

**Senate File 2254 - Introduced**

SENATE FILE 2254  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO SF 2186)

**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~~ 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.