

Emerson 3/4 Amend (SSB) S. Co. 3/19 (p. 912)

FILED MAR 05 1992

SENATE FILE 2290

BY COMMITTEE ON LOCAL GOVERNMENT

Approved 3/5 (p. 62)

(SUCCESSOR TO SSB 2246)

Passed Senate, Date 3/23/92 (p. 912)

Passed House, Date 4/21/92 *(P 1673)*

Vote: Ayes 46 Nays 0

Vote: Ayes 78 Nays 20

Approved April 29, 1992 (P. 1724)

A BILL FOR

1 An Act relating to the extension of the effective date for the
2 equipping of a sanitary landfill with a leachate control
3 system and relating to the provision of solid waste collection
4 services by a city.

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

SENATE FILE 2290

S-5304

- 1 Amend Senate File 2290 as follows:
- 2 1. Page 1, by striking lines 1 through 10.
- 3 2. Title page, by striking lines 1 through 3, and
- 4 inserting the following: "An Act relating to the
- 5 provision of solid waste collection".
- 6 3. By renumbering as necessary.

By COMMITTEE ON ENVIRONMENT AND ENERGY UTILITIES
RALPH ROSENBERG, Chairperson

S-5304 FILED MARCH 19, 1992
Adopted 3/23 (p. 912)

SF 2290

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33671 Section 1. Section 455B.305, subsection 6, Code 1991, is
2 amended to read as follows:

3 6. Beginning July 1, ~~1992~~ 1994, the director shall not
4 issue, renew, or reissue a permit for a sanitary landfill
5 unless the sanitary landfill is equipped with a leachate
6 control system. The director may exempt a permit applicant
7 from this requirement if the director determines that certain
8 conditions regarding, but not limited to, existing physical
9 conditions, topography, soil, geology, and climate, are such
10 that a leachate control system is unnecessary.

11 Sec. 2. NEW SECTION. 455B.306A ANNEXATION OF TERRITORY -
12 - EXPANSION OF SERVICES.

13 1. A city which annexes an area pursuant to chapter 368,
14 or plans to operate or expand solid waste collection services
15 into an area where the collection of solid waste is presently
16 being provided by a private entity, shall notify the private
17 entity by certified mail at least sixty days before its
18 annexation or expansion of its intent to provide solid waste
19 collection services in the area.

20 2. A city shall not commence alternative solid waste
21 collection in such an area for at least two years from the
22 effective date of the annexation or at least two years from
23 the effective date of the notice that the city intends to
24 operate or expand solid waste collection services in the area,
25 unless the city contracts with the private entity to continue
26 the services for that period.

27 3. If the services to be provided under a contract with
28 the city pursuant to subsection 2 are substantially the same
29 as the services provided in the area prior to the decision of
30 the city to annex the area or to operate or expand solid waste
31 collection services into the area, the amount paid by the city
32 shall be at least equal to the amount the private entity would
33 have received for providing solid waste collection services
34 during that period.

35 4. A private entity which provides solid waste collection

1 services in an area into which the city has decided to annex
2 or operate or expand solid waste collection services shall
3 make available upon written request by the city not later than
4 thirty days following such request, all information in the
5 possession or control of the private entity which pertains to
6 its activity in the area necessary for the city to determine
7 the nature and scope of the potential contract and to
8 negotiate the cost of services provided under the contract and
9 any other terms of the contract, if necessary.

10 5. This section shall only apply to a private entity that
11 services fifty or more residential accounts or fifteen or more
12 commercial accounts in the area in question.

13 EXPLANATION

14 This bill requires a city which intends to annex an area or
15 operate or expand solid waste collection services in an area
16 to notify any private entity currently providing solid waste
17 collection services in that area of its intent at least 60
18 days before the annexation.

19 The bill also provides that during a two-year period
20 following a city's decision to annex an area or to operate or
21 expand solid waste collection services in an area, the city
22 shall not commence alternative services unless the city
23 contracts with the private entity to continue the services in
24 the area.

25 Finally, the bill extends the effective date for the
26 equipping of a sanitary landfill with a leachate control
27 system from July 1, 1992, to July 1, 1994.

28 The bill may establish a state mandate pursuant to section
29 25B.3.

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SENATE FILE 2290

BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 2246)

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1992)

- ~~_____~~ - New Language by the Senate
- * - Language Stricken by the Senate

Re- Passed Senate, Date 4/23/92 (p.1582) Passed House, Date 4/21/92 (p.1673)

Vote: Ayes 50 Nays 0 Vote: Ayes 78 Nays 20

Approved April 29, 1992 (p.1724)
Motion to reconsider lost 4/22
Re passed House 4/24 (p.1746)
Ayes 77 - Nay 11

A BILL FOR

1 An Act relating to the provision of solid waste collection.
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF. 2290

*1 Section 1. NEW SECTION. 455B.306A ANNEXATION OF
2 TERRITORY --EXPANSION OF SERVICES.

3 1. A city which annexes an area pursuant to chapter 368,
4 or plans to operate or expand solid waste collection services
5 into an area where the collection of solid waste is presently
6 being provided by a private entity, shall notify the private
7 entity by certified mail at least sixty days before its
8 annexation or expansion of its intent to provide solid waste
9 collection services in the area.

10 2. A city shall not commence alternative solid waste
11 collection in such an area for at least two years from the
12 effective date of the annexation or at least two years from
13 the effective date of the notice that the city intends to
14 operate or expand solid waste collection services in the area,
15 unless the city contracts with the private entity to continue
16 the services for that period.

17 3. If the services to be provided under a contract with
18 the city pursuant to subsection 2 are substantially the same
19 as the services provided in the area prior to the decision of
20 the city to annex the area or to operate or expand solid waste
21 collection services into the area, the amount paid by the city
22 shall be at least equal to the amount the private entity would
23 have received for providing solid waste collection services
24 during that period.

25 4. A private entity which provides solid waste collection
26 services in an area into which the city has decided to annex
27 or operate or expand solid waste collection services shall
28 make available upon written request by the city not later than
29 thirty days following such request, all information in the
30 possession or control of the private entity which pertains to
31 its activity in the area necessary for the city to determine
32 the nature and scope of the potential contract and to
33 negotiate the cost of services provided under the contract and
34 any other terms of the contract, if necessary.

35 5. This section shall only apply to a private entity that

1 services fifty or more residential accounts or fifteen or more
2 commercial accounts in the area in question.

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SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2290
H-6020

1 Amend the House amendment, S-5817, to Senate File
2 2290, as amended, passed, and reprinted by the Senate
3 as follows:

4 1. Page 4, line 2, by striking the words "which
5 contracts with a city" and inserting the following:
6 "providing solid waste collection services".

7 2. Page 4, line 3, by striking the words "to
8 provide" and inserting the following: "shall
9 provide".

10 3. Page 4, lines 4 and 5, by striking the words
11 "shall provide solid waste collection services".

RECEIVED FROM THE SENATE

H-6020 FILED APRIL 23, 1992

House concurred 4/24 (p. 1796)

SENATE FILE 2290

H-5967

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 11, by striking the words "at
4 least two years" and inserting the following: "one
5 year".

6 2. Page 1, line 12, by striking the words "at
7 least two years" and inserting the following: "one
8 year".

9 3. By striking page 1, line 17 through page 2,
10 line 2, and inserting the following:

11 "3. A private entity which contracts with a city
12 pursuant to this section to provide solid waste
13 collection services in the area shall provide solid
14 waste collection services in accordance with the
15 city's comprehensive plan."

By DVORSKY of Johnson
SHOULTZ of Black Hawk

H-5967 FILED APRIL 20, 1992

Adopted 4/21 (g. 1672)

SENATE FILE 2290

S-5859

- 1 Amend the House amendment, S-5817, to Senate File
2 2290, as amended, passed, and reprinted by the Senate
3 as follows:
- 4 1. Page 4, line 2, by striking the words "which
5 contracts with a city" and inserting the following:
6 "providing solid waste collection services".
- 7 2. Page 4, line 3, by striking the words "to
8 provide" and inserting the following: "shall
9 provide".
- 10 3. Page 4, lines 4 and 5, by striking the words
11 "shall provide solid waste collection services".

By ALVIN MILLER

S-5859 FILED APRIL 23, 1992
ADOPTED (p 1582)

HOUSE AMENDMENT TO
SENATE FILE 2290

S-5817

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 368.1, subsection 6, Code
6 Supplement 1991, is amended to read as follows:

7 6. "Committee" means the board members, and the
8 local representatives appointed as provided in section
9 sections 368.14 and 368.14A, to hear and make a
10 decision on a petition or plan for city development.

11 Sec. 2. Section 368.7, unnumbered paragraphs 2, 3,
12 and 4, Code Supplement 1991, are amended to read as
13 follows:

14 An application for annexation of territory not
15 within the ~~an urbanized area of a city other than the~~
16 ~~city to which the annexation is directed~~ must be
17 approved by resolution of the council which receives
18 the application. In the discretion of a city council,
19 the resolution may include a provision for a
20 transition for the imposition of taxes as provided in
21 section 368.11, subsection 13. Upon receiving
22 approval of the council, the city clerk shall file a
23 copy of the resolution, map, and legal description of
24 the territory involved with the state department of
25 transportation. The city clerk shall also file a copy
26 of the map and resolution with the county recorder and
27 secretary of state. The secretary of state shall not
28 accept and acknowledge a copy of a map and resolution
29 of annexation which would create an island. The
30 annexation is completed upon acknowledgment by the
31 secretary of state that the secretary of state has
32 received the map and resolution.

33 An application for annexation of territory within
34 the ~~an urbanized area of a city other than the city to~~
35 ~~which the annexation is directed~~ must be approved both
36 by resolution of the council which receives the
37 application and by the board. The board shall not
38 approve an application which creates an island. A
39 copy Notice of the application shall be mailed by
40 certified mail, by the city to which the annexation is
41 directed, at least ten days prior to the filing of the
42 application with the city council; any action by the
43 city council on the application to the council of each
44 city whose boundary adjoins the territory or is within
45 two miles of the territory, to the board of
46 supervisors of each county which contains a portion of
47 the territory, and to the regional planning authority
48 of the territory. Notice of the filing of the
49 application shall be published in an official county
50 newspaper in each affected county at least ten days

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Page 2

1 prior to ~~the filing of the application with~~ any action
 2 by the city council on the application. In the
 3 discretion of a city council, the resolution may
 4 include a provision for a transition for the
 5 imposition of taxes as provided in section 368.11,
 6 subsection 13. The annexation is completed when the
 7 board has filed copies of applicable portions of the
 8 proceedings as required by section 368.20, subsection
 9 2.

10 If one or more applications for a voluntary
 11 annexation and one or more petitions for an
 12 involuntary annexation for a common territory are
 13 submitted to the board within thirty days of each
 14 other the date the first application or petition was
 15 submitted to the board, the board shall approve the
 16 application for voluntary annexation, provided that
 17 the application meets the applicable requirements of
 18 this chapter, unless the board determines by a
 19 preponderance of the evidence that the application was
 20 filed in bad faith, or that the application as filed
 21 is contrary to the best interests of the citizens of
 22 the urbanized area, or that the applicant cannot
 23 within a reasonable period of time meet its obligation
 24 to provide services to the territory to be annexed
 25 sufficient to meet the needs of the territory. In
 26 consideration of the requests, the board may appoint a
 27 committee in the manner provided in section 368.14 to
 28 seek additional information from the applicant for
 29 voluntary annexation as necessary, including the
 30 information required of petitioners pursuant to
 31 section 368.11. The board, or the committee, if
 32 applicable, shall hold a public hearing on the
 33 application for voluntary annexation in the manner
 34 provided for involuntary petitions in section 368.15.
 35 The decision of the board under this paragraph shall
 36 be made within ninety days of receipt of the
 37 application by the board. The failure of the board to
 38 approve an application under this paragraph shall be
 39 deemed final agency action subject to judicial review.
 40 An applicant may appeal a decision of the board no
 41 earlier than one hundred eighty days after the
 42 decision is issued or not later than thirty days after
 43 a final decision is made by the special local
 44 committee under section 368.14A, whichever is earlier.

45 Sec. 3. Section 368.8, Code 1991, is amended to
 46 read as follows:

47 368.8 VOLUNTARY SEVERING OF TERRITORY.

48 Any territory may be severed upon the unanimous
 49 consent of all owners of the territory and approval by
 50 resolution of the council of the city in which the

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Page 3

1 territory is located. The council shall provide in
2 the resolution for the equitable distribution of
3 assets and equitable distribution and assumption of
4 liabilities of the territory as between the city and
5 the severed territory. The city clerk shall file a
6 copy of the resolution, map, and a legal description
7 of the territory involved with the state department of
8 transportation. The city clerk shall also file a copy
9 of the map and resolution with the county recorder and
10 secretary of state. The secretary of state shall not
11 accept and acknowledge a copy of a map and resolution
12 of severance which would create an island. The
13 severance is completed upon acknowledgment by the
14 secretary of state that the secretary of state has
15 received the map and resolution.

16 Sec. 4. Section 368.11, unnumbered paragraph 4,
17 Code Supplement 1991, is amended to read as follows:

18 At least ten days before a petition for involuntary
19 annexation is filed as provided in this section, the
20 petitioner shall make its intention known to all
21 affected parties by sending a letter of intent by
22 certified mail to the council of each city within the
23 urbanized area if the territory is within an urbanized
24 area, or, if the territory is not within an urbanized
25 area, to the council of each city within two miles of
26 the territory, the board of supervisors of each county
27 within the urbanized area, the regional planning
28 authority of the territory involved, and to each
29 property owner listed in the petition. The written
30 notification shall include notice that the petitioners
31 shall hold a public meeting on the petition for
32 involuntary annexation prior to the filing of the
33 petition.

34 Sec. 5. Section 368.17, subsections 6 and 7, Code
35 Supplement 1991, are amended to read as follows:

36 6. An incorporation of territory, any part of
37 which is within ~~an urbanized area of a~~ two miles of an
38 existing city, unless a petition for annexation of
39 substantially the same territory to such city has been
40 dismissed, disapproved, or voted upon unfavorably
41 within the last five years.

42 7. ~~An annexation~~ A city development action which
43 creates an island."

44 2. Page 1, line 11, by striking the words "at
45 least two years" and inserting the following: "one
46 year".

47 3. Page 1, line 12, by striking the words "at
48 least two years" and inserting the following: "one
49 year".

50 4. By striking page 1, line 17 through page 2,

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Page 4

- 1 line 2, and inserting the following:
2 "3. A private entity which contracts with a city
3 pursuant to this section to provide solid waste
4 collection services in the area shall provide solid
5 waste collection services in accordance with the
6 city's comprehensive plan."
7 5. Title page, line 1, by inserting after the
8 word "the" the following: "procedures for city
9 development and to the".
10 6. By renumbering, relettering, or redesignating
11 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5817 FILED APRIL 22, 1992

Senate amended (5854), concurred 4/23/92 (p. 1582)

SENATE FILE 2290

H-5606

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 368.1, subsection 6, Code
6 Supplement 1991, is amended to read as follows:

7 6. "Committee" means the board members, and the
8 local representatives appointed as provided in section
9 sections 368.14 and 368.14A, to hear and make a
10 decision on a petition or plan for city development.

11 Sec. 2. Section 368.7, unnumbered paragraphs 2, 3,
12 and 4, Code Supplement 1991, are amended to read as
13 follows:

14 An application for annexation of territory not
15 within the ~~an~~ urbanized area of ~~a city other than the~~
16 ~~city to which the annexation is directed~~ must be
17 approved by resolution of the council which receives
18 the application. In the discretion of a city council,
19 the resolution may include a provision for a
20 transition for the imposition of taxes as provided in
21 section 368.11, subsection 13. Upon receiving
22 approval of the council, the city clerk shall file a
23 copy of the resolution, map, and legal description of
24 the territory involved with the state department of
25 transportation. The city clerk shall also file a copy
26 of the map and resolution with the county recorder and
27 secretary of state. The secretary of state shall not
28 accept and acknowledge a copy of a map and resolution
29 of annexation which would create an island. The
30 annexation is completed upon acknowledgment by the
31 secretary of state that the secretary of state has
32 received the map and resolution.

33 An application for annexation of territory within
34 the ~~an~~ urbanized area of ~~a city other than the city to~~
35 ~~which the annexation is directed~~ must be approved both
36 by resolution of the council which receives the
37 application and by the board. The board shall not
38 approve an application which creates an island. A
39 copy Notice of the application shall be mailed by
40 certified mail, by the city to which the annexation is
41 directed, at least ten days prior to the filing of the
42 application with the city council; any action by the
43 city council on the application to the council of each
44 city whose boundary adjoins the territory or is within
45 two miles of the territory, to the board of
46 supervisors of each county which contains a portion of
47 the territory, and to the regional planning authority
48 of the territory. Notice of the filing of the
49 application shall be published in an official county
50 newspaper in each affected county at least ten days

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Page 2

1 ~~prior to the filing of the application with any action~~
2 ~~by the city council on the application.~~ In the
3 discretion of a city council, the resolution may
4 include a provision for a transition for the
5 imposition of taxes as provided in section 368.11,
6 subsection 13. The annexation is completed when the
7 board has filed copies of applicable portions of the
8 proceedings as required by section 368.20, subsection
9 2.

10 If one or more applications for a voluntary
11 annexation and one or more petitions for an
12 involuntary annexation for a common territory are
13 submitted to the board within thirty days of each
14 other the date the first application or petition was
15 submitted to the board, the board shall approve the
16 application for voluntary annexation, provided that
17 the application meets the applicable requirements of
18 this chapter, unless the board determines by a
19 preponderance of the evidence that the application was
20 filed in bad faith, or that the application as filed
21 is contrary to the best interests of the citizens of
22 the urbanized area, or that the applicant cannot
23 within a reasonable period of time meet its obligation
24 to provide services to the territory to be annexed
25 sufficient to meet the needs of the territory. In
26 consideration of the requests, the board may appoint a
27 committee in the manner provided in section 368.14 to
28 seek additional information from the applicant for
29 voluntary annexation as necessary, including the
30 information required of petitioners pursuant to
31 section 368.11. The board, or the committee, if
32 applicable, shall hold a public hearing on the
33 application for voluntary annexation in the manner
34 provided for involuntary petitions in section 368.15.
35 The decision of the board under this paragraph shall
36 be made within ninety days of receipt of the
37 application by the board. The failure of the board to
38 approve an application under this paragraph shall be
39 deemed final agency action subject to judicial review.
40 An applicant may appeal a decision of the board no
41 earlier than one hundred eighty days after the
42 decision is issued or not later than thirty days after
43 a final decision is made by the special local
44 committee under section 368.14A, whichever is earlier.

45 Sec. 3. Section 368.8, Code 1991, is amended to
46 read as follows:

47 368.8 VOLUNTARY SEVERING OF TERRITORY.

48 Any territory may be severed upon the unanimous
49 consent of all owners of the territory and approval by
50 resolution of the council of the city in which the

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Page 3

1 territory is located. The council shall provide in
2 the resolution for the equitable distribution of
3 assets and equitable distribution and assumption of
4 liabilities of the territory as between the city and
5 the severed territory. The city clerk shall file a
6 copy of the resolution, map, and a legal description
7 of the territory involved with the state department of
8 transportation. The city clerk shall also file a copy
9 of the map and resolution with the county recorder and
10 secretary of state. The secretary of state shall not
11 accept and acknowledge a copy of a map and resolution
12 of severance which would create an island. The
13 severance is completed upon acknowledgment by the
14 secretary of state that the secretary of state has
15 received the map and resolution.

16 Sec. 4. Section 368.11, unnumbered paragraph 4,
17 Code Supplement 1991, is amended to read as follows:

18 At least ten days before a petition for involuntary
19 annexation is filed as provided in this section, the
20 petitioner shall make its intention known to all
21 affected parties by sending a letter of intent by
22 certified mail to the council of each city within the
23 urbanized area if the territory is within an urbanized
24 area, or, if the territory is not within an urbanized
25 area, to the council of each city within two miles of
26 the territory, the board of supervisors of each county
27 within the urbanized area, the regional planning
28 authority of the territory involved, and to each
29 property owner listed in the petition. The written
30 notification shall include notice that the petitioners
31 shall hold a public meeting on the petition for
32 involuntary annexation prior to the filing of the
33 petition.

34 Sec. 5. Section 368.17, subsections 6 and 7, Code
35 Supplement 1991, are amended to read as follows:

36 6. An incorporation of territory, any part of
37 which is within ~~an urbanized area of a~~ two miles of an
38 existing city, unless a petition for annexation of
39 substantially the same territory to such city has been
40 dismissed, disapproved, or voted upon unfavorably
41 within the last five years.

42 7. ~~An annexation~~ A city development action which
43 creates an island."

44 2. Title page, line 1, by inserting after the
45 word "the" the following: "procedures for city
46 development and to the".

47 3. By renumbering as necessary.

By DVORSKY of Johnson
COHOON of Des Moines

H-5606 FILED MARCH 30, 1992

Adopted 4/31 (p. 167)

SENATE FILE 2290

H-5481

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 11, by striking the words "two
4 years" and inserting the following: "six months".

5 2. Page 1, line 12, by striking the words "two
6 years" and inserting the following: "six months".

By SPEAR of Lee

H-5481 FILED MARCH 24, 1992

Law 4/21 (p. 1671)

SENATE FILE 2290

H-5482

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 17 through 24.

4 2. By renumbering as necessary.

By SPEAR of Lee

H-5482 FILED MARCH 24, 1992

Placed o/o 4/21 (p. 1672)

SENATE FILE 2290

H-5564

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 4, by striking the words "or
4 plans" and inserting the following: "and plans".

5 2. Page 1, line 5, by striking the word "an" and
6 inserting the following: "a newly annexed".

7 3. Page 1, line 7, by striking the word "its" and
8 inserting the following: "the".

9 4. Page 1, line 8, by striking the words "or
10 expansion".

11 5. Page 1, by striking lines 10 through 24 and
12 inserting the following:

13 "____. A city may commence solid waste collection
14 in a newly annexed area to any customer in the area
15 whose contract with a private entity has terminated.
16 A city may also commence solid waste collection in a
17 newly annexed area if a majority of the residential
18 and commercial customers being served by a private
19 entity or entities petitions the city council re-
20 questing that the city commence solid waste collection
21 service to that area."

22 6. Page 1, line 26, by striking the word "into".

23 7. Page 1, line 27, by striking the words "or
24 operate" and inserting the following: "and operate".

25 8. Page 1, by striking lines 31 through 34 and
26 inserting the following: "its activity in the area."

27 9. By renumbering, relettering, and redesignating
28 as necessary.

By SHOULTZ of Black Hawk

H-5564 FILED MARCH 26, 1992

4/10 4/21 (p. 1671)

MILLER, CH.
SORENSEN
VANDEHOEF

SSB 2246
LOCAL GOVERNMENT *Now*

SENATE FILE 2290
BY (PROPOSED COMMITTEE ON LOCAL
GOVERNMENT BILL BY CHAIRPERSON
MILLER)

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

A BILL FOR

1 An Act relating to the provision of solid waste collection
2 services by a city.

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

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1 Section 1. NEW SECTION. 455B.306A ANNEXATION OF
2 TERRITORY -- EXPANSION OF SERVICES.

3 1. A city which annexes an area pursuant to chapter 368,
4 or plans to operate or expand solid waste collection services
5 into an area where the collection of solid waste is presently
6 being provided by a private entity, shall notify the private
7 entity by certified mail of its intent to provide solid waste
8 collection services in the area.

9 2. A city shall not commence alternative solid waste
10 collection in such an area for at least two years from the
11 effective date of the annexation or at least two years from
12 the effective date of the notice that the city intends to
13 operate or expand solid waste collection services in the area,
14 and during that two-year period the city shall contract with
15 the private entity to continue such services for that period
16 under similar conditions.

17 3. If the services to be provided under a contract with
18 the city pursuant to subsection 2 are substantially the same
19 as the services provided in the area prior to the decision of
20 the city to annex the area or to operate or expand solid waste
21 collection services into the area, the amount paid by the city
22 shall be at least equal to the amount the private entity would
23 have received for providing solid waste collection services
24 during that period.

25 4. A private entity which provides solid waste collection
26 services in an area into which the city has decided to annex
27 or operate or expand solid waste collection services shall
28 make available upon written request by the city not later than
29 thirty days following such request, all information in the
30 possession or control of the private entity which pertains to
31 its activity in the area necessary for the city to determine
32 the nature and scope of the potential contract and to
33 negotiate the cost of services provided under the contract and
34 any other terms of the contract, if necessary.

35 5. This section shall only apply to a private entity that

1 services fifty or more residential accounts or fifteen or more
2 commercial accounts in the area in question.

3 EXPLANATION

4 This bill requires a city which intends to annex an area or
5 operate or expand solid waste collection services in an area
6 to notify any private entity currently providing solid waste
7 collection services in that area of its intent.

8 The bill also provides that during a two-year period
9 following a city's decision to annex an area or to operate or
10 expand solid waste collection services in an area, the city
11 shall contract for solid waste collection services with the
12 private entity currently providing solid waste collection
13 services in the area.

14 The bill may include a state mandate as defined in section
15 25B.3.

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SENATE FILE 2290

AN ACT
RELATING TO THE PROCEDURES FOR CITY DEVELOPMENT AND TO THE
PROVISION OF SOLID WASTE COLLECTION.

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

Section 1. Section 368.1, subsection 6, Code Supplement 1991, is amended to read as follows:

6. "Committee" means the board members, and the local representatives appointed as provided in ~~section sections~~ 368.14 and 368.14A, to hear and make a decision on a petition or plan for city development.

Sec. 2. Section 368.7, unnumbered paragraphs 2, 3, and 4, Code Supplement 1991, are amended to read as follows:

An application for annexation of territory not within the ~~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 state department of transportation. The city clerk shall also file 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 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 map and resolution.

An application for annexation of territory within the ~~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. A copy 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 ~~the filing of the application with the city council~~ 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, and to the regional planning authority of the territory. Notice of ~~the filing of the application~~ shall be published in an official county newspaper in each affected county at least ten days prior to ~~the filing of the application with 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 copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation for a common territory are submitted to the board within thirty days of ~~each other~~ the date the first application or petition was submitted to the board, the board shall approve the application for voluntary annexation, provided that 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 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.

Sec. 3. Section 368.8, Code 1991, 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 state department of transportation. The city clerk shall also file 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. 4. Section 368.11, unnumbered paragraph 4, Code Supplement 1991, is amended to read as follows:

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 of the territory, the board of supervisors of each county within the urbanized area, the regional planning authority of the territory involved, 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.

Sec. 5. Section 368.17, subsections 6 and 7, Code Supplement 1991, are amended to read as follows:

6. An incorporation of territory, any part of which is within an-urbanized-area-of-a two miles of an existing city, unless a petition for annexation of substantially the same territory to such city has been dismissed, disapproved, or voted upon unfavorably within the last five years.

7. An-annexation A city development action which creates an island.

Sec. 6. NEW SECTION. 455B.306A ANNEXATION OF TERRITORY -
- EXPANSION OF SERVICES.

1. A city which annexes an area pursuant to chapter 368, or plans to operate or expand solid waste collection services into an area where the collection of solid waste is presently being provided by a private entity, shall notify the private entity by certified mail at least sixty days before its annexation or expansion of its intent to provide solid waste collection services in the area.

2. A city shall not commence alternative solid waste collection in such an area for one year from the effective date of the annexation or one year from the effective date of the notice that the city intends to operate or expand solid waste collection services in the area, unless the city contracts with the private entity to continue the services for that period.

3. A private entity providing solid waste collection services pursuant to this section shall provide solid waste collection services in the area in accordance with the city's comprehensive plan.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2290, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 29, 1992

TERRY E. BRANSTAD
Governor

SF 2290