

24	j. For issuing commission to appraisers.....	\$ 2.00
25	k. For other services performed in the settlement of the	
26	estate of any decedent, minor, insane person, or other per-	
27	sons laboring under legal disability, except where actions are	
28	brought by the administrator, guardian, trustee, or person	
29	acting in a representative capacity or against him, or as may	
30	be otherwise provided herein, where the value of the personal	
31	property and real estate of such a person falls within the fol-	
32	lowing indicated amounts, the fee opposite such amount shall	
33	be charged.	
34	Up to \$3,000.00.....	\$ 5.00
35	3,000.00 to 5,000.00.....	\$10.00
36	5,000.00 to 7,000.00.....	\$15.00
37	7,000.00 to 10,000.00.....	\$20.00
38	10,000.00 to 15,000.00.....	\$25.00
39	15,000.00 to 25,000.00.....	\$30.00
40	For each additional \$25,000.00 or major fraction thereof....	\$20.00."

Approved May 11, 1967.

CHAPTER 404

GRAND JURORS

H. F. 43

AN ACT relating to the selection of grand jurors.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section six hundred nine point twenty-seven (609.27),
 2 Code 1966, is hereby amended by striking lines four (4) through ten
 3 (10) and inserting in lieu thereof the words "election precinct in the
 4 county."

1 SEC. 2. Section six hundred nine point twenty-eight (609.28),
 2 Code 1966, is hereby amended by striking from line two (2) the
 3 words "civil township" and inserting in lieu thereof the words
 4 "election precinct".

Approved March 9, 1967.

CHAPTER 405

TORT LIABILITY OF GOVERNMENTS

S. F. 710

AN ACT relating to the tort liability of governmental subdivisions.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. As used in this Act, the following terms shall have the
 2 following meanings:

3 1. "Municipality" means city, town, county, township, school dis-
4 trict, and any other unit of local government.

5 2. "Governing body" means the council of a city or town, county
6 board of supervisors, board of township trustees, local school board,
7 and other boards and commissions exercising quasi-legislative, quasi-
8 executive, and quasi-judicial power over territory comprising a mu-
9 nicipality.

10 3. "Tort" means every civil wrong which results in wrongful death
11 or injury to person or injury to property and includes but is not re-
12 stricted to actions based upon negligence, breach of duty, and nuisance.

1 SEC. 2. Except as otherwise provided in this Act, every municipal-
2 ity is subject to liability for its torts and those of its officers, employ-
3 ees, and agents acting within the scope of their employment or duties,
4 whether arising out of a governmental or proprietary function.

1 SEC. 3. In any action subject to the provisions of this Act or sec-
2 tion three hundred eighty-nine point twelve (389.12) of the Code, an
3 affirmative showing that the injured party had actual knowledge of the
4 existence of the alleged obstruction, disrepair, defect, accumulation, or
5 nuisance at the time of the occurrence of the injury, and a further
6 showing that an alternate safe route was available and known to the
7 injured party, shall constitute a defense to the action.

1 SEC. 4. The liability imposed by section two (2) of this Act shall
2 have no application to any claim enumerated in this section. As to any
3 such claim, a municipality shall be liable only to the extent liability
4 may be imposed by the express statute dealing with such claims and,
5 in the absence of such express statute, the municipality shall be im-
6 mune from liability.

7 1. Any claim by an employee of the municipality which is covered
8 by the Iowa workmen's compensation law.

9 2. Any claim in connection with the assessment or collection of
10 taxes.

11 3. Any claim based upon an act or omission of an officer or em-
12 ployee, exercising due care, in the execution of a statute, ordinance, or
13 officially adopted resolution, rule, or regulation of a governing body.

14 4. Any claim against a municipality as to which the municipality is
15 immune from liability by the provisions of any other statute or where
16 the action based upon such claim has been barred or abated by opera-
17 tion of statute or rule of civil procedure.

18 The remedy against the municipality provided by section two (2) of
19 this Act for injury or loss of property or personal injury or death re-
20 sulting from any act or omission of an officer or employee in the execu-
21 tion of a statute or ordinance, or officially adopted resolution, rule or
22 regulation of a governing body while acting in the scope of his office or
23 employment shall hereafter be exclusive of any other civil action or
24 proceeding by reason of the same subject matter against the officer or
25 employee whose act or omission gave rise to the claim, or his estate.

1 SEC. 5. Every person who claims damages from any municipality
2 for or on account of any wrongful death, loss or injury within the
3 scope of section two (2) of this Act shall commence an action therefor
4 within three (3) months, unless said person shall cause to be presented

5 to the governing body of the municipality within sixty (60) days after
6 the alleged wrongful death, loss or injury a written notice stating the
7 time, place, and circumstances thereof and the amount of compensa-
8 tion or other relief demanded. Failure to state the amount of compen-
9 sation or other relief demanded shall not invalidate the notice; provid-
10 ing, the claimant shall furnish full information regarding the nature
11 and extent of the injuries and damages within fifteen (15) days after
12 demand by the municipality. No action therefor shall be maintained
13 unless such notice has been given and unless the action is commenced
14 within two (2) years after such notice. The time for giving such
15 notice shall include a reasonable length of time, not to exceed ninety
16 (90) days, during which the person injured is incapacitated by his
17 injury from giving such notice.

1 SEC. 6. When the claim is one for death by wrongful act or omis-
2 sion, the notice may be presented by the personal representative, sur-
3 viving spouse, or next of kin, or the consular officer of the foreign
4 country of which the deceased was a citizen, within one (1) year after
5 the alleged injury resulting in such death; but if the person for whose
6 death the claim is made has presented a notice that would have been
7 sufficient had he lived, an action for wrongful death may be brought
8 without additional notice.

1 SEC. 7. The governing body of any municipality may purchase a
2 policy of liability insurance insuring against all or any part of liabil-
3 ity which might be incurred by such municipality or its officers, em-
4 ployees and agents under the provisions of section two (2) of this Act
5 and may similarly purchase insurance covering torts specified in sec-
6 tion four (4) of this Act. The premium costs of such insurance may
7 be levied in excess of any millage tax limitation imposed by statute.
8 Any independent or autonomous board or commission in the municipal-
9 ity having authority to disburse funds for a particular municipal func-
10 tion without approval of the governing body may similarly procure
11 liability insurance within the field of its operation. The procurement
12 of such insurance constitutes a waiver of the defense of governmental
13 immunity as to those exceptions listed in section four (4) of this Act
14 to the extent stated in such policy but shall have no further effect on
15 the liability of the municipality beyond the scope of this Act. The
16 existence of any insurance which covers in whole or in part any judg-
17 ment or award which may be rendered in favor of the plaintiff, or lack
18 of any such insurance, shall not be material in the trial of any action
19 brought against the governing body of any municipality, or their offi-
20 cers, employees or agents and any reference to such insurance, or lack
21 of same, shall be grounds for a mistrial.

1 SEC. 8. The governing body shall defend any of its officers and
2 employees, whether elected or appointed and, except in cases of mal-
3 feasance in office or willful or wanton neglect of duty, shall save harm-
4 less and indemnify such officers and employees against any tort claim
5 or demand, whether groundless or otherwise, arising out of an alleged
6 act or omission occurring in the performance of duty. Any independ-
7 ent or autonomous board or commission of a municipality having
8 authority to disburse funds for a particular municipal function with-

9 out approval of the governing body shall similarly defend, save harm-
10 less and indemnify its officers and employees against such tort claims
11 or demands. This section is intended to confer power in addition to
12 that conferred by section three hundred sixty-eight A point one
13 (368A.1) of the Code.

1 SEC. 9. The governing body of any municipality may compromise,
2 adjust and settle tort claims against the municipality, its officers, em-
3 ployees and agents, for damages under sections two (2) or eight (8)
4 of this Act and may appropriate money for the payment of amounts
5 agreed upon.

1 SEC. 10. When a final judgment is entered against or a settlement
2 is made by a municipality for a claim within the scope of sections two
3 (2) or eight (8) of this Act, payment shall be made and the same
4 remedies shall apply in the case of nonpayment as in the case of other
5 judgments against the municipality. If said judgment or settlement
6 is unpaid at the time of the adoption of the annual budget, it shall
7 budget an amount sufficient to pay the judgment or settlement together
8 with interest accruing thereon to the expected date of payment. Such
9 tax may be levied in excess of any millage limitation imposed by stat-
10 ute.

1 SEC. 11. This Act shall have no application to any occurrence or
2 injury claim or action arising prior to its effective date.

1 SEC. 12. Section six hundred fourteen point one (614.1), Code
2 1966, is hereby amended by striking therefrom subsection one (1),
3 and by striking therefrom subsection four (4) and inserting in lieu
4 thereof the following: "Those against a sheriff or other public officer
5 for the nonpayment of money collected on execution within three (3)
6 years of collection."

1 SEC. 13. Sections three hundred twenty-one point four hundred
2 ninety-five (321.495), three hundred twenty-one point four hundred
3 ninety-six (321.496), and three hundred twenty-one point four hun-
4 dred ninety-seven (321.497) of the Code are hereby repealed.

1 SEC. 14. This Act, being deemed of immediate importance, shall be
2 in full force and effect on January 1, 1968, after its passage and publi-
3 cation in The Clinton Herald, a newspaper published at Clinton, Iowa
4 and in The Cedar Rapids Gazette, a newspaper published at Cedar
5 Rapids, Iowa.

Approved July 20, 1967.

This Act was passed by the G. A. on, or after, July 1, 1967.

I hereby certify that the foregoing Act, Senate File 710, was published in The Clinton Herald, Clinton, Iowa, July 26, 1967, and in The Cedar Rapids Gazette, Cedar Rapids, Iowa, July 25, 1967.

MELVIN D. SYNHORST, *Secretary of State.*