

FILED MAR 8 2005

SENATE FILE 317
BY WARD

LOCAL GOVERNMENT

(COMPANION TO LSB 2793HH
BY JACOBS)

Passed Senate, 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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SF 317

LOCAL GOVERNMENT

TLNB 2793SS 81

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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.

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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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