

House File 341 - Introduced

HOUSE FILE 341
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HF 89)

A BILL FOR

1 An Act granting cities the power to borrow surplus moneys from
2 the city's reserves.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 384.4, subsection 1, Code 2015, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Payments of principal and interest on
4 loans entered into pursuant to section 384.24B and authorized
5 for repayment by the council from the debt service fund.

6 Sec. 2. NEW SECTION. **384.24B General obligation loans**
7 **funded by the city.**

8 1. For the purposes of this section, the following
9 definitions shall apply:

10 *a.* "*Loan*" means the sum of the transfers from the surplus
11 of one or more reserve accounts or funds of the city which
12 transfers are authorized for the purpose specified in the loan
13 authorization document.

14 *b.* "*Reserve account or fund*" means moneys held by a city
15 that are not operating funds, as defined in section 12B.10A,
16 and which account or fund is authorized by law to receive
17 interest pursuant to section 12C.7.

18 *c.* "*Surplus*" means the cash balance available in any account
19 or fund from which a loan will be made under this section which
20 exceeds the amount of expenses or disbursements made from
21 the account or fund in the previous three months, plus the
22 amount of transfers, payments, or disbursements required in the
23 following three months.

24 2. A city may authorize a loan to borrow money for any
25 general corporate purpose or essential corporate purpose in
26 accordance with and subject to the provisions of this section.

27 3. *a.* A transfer from a reserve account or fund for
28 the purposes of this section shall not cause the balance of
29 reserves in such account or fund at the close of the fiscal
30 year following the fiscal year in which the transfer is made
31 to fall below any minimum balance prescribed by law for such
32 account or fund.

33 *b.* A loan to finance a project under this section shall not
34 result in a user fee, rate, or property tax increase to support
35 the annual operations of the reserve account or fund from which

1 the loan is made, as a result of the unavailability of the
2 surplus funds.

3 4. *a.* A loan entered into by a city pursuant to this
4 section may contain provisions similar to those found in loan
5 agreements between private parties, including but not limited
6 to the issuance of notes to evidence its obligations. The
7 terms of each loan shall require repayment of the loan within
8 ninety days to the extent necessary to prevent a user fee,
9 rate, or property tax increase which raises the user fees,
10 rates, or property taxes payable into the account or fund from
11 which the loan is made above the level in effect at the time a
12 loan under this section is authorized.

13 *b.* A loan authorized pursuant to this section shall
14 constitute an indebtedness within the meaning of any
15 constitutional debt limitation and shall be reported by the
16 city to the state treasurer in the same manner as required
17 for bonding activities pursuant to section 12.1. The full
18 or partial refunding of any loan under this section shall
19 be authorized as an essential corporate purpose pursuant to
20 section 384.24, subsection 3, paragraph "f".

21 5. A loan made pursuant to this section is payable from the
22 debt service fund of the city. The governing body shall follow
23 the same authorization procedures required for the issuance
24 of general obligation bonds issued for the same purpose to
25 authorize a loan made payable from the debt service fund.
26 Upon approval of a loan, the loan shall be accounted for in
27 accordance with section 384.20.

28 6. A loan made pursuant to this section shall include
29 provisions establishing an interest rate on the loan that shall
30 be set at a rate that is between the interest rate established
31 pursuant to section 12C.6, subsection 2, paragraph "a", and the
32 interest rate established pursuant to section 74A.6, subsection
33 2.

34 7. Repayments of principal and interest shall be paid to
35 the reserve fund or account from which all or a portion of the

1 funds were advanced for the loan in the proportion that the
2 amount of the advance from the fund or account bears to the
3 entire amount of the loan.

4 8. *a.* The limitation in section 346.24 does not apply to a
5 transfer made pursuant to this section or to a loan authorized
6 pursuant to this section.

7 *b.* Except as otherwise provided by law, a city shall not
8 become indebted under this section to an amount exceeding six
9 million dollars.

10 9. A loan made pursuant to this section shall not include
11 any transfers or obligations from the reserve fund or account
12 of a city utility or of a combined city utility.

13 10. The powers granted under this section shall not be
14 construed as a limitation of the existing powers of a city.

15 Sec. 3. Section 384.25, Code 2015, is amended to read as
16 follows:

17 **384.25 General obligation bonds or loans for essential**
18 **purposes.**

19 1. A city which proposes to carry out any essential
20 corporate purpose within or without its corporate limits, and
21 to contract indebtedness and issue general obligation bonds or
22 authorize a loan described in section 384.24B, to provide funds
23 to pay all or any part of the cost of a project must do so in
24 accordance with the provisions of this division.

25 2. Before the council may institute proceedings for the
26 issuance of bonds or authorization of a loan for an essential
27 corporate purpose, a notice of the proposed action, including
28 a statement of the amount and purposes of the bonds or loan,
29 and the time and place of the meeting at which the council
30 proposes to take action for the issuance of the bonds or
31 authorization of the loan, must be published as provided in
32 section 362.3. At the meeting, the council shall receive oral
33 or written objections from any resident or property owner
34 of the city. After all objections have been received and
35 considered, the council may, at that meeting or any adjournment

1 thereof, take additional action for the issuance of the bonds
 2 or authorization of the loan or abandon the proposal to issue
 3 the bonds or authorize the loan. Any resident or property
 4 owner of the city may appeal the decision of the council to
 5 take additional action to the district court of the county in
 6 which any part of the city is located, within fifteen days
 7 after the additional action is taken, but the additional action
 8 of the council is final and conclusive unless the court finds
 9 that the council exceeded its authority. The provisions of
 10 this subsection with respect to notice, hearing, and appeal,
 11 are in lieu of the provisions contained in chapter 73A, or any
 12 other law.

13 3. a. Notwithstanding subsection 2, a council may institute
 14 proceedings for the issuance of bonds or the authorization of a
 15 loan described in section 384.24B for an essential corporate
 16 purpose specified in section 384.24, subsection 3, paragraph
 17 "w" or "x", in an amount equal to or greater than three million
 18 dollars by causing a notice of the proposal to issue the bonds
 19 or authorize the loan, including a statement of the amount and
 20 purpose of the bonds or loan, together with the maximum rate of
 21 interest which the bonds are to bear or which will be charged
 22 to the principal balance of the loan, and the right to petition
 23 for an election, to be published at least once in a newspaper
 24 of general circulation within the city at least ten days prior
 25 to the meeting at which it is proposed to take action for the
 26 issuance of the bonds or the authorization of the loan.

27 b. If at any time before the date fixed for taking action
 28 for the issuance of the bonds or the authorization of the
 29 loan, a petition is filed with the clerk of the city signed
 30 by eligible electors of the city equal in number to twenty
 31 percent of the persons in the city who voted for the office of
 32 president of the United States at the last preceding general
 33 election that had such office on the ballot, asking that the
 34 question of issuing the bonds or authorizing the loan be
 35 submitted to the registered voters of the city, the council

1 shall either by resolution declare the proposal to issue the
2 bonds or authorize the loan to have been abandoned or shall
3 direct the county commissioner of elections to call a special
4 election upon the question of issuing the bonds or authorizing
5 the loan. Notice of the election and its conduct shall be in
6 the manner provided in section 384.26.

7 c. If a petition is not filed, or if a petition is filed and
8 the proposition of issuing the bonds or authorizing the loan
9 is approved at an election, the council may proceed with the
10 authorization and issuance of the bonds or authorization of the
11 loan.

12 Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code
13 2015, are amended to read as follows:

14 1. A city which proposes to carry out any general corporate
15 purpose within or without its corporate limits, and to contract
16 indebtedness and issue general obligation bonds or authorize a
17 loan described in section 384.24B, to provide funds to pay all
18 or any part of the costs of a project, must do so in accordance
19 with the provisions of this division.

20 2. Before the council may institute proceedings for the
21 issuance of bonds or authorization of a loan for a general
22 corporate purpose, it shall call a special city election to
23 vote upon the question of issuing the bonds or authorizing the
24 loan. At the election, the proposition must be submitted in
25 one of the following form forms, as applicable:

26 Shall the (insert the name of the city) issue
27 its bonds in an amount not exceeding the amount of \$.... for
28 the purpose of?

29 Shall the (insert the name of the city)
30 authorize a loan from its surplus funds in an amount not
31 exceeding the amount of \$.... for the purpose of?

32 4. The proposition of issuing general corporate purpose
33 bonds or authorizing a loan for a general corporate purpose
34 is not carried or adopted unless the vote in favor of the
35 proposition is equal to at least sixty percent of the total

1 vote cast for and against the proposition at the election.
2 If the proposition of issuing the general corporate purpose
3 bonds or authorizing a loan for a general corporate purpose is
4 approved by the voters, the city may proceed with the issuance
5 of the bonds or authorization of the loan.

6 5. a. Notwithstanding the provisions of subsection 2,
7 a council may, in lieu of calling an election, institute
8 proceedings for the issuance of bonds or authorization of a
9 loan for a general corporate purpose by causing a notice of the
10 proposal to issue the bonds or authorize the loan, including
11 a statement of the amount and purpose of the bonds or loan,
12 together with the maximum rate of interest which the bonds are
13 to bear or which the loan is to bear, and the right to petition
14 for an election, to be published at least once in a newspaper
15 of general circulation within the city at least ten days prior
16 to the meeting at which it is proposed to take action for the
17 issuance of the bonds or authorization of the loan subject to
18 the following limitations:

19 (1) In cities having a population of five thousand or less,
20 in an amount of not more than four hundred thousand dollars.

21 (2) In cities having a population of more than five thousand
22 and not more than seventy-five thousand, in an amount of not
23 more than seven hundred thousand dollars.

24 (3) In cities having a population in excess of seventy-five
25 thousand, in an amount of not more than one million dollars.

26 b. If at any time before the date fixed for taking action
27 for the issuance of the bonds or the authorization of the
28 loan, a petition is filed with the clerk of the city in the
29 manner provided by section 362.4, asking that the question
30 of issuing the bonds or authorizing the loan be submitted to
31 the registered voters of the city, the council shall either by
32 resolution declare the proposal to issue the bonds or authorize
33 the loan to have been abandoned or shall direct the county
34 commissioner of elections to call a special election upon the
35 question of issuing the bonds or authorizing the loan. Notice

1 of the election and its conduct shall be in the manner provided
2 in the preceding subsections of this section.

3 *c.* If ~~ne~~ a petition is not filed, or if a petition is
4 filed and the proposition of issuing the bonds or authorizing
5 the loan is approved at an election, the council may proceed
6 with the authorization and issuance of the bonds or the
7 authorization of the loan.

8 Sec. 5. Section 384.33, Code 2015, is amended to read as
9 follows:

10 **384.33 Action.**

11 ~~Ne~~ An action may not be brought which questions the legality
12 of general obligation bonds, notes, or loans under this
13 chapter or the power of the city to issue the bonds, notes, or
14 loans or the effectiveness of any proceedings relating to the
15 authorization and issuance of the bonds, notes, or loans from
16 and after sixty days from the time the bonds, notes, or loans
17 are ordered issued by the city.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill enacts new Code section 384.24B to allow a city to
22 borrow surplus moneys from its reserve accounts or funds for
23 any general corporate purpose or essential corporate purpose,
24 as those terms are defined in current law. The bill requires
25 that a city certify taxes to be levied for deposit in the debt
26 service fund in the amount necessary to pay principal and
27 interest on loans authorized under the bill. The bill defines
28 "loan", "surplus", and "reserve account or fund".

29 The bill requires that such loans not cause the balances
30 of such reserve accounts or funds to fall below any minimum
31 balance prescribed by law and requires that a city shall
32 not become indebted under such loans to an amount in excess
33 of \$6 million unless otherwise provided by law. The bill
34 requires that loans from reserve funds be reported to the state
35 treasurer in the same manner as required for bonds issued

1 by a city. The bill requires that such loans not result in
2 a user fee, rate, or property tax increase as a result of
3 unavailability of surplus funds. The terms of each loan shall
4 require repayment of the loan within 90 days to the extent
5 necessary to prevent a user fee rate or property tax increase.
6 Such a loan shall be payable from the city debt service fund
7 and shall constitute an indebtedness within the meaning of any
8 statutory debt limitation.

9 The full or partial repayment of a loan entered into under
10 the bill shall constitute an essential corporate purpose
11 pursuant to Code section 384.24, subsection 3, paragraph "f".
12 The bill provides that upon approval of such a loan that the
13 loan shall be accounted for as a separate account pursuant
14 to current Code section 384.20. The bill further provides
15 that interest rates on such a loan be set between the interest
16 rate established for the deposit of public funds, established
17 in current Code section 12C.6 and the maximum interest rate
18 established for public obligations and assessments under
19 current Code section 74A.6, subsection 2. The bill provides
20 that such a loan not include any transfers or obligations from
21 a reserve fund or account of a city utility or combined city
22 utility.

23 The bill requires that a city council follow substantially
24 the same procedures for the issuance of general obligation
25 bonds for essential corporate purposes, pursuant to Code
26 section 384.25, or for general corporate purposes, pursuant to
27 Code section 384.26, when making a loan from reserve funds.

28 The bill further provides that an action may not be brought
29 against a city regarding the legality, power to issue, or power
30 to authorize notes or loans under Code chapter 384 at any time
31 after 60 days following authorization.