

Held unconstitutional, March 5, 1929 7
State of Iowa, ex rel John Fletcher,
Attorney General v. State of Iowa,
Executive Council. 207 Iowa 923

IOWA ROAD BOND BILL ENACTED AT THE EXTRA SESSION OF THE 42d G. A., FOR SUBMISSION TO VOTE OF THE PEOP- PLE ON NOVEMBER 6, 1928.

(S. F. 1, CHAPTER 2, ACTS OF THE EXTRA SESSION OF THE 42D G. A.)

An Act to provide a comprehensive program for improvement of the primary road system of the State of Iowa; to authorize the State of Iowa to become indebted in the amount of \$100,000,000 in connection therewith; to provide for the issuance and sale of bonds of said state in evidence of said indebtedness; to budget the primary road fund so as to maintain the primary roads and aid in the payment of the cost of said primary road improvements and to permit the payment therefrom of principal and interest of said bonds and bonds issued by any county in said state payable from said fund; to appropriate primary road funds for the payment of the principal and interest of said state road bonds; to provide for the imposition, levy and collection of a direct annual tax sufficient to pay the principal and interest of said state road bonds; and to provide for the submission of this Act to the people to be voted upon at the general election to be held in the year nineteen hundred twenty-eight.

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

Section 1. The following portions of the primary road system (except such parts thereof as may heretofore have been paved) shall be surfaced with pavement:

Primary road number 1, from a point nine miles north of Fairfield by way of Birmingham and Keosauqua to a point on primary road number 3 south of Keosauqua.

This pamphlet is issued by the State Printing Board, upon requisition of the State Highway Commission, under authority of Section 269 of the Code of Iowa. For additional copies address State Printing Board, Des Moines, Iowa, or Highway Commission, Ames, Iowa.

Result of vote at election

Nov. 6, 1928

Ayes 510,633

Nays 252,394

763,027

Primary road number 2 from a point on primary road number 61 west of Grandview by way of Columbus Junction, Washington, Sigourney, Oskaloosa, Knoxville, Indianola, Winterset, and Greenfield, to a point on primary road number 71 south of Atlantic, and from a point on primary road number 71 westerly to a point on primary road number 32 at Lewis.

Primary road number 3 from a point on primary road number 61 west of Fort Madison, by way of Farmington, Bloomfield, Centerville, Corydon, Leon, Mount Ayr, Bedford, Clarinda, Shenandoah, and Sidney to Nebraska City.

Primary road number 4 from a point on the Missouri line southeast of Hamburg, by way of Hamburg and Sidney, to a point on primary road number 34 north of Hillsdale. Also from Avoca by way of Harlan, Denison and Odebolt to a point on primary road number 20 west of Early.

Primary road number 5, from Fort Dodge, by way of Manson, Storm Lake and Cherokee to LeMars.

Primary road number 6 from Centerville by way of Albia, Knoxville, and Carlisle to Des Moines.

Primary road number 7 from Des Moines by way of Dallas Center, Guthrie Center, Hamlin, Harlan and Avoca to Council Bluffs.

Primary road number 9 from Lansing by way of Waukon, Decorah, Cresco, Osage, Manly, Forest City, Swea City, Estherville, Spirit Lake, Sibley, and Rock Rapids to a point on the South Dakota line north of Larchwood.

Primary road number 10, from Strawberry Point by way of Oelwein, Waverly, Allison, Hampton, Clarion, Humboldt, Pochontas, Linn Grove, Paullina, and Orange City to a point on primary road number 75 west of Orange City.

Primary road number 11, from Cedar Rapids by way of Independence and Oelwein, to West Union.

Primary road number 13, from Marion by way of Central City to Manchester. Also from Strawberry Point by way of Elkader to a point on primary road number 18 west of McGregor.

Primary road number 14 between Corydon and Chariton. Also from its intersection with primary road number 58 through Grundy Center to its intersection with primary road number 57.

Primary road number 15, from Ames by way of Blairsburg, Belmond, and Garner to Forest City.

Primary road number 16, from Mount Ayr to Winterset. Also from Adel by way of Ogden, Fort Dodge, Humboldt and Algona to its intersection with primary road number 9.

Primary road number 17, from Estherville by way of Emmetsburg, Pocahontas, to Rockwell City. Also from Perry to junction with primary road number 16.

Primary road number 18, from McGregor by way of Postville, West Union, New Hampton, Charles City, Mason City, Garner, Algona, Emmetsburg, Spencer, and Sheldon to a point on primary road number 75 near Perkins.

Primary road number 20, from Dubuque by way of Manchester, Independence, Waterloo, Iowa Falls, Webster City, Fort Dodge, Rockwell City, Sac City, and Correctionville to Sioux City.

Primary road number 21 from Primghar to a point on primary road number 18 east of Sanborn. Also, from Ida Grove to a point on primary road number 20 east of Holstein.

Primary road number 28 from Martensdale by way of Fort Des Moines to Des Moines.

Primary road number 30 from Clinton by way of Lowden, Cedar Rapids, Belle Plaine, Tama, Marshalltown, Nevada, Boone, Jefferson, Carroll, Denison, and Missouri Valley to Council Bluffs.

Primary road number 32 from Davenport by way of Iowa City, Marengo, Grinnell, Newton, Des Moines, Adel, Redfield, Dexter, Adair, Atlantic, and Oakland to Council Bluffs.

Primary road number 34 from Burlington by way of Mount Pleasant, Fairfield, Ottumwa, Albia, Chariton, Osceola, Creston, Corning, Red Oak, and Glenwood, to Council Bluffs.

Primary road number 38 from Muscatine to Wilton. Also from Tipton to Stanwood.

Primary road number 48 from Red Oak through Essex to Shenandoah.

Primary road number 55 from Dubuque by way of Luxemburg, Guttenberg, Postville, Calmar, and Decorah to a point on the Minnesota line north of Burr Oak.

Primary road number 57 from its intersection on primary road number 14 by way of Dike to Cedar Falls.

Primary road number 58 from Eldora to a point on primary road number 134 west of Eldora. Also east of Eldora to a point on primary road number 14.

Primary road number 59 from Oskaloosa by way of Montezuma, Tama, Traer, Hudson and Waterloo, to a point on primary road number 10 east of Waverly.

Primary road number 60 from a point on primary road number 30 east of Boone by way of Madrid to Des Moines.

Primary road number 61 from Keokuk by way of Fort Madison, Burlington, Wapello, Muscatine, Davenport, DeWitt and Maquoketa to Dubuque.

Primary road number 63 from Des Moines by way of Prairie City, Pella, Oskaloosa, Ottumwa, and Bloomfield to a point on the Missouri line southwest of Bloomfield.

Primary road number 65 from Leon by way of Osceola, Indianola, Des Moines, Ames, Colo, Iowa Falls, Hampton, Mason City, and Northwood to a point on the Minnesota line north of Northwood.

Primary road number 69 from Leon by way of Lamoni to the Missouri line south of Lamoni.

Primary road number 71 from the Missouri line near Braddyville by way of Clarinda, Villisca, Atlantic, Audubon, Carroll, Sac City, Storm Lake, Spencer, and Spirit Lake to a point on the Minnesota line northeast of Spirit Lake.

Primary road number 74 from Tipton by way of New Liberty to Davenport.

Primary road number 75 from Missouri Valley by way of Onawa, Sioux City, Le Mars, Sioux Center, and Rock Rapids to a point on the Minnesota line north of Rock Rapids.

Primary road number 90 from Grundy Center by way of Reinbeck to a point on primary road number 59 south of Hudson.

Primary road number 99 from Davenport by way of Princeton and Camanche to a point on primary road number 30 west of Clinton.

Primary road number 134 from a point on primary road number 58 west of Eldora to a point on primary road number 65 north of Hubbard.

Primary road number 117 from Anamosa to Maquoketa.

Primary road number 136 from Clinton by way of Charlotte and Delmar to a point on primary road number 61 west of Delmar.

Primary road number 141 from Denison by way of Mapleton, to Sioux City.

Primary road number 149 from a point on primary road number 63 west of Hedrick by way of Hedrick, Sigourney, and Williamsburg to primary road number 32 west of Homestead.

Primary road number 150 from a point on primary road number 32 near Homestead by way of Amana and Fairfax to a point on primary road number 30 west of Cedar Rapids.

Primary road number 161 from Dubuque by way of Cascade, Anamosa, Cedar Rapids, Iowa City, Ainsworth, Mount Pleasant, and Donnellson to a point on primary road number 61 southwest of Montrose.

Primary road number 218 from a point on primary road number 30 south of Vinton by way of Vinton, Waterloo, Waverly, Charles City, and Osage to a point on the Minnesota line north of St. Ansgar.

All other primary roads or portions thereof, contracts for the paving of which have been let by the Highway Commission prior to the taking effect of this act.

All other primary roads (except such portions thereof as may have heretofore been hard surfaced or graveled) shall be surfaced with gravel, sand-clay or other type of low cost surfacing. Provided, however, that after the completion of 80% of the pavement herein authorized the state highway commission may surface with pavement as current primary road funds are available any road herein designated to be graveled, but current

primary road funds shall not be used for paving roads herein designated for gravel when their use therefor will result in postponing the completion of the paving of roads hereinbefore specified for paving beyond six years after the taking effect of this act.

Sec. 2. Said work of surfacing the primary roads and the grading, draining, bridging, and incidental work in connection therewith shall, in so far as possible, be completed within six years after the taking effect of this act, provided, however, the program of primary road construction work in any county which has authorized primary road bonds shall not be delayed or retarded by reason of the adoption of this act.

Sec. 3. In order to provide funds with which to aid in meeting the cost of improving the primary roads as this act provides, the State of Iowa is hereby authorized to become indebted in the amount of one hundred million dollars (\$100,000,000) and in evidence thereof there shall be issued and sold negotiable serial bonds of the state as hereinafter provided. The total amount of bonds issued hereunder shall not exceed one hundred million dollars. The total amount of outstanding state bonds issued hereunder plus the total amount of outstanding county primary road bonds, plus the total amount of outstanding bonds issued to refund county primary road bonds shall not at any time exceed the sum of one hundred million dollars. The proceeds of said bonds shall be paid into the treasury of the state to be expended in the improvement of the primary roads of the state as provided in this act, and for expenses incurred in carrying out the provisions of this act.

Sec. 4. The bonds herein authorized shall be general obligations of the State of Iowa. They shall be issued in serial form and shall bear interest at the rate of not to exceed four per cent per annum, payable semi-annually. Each bond shall be due and payable on the date stipulated on the face thereof, which date shall be not more than twenty years after the date of issuance,

and said bonds shall not be taxed. Both principal and interest shall be payable at the office of the treasurer of the State of Iowa, or at any other place designated by the executive council. Each bond shall be signed by the governor under the great seal of the State of Iowa, attested by the secretary of state, and countersigned by the auditor of state. Interest coupons thereto attached shall bear the lithographed facsimile signature of the auditor of state, and the full faith, credit, and resources of the State of Iowa are hereby pledged for the payment of said bonds and the interest thereon. Said bonds may be of such form as will permit registration of ownership.

Sec. 5. All bonds herein authorized shall be sold by the executive council of the State of Iowa in accordance with the provisions of chapter 63 of the code of 1927. Said advertisement and sale shall take place before the bonds are printed.

It shall be the duty of the secretary of the executive council to cause to be prepared the forms of advertisements, resolutions, agreements, and other necessary forms, for the use of the executive council in the advertisement and sale of bonds as provided in this act, and to prepare and cause to be printed the proper form of bond and to deliver said blank bonds to the proper officials for signature.

Sec. 6. The executive council shall from time to time by resolutions cause to be issued and sold such portions of such bonds as may be necessary to meet the construction costs of the road improvement outlined in this act, and all such resolutions shall be entered at large in the minutes of the council's proceedings. Such resolutions shall clearly specify the amount of bonds authorized, the denomination of each bond, the number or designation of each bond, the rate of interest which each bond shall bear, the date of each bond, the maturity date of each bond, and the authorization of the governor to sign said bonds, under the great seal of the state, the authorization of the secretary of state to attest said bonds, and the authorization of

the auditor of state to countersign said bonds. Said bonds shall mature and be payable as follows:

Three million dollars (\$3,000,000) in each of the years 1935 to 1937, both inclusive;

Four million dollars (\$4,000,000) in each of the years 1938 to 1941, both inclusive;

Five million dollars (\$5,000,000) in each of the years 1942 to 1946, both inclusive;

Six million dollars (\$6,000,000) in each of the years 1947 to 1952, both inclusive;

Seven million dollars (\$7,000,000) in each of the years 1953 and 1954.

When signed and attested said bonds shall be delivered to the auditor of state who shall countersign the same, charge the treasurer of state with such bonds, and deliver the same to such latter officer who shall be responsible therefor on his bond. The treasurer of state shall dispose of said bonds according to the terms of the sale previously entered into by the executive council, and shall credit the proceeds thereof to the primary road bond fund.

Sec. 7. Said primary road bond fund is hereby appropriated for and shall be used in the establishment and construction of the primary road system, including the drainage, grading, surfacing, construction of bridges and culverts, the elimination or improvement of railroad crossings, the acquiring of additional right of way, and all other expenses incurred in the construction of said primary road system, as this act provides. All of the provisions of the primary road law in so far as the same are applicable, shall apply to the work done and the expenditures made under the provisions of this act.

Sec. 8. For the purpose of permitting payment of both principal and interest of the state road bonds issued under the provisions of this act the primary road fund is hereby budgeted in the following manner. The state highway commission shall, on or before July first of each year make an

estimate of the amount required during the ensuing year to maintain the primary road system and shall transfer said amount so estimated from the primary road fund to the primary road maintenance fund. All moneys remaining in the primary road fund each year, or so much thereof as may be necessary, are hereby appropriated and dedicated for the payment, first, of the interest and principal of the primary road bonds issued by any county, and the interest and principal of bonds issued by any county to refund primary road bonds, and second, the payment of the interest and principal of bonds issued by the state under the provisions of this act, maturing in said ensuing year, and the appropriation of said remaining primary road funds for such purpose shall take precedence over any other provisions of the law now in force or hereafter enacted in relation to said fund. Any amount remaining in said primary road fund in any year after setting aside a sufficient amount to maintain the primary roads and to pay the maturing interest and principal on both state and county bonds as above provided shall be used for the purposes enumerated in chapter 241-B1, code, 1927 as amended by acts of the special session of the forty-second general assembly.

The said commission shall thereupon certify to the treasurer of state, (a) the estimated amount of the primary road fund for the ensuing year, (b) the amount set aside for maintaining the primary roads, (c) the amount required for the payment of the maturing interest and principal of primary road bonds issued by any county and the amount required for the payment of the maturing interest and principal of bonds issued by any county to refund primary road bonds, (d) the amount required to retire county primary road bonds subject to call as provided in Sec. 10 hereof, (e) the amount required to pay the maturing interest and principal of primary road bonds issued under this act, and (f) the estimated amount of the primary road fund for the ensuing year available for construction work on the primary roads.

Sec. 9. The maturing interest and principal of primary road bonds issued by any county, and bonds issued by any county to refund primary road bonds, shall be paid from the portion of the primary road fund budgeted for that purpose as hereinbefore provided. Thirty days prior to the maturing of any of said bonds or interest thereon, the state highway commission shall prepare a voucher in favor of the county treasurer and drawn against the primary road fund in the amount of said maturing interest and principal. Said voucher shall be paid from the primary road fund in the same manner as other primary road claims. The funds so received by any county treasurer shall be used for paying the maturing interest and principal of such bonds, and for no other purpose.

Sec. 10. Immediately prior to the May first interest payment date next following the taking effect of this act and annually thereafter, the highway commission shall ascertain the amount of funds in the primary road fund available to pay off and retire primary road bonds issued by any county and subject to call on said interest payment date. The state highway commission shall use such primary road funds that may be available for that purpose and shall cause suitable vouchers to be prepared and executed, and forward same to the treasurer of each county in which any of said primary road bonds are subject to call, an amount sufficient to pay the same. The county treasurer shall use said funds for the retirement of such bonds and for no other purpose. He shall immediately upon receipt of said funds call in and retire such bonds then subject to call.

Sec. 11. There is hereby created a primary road bond redemption fund from which all payments shall be made in redeeming primary road bonds issued by the state, and the payment of interest on said bonds. Whenever any bonds issued hereunder or interest thereon are about to mature, the state highway commission shall prepare a voucher drawn against the primary road fund and in favor of the treasurer of state for the

benefit of the primary road bond redemption fund in the amount of said maturing bonds and interest. Said voucher shall be forwarded to the auditor of state, who shall draw his warrant therefor, and the same shall be delivered to the treasurer of state, who shall charge the primary road fund with the amount thereof and credit said amount to the primary road bond redemption fund. Said primary road bond redemption fund shall be used in the redemption of said primary road bonds and for the payment of the interest thereon and for no other purpose.

Sec. 12. In each year after this act becomes effective and until all of the bonds issued hereunder shall have been retired, there is hereby imposed and levied upon all the taxable property within the State of Iowa, in addition to all other taxes, to be included and added to the tax levied for state purposes, a direct annual tax for such amount as shall be necessary and sufficient, together with the amount available for that purpose from the primary road fund, to pay the interest and principal of all bonds issued under the provisions of this act, as and when the same accrues and becomes due. The proceeds of such direct annual tax are hereby appropriated for the payment of interest and principal of bonds issued hereunder and when collected by the treasurer of state shall be credited to the primary road bond redemption fund.

The treasurer of state shall annually certify to the executive council, prior to the time for the levy of general state taxes, the amount of money required to be raised to pay the principal of and interest on bonds issued under this act and maturing in the ensuing year, and said executive council shall annually fix the rate of tax necessary to be levied and assessed upon the valuation of the taxable property within the state to produce funds sufficient to pay such principal and interest, and such additional annual direct tax shall be levied, certified, assessed, and collected at the same time and in the same manner as are taxes for general state purposes; provided, however, that if money from the primary road fund has been appropriated and

is set apart for the same purpose for which said direct annual tax is hereby levied and imposed, then the treasurer of state, in annually certifying to the executive council the amount required, shall specify the amount of money from the primary road fund so appropriated, and the rate fixed by the executive council shall make proper allowance and reduction for any such money so appropriated and set apart from the primary road fund.

Sec. 13. While section 15 hereof is in effect, the laws of the state relating to motor vehicle license fees and the gasoline license fees accredited to the primary road fund, shall not be amended so as to reduce the funds now arising therefrom, and the said proceeds of such license fees shall not be used for any other purpose than as specified in this act.

Sec. 14. If this act is adopted by the people, the state department of justice shall upon the adoption by the executive council of the first resolution authorizing the issuance of bonds hereunder immediately bring an action testing the validity of this act, and in that event the executive council shall proceed no further toward the issuance of bonds hereunder until the validity of this act shall have been determined.

Should the supreme court of Iowa hold that the use of primary road funds, derived from motor vehicle license fees and gasoline license fees for payment of principal and interest of state bonds as provided in this act is unconstitutional then this whole act shall be held invalid and no bonds shall be issued hereunder.

Sec. 15. The provisions of the seven preceding sections shall remain in force and effect without amendment, which will in any way affect the rights and security of the holders of any such bonds, so long as any thereof shall be outstanding, except that this section shall cease to be effective after the expiration of ninety days after all of said bonds have been legally called for payment.

Sec. 16. The authorization voted by any county to issue bonds for primary road work shall become null and void, as to

any such bonds not actually issued and sold, immediately upon the issuance of any state primary road bonds authorized under the provisions of this act, and no county primary road bonds shall be issued thereafter. Any county primary road bonds issued after this act takes effect shall cancel the authorization, under this act, for the issuance of an equal amount of state primary road bonds, and said county primary road bonds, issued after this act takes effect, shall mature and be payable at the times specified herein for the payment of an equal amount of the earliest maturing state primary road bonds.

Sec. 17. Interest accruing to the state on primary road bond funds on deposit shall be credited by the treasurer of state to the primary road bond fund, and shall not be diverted to the state sinking fund under the provisions of chapter 55-A1 of the code of 1927.

Sec. 18. This act after publication as provided by law shall be submitted to the people of the State of Iowa at the general election to be held in November, nineteen hundred twenty-eight, and shall take effect if at such election it shall receive a majority of the votes cast for and against it.

Separate ballots shall be provided for the electors, which shall be substantially in the following form:

(Notice to Voters: For an affirmative vote upon any question submitted upon this ballot make a cross mark in the square after the word "Yes". For a negative vote, make a similar mark in the square following the word "No".)

"Shall the following public measure, same being an act of the extra session of the 42nd general assembly, be adopted and approved?

Yes

No

(Here insert in full this law.)

Sec. 19. This act shall take effect immediately upon its adoption and approval at such election.

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