishing, imposing,
14 adjusting, and providing for the collection of rates as
15 provided herein. The ordinance provisions for collection of
16 rates of a storm water drainage system may prescribe a formula
17 for determination of the rates which may include criteria and
18 standards by which benefits have been previously determined
19 for special assessments for storm water public improvement
20 projects under this chapter.

21 Sec. 3. Section 388.2, unnumbered paragraph 1, Code 1989,
22 is amended to read as follows:

23 The proposal of a city to establish, acquire, lease, or
24 dispose of a city utility, except a sanitary sewage or storm
25 water drainage system, in order to undertake or to discontinue
26 the operation of the city utility, or the proposal to
27 establish or dissolve a combined utility system, or the
28 proposal to establish or discontinue a utility board, is
29 subject to the approval of the voters of the city, except that
30 a board may be discontinued by resolution of the council when
31 the city utility, city utilities, or combined utility system
32 it administers is disposed of or leased for a period of over
33 five years.

34 EXPLANATION

35 This bill defines city utility to include storm water

1 drainage systems which authorizes individual cities, or two or
2 more cities by joint agreement, to create storm water drainage
3 systems using procedures provided for sanitary sewage systems.
4 The bill also provides for charges for storm water drainage
5 system operation and maintenance services. The charges become
6 a lien against the property until paid.

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HOUSE FILE 2495

S-5917

1 Amend House File 2495, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. 100. Section 331.301, subsection 10, Code
6 Supplement 1989, is amended by striking the subsection
7 and inserting in lieu thereof the following:

8 10. A county may enter into leases or lease-
9 purchase contracts for real and personal property in
10 accordance with the following terms and procedures:

11 a. A county shall lease or lease-purchase real or
12 personal property only for a term which does not
13 exceed the economic life of the property, as
14 determined by the board.

15 b. A lease or lease-purchase contract entered into
16 by a county may contain provisions similar to those
17 sometimes found in leases between private parties,
18 including the obligation of the lessee to pay any of
19 the costs of operation or ownership of the leased
20 property, and the right to purchase the leased
21 property.

22 c. A provision of a lease or lease-purchase
23 contract which stipulates that a portion of the rent
24 payments be applied as interest is subject to chapter
25 74A. Other laws relating to interest rates do not
26 apply. Chapter 75 shall not be applicable. A county
27 enterprise is a separate entity under the provisions
28 of this section whether it is governed by the board or
29 another governing body.

30 d. The board must follow substantially the same
31 authorization procedure required for the issuance of
32 general obligation bonds issued for the same purpose
33 to authorize a lease or a lease-purchase contract made
34 payable from the debt service fund.

35 e. The board may authorize a lease or lease-
36 purchase contract which is payable from the general
37 fund and which would not cause the total of annual
38 lease and lease-purchase payments of the county due
39 from the general fund of the county in any future year
40 for lease or lease-purchase contracts in force on the
41 date of the authorization, excluding payments to
42 exercise purchase options or to pay the expenses of
43 operation or ownership of the property, to exceed ten
44 percent of the last certified general fund budget
45 amount in accordance with the following procedures:

46 (1) The board must follow substantially the
47 authorization procedures of section 331.443 to
48 authorize a lease or lease-purchase contract for real
49 property which is payable from the general fund if the
50 principal amount of the lease or lease-purchase

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1 contract does not exceed the following limits:

2 (a) Two hundred thousand dollars in a county
3 having a population of twenty-five thousand or less.

4 (b) Two hundred fifty thousand dollars in a county
5 having a population of more than twenty-five thousand
6 but not more than fifty thousand.

7 (c) Three hundred thousand dollars in a county
8 having a population of more than fifty thousand but
9 not more than one hundred thousand.

10 (d) Four hundred thousand dollars in a county
11 having a population of more than one hundred thousand
12 but not more than two hundred thousand.

13 (e) Five hundred thousand dollars in a county
14 having a population of more than two hundred thousand.

15 (2) The board must follow the following procedures
16 to authorize a lease or lease-purchase contract for
17 real property which is payable from the general fund
18 if the principal amount of the lease or lease-purchase
19 contract exceeds the limits set forth in subparagraph
20 (1):

21 (a) The board must institute proceedings for
22 entering into a lease or lease-purchase contract by
23 causing a notice of the proposal to enter such lease
24 or lease-purchase contract, including a statement of
25 the principal amount and purpose of the lease or
26 lease-purchase, and the right to petition for an
27 election, to be published as provided in section
28 331.305 at least ten days prior to the meeting at
29 which it is proposed to take such action.

30 (b) If at any time before the date fixed for
31 taking such action a petition is filed with the
32 auditor in the manner provided by section 331.306
33 asking that the question of entering into such lease
34 or lease-purchase contract be submitted to the
35 qualified electors of the county, the board shall
36 either by resolution declare the proposal to enter
37 into such lease or lease-purchase contract to have
38 been abandoned or shall direct the county commissioner
39 of elections to call a special election upon the
40 question of entering into such lease or lease-purchase
41 contract. However, for purposes of this paragraph the
42 petition need not have signatures in excess of one
43 thousand persons. Notice of the election and its
44 conduct shall be in the manner provided in subsections
45 2, 3, and 4 of section 331.442.

46 (c) If no petition is filed, or if a petition is
47 filed and the proposition of entering into a lease or
48 lease-purchase contract is approved at the election,
49 the board may proceed and enter into such lease or
50 lease-purchase contract.

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1 (d) The governing body may authorize a lease or
2 lease-purchase contract payable from the net revenues
3 of a county enterprise, or combined county enterprise
4 by following the authorization procedures of section
5 331.464.

6 (e) A lease or lease-purchase contract to which a
7 county is a party or in which a county has a
8 participatory interest, is an obligation of a
9 political subdivision of this state for the purposes
10 of chapters 502 and 682, and is a lawful investment
11 for banks, trust companies, building and loan
12 associations, savings and loan associations,
13 investment companies, insurance companies, insurance
14 associations, executors, guardians, trustees, and any
15 other fiduciaries responsible for the investment of
16 funds.

17 (f) Property that is lease-purchased by a county
18 is exempt under section 427.1, subsection 2.

19 (g) A contract for construction by a private party
20 of property to be leased or lease-purchased by a
21 county is not a contract for a public improvement
22 under section 331.341, subsection 1. However, if a
23 lease-purchase contract is funded in advance by means
24 of the lessor depositing moneys to be administered by
25 a county, with the county's obligation to make rent
26 payments commencing with its receipt of moneys, a
27 contract for construction of the property in question
28 awarded by the county is a public improvement and is
29 subject to section 331.341, subsection 1.

30 Sec. 101. section 331.402, subsection 3, Code
31 1989, is amended by striking the subsection and
32 inserting in lieu thereof the following:

33 3. A county may enter into loan agreements to
34 borrow money for any public purpose in accordance with
35 the following terms and procedures:

36 a. A loan agreement entered into by a county may
37 contain provisions similar to those sometimes found in
38 loan agreements between private parties, including the
39 issuance of notes to evidence its obligations.

40 b. A provision of a loan agreement which
41 stipulates that a portion of the payments be applied
42 as interest is subject to chapter 74A. Other laws
43 relating to interest rates do not apply. Chapter 75
44 is not applicable. A county enterprise is a separate
45 entity under the provisions of this section whether it
46 is governed by the board or another governing body.

47 c. The board shall follow substantially the same
48 authorization procedure required for the issuance of
49 general obligation bonds issued for the same purpose,
50 to authorize a loan agreement made payable from the

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1 debt service fund.

2 d. The board may authorize a loan agreement which
3 is payable from the general fund and which would not
4 cause the total of scheduled annual payments of
5 principal or interest or both principal and interest
6 of the county due from the general fund of the county
7 in any future year with respect to all loan agreements
8 in force on the date of the authorization to exceed
9 ten percent of the last certified general fund budget
10 amount in accordance with the following procedures:

11 (1) The board must follow substantially the
12 authorization procedures of section 331.443 to
13 authorize a loan agreement for real property which is
14 payable from the general fund if the principal amount
15 of the loan agreement does not exceed the following
16 limits:

17 (a) Two hundred thousand dollars in a county
18 having a population of twenty-five thousand or less.

19 (b) Two hundred fifty thousand dollars in a county
20 having a population of more than twenty-five thousand
21 but not more than fifty thousand.

22 (c) Three hundred thousand dollars in a county
23 having a population of more than fifty thousand but
24 not more than one hundred thousand.

25 (d) Four hundred thousand dollars in a county
26 having a population of more than one hundred thousand
27 but not more than two hundred thousand.

28 (e) Five hundred thousand dollars in a county
29 having a population of more than two hundred thousand.

30 (2) The board must follow the following procedures
31 to authorize a loan agreement for real property which
32 is payable from the general fund if the principal
33 amount of the loan agreement exceeds the limits set
34 forth in subparagraph (1):

35 (a) The board must institute proceedings for
36 entering into a loan agreement by causing a notice of
37 the proposal to enter into such loan agreement,
38 including a statement of the principal amount and
39 purpose of the loan agreement, and the right to
40 petition for an election, to be published as provided
41 in section 331.305 at least ten days prior to the
42 meeting at which it is proposed to take such action.

43 (b) If at any time before the date fixed for
44 taking such action a petition is filed with the
45 auditor in the manner provided by section 331.306
46 asking the question of entering into such loan
47 agreement be submitted to the qualified electors of
48 the county, the board shall either by resolution
49 declare the proposal to enter into such loan agreement
50 to have been abandoned or shall direct the county

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1 commissioner of elections to call a special election
2 upon the question of entering into such loan
3 agreement. However, for purposes of this paragraph
4 the petition need not have signatures in excess of one
5 thousand persons. Notice of the election and its
6 conduct shall be in the manner provided in subsections
7 2, 3, and 4 of section 331.442.

8 (c) If no petition is filed, or if a petition is
9 filed and the proposition of entering into the loan
10 agreement is approved at an election, the board may
11 proceed and enter into such loan agreement.

12 (d) The governing body may authorize a loan
13 agreement payable from the net revenues of a county
14 enterprise or combined county enterprise by following
15 the authorization procedures of section 331.464.

16 (e) A loan agreement to which a county is a party
17 or in which a county has a participatory interest, is
18 an obligation of a political subdivision of this state
19 for the purpose of chapters 502 and 682, and is a
20 lawful investment for banks, trust companies, building
21 and loan associations, savings and loan associations,
22 investment companies, insurance companies, insurance
23 associations, executors, guardians, trustees, and any
24 other fiduciaries responsible for the investment of
25 funds."

26 2. Page 1, by inserting after line 9 the
27 following:

28 "Sec. 102. Section 364.4, subsection 4, Code 1989,
29 is amended by striking the subsection and inserting in
30 lieu thereof the following:

31 4. Enter into leases or lease-purchase contracts
32 for real and personal property in accordance with the
33 following terms and procedures:

34 a. A city shall lease or lease-purchase real or
35 personal property only for a term which does not
36 exceed the economic life of the property, as
37 determined by the governing body.

38 b. A lease or lease-purchase contract entered into
39 by a city may contain provisions similar to those
40 sometimes found in leases between private parties,
41 including the obligation of the lessee to pay any of
42 the costs of operation of ownership of the leased
43 property, and the right to purchase the leased
44 property.

45 c. A provision of a lease or lease-purchase
46 contract which stipulates that a portion of the rent
47 payments be applied as interest is subject to chapter
48 74A. Other laws relating to interest rates do not
49 apply. Chapter 75 shall not be applicable. A city
50 utility or city enterprise is a separate entity under

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1 the provisions of this section whether it is governed
2 by the council or another governing body.

3 d. The governing body must follow substantially
4 the same authorization procedure required for the
5 issuance of general obligation bonds issued for the
6 same purpose to authorize a lease or a lease-purchase
7 contract made payable from the debt service fund.

8 The governing body may authorize a lease or lease-
9 purchase contract which is payable from the general
10 fund and which would not cause the total of annual
11 lease and lease-purchase payments of the city due from
12 the general fund of the city in any future year for
13 lease or lease-purchase contracts in force on the date
14 of the authorization, excluding payments to exercise
15 purchase options or to pay the expenses of operation
16 or ownership of the property, to exceed ten percent of
17 the last certified general fund budget amount in
18 accordance with the following procedures:

19 (1) The governing body must follow substantially
20 the authorization procedures of section 384.25 to
21 authorize a lease or lease-purchase contract for real
22 property which is payable from the general fund if the
23 principal amount of the lease or lease-purchase
24 contract does not exceed the following limits:

25 (a) Twenty-five thousand dollars in a city having
26 a population of five thousand or less.

27 (b) Seventy-five thousand dollars in a city having
28 a population of more than five thousand but not more
29 than seventy-five thousand.

30 (c) One hundred fifty thousand dollars in a city
31 having a population of more than seventy-five
32 thousand.

33 (2) The governing body must follow the following
34 procedures to authorize a lease or lease-purchase
35 contract for real property which is payable from the
36 general fund if the principal amount of the lease or
37 lease-purchase contract exceeds the limits set forth
38 in subparagraph (1):

39 (a) The governing body may institute proceedings
40 to enter into a lease or lease-purchase contract by
41 causing a notice of the proposal to enter into the
42 lease or lease-purchase contract, including a
43 statement of the principal amount and purpose of the
44 lease or lease-purchase contract, and the right to
45 petition for an election, to be published at least
46 once in a newspaper of general circulation within the
47 city at least ten days prior to the meeting at which
48 it is proposed to take action to enter into the lease
49 or lease-purchase contract.

50 (b) If any time before the date fixed for taking

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1 action to enter into the lease or lease-purchase
2 contract, a petition is filed with the clerk of the
3 city in the manner provided by section 362.4, asking
4 that the question of entering into the lease or lease-
5 purchase contract be submitted to the qualified
6 electors of the city, the governing body shall either
7 by resolution declare the proposal to enter into the
8 lease or lease-purchase contract to have been
9 abandoned or shall direct the county commissioner of
10 elections to call a special election upon the question
11 of entering into the lease or lease-purchase contract.
12 However, for purposes of this paragraph, the petition
13 need not have signatures in excess of one thousand
14 persons. Notice of the election and its conduct shall
15 be in the manner provided in subsections 2, 3, and 4
16 of section 384.26.

17 (c) If no petition is filed, or if a petition is
18 filed and the proposition of entering into the lease
19 or lease-purchase contract is approved at an election,
20 the governing body may proceed and enter into the
21 lease or lease-purchase contract.

22 The governing body may authorize a lease or lease-
23 purchase contract payable from the net revenues of a
24 city utility, combined utility system, city
25 enterprise, or combined city enterprise by following
26 the authorization procedures of section 384.83.

27 (d) A lease or lease-purchase contract to which a
28 city is a party or in which a city has a participatory
29 interest, is an obligation of a political subdivision
30 of this state for the purposes of chapters 502 and
31 682, and is a lawful investment for banks, trust
32 companies, building and loan associations, savings and
33 loan association, investment companies, insurance
34 companies, insurance associations, executors,
35 guardians, trustees, and any other fiduciaries
36 responsible for the investment of funds.

37 (e) Property that is lease-purchased by a city is
38 exempt under section 427.1, subsection 2.

39 (f) A contract for construction by a private party
40 of property to be leased or lease-purchased by a city
41 is not a contract for a public improvement under
42 section 384.95, subsection 1, except for purposes of
43 section 384.102. However, if a lease-purchase
44 contract is funded in advance by means of the lessor
45 depositing moneys to be administered by a city, with
46 the city's obligations to make rent payments
47 commencing with its receipt of moneys, a contract for
48 construction of the property in question awarded by
49 the city is subject to division VI of chapter 384.

50 Sec. 103. Section 384.24A, Code 1989, is amended

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1 by striking the section and inserting in lieu thereof
2 the following:

3 384.24A LOAN AGREEMENTS.

4 A city may enter into loan agreements to borrow
5 money for any public purpose in accordance with the
6 following terms and procedures:

7 1. A loan agreement entered into by a city may
8 contain provisions similar to those sometimes found in
9 loan agreements between private parties, including the
10 issuance of notes to evidence its obligations.

11 2. A provision of a loan agreement which
12 stipulates that a portion of the payments be applied
13 as interest is subject to chapter 74A. Other laws
14 relating to interest rates do not apply. Chapter 75
15 is not applicable. A city utility or city enterprise
16 is a separate entity under this section whether it is
17 governed by the council or another governing body.

18 3. The governing body shall following
19 substantially the same authorization procedure
20 required for the issuance of general obligation bonds
21 issued for the same purpose, to authorize a loan
22 agreement made payable from the debt service fund.
23 The governing body may authorize a loan agreement
24 which is payable from its general fund and which would
25 not cause the total of scheduled annual payments of
26 principal or interest or principal and interest of the
27 city due from the general fund of the city in any
28 future year with respect to all loan agreements in
29 force on the date of the authorization, to exceed ten
30 percent of the last certified general fund budget
31 amount in accordance with the following procedures:

32 (a) The governing body must follow substantially
33 the authorization procedures of section 384.25 to
34 authorize a loan agreement for real property which is
35 payable from the general fund if the principal amount
36 of the loan agreement does not exceed the following
37 limits:

38 (1) Twenty-five thousand dollars in a city having
39 a population of five thousand or less.

40 (2) Seventy-five thousand dollars in a city having
41 a population of more than five thousand but not more
42 than seventy-five thousand.

43 (3) One hundred fifty thousand dollars in a city
44 having a population of more than seventy-five
45 thousand.

46 (b) The governing body must follow the following
47 procedures to authorize a loan agreement for real
48 property which is payable from the general fund if the
49 principal amount of the loan agreement exceeds the
50 limits set forth in subparagraph (a):

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1 (1) The governing body may institute proceedings
2 to enter into a loan agreement payable from its
3 general fund by causing a notice of the proposal to
4 enter into the loan agreement, including a statement
5 of the principal amount and purpose of the loan
6 agreement, and the right to petition for an election,
7 to be published at least once in a newspaper of
8 general circulation within the city at least ten days
9 prior to the meeting at which it is proposed to take
10 action to enter into the loan agreement.

11 (2) If any time before the date fixed for taking
12 action to enter into the loan agreement, a petition is
13 filed with the clerk of the city in the manner
14 provided by section 362.4, asking that the question of
15 entering into the loan agreement be submitted to the
16 qualified electors of the city, the governing body
17 shall either by resolution declare the proposal to
18 enter into the loan agreement to have been abandoned
19 or shall direct the county commissioner of elections
20 to call a special election upon the question of
21 entering into the loan agreement. However, for
22 purposes of this paragraph, the petition need not have
23 signatures in excess of one thousand persons. Notice
24 of the election and its conduct shall be in the manner
25 provided in subsections 2, 3, and 4 of section 384.26.

26 (3) If no petition is filed, or if a petition is
27 filed and the proposition of entering into the loan
agreement is approved at an election, the governing
body may proceed and enter into the loan agreement.

30 The governing body may authorize a loan agreement
31 payable from the net revenues of a city utility,
32 combined utility system, city enterprise, or combined
33 city enterprise by following the authorization
34 procedures of section 384.83.

35 (c) A loan agreement to which a city is a party,
36 or in which the city has a participatory interest, is
37 an obligation of a political subdivision of this state
38 for the purposes of chapters 502 and 682, and is a
39 lawful investment for banks, trust companies, building
40 and loan associations, savings and loan associations,
41 investment companies, insurance companies, insurance
42 associations, executors, guardians, trustees, and any
43 other fiduciaries responsible for the investment of
44 funds."

45 3. Page 2, by inserting after line 33, the
46 following:

47 "Sec. ____.

48 Sections 100 through 103 of this Act are applicable
49 to a lease, lease-purchase, or loan agreement entered
50 into on or after July 1, 1990."

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1 4. Title page, line 1, by inserting after the
2 word "to" the following: "the right of cities and
3 counties to enter into lease, lease-purchase, or loan
4 agreements,".

5 5. Title page, line 3, by inserting after the
6 word "charges" the following: ", and providing an
7 applicability date".

By RICHARD VANDE HOEF

S-5917 FILED APRIL 5, 1990

Placed o/lc 4/6 (f. 1641)

HOUSE FILE 2495

S-5451

1 Amend House File 2495, as passed by the House, as
2 follows:

3 1. Page 2, line 11, by striking the word "A" and
4 inserting the following: "After a favorable vote
5 supporting the proposition, a".

6 2. Page 2, line 15, by inserting after the word
7 "herein." the following: "The election shall be
8 conducted in the same manner as a special election
9 called pursuant to section 384.26 to the extent
10 applicable, except that the favorable vote of a
11 majority of the voters voting on the proposition is
12 sufficient to approve the proposition."

By EMIL J. HUSAK

EUGENE FRAISE

LEONARD L. BOSWELL

KENNETH D. SCOTT

BERL E. PRIEBE

JIM RIORDAN

S-5451 FILED MARCH 12, 1990

Adopted as amended by 5973 4/6 (f. 1641)

HOUSE FILE 2495

S-5938

Amend the amendment, S-5917, to House File 2495, as amended, passed, and reprinted by the House, as follows:

1. Page 1, line 9, by striking the word "real" and inserting the following: "land or a building".
2. Page 1, line 11, by striking the word "real" and inserting the following: "land or a building".
3. Page 1, lines 48 and 49, by striking the words "real property" and inserting the following: "land or a building".
4. Page 2, line 17, by striking the words "real property" and inserting the following: "land or a building".
5. Page 4, line 13, by striking the words "real property" and inserting the following: "land or a building".
6. Page 4, line 31, by striking the words "real property" and inserting the following: "land or a building".
7. Page 5, line 32, by striking the word "real" and inserting the following: "land or a building".
8. Page 5, line 34, by striking the word "real" and inserting the following: "land or a building".
9. Page 6, lines 21 and 22, by striking the words "real property" and inserting the following: "land or a building".
10. Page 6, line 35, by striking the words "real property" and inserting the following: "land or a building".
11. Page 8, line 34, by striking the words "real property" and inserting the following: "land or a building".
12. Page 8, lines 47 and 48, by striking the words "real property" and inserting the following: "land or a building".

By RICHARD VANDE HOEF

S-5938 FILED APRIL 5, 1990

Adopted 4/6 (p. 1640)

HOUSE FILE 2495

S-5927

Amend the amendment, S-5917, to House File 2495, as amended, passed, and reprinted by the House, as follows:

1. Page 1, lines 48 and 49 by striking the words "real property" and inserting the following: "land or a building".

By RICHARD VANDE HOEF

S-5927 FILED APRIL 5, 1990

Placed o/c 4/6 (p. 1641)

HOUSE FILE 2495

S-5973

1 Amend the amendment, S-5451, to House File 2495, as
2 passed by the House, as follows:

3 1. Page 1, by striking lines 3 through 12 and
4 inserting the following:

5 "_____. Page 2, by inserting after line 20 the
6 following:

7 "Sec. _____. NEW SECTION. 384.84A SPECIAL
8 ELECTION.

9 1. The governing body of a city may institute
10 proceedings to issue revenue bonds for storm water
11 drainage construction projects under section 384.84,
12 subsection 1, by causing notice of the proposed
13 project, with a description of the proposed project
14 and a description of the formula for the determination
15 of the rate or rates applied to users for payment of
16 the bonds, and a description of the bonds and maximum
17 rate of interest and the right to petition for an
18 election if the project meets the requirement of
19 subsection 2, to be published at least once in a
20 newspaper of general circulation within the city at
21 least thirty days before the meeting at which the
22 governing body proposes to take action to institute
23 proceedings for issuance of revenue bonds for the
24 storm water drainage construction project.

25 2. If, before the date fixed for taking action to
26 authorize the issuance of revenue bonds for the storm
27 water drainage construction project, a petition signed
28 by three percent of the qualified electors of the
29 city, asking that the question of issuing revenue
30 bonds for the storm water drainage construction
31 project be submitted to the qualified electors of the
32 city, the council, by resolution, shall declare the
33 project abandoned or shall direct the county
34 commissioner of elections to call a special election
35 upon the question of issuing the bonds for the storm
36 water drainage construction project if the cost of the
37 project and population of the city meet one of the
38 following criteria:

39 a. The project cost is seven hundred fifty
40 thousand dollars or more in a city having a population
41 of five thousand or less.

42 b. The project cost is one million five hundred
43 thousand dollars or more in a city having a population
44 of more than five thousand but not more than seventy-
45 five thousand.

46 c. The project cost is two million dollars or more
47 in a city having a population of more than seventy-
48 five thousand.

49 3. The proposition of issuing revenue bonds for a
50 storm water drainage construction project under this

S-5973

Page 2

1 section is not approved unless the vote in favor of
2 the proposition is equal to a majority of the votes
3 cast on the proposition.

4 4. If a petition is not filed, or if a petition is
5 filed and the proposition is approved at an election,
6 the council may issue the revenue bonds.

7 5. If a city is required by the federal
8 environmental protection agency to file application
9 for storm water sewer discharge or storm water
10 drainage system under the federal Clean Water Act of
11 1987, this section does not apply to that city with
12 respect to improvements and facilities required for
13 compliance with EPA regulations, or any city that
14 enters into a chapter 28E agreement to implement a
15 joint storm water discharge or drainage system with a
16 city that is required by the federal environmental
17 protection agency to file application for storm water
18 discharge or storm water drainage system.""

By EMIL J. HUSAK

ELAINE SZYMONIAK

WILLIAM D. PALMER

GEORGE R. KINLEY

LARRY MURPHY

S-5973 FILED APRIL 6, 1990

ADOPTED (p. 1641)

SENATE AMENDMENT TO HOUSE FILE 2495

6164

Amend House File 2495, as passed by the House, as follows:

1. Page 2, by inserting after line 20 the following:

"Sec. ____ . NEW SECTION. 384.84A SPECIAL ELECTION.

1. The governing body of a city may institute proceedings to issue revenue bonds for storm water drainage construction projects under section 384.84, subsection 1, by causing notice of the proposed project, with a description of the proposed project and a description of the formula for the determination of the rate or rates applied to users for payment of the bonds, and a description of the bonds and maximum rate of interest and the right to petition for an election if the project meets the requirement of subsection 2, to be published at least once in a newspaper of general circulation within the city at least thirty days before the meeting at which the governing body proposes to take action to institute proceedings for issuance of revenue bonds for the storm water drainage construction project.

2. If, before the date fixed for taking action to authorize the issuance of revenue bonds for the storm water drainage construction project, a petition signed by three percent of the qualified electors of the city, asking that the question of issuing revenue bonds for the storm water drainage construction project be submitted to the qualified electors of the city, the council, by resolution, shall declare the project abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds for the storm water drainage construction project if the cost of the project and population of the city meet one of the following criteria:

a. The project cost is seven hundred fifty thousand dollars or more in a city having a population of five thousand or less.

b. The project cost is one million five hundred thousand dollars or more in a city having a population of more than five thousand but not more than seventy-five thousand.

c. The project cost is two million dollars or more in a city having a population of more than seventy-five thousand.

3. The proposition of issuing revenue bonds for a storm water drainage construction project under this section is not approved unless the vote in favor of the proposition is equal to a majority of the votes

H-6164

Page 2

1 cast on the proposition.

2 4. If a petition is not filed, or if a petition is
3 filed and the proposition is approved at an election,
4 the council may issue the revenue bonds.

5 5. If a city is required by the federal
6 environmental protection agency to file application
7 for storm water sewer discharge or storm water
8 drainage system under the federal Clean Water Act of
9 1987, this section does not apply to that city with
10 respect to improvements and facilities required for
11 compliance with EPA regulations, or any city that
12 enters into a chapter 28E agreement to implement a
13 joint storm water discharge or drainage system with a
14 city that is required by the federal environmental
15 protection agency to file application for storm water
16 discharge or storm water drainage system."

RECEIVED FROM THE SENATE

H-6164 FILED APRIL 6, 1990CONCURRED (*f. 2213*)

LOCAL GOVERNMENT

*Brown chr
Peters
Wiemer*

HOUSE FILE 2495
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON FOGARTY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the establishment, maintenance, and operation
2 of storm water drainage systems and the payment of rates or
3 charges.

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

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1 Section 1. Section 362.2, subsection 22, Code 1989, is
2 amended to read as follows:

3 22. "City utility" means all or part of a waterworks,
4 gasworks, sanitary sewage system, storm water drainage system,
5 electric light and power plant and system, or heating plant
6 any of which are owned by a city, including all land,
7 easements, rights of way, fixtures, equipment, accessories,
8 improvements, appurtenances, and other property necessary or
9 useful for the operation of the utility.

10 Sec. 2. NEW SECTION. 384.79A STORM DRAINAGE ALTERNATIVE
11 -- LIEN.

12 1. In lieu of special assessment procedures specified in
13 sections 384.37 through 384.79, for a public improvement
14 comprised of a storm water drainage system, a governing body
15 may declare all or a part of a city as a storm water drainage
16 system district and establish, impose, adjust, and provide for
17 the collection of rates to produce gross revenues at least
18 sufficient to pay the principal costs of collection and
19 disposal of surface waters and streams within the district.
20 If revenue bonds or pledge orders are issued and outstanding
21 pursuant to this division, the governing body shall establish,
22 impose, adjust, and provide for the collection of rates to
23 produce gross revenues at least sufficient to pay the
24 principal costs of collection and disposal of surface waters
25 and streams and to leave a balance of net revenues sufficient
26 to pay the principal of, and interest on, the revenue bonds
27 and pledge orders as they become due and to maintain a
28 reasonable reserve for the payment of principal and interest.
29 The governing body must pledge a sufficient part of net
30 revenues for the reserve. The rates must be established by
31 ordinance of the council or by resolution of the trustees
32 which shall be published in the same manner as an ordinance.
33 The ordinance or resolution may define the principal costs of
34 collection and disposal of surface waters and streams to
35 include all or a part of those costs defined in section

1 384.37. The rates shall not be exclusive of rates for
2 operation and maintenance pursuant to section 384.84, but the
3 rates for the principal costs and operation and maintenance
4 under section 384.84 shall not exceed on a fiscal year basis
5 the annual benefit to individual properties included within
6 the district. The ordinance provisions for collection of
7 rates pursuant to sections 384.37 and 384.84 shall prescribe
8 by formula the determination of the annual benefit which shall
9 include criteria and standards by which benefits have been
10 previously determined for special assessments for storm water
11 public improvement projects under this chapter. Properties
12 listed in a schedule of special assessments for storm water
13 drainage which has yet to expire shall be exempt from
14 imposition of costs under this section until the expiration of
15 the time allowed for payment of the special assessments under
16 that schedule, but the properties shall not be exempt from
17 rates imposed under section 384.84.

18 2. All rates or charges for the costs of storm water
19 drainage systems under this section, if not paid as provided
20 by ordinance of the council or resolution of the trustees, are
21 a lien upon the premises served upon certification to the
22 county treasurer that the rates or charges are due. However,
23 the lien shall not be less than five dollars. The county
24 treasurer may charge two dollars for each lien certified as an
25 administrative expense, which amount shall be added to the
26 amount of the lien to be collected at the time of payment of
27 the assessment from the payor and credited to the county
28 general fund. The lien has equal precedence with ordinary
29 taxes, may be certified to the county treasurer and collected
30 in the same manner as taxes, and is not divested by a judicial
31 sale.

32 Sec. 3. Section 384.84, subsection 1, Code 1989, is
33 amended to read as follows:

34 1. The governing body of a city utility, combined utility
35 system, city enterprise, or combined city enterprise may

1 establish, impose, adjust, and provide for the collection of
2 rates to produce gross revenues at least sufficient to pay the
3 expenses of operation and maintenance of the city utility,
4 combined utility system, city enterprise, or combined city
5 enterprise and, when revenue bonds or pledge orders are issued
6 and outstanding pursuant to this division, shall establish,
7 impose, adjust, and provide for the collection of rates to
8 produce gross revenues at least sufficient to pay the expenses
9 of operation and maintenance of the city utility, combined
10 utility system, city enterprise, or combined city enterprise,
11 and to leave a balance of net revenues sufficient at all times
12 to pay the principal of and interest on the revenue bonds and
13 pledge orders as they become due and to maintain a reasonable
14 reserve for the payment of principal and interest, and a
15 sufficient portion of net revenues must be pledged for that
16 purpose. Rates must be established by ordinance of the
17 council or by resolution of the trustees, published in the
18 same manner as an ordinance. All rates or charges for the
19 services of sewer systems, storm water drainage systems,
20 sewage treatment, solid waste collection, water, solid waste
21 disposal, or any of these, if not paid as provided by
22 ordinance of the council, or resolution of the trustees, are a
23 lien upon the premises served by any of these services upon
24 certification to the county treasurer that the rates or
25 charges are due. However, the lien shall not be less than
26 five dollars. The county treasurer may charge two dollars for
27 each lien certified as an administrative expense, which amount
28 shall be added to the amount of the lien to be collected at
29 the time of payment of the assessment from the payor and
30 credited to the county general fund. The lien has equal
31 precedence with ordinary taxes, may be certified to the county
32 treasurer and collected in the same manner as taxes, and is
33 not divested by a judicial sale.

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EXPLANATION

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This bill defines city utility to include storm water

1 drainage systems which authorizes individual cities, or two or
2 more cities by joint agreement, to create storm water drainage
3 systems using procedures provided for sanitary sewage systems.
4 The bill also provides for charges for storm water drainage
5 system operation and maintenance services. The charges become
6 a lien against the property until paid.

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HOUSE FILE 2495

AN ACT

RELATING TO THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF
STORM WATER DRAINAGE SYSTEMS AND THE PAYMENT OF RATES OR
CHARGES.

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

Section 1. Section 362.2, subsection 22, Code 1989, is amended to read as follows:

22. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, or heating plant any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Sec. 2. Section 384.84, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. However, the lien shall not be less than five dollars. The county treasurer may charge two dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale. A governing body may declare

all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided herein. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

Sec. 3. NEW SECTION. 384.84A SPECIAL ELECTION.

1. The governing body of a city may institute proceedings to issue revenue bonds for storm water drainage construction projects under section 384.84, subsection 1, by causing notice of the proposed project, with a description of the proposed project and a description of the formula for the determination of the rate or rates applied to users for payment of the bonds, and a description of the bonds and maximum rate of interest and the right to petition for an election if the project meets the requirement of subsection 2, to be published at least once in a newspaper of general circulation within the city at least thirty days before the meeting at which the governing body proposes to take action to institute proceedings for issuance of revenue bonds for the storm water drainage construction project.

2. If, before the date fixed for taking action to authorize the issuance of revenue bonds for the storm water drainage construction project, a petition signed by three percent of the qualified electors of the city, asking that the question of issuing revenue bonds for the storm water drainage construction project be submitted to the qualified electors of the city, the council, by resolution, shall declare the project abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds for the storm water drainage construction project if the cost of the project and population of the city meet one of the following criteria:

a. The project cost is seven hundred fifty thousand dollars or more in a city having a population of five thousand or less.

b. The project cost is one million five hundred thousand dollars or more in a city having a population of more than five thousand but not more than seventy-five thousand.

c. The project cost is two million dollars or more in a city having a population of more than seventy-five thousand.

3. The proposition of issuing revenue bonds for a storm water drainage construction project under this section is not approved unless the vote in favor of the proposition is equal to a majority of the votes cast on the proposition.

4. If a petition is not filed, or if a petition is filed and the proposition is approved at an election, the council may issue the revenue bonds.

5. If a city is required by the federal environmental protection agency to file application for storm water sewer discharge or storm water drainage system under the federal Clean Water Act of 1987, this section does not apply to that city with respect to improvements and facilities required for compliance with EPA regulations, or any city that enters into a chapter 28E agreement to implement a joint storm water discharge or drainage system with a city that is required by the federal environmental protection agency to file application for storm water discharge or storm water drainage system.

Sec. 4. Section 388.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The proposal of a city to establish, acquire, lease, or dispose of a city utility, except a sanitary sewage or storm water drainage system, in order to undertake or to discontinue the operation of the city utility, or the proposal to establish or dissolve a combined utility system, or the proposal to establish or discontinue a utility board, is subject to the approval of the voters of the city, except that

a board may be discontinued by resolution of the council when the city utility, city utilities, or combined utility system it administers is disposed of or leased for a period of over five years.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2495, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 27, 1990 1990

TERRY E. BRANSTAD
Governor