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FILED APR 23 1993

SENATE FILE 418

BY COMMITTEE ON WAYS AND MEANS

Passed Senate, Date 4/28/93 (p. 1407) Passed House, Date 4/29/93
Vote: Ayes 46 Nays 4 Vote: Ayes 90 Nays 8
Approved May 26, 1993

A BILL FOR

1 An Act relating to the annexation of land to cities.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 418

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

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

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

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

16 Sec. 3. Section 368.7, Code 1993, is amended to read as
17 follows:

18 368.7 VOLUNTARY ANNEXATION OF TERRITORY.

19 1. All of the owners of land in a territory adjoining a
20 city may apply in writing to the council of the adjoining city
21 requesting annexation of the territory. Territory comprising
22 railway right of way or territory comprising not more than
23 twenty percent of the land area may be included in the
24 application without the consent of the railway owner to avoid
25 creating an island or to create more uniform service
26 boundaries if a copy of the application is mailed by certified
27 mail to the owner ~~of-the-right-of-way~~, at least ten days prior
28 to ~~the-filing-of-the-application-with-the-city-council~~ any
29 action taken by the city council on the application. The
30 application must contain a legal description and a map of the
31 territory showing its location in relationship to the city.
32 An annexation including territory comprising not more than
33 twenty percent of the land area without consent of the
34 property owners is not complete without approval by four-
35 fifths of the members of the board after a hearing for all

1 affected property owners and the county.

2 2. An application for annexation of territory not within
3 an urbanized area of a city other than the city to which the
4 annexation is directed must be approved by resolution of the
5 council which receives the application. In the discretion of
6 a city council, the resolution may include a provision for a
7 transition for the imposition of taxes as provided in section
8 368.11, subsection 13. Upon receiving approval of the
9 council, the city clerk shall file a copy of the resolution,
10 map, and legal description of the territory involved with the
11 secretary of state, county board of supervisors, and the state
12 department of transportation. The city clerk shall also file
13 record a copy of the legal description, map and resolution
14 with the county recorder ~~and secretary of state~~. The
15 secretary of state shall not accept and acknowledge a copy of
16 a legal description, map and resolution of annexation which
17 would create an island. The annexation is completed upon
18 acknowledgment by the secretary of state that the secretary of
19 state has received the legal description, map and resolution.

20 3. An application for annexation of territory within an
21 urbanized area of a city other than the city to which the
22 annexation is directed must be approved both by resolution of
23 the council which receives the application and by the board.
24 The board shall not approve an application which creates an
25 island. Notice of the application shall be mailed by
26 certified mail, by the city to which the annexation is
27 directed, at least ten days prior to any action by the city
28 council on the application to the council of each city whose
29 boundary adjoins the territory or is within two miles of the
30 territory, to the board of supervisors of each county which
31 contains a portion of the territory, and to the regional
32 planning authority of the territory. Notice of the
33 application shall be published in an official county newspaper
34 in each affected county which contains a portion of the
35 territory at least ten days prior to any action by the city

1 council on the application. In the discretion of a city
2 council, the resolution may include a provision for a
3 transition for the imposition of taxes as provided in section
4 368.11, subsection 13. The annexation is completed when the
5 board has filed and recorded copies of applicable portions of
6 the proceedings as required by section 368.20, subsection 2.
7 4. If one or more applications for a voluntary annexation
8 and one or more petitions for an involuntary annexation or
9 incorporation for a common territory are submitted to the
10 board within thirty days of the date the first application or
11 petition was submitted to the board, the board shall approve
12 the application for voluntary annexation, ~~provided that~~ if the
13 application meets the applicable requirements of this chapter,
14 unless the board determines by a preponderance of the evidence
15 that the application was filed in bad faith, or that the
16 application as filed is contrary to the best interests of the
17 citizens of the urbanized area, or that the applicant cannot
18 within a reasonable period of time meet its obligation to
19 provide services to the territory to be annexed sufficient to
20 meet the needs of the territory. In consideration of the
21 requests, the board may appoint a committee in the manner
22 provided in section 368.14 to seek additional information from
23 the applicant for voluntary annexation as necessary, including
24 the information required of petitioners pursuant to section
25 368.11. The board, or the committee, if applicable, shall
26 hold a public hearing on the application for voluntary
27 annexation in the manner provided for involuntary petitions in
28 section 368.15. The decision of the board under this
29 paragraph subsection shall be made within ninety days of
30 receipt of the application by the board. The failure of the
31 board to approve an application under this paragraph shall be
32 deemed final agency action subject to judicial review. An
33 ~~applicant may appeal a decision of the board no earlier than~~
34 ~~one hundred eighty days after the decision is issued or not~~
35 ~~later than thirty days after a final decision is made by the~~

1 ~~special-local-committee-under-section-368.14A, whichever is~~
2 ~~earlier.~~

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

13 Sec. 4. NEW SECTION. 368.7A SECONDARY ROAD ANNEXATION.

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

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

1 date of the annexation.

2 Sec. 5. Section 368.8, Code 1993, is amended to read as
3 follows:

4 368.8 VOLUNTARY SEVERING OF TERRITORY.

5 Any territory may be severed upon the unanimous consent of
6 all owners of the territory and approval by resolution of the
7 council of the city in which the territory is located. The
8 council shall provide in the resolution for the equitable
9 distribution of assets and equitable distribution and
10 assumption of liabilities of the territory as between the city
11 and the severed territory. The city clerk shall file a copy
12 of the resolution, map, and a legal description of the
13 territory involved with the county board of supervisors,
14 secretary of state, and state department of transportation.
15 The city clerk shall also file record a copy of the map and
16 resolution with the county recorder ~~and secretary of state.~~
17 The secretary of state shall not accept and acknowledge a copy
18 of a map and resolution of severance which would create an
19 island. The severance is completed upon acknowledgment by the
20 secretary of state that the secretary of state has received
21 the map and resolution.

22 Sec. 6. Section 368.10, subsection 1, Code 1993, is
23 amended by striking the subsection.

24 Sec. 7. Section 368.10, subsection 2, Code 1993, is
25 amended to read as follows:

26 ~~2-~~ The board may establish rules for the performance of
27 its duties and the conduct of proceedings before it. The
28 rules may include establishing filing fees for applications
29 and petitions submitted to the board. The board's rules are
30 subject to chapter 17A, as applicable.

31 Sec. 8. Section 368.11, unnumbered paragraphs 1, 2, 4, and
32 5, Code 1993, are amended to read as follows:

33 A petition for incorporation, discontinuance, or boundary
34 adjustment may be filed with the board by a city council, a
35 county board of supervisors, a regional planning authority, or

1 five percent of the qualified electors of a city or territory
2 involved in the proposal. Notice of the filing, including a
3 copy of the petition, must be served upon the council of each
4 city for which a discontinuance or boundary adjustment is
5 proposed, the board of supervisors for each county which
6 contains a portion of a city to be discontinued or territory
7 to be incorporated, annexed or severed, the council of a city
8 if an incorporation includes territory within the city's
9 urbanized area, and any regional planning authority for the
10 area involved.

11 Within ninety days of receipt of a petition, the board
12 shall initiate appropriate proceedings or dismiss the
13 petition. The board may combine for consideration petitions
14 or plans which concern the same territory or city or which
15 provide for a boundary adjustment or incorporation affecting
16 common territory. The combined petitions may be submitted for
17 consideration by a special local committee pursuant to section
18 368.14A.

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

34 Before a petition for involuntary annexation may be filed,
35 the petitioner shall hold a public meeting on the petition.

1 Notice of the meeting shall be published in an official county
2 newspaper in each affected county which contains a part of the
3 territory at least five days before the date of the public
4 meeting. The ~~chairperson-of-the-board-of-supervisors-of-the~~
5 ~~county-containing-the-greatest-area-of-the-territory-proposed~~
6 ~~to-be-annexed~~ mayor of the city proposing to annex the
7 territory, or that person's designee, shall serve as
8 chairperson of the public meeting. The ~~auditor-of-the-same~~
9 ~~county-or-the-auditor's~~ city clerk of the same city or the
10 city clerk's designee, shall record the proceedings of the
11 public meeting. Any person attending the meeting may submit
12 written comments and may be heard on the petition. The
13 minutes of the public meeting and all documents submitted at
14 the public meeting shall be forwarded to the board by the
15 chairperson of the meeting.

16 Sec. 9. Section 368.13, Code 1993, is amended to read as
17 follows:

18 368.13 BOARD MAY INITIATE PROCEEDINGS.

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

30 Sec. 10. Section 368.14A, Code 1993, is amended to read as
31 follows:

32 368.14A SPECIAL LOCAL COMMITTEES.

33 When two or more ~~involuntary~~ petitions for city development
34 action or ~~voluntary~~ applications for boundary-adjustment
35 voluntary annexation describing common territory are being

1 considered together, the board shall direct the appointment of
2 representatives for each of the petitions to serve on one
3 special committee to consider the petitions. Expense
4 reimbursement and qualifications of these representatives
5 shall be as provided in section 368.14. Three board members
6 and at least one-half of the appointed local representatives
7 are required for a quorum of the special local committee. The
8 manner of appointment of representatives shall be the same as
9 for single petition committees ~~except that if one or more of~~
10 ~~the territories to be annexed is in more than one county, the~~
11 ~~board of supervisors of the county containing the greatest~~
12 ~~area of the territory proposed to be annexed shall appoint one~~
13 representative as provided in section 368.14. The special
14 committee shall consider the petitions in conformity with the
15 provisions of this chapter, and shall resolve common territory
16 issues between petitioners. The special committee shall
17 conduct a public hearing on the petitions pursuant to section
18 368.15. If the common territory issue is resolved, the
19 special local committee may approve the resulting compatible
20 petitions by a single vote or separately, in its discretion.

21 Sec. 11. Section 368.20, subsection 2, Code 1993, is
22 amended to read as follows:

23 2. File with the secretary of state, the clerk of each
24 city incorporated or involved in a boundary adjustment, and
25 record with the recorder of each county which contains a
26 portion of any city or territory involved, copies of the
27 proceedings including the original petition or plan and any
28 amendments, the order of the board approving the petition or
29 plan, proofs of service and publication of required notices,
30 certification of the election result, and any other material
31 deemed by the board to be of primary importance to the
32 proceedings. Upon proper filing and expiration of time for
33 appeal, the incorporation, discontinuance, or boundary
34 adjustment is complete. However, if an appeal to any of the
35 proceedings is pending, completion does not occur until the

1 appeal is decided, unless a subsequent date is provided in the
2 proposal. The board shall also file with the state department
3 of transportation a copy of the map and legal land description
4 of each completed incorporation or corporate boundary
5 adjustment completed under sections 368.11 through 368.22 or
6 approved annexation within an urbanized area.

7 EXPLANATION

8 This bill amends provisions of chapter 368 relating to the
9 annexation and incorporation of land. The bill redefines
10 island and urbanized area.

11 The bill authorizes the inclusion of up to 20 percent of
12 the total land area adjoining a city which is included in an
13 annexation application without consent of owner, but the owner
14 must be notified at least 10 days before any action on the
15 application is taken by the city council. The annexation must
16 be approved by a four-fifths favorable vote of the city
17 development board. Procedures also include notifying other
18 cities adjoining the urbanized area in which the voluntary
19 annexation will occur.

20 The bill provides that counties notify the city development
21 board of the existence of any portion of a secondary road
22 which extends to the center line but has not become part of a
23 city by annexation and has a common boundary with a city.
24 Procedures are provided to annex the portion of the secondary
25 road extending to the center line.

26 The bill also authorizes the city development board to
27 establish a fee schedule for filing applications and petitions
28 to the board.

29 The bill provides procedures for voluntary severing of
30 territory.

31 The bill changes notice requirements and public hearing
32 procedures for involuntary annexations.

33 The bill also provides that if the city development board
34 has development plans for a territory, city plans affecting
35 the same territory shall comply with the board's plans.

1 The bill strikes requirements for an annual report of city
2 development duties.

3 The bill makes changes in procedures and recording of
4 documents to correspond to the definition of urbanized area.

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SENATE FILE 418

S-3639

1 Amend Senate File 418 as follows:

2 1. Page 1, by inserting after line 15 the follow-
3 ing:

4 "Sec. ____ . Section 368.1, Code 1993, is amended by
5 adding the following new subsection:

6 "NEW SUBSECTION. 10A. "Public utility" means a
7 public utility subject to regulation pursuant to
8 chapter 476."

9 2. Page 1, line 27, by inserting after the word
10 "way" the following: "and each affected public
11 utility".

12 3. Page 2, line 11, by inserting after the word
13 "supervisors," the following: "each affected public
14 utility,".

15 4. Page 2, line 31, by inserting after the word
16 "territory," the following: "each affected public
17 utility,".

18 5. Page 6, line 29, by inserting after the word
19 "involved," the following: "each affected public
20 utility,".

21 6. Page 9, by inserting after line 6 the
22 following:

23 "Sec. ____ . NEW SECTION. 368.23 FEES AND TAXES OF
24 PUBLIC UTILITIES.

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

By JIM RIORDAN
ALBERT G. SORENSEN

S-3639 FILED APRIL 26, 1993

adopted
4-28-93
(P. 1407)

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

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

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

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

16 Sec. 3. Section 368.1, Code 1993, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 10A. "Public utility" means a public
19 utility subject to regulation pursuant to chapter 476.

20 Sec. 4. Section 368.7, Code 1993, is amended to read as
21 follows:

22 368.7 VOLUNTARY ANNEXATION OF TERRITORY.

23 1. All of the owners of land in a territory adjoining a
24 city may apply in writing to the council of the adjoining city
25 requesting annexation of the territory. Territory comprising
26 railway right of way or territory comprising not more than
27 twenty percent of the land area may be included in the
28 application without the consent of the railway owner to avoid
29 creating an island or to create more uniform service
30 boundaries if a copy of the application is mailed by certified
31 mail to the owner of-the-right-of-way and each affected public
32 utility, at least ten days prior to the-filing-of-the
33 application-with-the-city-council any action taken by the city
34 council on the application. The application must contain a
35 legal description and a map of the territory showing its

1 location in relationship to the city. An annexation including
2 territory comprising not more than twenty percent of the land
3 area without consent of the property owners is not complete
4 without approval by four-fifths of the members of the board
5 after a hearing for all affected property owners and the
6 county.

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

26 3. An application for annexation of territory within an
27 urbanized area of a city other than the city to which the
28 annexation is directed must be approved both by resolution of
29 the council which receives the application and by the board.
30 The board shall not approve an application which creates an
31 island. Notice of the application shall be mailed by
32 certified mail, by the city to which the annexation is
33 directed, at least ten days prior to any action by the city
34 council on the application to the council of each city whose
35 boundary adjoins the territory or is within two miles of the

1 territory, to the board of supervisors of each county which
2 contains a portion of the territory, each affected public
3 utility, and to the regional planning authority of the
4 territory. Notice of the application shall be published in an
5 official county newspaper in each affected county which
6 contains a portion of the territory at least ten days prior to
7 any action by the city council on the application. In the
8 discretion of a city council, the resolution may include a
9 provision for a transition for the imposition of taxes as
10 provided in section 368.11, subsection 13. The annexation is
11 completed when the board has filed and recorded copies of
12 applicable portions of the proceedings as required by section
13 368.20, subsection 2.

14 4. If one or more applications for a voluntary annexation
15 and one or more petitions for an involuntary annexation or
16 incorporation for a common territory are submitted to the
17 board within thirty days of the date the first application or
18 petition was submitted to the board, the board shall approve
19 the application for voluntary annexation, provided-that if the
20 application meets the applicable requirements of this chapter,
21 unless the board determines by a preponderance of the evidence
22 that the application was filed in bad faith, or that the
23 application as filed is contrary to the best interests of the
24 citizens of the urbanized area, or that the applicant cannot
25 within a reasonable period of time meet its obligation to
26 provide services to the territory to be annexed sufficient to
27 meet the needs of the territory. In consideration of the
28 requests, the board may appoint a committee in the manner
29 provided in section 368.14 to seek additional information from
30 the applicant for voluntary annexation as necessary, including
31 the information required of petitioners pursuant to section
32 368.11. The board, or the committee, if applicable, shall
33 hold a public hearing on the application for voluntary
34 annexation in the manner provided for involuntary petitions in
35 section 368.15. The decision of the board under this

1 paragraph subsection shall be made within ninety days of
2 receipt of the application by the board. The failure of the
3 board to approve an application under this paragraph shall be
4 deemed final agency action subject to judicial review. An
5 ~~applicant may appeal a decision of the board no earlier than~~
6 ~~one hundred eighty days after the decision is issued or not~~
7 ~~later than thirty days after a final decision is made by the~~
8 ~~special local committee under section 368.14A, whichever is~~
9 ~~earlier.~~

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

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

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

1 jurisdictions.

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

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

11 368.8 VOLUNTARY SEVERING OF TERRITORY.

12 Any territory may be severed upon the unanimous consent of
13 all owners of the territory and approval by resolution of the
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15 council shall provide in the resolution for the equitable
16 distribution of assets and equitable distribution and
17 assumption of liabilities of the territory as between the city
18 and the severed territory. The city clerk shall file a copy
19 of the resolution, map, and a legal description of the
20 territory involved with the county board of supervisors,
21 secretary of state, and state department of transportation.
22 The city clerk shall also ~~file~~ record a copy of the map and
23 resolution with the county recorder ~~and-secretary-of-state~~.
24 The secretary of state shall not accept and acknowledge a copy
25 of a map and resolution of severance which would create an
26 island. The severance is completed upon acknowledgment by the
27 secretary of state that the secretary of state has received
28 the map and resolution.

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

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33 2. The board may establish rules for the performance of
34 its duties and the conduct of proceedings before it. The
35 rules may include establishing filing fees for applications

1 and petitions submitted to the board. The board's rules are
2 subject to chapter 17A, as applicable.

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

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9 involved in the proposal. Notice of the filing, including a
10 copy of the petition, must be served upon the council of each
11 city for which a discontinuance or boundary adjustment is
12 proposed, the board of supervisors for each county which
13 contains a portion of a city to be discontinued or territory
14 to be incorporated, annexed or severed, the council of a city
15 if an incorporation includes territory within the city's
16 urbanized area, and any regional planning authority for the
17 area involved.

18 Within ninety days of receipt of a petition, the board
19 shall initiate appropriate proceedings or dismiss the
20 petition. The board may combine for consideration petitions
21 or plans which concern the same territory or city or which
22 provide for a boundary adjustment or incorporation affecting
23 common territory. The combined petitions may be submitted for
24 consideration by a special local committee pursuant to section
25 368.14A.

26 At least ten days before a petition for involuntary
27 annexation is filed as provided in this section, the
28 petitioner shall make its intention known ~~to all affected~~
29 ~~parties~~ by sending a letter of intent by certified mail to the
30 council of each city ~~within the urbanized area if the~~
31 ~~territory is within an urbanized area, or, if the territory is~~
32 ~~not within an urbanized area, to the council of each city~~
33 within two miles whose urbanized area contains a portion of
34 the territory, the board of supervisors of each county ~~within~~
35 ~~the urbanized area~~ which contains a portion of the territory,

1 the regional planning authority of the territory involved,
2 each affected public utility, and to each property owner
3 listed in the petition. The written notification shall
4 include notice that the petitioners shall hold a public
5 meeting on the petition for involuntary annexation prior to
6 the filing of the petition.

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

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

26 368.13 BOARD MAY INITIATE PROCEEDINGS.

27 Based on the results of its studies, the board may initiate
28 proceedings for the incorporation, discontinuance, or boundary
29 adjustment of a city. The board may request a city to submit
30 a plan for ~~boundary-adjustment,~~ city development or may
31 formulate its own plan for ~~incorporation,-discontinuance,-or~~
32 ~~boundary-adjustment~~ city development. A plan submitted at the
33 board's initiation must include the same information as a
34 petition and be filed and acted upon in the same manner as a
35 petition. A petition or plan may include any information

1 relevant to the proposal, including but not limited to results
2 of studies and surveys, and arguments.

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

5 368.14A SPECIAL LOCAL COMMITTEES.

6 When two or more involuntary petitions for city development
7 action or voluntary applications for boundary-adjustment
8 voluntary annexation describing common territory are being
9 considered together, the board shall direct the appointment of
10 representatives for each of the petitions to serve on one
11 special committee to consider the petitions. Expense
12 reimbursement and qualifications of these representatives
13 shall be as provided in section 368.14. Three board members
14 and at least one-half of the appointed local representatives
15 are required for a quorum of the special local committee. The
16 manner of appointment of representatives shall be the same as
17 for single petition committees ~~except-that-if-one-or-more-of~~
18 ~~the-territories-to-be-annexed-is-in-more-than-one-county,~~ the
19 ~~board-of-supervisors-of-the-county-containing-the-greatest~~
20 ~~area-of-the-territory-proposed-to-be-annexed-shall-appoint-one~~
21 representative as provided in section 368.14. The special
22 committee shall consider the petitions in conformity with the
23 provisions of this chapter, and shall resolve common territory
24 issues between petitioners. The special committee shall
25 conduct a public hearing on the petitions pursuant to section
26 368.15. If the common territory issue is resolved, the
27 special local committee may approve the resulting compatible
28 petitions by a single vote or separately, in its discretion.

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

31 2. File with the secretary of state, the clerk of each
32 city incorporated or involved in a boundary adjustment, and
33 record with the recorder of each county which contains a
34 portion of any city or territory involved, copies of the
35 proceedings including the original petition or plan and any

1 amendments, the order of the board approving the petition or
2 plan, proofs of service and publication of required notices,
3 certification of the election result, and any other material
4 deemed by the board to be of primary importance to the
5 proceedings. Upon proper filing and expiration of time for
6 appeal, the incorporation, discontinuance, or boundary
7 adjustment is complete. However, if an appeal to any of the
8 proceedings is pending, completion does not occur until the
9 appeal is decided, unless a subsequent date is provided in the
10 proposal. The board shall also file with the state department
11 of transportation a copy of the map and legal land description
12 of each completed incorporation or corporate boundary
13 adjustment completed under sections 368.11 through 368.22 or
14 approved annexation within an urbanized area.

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

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

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SENATE FILE 418

H-4326

- 1 Amend Senate File 418, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 29, by striking the word
- 4 "service".

By COMMITTEE ON WAYS AND MEANS
HANSON of Delaware, Chairperson

H-4326 FILED APRIL 29, 1993

4-29-93 Adopted

HOUSE AMENDMENT TO
SENATE FILE 418

S-3714

- 1 Amend Senate File 418, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 29, by striking the word
- 4 "service".

RECEIVED FROM THE HOUSE

S-3714 FILED APRIL 29, 1993

4-30-93 Senate concurred

SENATE FILE 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.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 418, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved _____, 1993

TERRY E. BRANSTAD
Governor

SF 418