

MAR 9 2005  
LOCAL GOVERNMENT

HOUSE FILE 676  
BY JACOBS

(COMPANION TO LSB 2793SS  
BY WARD)

Passed House, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act authorizing a city to sell land gifted or dedicated to a  
2 city for park purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 676

1 Section 1. Section 354.23, Code 2005, is amended to read  
2 as follows:

3 354.23 VACATION OF STREETS OR OTHER PUBLIC LANDS.

4 A city or a county may vacate part of an official plat that  
5 had been conveyed to the city or county or dedicated to the  
6 public which is deemed by the governing body to be of no  
7 benefit to the public. A city may deem a park to be of no  
8 benefit to the public if the city finds that the park has been  
9 abandoned, or has become unsuitable or inadequate for the  
10 purpose for which the park was dedicated or gifted.

11 The city or county shall vacate by resolution following a  
12 public hearing or by ordinance and the vacating instrument  
13 shall be recorded. The city or county may convey the vacated  
14 property by deed or may convey the property to adjoining  
15 proprietors through the vacation instrument. If the vacating  
16 instrument is used to convey property then the instrument  
17 shall include a list of adjoining proprietors to whom the  
18 vacated property is being conveyed along with the  
19 corresponding description of each parcel being conveyed. A  
20 recorded vacation instrument which conforms to this section is  
21 equivalent to a deed of conveyance and the instrument shall be  
22 filed and indexed as a conveyance by the recorder and auditor.

23 A vacation instrument recorded pursuant to this section  
24 shall not operate to annul any part of an official plat except  
25 as provided for in section 354.22.

26 Sec. 2. NEW SECTION. 364.7A SALE OF PARK LAND.

27 1. Pursuant to section 354.23 and subject to the procedure  
28 in section 364.7, a city may sell land that the city has  
29 received for park purposes by gift or dedication as a result  
30 of a residential subdivision, residential site plan,  
31 residential planned unit development, conditional residential  
32 use plan, or residential zoning action. However, the city  
33 shall comply with any trust or restriction as to the  
34 disposition of such land contained in the gift or dedication  
35 except that any such restriction may be reformed if the city

1 makes a finding of no benefit pursuant to section 354.23 and  
2 any proceeds of sale are used only as provided in this  
3 section. The proceeds of such sale shall be deposited in a  
4 separate fund to be used only for the following park capital  
5 costs:

- 6 a. Land acquisition.
- 7 b. Construction of park improvements, including costs of  
8 grading, seeding, planting, roads, trails, parking lots,  
9 shelters, sidewalks, courts, permanent playgrounds, sport and  
10 recreational installations, and restroom and related  
11 facilities.
- 12 c. Necessary and reasonable legal, engineering, design,  
13 and other professional fees directly related to expenditures  
14 under paragraphs "a" and "b".

15 Park capital costs do not include the cost for recreational  
16 and sport equipment, the cost for maintenance, repair, and  
17 upkeep of park improvements as described under paragraph "b",  
18 salaries of city employees, or other costs of park operation.

- 19 2. a. A city with a population of twenty thousand or less  
20 may expend the proceeds for park capital costs anywhere within  
21 the city.
- 22 b. A city with a population greater than twenty thousand  
23 shall, prior to selling park land under this section, adopt a  
24 plan dividing the city into two or more local park districts.  
25 Each local park district shall have a population of no less  
26 than eight thousand and no more than twenty-four thousand.  
27 The city shall expend the proceeds for park capital costs only  
28 in the local park district in which the land was sold.
- 29 c. All of the proceeds received from such sale of park  
30 land shall be expended within eight years of receipt.

31 EXPLANATION

32 This bill authorizes cities to sell land that the city has  
33 received by dedication or gift to be used for park purposes.  
34 The city must, however, comply with any trust or restriction  
35 as to the disposition of such land contained in the gift or

1 dedication except that any such restriction may be reformed.  
2 The bill provides that before a city may dispose of a park,  
3 the city must make findings relating to public benefit. The  
4 city may sell the park provided that the proceeds of the sale  
5 are expended on "park capital costs" which include the  
6 acquisition of land, construction of park improvements, and  
7 payment of professional fees.

8 The bill provides that a city with a population of 20,000  
9 or less may use the proceeds anywhere in the city. However, a  
10 city with a population greater than 20,000 shall establish  
11 local park districts. Proceeds from a sale of park land  
12 within a local park district shall be expended within such  
13 district.

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