

SEC. 4. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines Iowa.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16, and in the *Des Moines Leader* April 15, 1890.

FRANK D. JACKSON, *Secretary of State.*

CHAPTER 6.

CHANGE OF WATER COURSE THROUGH CITIES.

AN ACT authorizing cities to deepen, widen, straighter, wall-up, cover, fill, alter, change or divert from its natural channel, and to conduct the same in artificial channels or into or through covered drains or sewers, to be constructed for the purpose, any water course or any part thereof, within the corporate limits of said cities, and to provide the manner in which the same shall be done, and to authorize the levy and collection of special tax, and the levy and collection of special assessments to defray the cost and expenses thereof. S. F. 144.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That any city of the first class, of the state of Iowa, organized as such under the general corporation laws since the 1st day of January, A. D. 1885, shall have power to deepen, widen, straighten, wall-up, fill-up, cover, alter or change the channel of any water course, or any part thereof, flowing through the corporate limits of said city. Also to build and construct artificial channels, covered drains or sewers sufficient to carry the water theretofore flowing in any such water course, and to divert any such water course from its natural bed, channel or course, and to conduct the same into or through any such artificial channel, covered drain or sewer so constructed, and to fill up the channel of any such water course, the waters of which have been so diverted and changed. Power to deepen, widen straighten or change granted.

SEC. 2. When any such city shall desire to avail itself of the powers hereinbefore granted, and the city council shall determine by resolution or otherwise to exercise any of such powers, they shall direct the city engineer to make the proper plans and specifications for the doing of such work and to prepare an estimate of the cost thereof. City engineer directed to make plans and specifications.

SEC. 3. If said council on further examination and consideration of said plans and specifications, and of the expenses necessary to be incurred therein, shall still deem it advisable Special election may be called.

that any such work be done as proposed and contemplated, they shall call a special election in said city to determine whether said work shall be done, and also the question of raising or levying a special tax in addition to all other taxes now provided for by law for the purpose of paying the expenses thereof.

Council may extend time for collection.

Provided if the city council shall determine that the estimated cost of said work is greater than should be levied or collected in a single year, they may determine what proportion of the same shall be levied and collected each year and during what years the same shall be levied and collected. And the city council shall provide by ordinance or resolution the manner in which the voting of said special tax shall be submitted to the electors of said city.

Result of election if favorable.

SEC. 4. If at such election, the majority of the votes cast shall be in favor of doing said work and in favor of levying of said special tax the city council shall order the city engineer to make a survey of said stream or any portion thereof, so proposed to be widened, deepened, straightened, walled up, filled up, altered, changed or diverted, as the case may be; said plat or survey to show the condition, position, location, boundaries and course of said stream at the time of platting of said town site, as near as possible, and also its present condition, location, and course, and any changes that have occurred in the natural course of the stream since the platting of said town site, and said plat shall also show all the lots or tracts of land by their platted or legal description abutting on said original or present channels; also the names of all owners of said lots and lands so abutting on said stream, and the city engineer shall file said plat in the office of the city clerk and shall keep and retain a duplicate thereof in his office.

Five commissioners appointed.

SEC. 5. After said survey is made and filed, the city council shall appoint five commissioners, who shall be resident freeholders of said city, and not interested in any property abutting on said stream, so intended to be widened, changed, altered, walled up, filled up, straightened or diverted, who shall be sworn to faithfully and impartially perform the duties herein, or that may be required of them either by this act or any ordinance passed in pursuance hereof. The said commissioners so appointed shall have authority to proceed and determine what lot or lots, or lands abutting on said stream will be benefited or damaged, if any, by the doing of said work, and the amount of such benefit or damages, if any, as the case may be, which will accrue to or be sustained by each and every such lot or lots or parts of lots, or parcels of lands and the owners thereof, shall make report, in writing, of their findings and determination. In determining any question as to whether any benefits accrue to, or damages are sustained by such lot or lots or parcels of land, or owners thereof

Duty of commissioners.

To report in writing.

the said commissioners shall consider the amount of land reclaimed or lost, and the expense that will be incurred to the owners of said property, in the doing of said work, and the advantages, if any, accruing from the removal of the easement of said water course, and any other matter that said commissioners may deem proper to be considered in determining said question.

Provided, That no damages shall be awarded for the cost of the filling of said channel. Said commissioners shall give notice of the time and place of their meetings to determine what lot or lots and lands are so benefited or damaged, as the case may be, by publication thereof, at least five days successively, prior thereto, in some newspaper in general circulation in said city, and for the purpose of enabling them to determine, the same, may take evidence and listen to and receive any statement which any owner of property may see fit to make in reference thereto. After said commissioners shall so make their finding and determination to the city council, the said city council may approve, reject or modify the same.

Time and place of commissioners' meeting.

Hearing evidence.

Provided, That notice of the hearing before the said city council of said report of said commissioners shall be given by publication in a newspaper of general circulation in said city for five successive days, which last publication shall be ten days before such hearing. And if after said council shall hear said matter, they shall conclude to reject said report, they shall resubmit the matter of the determination of said benefits and damages to new commissioners, who shall proceed in the same manner as said original commissioners. If said city council shall approve or modify said finding of said commissioners they shall assess the amount of said benefits so found and determined against said abutting lot or lots or lands, and the said channel so to be filled up or reclaimed. Any person aggrieved by the action of the city council in making said assessments, shall have the right of appeal to the district court of the county in which said city is located, provided said appeal is taken within twenty days from said assessment, and shall also have the right to review said action of the city council in said district court, in the manner now provided by law.

Notice of hearing to be published.

Parties aggrieved.

Appeal.

Sec. 6. If such stream or any part thereof is proposed to be diverted from its course, and conducted through another or different channel, or through any covered drain or sewer, the city council shall have power to order said stream or any part thereof, thus abandoned, as a water course, to be filled up and if the same or any part thereof is not filled up by the owner or owners of said stream within such time as the city may by ordinance or resolution provide, the city council may proceed to let the work of filling said stream or any part thereof by

May order abandoned channel filled.

Contract to fill let by council.	contract, and the city council shall have power to assess the cost of filling up the remainder of the channel of said stream against said property abutting on said stream including that reclaimed therefrom, and against the owners thereof, in proportion to the number of cubic yards of fill required and made upon, against and in front of each of said lots or tracts, and the city council shall provide by ordinance or resolution, the manner of ascertainment of said cost and adopting and making said assessments the notice to be given to said owners of the time and place of making the same. And said city may provide by ordinance when said special assessments for benefits and for the expense of filling said old channel shall become due and payable, and whether in one payment or in installments and the rate of interest not exceeding six per cent per annum, said deferred payments shall draw, and may provide for the issue of improvement bonds, to be a lien on said property, and payable from the funds to be derived from said special assessments, all as provided in chapter 20, of the laws of the twentieth general assembly of Iowa, and acts amendatory thereof.
Assessments when due and payable.	<p>SEC. 7. Such special assessments shall not be levied by the city council until said work shall be completed, they shall become delinquent at such time after the levy thereof as the city council may provide, shall constitute a lien against the lots and lands against which they may be assessed from the date of the resolution making the assessment, shall draw interest at a rate not exceeding six per cent per annum, and may be enforced against said lots and lands and the owners thereof in any manner provided by law or the ordinances of said city.</p>
Assessment levied when work is completed.	<p>The assessments when delinquent may be certified to the county auditor and by him placed on the tax books of the county wherein said city is situated, and the same shall be collected and paid over in the manner provided by law for the collection of state and county taxes, and said city is hereby authorized to become a purchaser at any sale made by the county treasurer for any such delinquent special assessments, and shall be entitled, if the same shall remain unpaid as by law provided, to receive a treasurer's tax deed for said property so sold and thereafter may sell and convey the same in any manner they may deem best and proper.</p>
Interest.	<p>SEC. 8. That all streets and alleys intersecting said old channel or stream opposite each other, shall be considered as projected from each side thereof and meeting in the center of said stream in such a manner as to make a continuous street or alley across the same, and if such street or alley is shown upon the present recorded plats as terminating on one side of said stream, the same shall be projected to the center thereof, and the expenses of filling all such streets and alleys shall be borne and paid by the city.</p>
Delinquent assessment.	
Sale of property.	
Relation of streets and alleys.	

SEC. 9. If the title to the natural bed and banks of any stream or any portion thereof, after the same shall be diverted from its natural course and conducted through another channel or through any covered drain or sewer is in the public, or is in the corporation for the use of the public, then the said city shall have power to fill up the said channel so owned by the public, and pay the expenses thereof, and shall have power to sell and dispose of the same in any manner the city council may deem proper.

Title when vested in the public.

SEC. 10. Said cities are also hereby authorized to condemn and appropriate so much private property as shall be necessary to carry into effect any and all of the provisions granted or conferred by this act. When it shall be necessary for any such city to enter upon and condemn private property for any of the purposes herein enumerated, the proceedings to condemn the same and the compensation to be paid therefor shall be determined in the manner provided by sections 476 and 477 of chapter 10, of title 4 of the Code of 1873.

Private property condemned.

SEC. 11. After the report of the commissioners provided in section 5 hereof to the city council and the final action thereon by the city council as hereinbefore provided, the city council shall have authority to order said work of constructing said new drain, sewer or channel, or part thereof, to be done as provided and to levy said special taxes to pay the costs and expenses thereof. They shall have power to authorize different portions of said work to be done in different years successively, and in such case, shall levy only such portion of said special tax each year as that portion of said work ordered done in any one year bears to the whole of said work proposed to be done.

Work may be authorized on report of commissioners.

SEC. 12. The cost and expense of doing any of the work authorized by this act (except the cost of filling any old channel, to be assessed against abutting property hereinbefore provided), the compensation to be paid for private property condemned and appropriated therefor, and the damages which any person may sustain by reason thereof, or by reason of the change of said old channel as hereinbefore provided, shall be paid out of special tax hereby authorized to be levied; the levy and collection of special assessments for benefits upon lots and the lands abutting upon said old water course, as hereinbefore specified, and the special assessments, if any, which the city may make against any property adjacent to the street or alley on which said new sewer may be located and also from the proceeds of any sales as herein provided of said portion of said water course from which the water shall have been diverted and the title to which may be vested in the public, or in the corporation for the benefit of the public, and also by appropriations from the general funds of said city available for said purpose.

Payment of cost and expenses.

Sewer used
by city.

SEC. 13. In case the new sewer as herein authorized, shall be constructed along any street or alley and shall be allowed by the city to be used as a sanitary or storm water sewer along the line thereof, then and in that case the city council shall have power to assess to the lots or lands adjacent to the line of such sewer, a portion of the cost of such sewer, not exceeding, however, in any event, the sum of two dollars per lineal foot of sewer, and if such assessment is made, the same shall be assessed and levied against adjacent property in the same manner as is now or hereafter may be provided by law, and the ordinances of any such city in which such sewer is constructed for the construction of sewers and the assessments of the costs thereof.

A portion of
cost assessed.

Collection of
tax antici-
pated.

SEC. 14. Said cities shall have authority in anticipation of the collection of said tax, to borrow money for the purpose of doing said work, and may issue its bonds therefor and shall have authority to provide by ordinance the manner of the issuing of the same, provided that the sums so borrowed by said city shall not exceed in any one year the total amount of said special tax actually levied at the time when any such loan shall be made.

Publication.

SEC. 15. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers printed and published in the city of Des Moines, Iowa, said publication to be made without expense to the state.

This bill having remained with the governor three days (Sunday excepted), the General Assembly being in session, has become a law this 18th day of April, 1890.

CHAPTER 7.

REMOVAL OF SNOW AND ICE FROM SIDEWALKS.

S. F. 252.

AN ACT to Amend Chapter 16 of the Acts of the Twenty Second General Assembly. Relating to Improvements of and Granting Additional Powers to cities of the First and Second Class.

Be it enacted by the General Assembly of the State of Iowa:

Provisions
extended to
cities of sec-
ond class.

SECTION 1. That Section 1 Chapter 16 of the acts of the Twenty Second General Assembly, relating to the removal of snow and ice from sidewalks in cities organized under special charters, and cities of the First Class, and cities of the Second class, having over Seven Thousand inhabitants be