

How Cities 4/28 Amend (4031) and Dr. Paul 5/6

Senate File 356
Cities
Spear, chair
Bina
Rinas
Smailey
Krewson

*Revised Cities 1/15/78
Amend per 5090
Dr. Paul 1/12 (1977)*

FILED APR 18 1977

SENATE FILE 356

By COMMITTEE ON CITIES
approved 4/19 (9121)

Passed Senate, Date 4-26-77 (p. 1195) Passed House, Date 5-4-77 (p. 2242)

Vote: Ayes 37 Nays 1 Vote: Ayes 29 Nays 3

Approved June 26 1977

Approved Senate 5-4-77 (p. 2242)

47-0

A BILL FOR

1 An Act relating to city development by changing the number
2 of local representatives appointed when a petition for
3 boundary adjustment involves territory in more than one
4 county, clarifying the publication requirements for
5 notice of election results, and allowing chapter three
6 hundred sixty-eight (368) of the Code to prevail over
7 chapter seventeen A (17A) of the Code in certain instances.

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

- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 356

1 Section 1. Section three hundred sixty-eight point fourteen
2 (368.14), unnumbered paragraph one (1) and subsections three
3 (3) and four (4), Code 1977, are amended to read as follows:

4 If a petition is not dismissed, the board shall direct
5 the appointment of local representatives, notwithstanding
6 the provisions of section seventeen A point seventeen (17A.17),
7 subsection three (3) of the Code, to serve with board members
8 as a committee to consider the proposal. Each local
9 representative is entitled to receive from the state his or
10 her actual and necessary expenses spent in performance of
11 committee duties. Two board members and one local
12 representative, or if the number of local representatives
13 exceeds one, two board members and at least one-half of the
14 appointed local representatives, are required for a quorum
15 of the committee. A local representative must be a qualified
16 elector of the territory or city he or she represents, and
17 must be selected as follows:

18 3. From a territory to be annexed to or severed from a
19 city, one representative appointed by the county board of
20 supervisors. If the territory is in more than one county,
21 the board shall direct the appointment of a local
22 representative from each county involved.

23 4. From a city to which territory is to be annexed or
24 from which territory is to be severed, one representative
25 appointed by the city council. If the territory is in more
26 than one county, the board shall direct the appointment of
27 an equal number of city and county local representatives.

28 Sec. 2. Section three hundred sixty-eight point twenty-
29 two (368.22), unnumbered paragraphs two (2) and four (4),
30 Code 1977, are amended to read as follows:

31 Appeal must be filed within thirty days of the filing of
32 a decision or the ~~second~~ publication of notice of the result
33 of an election.

34 The court's review on appeal of a decision is limited to
35 questions relating to jurisdiction, regularity of proceedings,

1 and whether the decision appealed from is arbitrary,
2 unreasonable, or without substantial supporting evidence.
3 The court may reverse and remand a decision of the board or
4 a committee, with appropriate directions. Sections seventeen
5 A point seventeen (17A.17), subsection three (3), seventeen
6 A point eighteen (17A.18), seventeen A point nineteen (17A.19),
7 subsection two (2) relating to filing of petitions for judicial
8 review in Polk county district court, and section seventeen
9 A point nineteen (17A.19), subsection five (5) of the Code
10 are not applicable to this chapter.

11 Sec. 3. This Act is effective January 1, 1970.

12 EXPLANATION

13 This city development bill changes the number of local
14 representatives appointed when a petition for boundary
15 adjustment involves territory in more than one county,
16 clarifies the publication requirements for notice of election
17 results, and allows chapter 368 of the Code to prevail over
18 chapter 17A of the Code in certain instances.

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

H-5609

1 Amend Senate File 356 as follows:

2 1. Page 1, by inserting before line 1 the following
3 sections:

4 "Sec. _____. Section three hundred sixty-eight point
5 one (368.1), Code 1977, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. "Qualified elector" means a person
8 who is registered to vote pursuant to chapter forty-
9 eight (48) of the Code.

10 Sec. _____. Section three hundred sixty-eight point
11 four (368.4), Code 1977, is amended to read as follows:

12 368.4 ANNEXING MORATORIUM. A city, following
13 notice and hearing, may by resolution agree with
14 another city or cities to refrain from annexing
15 specifically described territory for a period not
16 to exceed ten years and, following notice and hearing,
17 may by resolution extend the agreement for subsequent
18 periods not to exceed ten years each. The board shall
19 be given timely notice of a hearing, and a copy of
20 the agreement and a copy of any resolution extending
21 an agreement shall be filed with the board within
22 thirty days of enactment. If such an agreement is
23 in force, the board shall dismiss a petition or plan
24 which violates the terms of the agreement."

25 2. Page 1, line 22, by inserting after the word
26 "involved." the words "If there are no qualified
27 electors residing in an area to be annexed to or
28 severed from a city, the county board of supervisors
29 may appoint as local representative an individual
30 owning property in the territory whether or not he
31 or she is a qualified elector."

32 3. Amend the title, line 1, by inserting after
33 the word "by" the words "defining qualified elector,
34 requiring the city development board to be notified
35 of annexation moratorium agreements and hearings,".

36 4. Amend the title, line 4, by inserting after
37 the word "county," the words "allowing a property
38 owner under certain circumstances to serve on the
39 city development committee even though he or she is
40 not a qualified elector,".

41 5. By renumbering sections and changing internal
42 references to conform to this amendment.

H-5609 FILED *with Bureau* BY
MARCH 9, 1978 *5/4 (912240)*

SPEAR of Lee
RINAS of Linn
BINA of Scott
SMALLEY of Polk
KREWSON of Polk
HOFFMANN of Muscatine
CLARK of Lee
CONNORS of Polk
STEPHENS of Plymouth
TOFTE of Winneshiek
LIND of Black Hawk
PAVICH of Pottawattamie
HINES of Story

SENATE FILE 356

H-5155

- 1 Amend the Committee on Cities amendment, H-5090,
- 2 to Senate File 356, as follows:
- 3 1. Page 1, by striking lines 2 through 6.
- 4 2. Page 1, line 18, by inserting after the word
- 5 "directions." the words "Section seventeen A point
- 6 seventeen (17A.17), subsection three (3), of the Code
- 7 is not applicable to this chapter."

H-5155 FILED *Looney* BY CLARK of Lee
JANUARY 26, 1978 *7/4 (224)*

SENATE FILE 356

H-5173

- 1 Amend Senate File 356, as passed by the Senate,
- 2 as follows:
- 3 1. Page 1, by inserting after line 27 the following
- 4 new section:
- 5 "Sec. _____. Section three hundred sixty-eight
- 6 point nineteen (368.19), Code 1977, is amended to
- 7 read as follows:
- 8 368.19 TIME LIMIT--ELECTION. The committee shall
- 9 approve or disapprove the petition or plan as amended,
- 10 within ninety days of the final hearing, and shall
- 11 file its decision for record and promptly notify the
- 12 parties to the proceeding of its decision. If a
- 13 petition or plan is approved, the board shall set
- 14 a date within ninety days for a special election on
- 15 the proposal and the county commissioner of elections
- 16 shall conduct the election. In a case of incorporation
- 17 or discontinuance, qualified electors of the territory
- 18 or city may vote, and the proposal is authorized if
- 19 a majority of those voting approves it. In a case
- 20 of annexation or severance, qualified electors of
- 21 the territory and of the city may vote, and the
- 22 proposal is authorized only if a majority of the total
- 23 number of persons voting who reside in the territory
- 24 to be annexed or severed approves it and a majority
- 25 of the total number of persons voting who reside in
- 26 the city approves it. In a case of consolidation,
- 27 qualified electors of each city to be consolidated
- 28 may vote, and the proposal is authorized only if it
- 29 receives a favorable majority vote in each city.
- 30 The county commissioner of elections shall publish
- 31 notice of the election as provided in section 49.53
- 32 and shall conduct the election in the same manner
- 33 as other special city elections.
- 34 The costs of an incorporation election shall be
- 35 borne by the initiating petitioners if the election
- 36 fails, but if the proposition is approved the cost
- 37 shall become a charge of the new city."

H-5173 FILED *Not given* BY SCHNEKLOTH of Scott
JANUARY 30, 1978 *7/4 (224)* WOODS of Polk
MILLER of Buchanan
BAKER of Buena Vista

SENATE FILE 356

H-5090

- 1 Amend Senate File 356 as follows:
2 1. Page 1, line 5, by striking the word "notwithstanding".
3
4 2. Page 1, by striking line 6.
5 3. Page 1, line 7, by striking the words
6 "subsection three (3) of the Code,".
7 4. Page 1, line 22, by inserting after the word
8 "involved" the words "by its board of supervisors".
9 5. Page 1, line 34, by inserting before the word
10 "The" the words "The judicial review provisions of
11 this section and chapter seventeen A (17A) of the
12 Code shall be the exclusive means by which a person
13 or party who is aggrieved or adversely affected by
14 agency action may seek judicial review of that agency
15 action."
16 6. Page 2, by striking lines 4 through 10 and
17 inserting in lieu thereof the words "a committee,
18 with appropriate directions. The following portions
19 of section seventeen A point nineteen (17A.19) of
20 the Code are not applicable to this chapter:
21 1. The part of subsection two (2) which relates
22 to where proceedings for judicial review shall be
23 instituted.
24 2. Subsection five (5).
25 3. Subsection eight (8)."
26 7. Page 2, line 11, by striking the number "1978"
27 and inserting in lieu thereof the number "1979".

H-5090 FILED *Adopted* BY COMMITTEE ON CITIES
JANUARY 23, 1978 *5/4 (p. 2246)* BINA of Scott, Chair

SENATE FILE 356

H-4031

- 1 Amend Senate File 356 as follows:
2 1. Page 1, line 22, by inserting after the word
3 "involved" the words "by its board of supervisors".
4 2. Page 1, line 34, by inserting before the word
5 "The" the words "The judicial review provisions of this
6 section and chapter seventeen A (17A) of the Code shall
7 be the exclusive means by which a person or party who
8 is aggrieved or adversely affected by agency action may
9 seek judicial review of that agency action."
10 3. Page 2, line 9, by striking the words and figure
11 "subsection five (5)" and inserting in lieu thereof the
12 words and figures "subsections five (5) and eight (8)".

H-4031 FILED *with name* BY COMMITTEE ON CITIES
MAY 6, 1977 *5/4 (p. 2239)* BINA of Scott, Chair

HOUSE AMENDMENT TO SENATE FILE 356

S-5829

- 1 Amend Senate File 356 as follows:
2 1. Page 1, line 5, by striking the word "1
3 notwithstanding".
4 2. Page 1, by striking line 6.
5 3. Page 1, line 7, by striking the words
6 "subsection three (3) of the Code,".
7 4. Page 1, line 22, by inserting after the word
8 "involved" the words "by its board of supervisors".
9 5. Page 1, line 34, by inserting before the word
10 "The" the words "The judicial review provisions of
11 this section and chapter seventeen A (17A) of the
12 Code shall be the exclusive means by which a person
13 or party who is aggrieved or adversely affected by
14 agency action may seek judicial review of that agency
15 action."
16 6. Page 2, by striking lines 4 through 10 and
17 inserting in lieu thereof the words "a committee,
18 with appropriate directions. The following portions
19 of section seventeen A point nineteen (17A.19) of
20 the Code are not applicable to this chapter:
21 1. The part of subsection two (2) which relates
22 to where proceedings for judicial review shall be
23 instituted.
24 2. Subsection five (5).
25 3. Subsection eight (8)."
26 7. Page 2, line 11, by striking the number "1978"
27 and inserting in lieu thereof the number "1979".

S-5829 FILED
MAY 5, 1978

RECEIVED FROM THE HOUSE

Senate Committee 5/5/78 (13402)

SENATE FILE 356

AN ACT

RELATING TO CITY DEVELOPMENT BY CHANGING THE NUMBER OF LOCAL REPRESENTATIVES APPOINTED WHEN A PETITION FOR BOUNDARY ADJUSTMENT INVOLVES TERRITORY IN MORE THAN ONE COUNTY, CLARIFYING THE PUBLICATION REQUIREMENTS FOR NOTICE OF ELECTION RESULTS, AND ALLOWING CHAPTER THREE HUNDRED SIXTY-EIGHT (368) OF THE CODE TO PREVAIL OVER CHAPTER SEVENTEEN A (17A) OF THE CODE IN CERTAIN INSTANCES.

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

Section 1. Section three hundred sixty-eight point fourteen (368.14), unnumbered paragraph one (1) and subsections three (3) and four (4), Code 1977, are amended to read as follows:

If a petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state his or

her actual and necessary expenses spent in performance of committee duties. Two board members and one local representative, or if the number of local representatives exceeds one, two board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city he or she represents, and must be selected as follows:

3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved by its board of supervisors.

4. From a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council. If the territory is in more than one county, the board shall direct the appointment of an equal number of city and county local representatives.

Sec. 2. Section three hundred sixty-eight point twenty-two (368.22), unnumbered paragraphs two (2) and four (4), Code 1977, are amended to read as follows:

Appeal must be filed within thirty days of the filing of a decision or the second publication of notice of the result of an election.

The judicial review provisions of this section and chapter seventeen A (17A) of the Code shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of that agency action. The court's review on appeal of a decision is limited to questions relating to jurisdiction, regularity of proceedings, and whether the decision appealed from is arbitrary, unreasonable, or without substantial supporting evidence. The court may reverse and remand a decision of the board or a committee, with appropriate directions. The

following portions of section seventeen A point nineteen (17A.19) of the Code are not applicable to this chapter:

1. The part of subsection two (2) which relates to where proceedings for judicial review shall be instituted.

2. Subsection five (5).

3. Subsection eight (8).

Sec. 3. This Act is effective January 1, 1979.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 356, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved June 26, 1978

ROBERT D. RAY
Governor