

Local Govt.

FILED MAR 20 1991

SENATE FILE 464
BY KINLEY, SZYMONIAK, PALMER,
BUHR, and KRAMER

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to alternative forms of local government and
2 creating a new alternative form of local government for cities
3 and counties known as a regional service area, with provisions
4 relating to tax collection and service delivery.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SF 464A

1 Section 1. Section 331.231, Code 1991, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 7. Regional service area form as provided
4 in sections 331.260 through 331.262.

5 Sec. 2. Section 331.232, subsection 1, Code 1991, is
6 amended by striking the subsection and inserting in lieu
7 thereof the following:

8 1. A charter to change a form of county government may be
9 submitted to the electors of a county or a city in an
10 adjoining county, if applicable, only by a commission. A
11 commission may be established by either of the following
12 methods:

13 a. By resolution of the board.

14 b. By resolution of the board upon petition of the number
15 of eligible electors of the county equal to at least ten,
16 percent of the votes cast in the county for the office of
17 president of the United States or governor at the preceding
18 general election or the signatures of at least ten thousand
19 eligible electors of the county, whichever number is fewer.

20 Sec. 3. Section 331.233, Code 1991, is amended by striking
21 the section and inserting in lieu thereof the following:

22 331.233 APPOINTMENT OF COMMISSION MEMBERS.

23 1. Within forty-five days after the adoption of the
24 resolution creating the commission, the members of the
25 commission shall be appointed as follows:

26 a. One member shall be appointed by the city council of
27 each city participating in the charter process.

28 b. One member shall be appointed by the board of each
29 county participating in the charter process. The member must
30 be a resident of the unincorporated area of the county.

31 c. One member shall be appointed by each state legislator
32 whose legislative district is located in the commission area
33 if a majority of the constituents of that legislative district
34 resides in the commission area. However, if a commission area
35 does not have a state legislative district which has a

1 majority of its constituents residing in the commission area,
2 the legislative district having the largest plurality of
3 constituents residing in the commission area shall appoint one
4 member. The member shall be a resident of the legislative
5 district of the legislator making the appointment.

6 d. An additional member shall be appointed by each city
7 council and each county board for every 25,000 residents in
8 the participating city or unincorporated area of the county,
9 whichever is applicable.

10 2. The membership shall be bipartisan. Each member must
11 be a resident of the geographical area the member represents
12 on the commission. Only eligible electors of the county not
13 holding an elective city, county, state, or federal office
14 shall be members of the commission. The membership shall be
15 gender-balanced and each appointment shall take into
16 consideration the racial and ethnic composition of the area to
17 be represented. The appointing authorities under subsection 1
18 shall consult to avoid a violation of this subsection. A
19 vacancy on the commission shall be filled by appointment in
20 the same manner as the original appointment. The county shall
21 notify the appropriate appointing authority of a vacancy.

22 Sec. 4. Section 331.234, subsections 3 and 4, Code 1991,
23 are amended to read as follows:

24 3. The board shall provide office space, rooms, supplies,
25 and equipment for the commission and, the actual value of
26 which shall not be included in the expenses of the commission.
27 The board shall pay the necessary expenses of the commission
28 including compensation for secretarial, clerical,
29 professional, and consultant services. The total expenses
30 shall not exceed one hundred thousand dollars or an amount
31 equal to seventy-five cents per qualified elector residing in
32 the commission area, whichever is greater. The commission may
33 employ staff as necessary.

34 4. The expenses of the commission may be paid from the
35 general fund of the each participating county and city on a

1 pro rata basis in proportion to population, or from any
2 combination-of public or-private funds available for that
3 purpose. The commission's expenses may exceed the amount in
4 subsection 3 only if the excess is paid from private funds.

5 Sec. 5. Section 331.235, subsection 3, Code 1991, is
6 amended to read as follows:

7 3. Within fifteen months after organization, the
8 commission shall submit the final report to the board. If the
9 commission recommends a charter including a form of government
10 other than the existing form of government, the final report
11 shall include the full text and an explanation of the proposed
12 charter, an analysis of the fiscal impact of the proposed
13 charter, any comments deemed desirable by the commission, a
14 ~~written-opinion-by-the-attorney-general-stating-that-the~~
15 ~~proposed-charter-is-not-in-conflict-with-constitutional-or~~
16 ~~statutory-law,~~ and any minority reports. The final report may
17 recommend no change to the existing form of government and
18 that no charter be submitted to the electorate. The final
19 report shall be made available to the residents of the county
20 upon request. A summary of the final report shall be
21 published in the official newspaper of the county. If a
22 charter is not recommended, the commission is dissolved upon
23 submission of its final report to the board.

24 Sec. 6. Section 331.235, Code 1991, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 5. The appointing bodies in section
27 331.233 may delay the dissolution of the commission for a
28 period of time not to exceed twelve months. If the
29 dissolution of the commission is delayed, the final report
30 shall not be due until the end of the delay.

31 Sec. 7. Section 331.236, unnumbered paragraph 1, and
32 subsection 1, Code 1991, are amended by striking the paragraph
33 and subsection and inserting in lieu thereof the following:

34 1. The question of adopting the proposed alternative form
35 of government shall be submitted to the electorate in

1 substantially the following form:

2 Shall the (charter or amendment) described below be
3 adopted?

4 The ballot must contain a brief description and summary of
5 the proposed charter or amendment.

6 Sec. 8. Section 331.236, subsection 2, Code 1991, is
7 amended by striking the subsection.

8 Sec. 9. Section 331.237, subsection 2, paragraphs b and e,
9 Code 1991, are amended to read as follows:

10 b. The adoption of the alternative form of county
11 government does not alter any right or liability of the
12 county, and the city, if applicable, in effect at the time of
13 the election at which the charter was adopted.

14 e. Upon the effective date of the adopted charter, the
15 county, and the city, if applicable, shall adopt the
16 alternative form by ordinance, and shall file a copy with the
17 secretary of state, and maintain available copies for public
18 inspection.

19 Sec. 10. Section 331.237, subsection 3, Code 1991, is
20 amended to read as follows:

21 3. If a charter is submitted to the electorate, another
22 charter shall not be submitted to the electorate for ~~six~~ two
23 years.

24 Sec. 11. Section 331.237, Code 1991, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 4. If the proposed charter is adopted by
27 the electorate, the new governing body may direct the
28 commission to continue for a period of time not to exceed two
29 years, in order to oversee the transition of the charter
30 government. The former county board shall continue to perform
31 its duties until the new governing body is sworn into office,
32 and shall assist the new governing body in planning the
33 transition to the charter government.

34 Sec. 12. Section 331.238, subsection 2, paragraph f, Code
35 1991, is amended to read as follows:

1 f. The combining of duties of elected county officials
2 which may differ from the requirements of section 331.323, or
3 the elimination of an elective county office with the duties
4 of that office to be assumed by an official appointed by the
5 board.

6 Sec. 13. Section 331.238, subsection 2, paragraph k, Code
7 1991, is amended to read as follows:

8 k. A charter or charter amendment shall ~~not~~ contain a
9 provision which relates to the method of conducting
10 nominations or elections pursuant to chapters 43 and 49,
11 except as provided in section 331.248, subsection 2, or
12 section 331.261, subsection 9.

13 Sec. 14. Section 331.246, Code 1991, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. An individual who resides in an
16 area which will be part of the alternative form of government
17 under a proposed charter, has standing to challenge the
18 legality of the proposed charter at any time before the
19 referendum on the proposed charter. If the charter is held
20 invalid, the commission may modify and resubmit a proposed
21 charter within six months of the issuance of the court's
22 written opinion.

23 Sec. 15. Section 331.247, subsections 1 and 2, Code 1991,
24 are amended to read as follows:

25 1. A county and one or more cities within the county or
26 within a contiguous county may unite to form a single unit of
27 local government in accordance with this part.

28 2. An alternative form of government, including a charter
29 form, for a consolidated unit of government may be submitted
30 to the voters only by a commission established under this
31 ~~chapter and one or more commissions established by the~~
32 ~~affected cities under section 372.9 that have cooperated in~~
33 ~~the formulation of the charter.~~ A majority vote by each of
34 the ~~affected county~~ charter commission ~~and city charter~~
35 ~~commission~~ is required for the submission of an alternative

1 form of government for a consolidated unit of local
2 government. ~~The-affected-county-charter-commission-and-city~~
3 ~~charter-commission-submitting-a-consolidated-form-shall-issue~~
4 ~~a-single-joint-report-and-proposal:~~

5 Sec. 16. Section 331.247, subsection 3, Code 1991, is
6 amended to read as follows:

7 3. An alternative form of government for a consolidated
8 unit of local government does not need to include more than
9 one city. A city shall not be included unless the charter
10 ~~commission-of-the-affected-city-participates-in-the~~
11 ~~cooperative-study,-its-commission-by-a-majority-vote-approves~~
12 ~~the-proposed-charter-for-consolidated-government,-and~~ a
13 majority of the electors of the affected city voting approves
14 the proposed charter for the consolidated government.

15 Sec. 17. Section 331.248, subsection 1, Code 1991, is
16 amended to read as follows:

17 1. The ~~affected-county-charter-commission-and-city~~ charter
18 commission proposing consolidation shall prepare, adopt, and
19 submit to the voters a consolidation charter including an
20 alternative form of government.

21 Sec. 18. Section 331.248, subsection 2, paragraph b, Code
22 1991, is amended to read as follows:

23 b. Provide for establishment of service areas and delivery
24 of specified services pursuant to section 331.250.

25 Sec. 19. Section 331.248, subsection 2, Code 1991, is
26 amended by adding the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. The consolidation charter or
28 charter amendment shall provide for either partisan or
29 nonpartisan election of the consolidated government officials.

30 Sec. 20. Section 331.249, Code 1991, is amended to read as
31 follows:

32 331.249 EFFECT OF CONSOLIDATION.

33 1. A consolidated unit of local government shall have and
34 may exercise all powers that are conferred on counties and
35 cities by the Constitution of the state of Iowa and laws of

1 this state. As a political subdivision of the state, the
2 consolidated unit of local government shall have the status of
3 a county and a city for all purposes and, including for the
4 purpose of computing the consolidated government's bonded debt
5 limitation as prescribed by the Constitution of the state of
6 Iowa. The consolidated government shall replace and be the
7 successor of the county and the affected city.

8 2. On its effective date, the alternative form of
9 government and consolidation charter operate to dissolve
10 county and city governments within the area of consolidation
11 in accordance with its provisions. ~~On-the-effective-date, the~~
12 ~~separate-corporate-existence-of-the-county-and-of-each~~
13 ~~participating-city-shall-be-consolidated-into-one-local~~
14 ~~government-unit-under-the-name-selected, designated, and~~
15 ~~adopted.~~ However, the county shall retain its corporate
16 existence and geographic boundaries. The consolidated local
17 government shall succeed to, possess, and own all of the
18 property and assets of every kind and description and shall,
19 except as otherwise provided, become responsible for all the
20 obligations and liabilities of the county and cities so
21 consolidated.

22 3. All provisions of law authorizing contributions of any
23 kind, in money or otherwise, from the state or federal
24 government to counties and cities shall remain in full force
25 with respect to each city and county comprising a consolidated
26 local government.

27 Sec. 21. Section 331.250, Code 1991, is amended by
28 striking the section and inserting in lieu thereof the
29 following:

30 331.250 GENERAL POWERS OF CONSOLIDATED LOCAL GOVERNMENTS.

31 1. The consolidation charter shall provide for the
32 delivery of services to specified areas of the consolidated
33 government. The governing body of the consolidated government
34 shall administer the provision of services in each of the
35 designated service areas and shall have the authority to

1 determine the boundaries of the service areas. The following
2 service areas shall be established by the consolidation
3 charter:

4 a. Urban service area. The services provided in an urban
5 service area are those services provided by the consolidated
6 government to each member city with a population of three
7 thousand or more.

8 b. Rural service area. The services provided in a rural
9 service area are those services provided by the consolidated
10 government to the unincorporated areas of the consolidated
11 government. However, the rural service area may also include
12 those member cities with populations of less than three
13 thousand.

14 c. General service area. The services provided in the
15 general service area are those services which are provided by
16 the consolidated government to all of the consolidated
17 government.

18 2. The governing body shall have authority to levy taxes
19 pursuant to sections 331.423 through 331.426, 384.1, and
20 384.12, except that the amount of city taxes levied shall be
21 proportionate to the cost of the service being provided and
22 shall be levied only within areas of the consolidated
23 government designated as urban service areas.

24 Sec. 22. Section 331.252, Code 1991, is amended by
25 striking the section and inserting in lieu thereof the
26 following:

27 331.252 FORM OF BALLOT -- CITY-COUNTY CONSOLIDATION.

28 The question of city-county consolidation shall be
29 submitted to the electors in substantially the following form:

30 Should the corporate existence and governments of the
31 county of and the cities of be consolidated
32 into one joint city-county government?

33 Sec. 23. Section 331.253, subsection 1, Code 1991, is
34 amended to read as follows:

35 1. Consolidation may be placed on the ballot only by a

1 joint final report by contiguous counties issued by the
2 commission established by the consolidating counties.

3 Sec. 24. Section 331.254, subsection 5, Code 1991, is
4 amended to read as follows:

5 5. The transfer, reorganization, abolition, absorption,
6 and adjustment of boundaries, ~~or absorption~~ of existing
7 boards, subordinate service districts, local improvement
8 districts, and agencies of the consolidated counties.

9 Sec. 25. Section 331.254, Code 1991, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 6. The retention of each county's
12 geographic boundaries as they existed before consolidation.

13 Sec. 26. Section 331.255, Code 1991, is amended to read as
14 follows:

15 331.255 FORM OF BALLOT.

16 ~~Pursuant to section 331.236, the~~ The question of county-
17 county consolidation shall be submitted to the electors in
18 substantially the following form:

19 ~~For the existing forms of government.~~

20 ~~For the consolidation of~~ Should the corporate
21 existence and governments of the county of and the
22 county of be consolidated into one county corporation
23 and government?

24 Sec. 27. NEW SECTION. 331.260 REGIONAL SERVICE AREA.

25 1. A county and one or more cities within the county, a
26 contiguous county, or a city within a contiguous county may
27 unite to establish an alternative form of local government for
28 the purpose of making more efficient use of their resources by
29 providing for the delivery of regional services.

30 2. A charter proposing a regional service area as an
31 alternative form of government may be submitted to the voters
32 only by a commission established under section 331.232. A
33 majority vote by the commission is required for the submission
34 of a charter proposing a regional service area as an
35 alternative form of local government. The commission

1 submitting a regional service area form of government shall
2 issue a final report and proposal. If an alternative form of
3 government for a regional service area is proposed, the
4 proposed charter shall be submitted to the electorate in the
5 manner provided in section 331.236.

6 Sec. 28. NEW SECTION. 331.261 CHARTER -- REGIONAL
7 SERVICE AREA.

8 The regional service area charter shall provide for the
9 following:

10 1. Adjustment of existing bonded indebtedness and other
11 obligations to the extent it relates to the delivery of
12 services.

13 2. The transfer or other disposition of property and other
14 rights, claims, assets, and franchises as they relate to the
15 delivery of services.

16 3. The transfer, reorganization, abolition, adjustment,
17 and absorption of existing boards, existing subordinate
18 service districts, local improvement districts, and agencies
19 of the participating county and cities.

20 4. A system of delivery of services to the entire regional
21 service area.

22 5. A formula for the transfer of taxing authority from
23 member cities to the regional service area governing body to
24 fund the delivery of regional services.

25 6. The transfer into the regional service area of area-
26 wide services which had been provided by other boards,
27 commissions, and special purpose governments.

28 7. A process by which the governing body of the regional
29 service area and the governing bodies of the member cities
30 provide by mutual agreement for the delivery of specified
31 services to the regional service area.

32 8. The official name of the regional service area
33 government.

34 9. Partisan or nonpartisan election of regional service
35 area government officials.

1 The regional service area charter may include other
2 provisions not inconsistent with state law.

3 Sec. 29. NEW SECTION. 331.262 ADOPTION OF CHARTER --
4 EFFECT.

5 1. As a political subdivision of the state, the regional
6 service area unit of local government shall have the statutory
7 and constitutional status of a county and of a city to the
8 extent the regional service area governing body assumes the
9 powers and duties of cities as those powers and duties relate
10 to the delivery of services.

11 On its effective date, the regional service area charter
12 operates to replace the county government. The governments of
13 participating cities shall remain in existence to render those
14 services not transferred to the regional service area
15 government.

16 2. A city or county wishing to terminate its membership in
17 the regional service area government must do so pursuant to
18 the existing charter procedure under this chapter or chapter
19 372, whichever is applicable.

20 A city or county may join an existing regional service area
21 government upon petition of eligible electors of the city or
22 county, whichever is applicable, equal in number to at least
23 ten percent of the persons who voted at the last general
24 election for the office of governor or president of the United
25 States, whichever is fewer. Within fifteen days after
26 receiving a valid petition, the applicable governing body
27 shall adopt a resolution in favor of participation and shall
28 immediately forward the resolution to the governing body of
29 the regional service area. The city or county shall become a
30 participating member of the regional service area government
31 if a majority of the regional service area governing body
32 approves the resolution.

33 Sec. 30. NEW SECTION. 28E.40 REGIONAL METROPOLITAN
34 SERVICE AREA.

35 Two or more contiguous cities may provide for the joint

1 delivery of services by an agreement under this chapter,
2 subject to the limitations and requirements of sections
3 331.232, 331.260, and 331.261, and section 331.262, subsection
4 2.

5 EXPLANATION

6 This bill amends existing alternative forms of local
7 government legislation. It eliminates the requirement of
8 separate city and county commissions to consider city-county
9 consolidation. The process by which a charter commission may
10 be established is altered to allow for resolution by the board
11 of supervisors or upon petition of the number of eligible
12 electors of the county equal to at least 10 percent of the
13 votes cast in the county for the office of president of the
14 United States or governor at the preceding general election,
15 or 10,000 eligible electors, whichever is fewer.

16 The appointment of commission members is changed to require
17 that one member be appointed by the city council of each
18 participating city, one member by the board of supervisors of
19 each participating county, and one member by each state
20 legislator whose legislative district is located in the
21 county. An additional member shall be appointed by each city
22 council and each board for every 25,000 residents in the
23 participating city or unincorporated area of the county. It
24 requires that members appointed be residents of the
25 geographical area represented on the commission, and that the
26 membership be bipartisan and gender-balanced and that
27 consideration be given to the racial or ethnic composition of
28 the area represented. The total expenses allowed the
29 commission is amended to allow \$100,000, or \$.75 per qualified
30 elector residing in the commission area, whichever is greater.
31 The expenses are to be shared by the city and county on a pro
32 rata basis in proportion to population. The commission may
33 exceed the expense limitation, but only if the excess is paid
34 for from private funds.

35 The bill also allows the appointing bodies of the

1 commission members to delay the dissolution of the commission
2 up to an additional 12 months. The requirement that the
3 attorney general review the proposed charter is eliminated.
4 The bill also alters the language on the proposed charter
5 ballots, and eliminates the requirement that any office
6 affected by the charter be included as a separate question on
7 the charter ballot.

8 If a proposed charter is adopted, the commission may
9 continue for up to two years in order to oversee the
10 transition. The bill allows for the elimination of elective
11 county offices, and allows the charter commission, in city-
12 county consolidation or regional service area, to decide
13 whether elections will be partisan or nonpartisan. All other
14 alternative forms shall have partisan elections. Before the
15 proposed charter goes to referendum, an individual who resides
16 in the affected area has standing to sue to challenge the
17 legality of the charter. If the charter is held invalid, the
18 commission has six months to modify and resubmit it. If a
19 charter is submitted to the electorate, another charter shall
20 not be submitted for two years.

21 The city-county consolidation form is amended to allow
22 cities in contiguous counties to participate in the charter
23 process. The bill provides that a county participating in
24 consolidation retains its corporate existence and geographic
25 boundaries, and that a consolidated local government shall
26 have the status of a city and county for the purpose of
27 computing the consolidated government's bonded debt
28 limitation. The city-county consolidation provisions are also
29 amended to provide for the delivery of services to designated
30 areas of the consolidated government, with a transfer of
31 taxing authority based proportionately on the cost of
32 providing the service being transferred.

33 The bill further provides that when counties consolidate,
34 each shall retain its geographic boundaries as they existed
35 before consolidation.

1. The bill creates a new form of alternative local government
2 based on the delivery of services on a regional basis. Both
3 cities and counties may participate in this alternative form.
4 The new government replaces the county government, and each
5 city retains its government to the extent services are still
6 being provided by the city to its residents. This form of
7 alternative local government provides for transfer of taxing
8 authority and property, and adjustment of bonded indebtedness
9 to the extent each relates to the regional delivery of
10 services.

11 Finally, the bill provides that cities, pursuant to chapter
12 28E, may establish regional service areas subject to the
13 limitations of the regional service area alternative form of
14 local government.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35