

Sec. 2. NEW SECTION. 331.605B FEES COLLECTED – AUDIT.

The recorder shall make available any information required by the county or state auditor concerning the fees collected under section 331.605A for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

Sec. 3. LEGISLATIVE INTENT – WORKING GROUP.

1. It is the intent of the general assembly that maximum access to public records maintained by county recorders at locations throughout the state be fostered. A working group shall be established to develop policies and procedures to accomplish the purposes established in section 331.605A. The working group shall include at a minimum representatives of all of the following:

- a. County recorders.
 - b. The secretary of state.
 - c. The state historical society in the department of cultural affairs.
 - d. Citizen and business interests, including lenders, realtors, abstractors, and attorneys.
2. The representative of the county recorders shall coordinate the work of the group.
3. The secretary of state shall submit a brief written report to the governor and the general assembly regarding the activities of the working group and describing the progress made in accomplishing the purposes established in section 331.605A.

Approved May 20, 1993

CHAPTER 152

ANNEXATION AND OTHER CITY DEVELOPMENT

S.F. 418

AN ACT relating to the annexation of land to cities.

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

Section 1. Section 368.1, subsection 10, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

10. "Island" means land which is not part of a city and which is completely surrounded by the corporate boundaries of one or more cities. However, a part of the boundary of an "island" may be contiguous with a boundary of the state, a river, or similar natural barrier which prevents service access from an adjoining area of land outside the boundaries of a city.

Sec. 2. Section 368.1, subsection 14, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

14. "Urbanized area" means any area of land within two miles of the boundaries of a city.

Sec. 3. Section 368.1, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 10A. "Public utility" means a public utility subject to regulation pursuant to chapter 476.

Sec. 4. Section 368.7, Code 1993, is amended to read as follows:
368.7 VOLUNTARY ANNEXATION OF TERRITORY.

1. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right of way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the railway owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail

to the owner of the right of way and each affected public utility, at least ten days prior to the filing of the application with the city council any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county.

2. An application for annexation of territory not within an urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the secretary of state, county board of supervisors, each affected public utility, and the state department of transportation. The city clerk shall also file record a copy of the legal description, map and resolution with the county recorder and secretary of state. The secretary of state shall not accept and acknowledge a copy of a legal description, map and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the legal description, map and resolution.

3. An application for annexation of territory within an urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least ten days prior to any action by the city council on the application to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, each affected public utility, and to the regional planning authority of the territory. Notice of the application shall be published in an official county newspaper in each affected county which contains a portion of the territory at least ten days prior to any action by the city council on the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed and recorded copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

4. If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation or incorporation for a common territory are submitted to the board within thirty days of the date the first application or petition was submitted to the board, the board shall approve the application for voluntary annexation, provided that if the application meets the applicable requirements of this chapter, unless the board determines by a preponderance of the evidence that the application was filed in bad faith, or that the application as filed is contrary to the best interests of the citizens of the urbanized area, or that the applicant cannot within a reasonable period of time meet its obligation to provide services to the territory to be annexed sufficient to meet the needs of the territory. In consideration of the requests, the board may appoint a committee in the manner provided in section 368.14 to seek additional information from the applicant for voluntary annexation as necessary, including the information required of petitioners pursuant to section 368.11. The board, or the committee, if applicable, shall hold a public hearing on the application for voluntary annexation in the manner provided for involuntary petitions in section 368.15. The decision of the board under this paragraph subsection shall be made within ninety days of receipt of the application by the board. The failure of the board to approve an application under this paragraph shall be deemed final agency action subject to judicial review. ~~An applicant may appeal a decision of the board no earlier than one hundred eighty days after the decision is issued or not later than thirty days after a final decision is made by the special local committee under section 368.14A, whichever is earlier.~~

If an application for voluntary annexation is not approved pursuant to this section, the board shall cause the conversion of the application to a petition pursuant to section 368.13 and shall proceed under section 368.14A. The conversion of an application to a petition shall not prejudice the status of the applicant. ~~Judicial review of a board decision under this paragraph and the preceding paragraph shall be limited to review of the testimony and documents presented to the board prior to issuing its decision on the application for voluntary annexation~~ subsection may be requested by an aggrieved party.

Sec. 5. NEW SECTION. 368.7A SECONDARY ROAD ANNEXATION.

1. The board of supervisors of each affected county shall notify the city development board of the existence of that portion of any secondary road which extends to the center line but has not become part of the city by annexation and has a common boundary with a city. The notification shall include a legal description and a map identifying the location of the secondary road. The city development board shall provide notice and an opportunity to be heard to each city in or next to which the secondary road is located. The city development board shall certify that the notification is correct and declare the road, or portion of the road extending to the center line, annexed to the city as of the date of certification. This section is not intended to interfere with or modify existing chapter 28E agreements on jurisdictional transfer of roads, or continuing negotiations between jurisdictions.

2. The remaining title and interest of a county in any secondary road or portion of the road which has been annexed by a city is transferred to the annexing city on the effective date of this Act. The title and interest of a county in any secondary road which is annexed by a city after the effective date of this Act is transferred to the city upon the effective date of the annexation.

Sec. 6. Section 368.8, Code 1993, is amended to read as follows:

368.8 VOLUNTARY SEVERING OF TERRITORY.

Any territory may be severed upon the unanimous consent of all owners of the territory and approval by resolution of the council of the city in which the territory is located. The council shall provide in the resolution for the equitable distribution of assets and equitable distribution and assumption of liabilities of the territory as between the city and the severed territory. The city clerk shall file a copy of the resolution, map, and a legal description of the territory involved with the county board of supervisors, secretary of state, and state department of transportation. The city clerk shall also file record a copy of the map and resolution with the county recorder and secretary of state. The secretary of state shall not accept and acknowledge a copy of a map and resolution of severance which would create an island. The severance is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

Sec. 7. Section 368.10, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 8. Section 368.10, subsection 2, Code 1993, is amended to read as follows:

2. The board may establish rules for the performance of its duties and the conduct of proceedings before it. The rules may include establishing filing fees for applications and petitions submitted to the board. The board's rules are subject to chapter 17A, as applicable.

Sec. 9. Section 368.11, unnumbered paragraphs 1, 2, 4, and 5, Code 1993, are amended to read as follows:

A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the qualified electors of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, the council of a city if an incorporation includes territory within the city's urbanized area, and any regional planning authority for the area involved.

Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration petitions or plans which concern the same territory or city or which provide for a boundary adjustment or incorporation affecting common territory. The combined petitions may be submitted for consideration by a special local committee pursuant to section 368.14A.

At least ten days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known to ~~all affected parties~~ by sending a letter of intent by certified mail to the council of each city ~~within the urbanized area if the territory is within an urbanized area, or, if the territory is not within an urbanized area, to the council of each city within two miles whose urbanized area contains a portion of the territory,~~ the board of supervisors of each county ~~within the urbanized area which contains a portion of the territory,~~ the regional planning authority of the territory involved, each affected public utility, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each ~~affected county which contains a part of the territory~~ at least five days before the date of the public meeting. ~~The chairperson of the board of supervisors of the county containing the greatest area of the territory proposed to be annexed mayor of the city proposing to annex the territory,~~ or that person's designee, shall serve as chairperson of the public meeting. ~~The auditor of the same county, or the auditor's city clerk of the same city or the city clerk's designee,~~ shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the board by the chairperson of the meeting.

Sec. 10. Section 368.13, Code 1993, is amended to read as follows:

368.13 BOARD MAY INITIATE PROCEEDINGS.

Based on the results of its studies, the board may initiate proceedings for the incorporation, discontinuance, or boundary adjustment of a city. The board may request a city to submit a plan for boundary adjustment, city development or may formulate its own plan for ~~incorporation, discontinuance, or boundary adjustment city development.~~ A plan submitted at the board's initiation must include the same information as a petition and be filed and acted upon in the same manner as a petition. A petition or plan may include any information relevant to the proposal, including but not limited to results of studies and surveys, and arguments.

Sec. 11. Section 368.14A, Code 1993, is amended to read as follows:

368.14A SPECIAL LOCAL COMMITTEES.

When two or more ~~involuntary petitions for city development action or voluntary applications for boundary adjustment~~ voluntary annexation describing common territory are being considered together, the board shall direct the appointment of representatives for each of the petitions to serve on one special committee to consider the petitions. Expense reimbursement and qualifications of these representatives shall be as provided in section 368.14. Three board members and at least one-half of the appointed local representatives are required for a quorum of the special local committee. The manner of appointment of representatives shall be the same as for single petition committees ~~except that if one or more of the territories to be annexed is in more than one county, the board of supervisors of the county containing the greatest area of the territory proposed to be annexed shall appoint one representative as provided in section 368.14.~~ The special committee shall consider the petitions in conformity with the provisions of this chapter, and shall resolve common territory issues between petitioners. The special committee shall conduct a public hearing on the petitions pursuant to section 368.15. If the common territory issue is resolved, the special local committee may approve the resulting compatible petitions by a single vote or separately, in its discretion.

Sec. 12. Section 368.20, subsection 2, Code 1993, is amended to read as follows:

2. File with the secretary of state, the clerk of each city incorporated or involved in a boundary adjustment, and record with the recorder of each county which contains a portion of any city or territory involved, copies of the proceedings including the original petition or plan and any amendments, the order of the board approving the petition or plan, proofs of service and publication of required notices, certification of the election result, and any other material deemed by the board to be of primary importance to the proceedings. Upon proper filing and expiration of time for appeal, the incorporation, discontinuance, or boundary adjustment is complete. However, if an appeal to any of the proceedings is pending, completion does not occur until the appeal is decided, unless a subsequent date is provided in the proposal. The board shall also file with the state department of transportation a copy of the map and legal land description of each completed incorporation or corporate boundary adjustment completed under sections 368.11 through 368.22 or approved annexation within an urbanized area.

Sec. 13. NEW SECTION. 368.23 FEES AND TAXES OF PUBLIC UTILITIES.

Additional or increased fees or taxes, other than ad valorem taxes, imposed on a public utility as a result of an annexation of territory to a city shall become effective sixty days after the effective date of the annexation.

Approved May 20, 1993

CHAPTER 153

CITY UTILITIES — CABLE SYSTEMS

H.F. 400

AN ACT authorizing city utilities to include cable communication or television systems.

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

Section 1. Section 362.2, subsection 6, Code 1993, is amended to read as follows:

6. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, ~~or~~ heating plant, cable communication or television system, any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Approved May 20, 1993