

Senate File 2186 - Introduced

SENATE FILE 2186

BY REYNOLDS, BLACK, KAPUCIAN,
and SCHOENJAHN

A BILL FOR

1 An Act relating to the powers and duties of county treasurers
2 to assess certain property associated with fence disputes
3 and water districts.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 169C.1, Code 2009, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. *"County system"* means the same as
4 defined in section 445.1.

5 Sec. 2. Section 169C.6, subsection 3, Code 2009, is amended
6 to read as follows:

7 3. If the fence is not erected or maintained as required
8 in section 359A.6, and upon the written request of the board
9 of township trustees, the board of supervisors of the county
10 where the fence is to be erected or maintained shall act in
11 the same manner as the board of township trustees under that
12 section, including by erecting or maintaining the fence,
13 ordering payment from a defaulted party, and certifying an
14 amount due to the county ~~auditor~~ treasurer in the same manner
15 as in section 359A.6. The amount due shall include the total
16 costs required to erect or maintain the fence and a penalty
17 equal to five percent of the total costs. The amount shall be
18 placed upon the ~~tax books~~ county system, and collected with
19 ~~interest and penalties after due, in the same manner as other~~
20 ~~unpaid property taxes~~ in the same manner as ordinary taxes.
21 Upon certification to the county treasurer, the amount assessed
22 shall be a lien on the parcel until paid.

23 Sec. 3. Section 331.512, subsection 1, paragraph d, Code
24 2009, is amended by striking the paragraph.

25 Sec. 4. Section 359A.4, Code 2009, is amended to read as
26 follows:

27 **359A.4 Decision — deposit.**

28 At said time and place the fence viewers shall meet and
29 determine by written order the obligations, rights, and duties
30 of the respective parties in such matter, and assign to each
31 owner the part which the owner shall erect, maintain, rebuild,
32 trim or cut back, or pay for, and fix the value thereof, and
33 prescribe the time within which the same shall be completed
34 or paid for, and, in case of repair, may specify the kind of
35 repairs to be made. If the fence is not erected, rebuilt, or

1 repaired within the time prescribed in the order, the fence
2 viewers shall require the complaining landowner to deposit with
3 the fence viewers a sum of money sufficient to pay for the
4 erecting, rebuilding, trimming, cutting back or repairing such
5 fence together with the fees of the fence viewers and costs.
6 Such complaining landowner shall be reimbursed as soon as the
7 taxes costs and fees assessed against the party in default are
8 collected as provided in section 359A.6.

9 Sec. 5. Section 359A.6, Code 2009, is amended to read as
10 follows:

11 **359A.6 Default — costs and fees collected as ~~taxes~~.**

12 If the erecting, rebuilding, or repairing of such a fence
13 ~~be is~~ not completed within thirty days from and after the
14 time fixed ~~therefor~~ in such the order, the board of township
15 trustees acting as fence viewers shall cause the fence to be
16 erected, rebuilt, and repaired, and the value thereof may
17 be fixed by the fence viewers, and unless the sum so fixed,
18 together with all fees of the fence viewers caused by such
19 default, ~~as taxed by them,~~ is paid to the county treasurer,
20 within ten days after the same is so ascertained; or when
21 ordered to pay for an existing fence, and the value thereof is
22 fixed by the fence viewers, and said sum, together with the
23 fees of the fence viewers, ~~as taxed by them,~~ remains unpaid
24 by the party in default for ten days, the fence viewers shall
25 certify to the county ~~auditor~~ treasurer the full amount due
26 from the party or parties in default, including all fees and
27 costs ~~taxed~~ assessed by the fence viewers, together with a
28 description of the real estate owned by the party or parties
29 in default along or upon which the said fence exists, and the
30 county ~~auditor~~ treasurer shall enter the same upon the ~~tax~~
31 ~~list~~ county system, and the amount shall be collected ~~as other~~
32 ~~taxes~~ in the same manner as ordinary taxes. Upon certification
33 to the county treasurer, the amount assessed shall be a lien on
34 the parcel until paid.

35 Sec. 6. Section 357.22, Code 2009, is amended to read as

1 follows:

2 **357.22 Lien of assessments — tax.**

3 When the assessment has been completed, ~~and~~ the bonds have
4 been sold and delivered to the county auditor, and the schedule
5 of assessment ~~shall be turned over~~ has been delivered to the
6 county ~~auditor~~ treasurer, the installments due thereon shall
7 be collected in the same manner as ordinary taxes and shall
8 constitute a lien on the property against which they are made.
9 If the treasurer does not receive sufficient funds to enable
10 the treasurer to pay the interest and retire the bonds as they
11 become due, the auditor shall levy an annual tax of eighty-one
12 cents per thousand dollars of assessed value of all taxable
13 property within the district to pay such deficiency, and the
14 county treasurer shall apply the proceeds of such levy to the
15 payment of the bonds and the interest on the same so long as the
16 bonds are in arrears on either interest or principal.

17 Sec. 7. Section 445.1, subsection 5, Code Supplement 2009,
18 is amended to read as follows:

19 5. "*Rate or charge*" means an item, including rentals,
20 legally certified to the county treasurer for collection
21 as provided in sections 169C.6, 331.465, 331.489, 358.20,
22 359A.6, 364.11, 364.12, and 468.589 and section 384.84,
23 subsection 4.

24 EXPLANATION

25 This bill relates to the powers and duties of county
26 treasurers to assess certain property associated with fence
27 viewing disputes and water districts.

28 ASSESSMENTS ARISING FROM FENCE DISPUTES. Code chapter
29 169C provides for the habitual trespass of livestock onto the
30 land of a neighboring landowner or strays from the land where
31 the livestock are kept onto a public road. A neighboring
32 landowner or local authority (county or city) may request that
33 the responsible landowner of the land where the trespassing or
34 stray livestock are kept construct or maintain a fence on the
35 land. Code chapter 359A provides that adjacent landowners are

1 both responsible for constructing and maintaining partition
2 fences. In both cases the township trustees (including
3 by acting through fence viewers) may intervene by having
4 construction or repair work done independently, ordering the
5 responsible landowner to make payment, and certifying the
6 amount due to the county auditor who places the amount on the
7 tax books for collection as a tax debt. This bill changes
8 that procedure by requiring the county trustees to certify
9 the amount due to the county treasurer who must enter the
10 information into the county system. The county system is a
11 method of data storage and retrieval approved by the auditor
12 of state which includes tax lists, books, records, indexes,
13 registers, or schedules (see Code section 445.1). The bill
14 provides that the amount due is collected in a manner similar
15 to that provided for the collection of rates and charges by the
16 governing body of a city utility (see Code section 384.84).
17 The assessed amount as certified is a lien upon the land until
18 paid.

19 ASSESSMENTS ARISING FROM WATER DISTRICT IMPROVEMENTS.
20 Code chapter 357 provides for the assessment of landowners
21 benefiting from work done to a water district which may be
22 financed through the issuance of bonds. When the assessment is
23 completed and the bonds are sold, the county auditor receives a
24 schedule of assessment for collection in installment payments
25 in the same manner as ordinary taxes. The amount assessed
26 is a lien on the benefited property. The bill provides that
27 the bonds are to be delivered to the county auditor, and
28 the schedule of assessment is to be delivered to the county
29 treasurer which are still collected as taxes due.