

**CHAPTER 256**

## ALTERNATIVE FORMS OF LOCAL GOVERNMENT

*H.F. 693*

**AN ACT** relating to alternative forms of local government and creating a new alternative form of local government for cities known as a consolidated metropolitan corporation, with provisions relating to its charter process, legislative body, tax collection, and service delivery, and to a new alternative form of county government.

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

Section 1. **NEW SECTION. 28E.40 REGIONAL METROPOLITAN SERVICE AREA.**

Two or more contiguous counties, cities, or cities and counties may establish a regional metropolitan service area to provide for the joint delivery of services by an agreement under this chapter, subject to the limitations and requirements of sections 331.232, 331.260, 331.261, and 331.262, subsection 2.

Sec. 2. Section 331.231, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 7.** Community commonwealth form as provided in sections 331.260 through 331.263.

Sec. 3. Section 331.231, subsection 6, Code 1991, is amended to read as follows:

6. ~~County-county~~ **Multicounty** consolidated form as provided in section 331.253.

Sec. 4. Section 331.232, Code 1991, is amended by adding the following new subsection:

**NEW SUBSECTION. 1A.** The council of any city wishing to participate in a city-county consolidation charter commission must notify the board by resolution within thirty days of the creation of the commission pursuant to subsection 1. A city's participation in a city-county consolidation charter commission may be proposed by the city council adopting a resolution in favor of participation or by eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last regular city election petitioning the council to adopt a resolution in favor of participation. The council shall within ten days of the filing of a valid petition adopt such a resolution.

Sec. 5. Section 331.233, subsection 1, Code 1991, is amended to read as follows:

1. ~~Within~~ The members of a commission created to study the alternative forms of county government under division II, part 1, and sections 331.239, 331.241, 331.246, and 331.253, shall be appointed within forty-five days after the adoption of the resolution creating the commission; the members of the commission shall be appointed as follows:

Sec. 6. Section 331.233, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

The legislative appointing authorities shall be considered one appointing authority for the purpose of complying with this subsection. The senior legislative appointing authority in terms of length of legislative service shall convene the legislative appointing authorities to consult for the purpose of complying with this subsection.

Sec. 7. Section 331.233, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3. If at any time during the commission process, the commission adopts a resolution by majority vote to prepare a charter proposing city-county consolidation or the community commonwealth form, additional members shall be appointed to the commission in order to comply with section 331.233A. The life of the commission shall be extended up to six months after the appointment of the additional members.

Sec. 8. NEW SECTION. 331.233A APPOINTMENT OF COMMISSION MEMBERS – CITY-COUNTY CONSOLIDATION OR COMMUNITY COMMONWEALTH.

1. The members of a commission created to study city-county consolidation or the community commonwealth form shall be appointed within forty-five days after the adoption of a resolution creating the commission as follows:

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

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

c. One member shall be appointed by each state legislator whose legislative district is located in the commission area if a majority of the constituents of that legislative district resides in the commission area. However, if a commission area does not have a state legislative district which has a majority of its constituents residing in the commission area, the legislative district having the largest plurality of constituents residing in the commission area shall appoint one member.

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

2. The commission members shall be appointed in compliance with section 331.233, subsection 2. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

3. If at any time during the commission process, the commission adopts a resolution by majority vote to prepare a charter proposing an alternative form other than city-county consolidation or the community commonwealth form, the resolution shall be submitted to the board of supervisors of the participating county, and the board shall proceed pursuant to section 331.233. The life of the commission shall be extended up to six months after the appointment of the new members.

Sec. 9. Section 331.234, subsections 3 and 4, Code 1991, are amended to read as follows:

3. The board shall provide make available to the commission in-kind services such as office space, rooms printing, supplies, and equipment for the commission and shall pay the other necessary expenses of the commission including compensation for secretarial, clerical, professional, and consultant services. The total annual expenses, not including the value of in-kind expenses, to be paid from public funds shall not exceed one hundred thousand dollars or an amount equal to thirty cents times the population of the commission area, according to the most recent certified federal census. The commission may employ staff as necessary.

4. The expenses of the commission may be paid from the general fund of the county or from any combination of public or private funds available for that purpose. The commission's annual expenses may exceed the amount in subsection 3 only if the excess is paid from private funds. If a proposed charter is submitted to the electorate, private funds donated to the commission may be used to promote passage of the proposed charter.

Sec. 10. Section 331.235, Code 1991, is amended to read as follows:

**331.235 COMMISSION PROCEDURES AND REPORTS.**

1. Within sixty days after its organization, the commission shall hold at least one public hearing for the purpose of receiving information and material which will assist in the drafting of a charter. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21.

2. Within nine months after the organization of the commission, the commission shall submit a preliminary report to the board, which report may include the text of the proposed charter. If a proposed charter is included in the preliminary report, the report shall also include an analysis of the fiscal impact of the proposed charter. Sufficient copies of the report shall be made available for distribution to residents of the county who request a copy. The commission shall hold at least one public hearing after submission of the preliminary report to obtain public comment.

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

4. The commission is dissolved on the date of the general election at which the proposed charter is submitted to the electorate. If a charter is not recommended, the commission is dissolved upon submission of its final report to the board.

Sec. 11. Section 331.236, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

**331.236 BALLOT REQUIREMENTS.**

Unless otherwise provided, the question of adopting the proposed alternative form of government shall be submitted to the electors in substantially the following form:

Should the (charter or amendment) described below be adopted for (insert name of local government)?

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

Sec. 12. Section 331.237, subsection 1, Code 1991, is amended to read as follows:

1. If a proposed charter for county government is received not later than sixty days before the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. A summary of the proposed charter or amendment must be published in the official county newspapers and in a newspaper of general circulation in each participating city, if applicable, at least ten but not more than twenty days before the date of the election. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

Sec. 13. Section 331.237, subsection 2, Code 1991, is amended by adding the following new paragraph:

**NEW PARAGRAPH. f.** The former governing bodies shall continue to perform their duties until the new governing body is sworn into office, and shall assist the new governing body in planning the transition to the charter government.

Sec. 14. Section 331.237, subsection 3, Code 1991, is amended to read as follows:

3. If a charter is submitted to the electorate but is not adopted, another charter shall not be submitted to the electorate for ~~six~~ two years. If a charter is adopted, it may be amended at any time. If a charter is adopted, a proposed charter for another alternative form of county government shall not be submitted to the electorate for six years.

Sec. 15. Section 331.238, subsection 2, paragraph f, Code 1991, is amended to read as follows:  
f. The combining of duties of elected county officials or the elimination of elected offices and the assumption of the duties of those offices by appointed officials which may differ from the requirements of section 331.323.

Sec. 16. Section 331.238, subsection 2, paragraph k, Code 1991, is amended by striking the paragraph.

Sec. 17. Section 331.238, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph after lettered paragraph k:

NEW UNNUMBERED PARAGRAPH. This subsection does not apply to the board of trustees of a county hospital.

Sec. 18. Section 331.238, Code 1991, is amended by adding the following new subsection:  
NEW SUBSECTION. 3. An alternative form of county government shall provide for the partisan election of its officers.

Sec. 19. Section 331.247, Code 1991, is amended by adding the following new subsection:  
NEW SUBSECTION. 5. A city may join an existing city-county consolidated government by resolution of the city council or upon petition of eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the city council of the petitioning city shall adopt a resolution in favor of participation and shall immediately forward the resolution to the legislative body of the city-county consolidated government. If a majority of the city-county consolidated legislative body approves the resolution, the question of joining the city-county consolidated government shall be submitted to the electorate of the petitioning city within sixty days after approval of the resolution.

Sec. 20. Section 331.247, Code 1991, is amended to read as follows:  
331.247 CITY-COUNTY CONSOLIDATION FORM.

1. A county and one or more cities within the county may unite to form a single unit of local government in accordance with this part. If more than fifty percent of the population of a city resides within the affected county, it is a city within the county for the purposes of this section.

2. An alternative form of government, including a charter form, for a consolidated unit of government may be submitted to the voters only by a commission established under this chapter and one or more commissions established by the affected cities under section 372.9 that have cooperated in the formulation of the charter. A majority vote by each of the affected county charter commission and city charter commission is required for the submission of an alternative form of government for a consolidated unit of local government. The affected county charter commission and city charter commission submitting a consolidated form shall issue a single joint final report and proposal.

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

Sec. 21. Section 331.248, subsection 1, Code 1991, is amended to read as follows:

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

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

b. Provide for establishment of service areas, except that formation of a city-county consolidation government form shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.

Sec. 23. Section 331.249, subsections 1 and 2, Code 1991, are amended by striking the subsections and inserting in lieu thereof the following:

1. The consolidation of one or more cities and one or more counties shall create a unified government which includes a municipal corporation and a county. The consolidated unit shall have the separate status of a county and a city for all purposes and shall constitute two political subdivisions, a consolidated city and a county, under combined governance. The consolidated unit shall retain one separate constitutional debt limitation with respect to its status as a city and a separate constitutional debt limitation with respect to its status as a county.

2. A consolidated unit of local government may include an area which is located in another county, but which is within the corporate boundaries of one of the consolidated cities. County services shall be provided in the extra-county area and taxes to fund those services shall be collected in the extra-county area by the consolidated government, to the extent permitted by the Constitution of the State of Iowa. In addition to the right to vote in the county of residence, electors residing in the extra-county area shall have the right to vote on any matter related to the consolidated unit of local government, including election of its officials.

If a city-county consolidation charter is proposed, within ninety days following the final report of the commission, a resident or property owner of the commission area proposed to be consolidated may bring an action in district court for declaratory judgment to determine the legality of the proposed charter and to otherwise declare the effect of the charter. The referendum on the proposed charter shall be stayed during pendency of the action and for such additional time during which the proposed charter or its enabling legislation does not conform to the constitution or laws of the state of Iowa. If in its final judgment the court determines that the proposed charter fails to conform to the constitution or laws of this state, the commission shall have a period of six months in which to revise and resubmit the proposed charter.

Sec. 24. Section 331.249, subsection 3, Code 1991, is amended to read as follows:

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

Sec. 25. Section 331.250, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

#### 331.250 GENERAL POWERS OF CONSOLIDATED LOCAL GOVERNMENTS.

The consolidation charter shall provide for the delivery of services to specified areas of the consolidated local government. The governing body of the consolidated government shall administer the provision of services in each of the designated service areas and shall have the authority to determine the boundaries of the service areas. For each service provided by the consolidated government, the consolidated government shall assume the same statutory rights, powers, and duties relating to the provision of the service as if the member city were itself providing the service to its citizens.

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

#### 331.252 FORM OF BALLOT — CITY-COUNTY CONSOLIDATION.

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

Should the corporate existence and governments of the county of . . . . . and the cities of . . . . . and . . . . . be consolidated into one joint city-county corporation government?

If section 331.247, subsection 4, applies, the following question shall be placed on the ballot of each participating city:

Should the (name of city or second county) participate in the consolidation charter?

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

Sec. 27. Section 331.253, Code 1991, is amended to read as follows:

**331.253 REQUIREMENTS FOR COUNTY-COUNTY MULTICOUNTY GOVERNMENT CONSOLIDATION.**

1. Consolidation may be placed on the ballot only by a joint report by ~~contiguous~~ two or more counties.

2. A final report must contain a consolidation charter if ~~county-county~~ multicounty consolidation is recommended. The consolidation charter must conform to the provisions and requirements in accordance with this part.

Sec. 28. Section 331.254, unnumbered paragraph 1 and subsection 5, Code 1991, are amended to read as follows:

When ~~county~~ multicounty consolidation is recommended, a petition must contain a consolidation charter which provides for:

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

The consolidation charter may include other provisions that are not inconsistent with state law.

Sec. 29. Section 331.254, Code 1991, is amended by adding the following new subsections: NEW SUBSECTION. 6. The retention of each county's geographic boundaries as the boundaries existed before consolidation.

NEW SUBSECTION. 7. The merger of the elective offices of each consolidating county with the election of new officers within sixty days after the effective date of the charter. The elections shall be conducted by the county commissioner of elections of each county pursuant to section 69.13.

NEW SUBSECTION. 8. The merger of the appointive offices of each consolidating county.

Sec. 30. Section 331.255, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

**331.255 FORM OF BALLOT – MULTICOUNTY CONSOLIDATION.**

The question of multicounty consolidation shall be submitted to the electors in substantially the following form:

Should the consolidation charter described below be adopted for (name of applicable county)?

The ballot must contain a brief description and summary of the proposed charter.

Sec. 31. NEW SECTION. 331.256 JOINING EXISTING MULTICOUNTY CONSOLIDATED GOVERNMENT.

A county may join an existing multicounty consolidated government by resolution of the board of supervisors or upon petition of eligible electors of the county equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the board of the petitioning county shall adopt a resolution in favor of participation and shall immediately forward the resolution to the legislative body of the multicounty consolidated government. If a majority of the multicounty consolidated board of supervisors approves the resolution, the question of joining the multicounty consolidated government shall be submitted to the electorate of the petitioning county within sixty days after approval of the resolution.

Sec. 32. NEW SECTION. 331.260 COMMUNITY COMMONWEALTH.

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

2. A charter proposing a community commonwealth as an alternative form of government may be submitted to the voters only by a commission established under section 331.232. A majority vote by the commission is required for the submission of a charter proposing a community commonwealth as an alternative form of local government. The commission submitting a community commonwealth form of government shall issue a final report and proposal. If an alternative form of government for a community commonwealth form of local government is proposed, approval of the commonwealth charter shall be a separate ballot issue from approval of the alternative form of government in those cities proposed to be included in the commonwealth. The commonwealth charter shall be effective in regard to a city government only if a majority of the voters of the city voting on the question voted for participation in the commonwealth charter.

The question of forming a community commonwealth shall be submitted to the electorate in substantially the same form as provided in section 331.252.

Sec. 33. NEW SECTION. 331.261 CHARTER — COMMUNITY COMMONWEALTH.

The community commonwealth charter shall provide for the following:

1. The official name of the community commonwealth government.
2. An elective legislative body established in the manner provided for county boards of supervisors under sections 331.201 through 331.216 and section 331.238.
3. Appointment of a manager pursuant to sections 331.241 through 331.243.
4. Adjustment of existing bonded indebtedness and other obligations to the extent it relates to the delivery of services.
5. The transfer or other disposition of property and other rights, claims, assets, and franchises as they relate to the delivery of services.
6. The transfer, reorganization, abolition, adjustment, and absorption of existing boards, existing subordinate service districts, local improvement districts, and agencies of the participating county and cities.
7. A system of delivery of services to the entire community commonwealth pursuant to section 331.263.
8. A formula for the transfer of taxing authority from member cities to the community commonwealth governing body to fund the delivery of regional services.
9. The transfer into the community commonwealth of area-wide services which had been provided by other boards, commissions, and local governments, except that formation of a community commonwealth shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.
10. A process by which the governing body of the community commonwealth and the governing bodies of the member cities provide by mutual agreement for the delivery of specified services to the community commonwealth.
11. The partisan election of community commonwealth government officials.

The community commonwealth charter may include other provisions not inconsistent with state law.

Sec. 34. NEW SECTION. 331.262 ADOPTION OF CHARTER — EFFECT.

1. As a political subdivision of the state, the community commonwealth unit of local government shall have the statutory and constitutional status of a county and of a city to the extent the community commonwealth governing body assumes the powers and duties of cities as those powers and duties relate to the delivery of services. For each service provided by the community commonwealth, the community commonwealth shall assume the same statutory rights, powers, and duties relating to the provision of the service as if the member city were itself providing the service to its citizens.

On its effective date, the community commonwealth charter operates to replace the existing county government structure. The governments of participating cities shall remain in existence to render those services not transferred to the community commonwealth government.

2. A city or county wishing to terminate its membership in the community commonwealth government must do so pursuant to the existing charter procedure under this chapter or chapter 372, whichever is applicable.

A city or county may join an existing community commonwealth government by resolution of the board or council, whichever is applicable, or upon petition of eligible electors of the city or county, whichever is applicable, equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the applicable governing body shall adopt a resolution in favor of participation and shall immediately forward the resolution to the governing body of the community commonwealth. If a majority of the community commonwealth governing body approves the resolution, the question of joining the community commonwealth shall be submitted to the electorate of the petitioning city or county within sixty days after approval of the resolution.

Sec. 35. NEW SECTION. 331.263 SERVICE DELIVERY.

1. The governing body of the community commonwealth government shall administer the provision of services in each of the designated service areas and shall have the authority to determine the boundaries of the service areas.

2. The governing body of the community commonwealth shall have the authority to levy county taxes and shall have the authority to levy city taxes to the extent the city tax levy authority is transferred by the charter to the community commonwealth. A city participating in the community commonwealth shall transfer a portion of the city's tax levy authorized under section 384.1 or 384.12, whichever is applicable, to the governing body of the community commonwealth. The maximum rates of taxes authorized to be levied under sections 384.1 and 384.12 by a city participating in the community commonwealth shall be reduced by an amount equal to the rates of the same or similar taxes levied in the city by the governing body of the community commonwealth.

Sec. 36. Section 372.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A city governed by the mayor-council form has a mayor and five council members elected at large, ~~unless by ordinance a city so governed chooses to have a mayor elected at large and an odd number of council members but not less than five, including at least two council members elected at large and one council member elected by and from each ward~~ the council representation plan is changed pursuant to section 372.13, subsection 11. The council may, by ordinance, provide for a city manager and prescribe the manager's powers and duties, and as long as the council contains an odd number of council members, may change the number of wards, abolish wards, or increase the number of council members at large without changing the form.

Sec. 37. Section 372.5, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A city governed by the commission form has a council composed of a mayor and four council members elected at large, ~~unless the council representation plan is changed pursuant to section 372.13, subsection 11.~~ The mayor administers the department of public affairs and each other council member is elected to administer one of the other four departments.

Sec. 38. Section 372.10, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A council representation plan pursuant to section 372.13, subsection 11.

Sec. 39. Section 372.13, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Council members shall be elected according to the council representation plans under sections 372.4 and 372.5. However, the council representation plan may be changed, by petition and election, to one of those described in this subsection. Upon receipt

of a valid petition, as defined in section 362.4, requesting a change to a council representation plan, the council shall submit the question at a special city election to be held within sixty days. If a majority of the persons voting at the special election approves the changed plan, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed plan, the council shall not submit another proposal to change a plan to the voters within the next two years.

Eligible electors of a city may petition for one of the following council representation plans:

- a. Election at large without ward residence requirements for the members.
- b. Election at large but with equal-population ward residence requirements for the members.
- c. Election from single-member, equal-population wards, in which the electors of each ward shall elect one member who must reside in that ward.
- d. Election of a specified number of members at large and a specified number of members from single-member, equal-population wards.

**Sec. 40. NEW SECTION. 372A.1 CREATION OF COMMISSION.**

1. Cities within a county may unite to form a single unit of local government in accordance with this chapter. Any city located in two or more counties shall be allowed to participate in a metropolitan consolidation in the county where at least fifty percent of its population resides. An alternative form of metropolitan government shall be submitted to the electorate by a commission in the form of a charter or charter amendment proposed in accordance with this chapter.

2. Participation in a charter commission under this chapter may be proposed by:

- a. The city council adopting a resolution calling for participation.
- b. By petition of the number of eligible electors of the city equal to at least twenty-five percent of the votes cast in the city at the last regular city election petitioning the council to adopt a resolution calling for participation. The council shall within thirty days of the filing of a valid petition adopt such a resolution.

**Sec. 41. NEW SECTION. 372A.2 APPOINTMENT OF COMMISSION MEMBERS.**

1. Within forty-five days after the establishment of a commission, the members of the commission shall be appointed as follows:

- a. One member shall be appointed by the city council of each city participating in the charter process.
- b. An additional member shall be appointed by each city council for every twenty-five thousand residents in the participating city.
- c. One member shall be appointed by each state legislator whose legislative district is located in the commission area if a majority of the constituents of that legislative district resides in the commission area. However, if a commission area does not have a state legislative district which has a majority of its constituents residing in the commission area, the legislative district having the largest plurality of constituents residing in the commission area shall appoint one member.

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

The legislative appointing authorities shall be considered one appointing authority for the purpose of complying with this subsection. The senior legislative appointing authority in terms of length of legislative service shall convene the legislative appointing authorities to consult for the purpose of complying with this subsection.

**Sec. 42. NEW SECTION. 372A.3 ORGANIZATION AND EXPENSES.**

1. Within thirty days after the appointment of the members of the commission, the city clerk of the participating city with the largest population shall give written notice of the date, time, and location of the first meeting of the commission. At the first meeting the commission shall organize by electing a chairperson, vice chairperson, and other officers as necessary. The commission shall adopt rules governing the conduct of its meetings, subject to chapter 21.

2. The members of the commission shall serve without compensation, but they are entitled to travel and other necessary expenses relating to their duties of office.

3. The participating cities shall make available to the commission in-kind services such as office space, printing, supplies, and equipment and shall pay the other necessary expenses of the commission, including compensation for secretarial, clerical, professional, and consultant services. The total annual expenses, not including the value of in-kind expenses, to be paid from public funds shall not exceed one hundred thousand dollars or an amount equal to thirty cents times the population of the commission area, according to the most recent certified federal census. The commission may employ staff as necessary.

4. The expenses of the commission may be paid from the general fund of the participating cities or from any combination of public or private funds available for that purpose. The commission's annual expenses may exceed the amount in subsection 3 only if the excess is paid from private funds. If a proposed charter is submitted to the electorate, private funds donated to the commission may be used to promote passage of the proposed charter.

**Sec. 43. NEW SECTION. 372A.4 COMMISSION PROCEDURES AND REPORTS.**

1. Within sixty days after its organization, the commission shall hold at least one public hearing for the purpose of receiving information and material which will assist in the drafting of a charter. Notice of the date, time, and place of the hearing shall be published in the official county newspapers of each county in which the participating cities are located.

2. Within nine months after the organization of the commission, the commission shall submit a preliminary report to the councils of the participating cities, which report may include the text of the proposed charter. If a proposed charter is included in the preliminary report, the report shall also include an analysis of the fiscal impact of the proposed charter. Sufficient copies of the report shall be made available for distribution to residents of the participating cities who request a copy. The commission shall hold at least one public hearing after submission of the preliminary report to obtain public comment.

3. Within twenty months after organization, the commission shall submit the final report to the councils of the participating cities. If the commission recommends a charter of consolidation, the final report shall include the full text and an explanation of the proposed charter, an analysis of the fiscal impact of the proposed charter, any comments deemed desirable by the commission, and any minority reports. The final report may recommend no change to the existing form of government and that no charter be submitted to the electorate, or it may recommend consolidation of the participating cities with the county. If the board of supervisors by resolution agrees to participate in consolidation, then the participating cities and county shall proceed under sections 331.231 through 331.252.

4. The final report of the commission shall be made available to the residents of the participating cities upon request. A summary of the final report shall be published in the official newspapers of the county. If a charter is not recommended, the commission is dissolved upon submission of its final report to the councils of the participating cities.

**Sec. 44. NEW SECTION. 372A.5 CONSOLIDATION CHARTER.**

A proposed charter written by a charter commission shall specify the consolidated metropolitan form of government. The proposed consolidation charter shall do all of the following:

1. Provide the official name of the consolidated unit of local government and establish its geographic boundaries.

2. Establish an elective legislative body pursuant to section 372A.9, including provisions on terms of office, initial compensation, meetings, and rules of procedure.

3. Provide for the at large election of an officer to preside over the metropolitan council and perform other duties as specified, and provide for the election of other necessary officers.

4. Provide for the nonpartisan election of officers of the consolidated metropolitan corporation government.

5. Specify the powers and duties of the metropolitan council, its administrative officers, and elected officials.

6. Provide for delivery of certain services to the member cities, pursuant to section 372A.11, and may provide for the abolition or consolidation of a department, agency, board, or commission and the assumptions of its powers and duties by the metropolitan council or another officer.

7. Provide for a system of revenue collection pursuant to section 372A.10.

8. Provide for the orderly transition to the charter form of metropolitan consolidation.

9. Include other provisions which the consolidation charter commission elects to include and which are not inconsistent with state law.

10. Specify a charter amendment process pursuant to section 372.11.

11. Provide for the appointment of a manager by the metropolitan council pursuant to section 372.8.

**Sec. 45. NEW SECTION. 372A.6 REFERENDUM – EFFECTIVE DATE.**

1. If a proposed charter for consolidation is received not later than sixty days before the next general election, the council of the participating city with the largest population shall direct the county commissioner of elections to submit to the qualified electors of the participating cities at the next general election the question of whether the proposed charter shall be adopted. A summary of the proposed charter shall be published in a newspaper of general circulation in each city participating in the charter commission process at least ten but not more than twenty days before the date of the election. The proposed charter shall be effective in regard to a city only if a majority of the electors of the city voting approves the proposed charter.

2. If a proposed charter for consolidation is adopted:

a. The adopted charter shall take effect July 1 following the election at which it is approved unless the charter provides a later effective date. A special election shall be called to elect the new elective officers.

b. The adoption of the consolidated metropolitan corporation form of government does not alter any right or liability of any participating city in effect at the time of the election at which the charter was adopted.

c. All departments and agencies shall continue to operate until replaced.

d. All ordinances or resolutions in effect remain effective until amended or repealed, unless they are irreconcilable with the adopted charter.

e. Upon the effective date of the adopted charter, the participating cities shall adopt the consolidation form by ordinance, and shall file a copy with the secretary of state, and maintain available copies for public inspection.

3. If a charter is submitted to the electorate but is not adopted, another charter shall not be submitted to the electorate for two years. If a charter is adopted, it may be amended at any time. If a charter is adopted, a proposed charter for another alternative form of city government shall not be submitted to the electorate for six years.

4. Section 372.2 shall not apply to a charter commission established under this chapter.

**Sec. 46. NEW SECTION. 372A.7 FORM OF BALLOT.**

The question of metropolitan consolidation shall be submitted to the electors in substantially the following form:

Should the cities of ..... and ..... unite to form one joint metropolitan corporation government?

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

Sec. 47. NEW SECTION. 372A.8 EFFECT OF CONSOLIDATION.

Cities consolidating pursuant to this chapter shall retain all the rights, powers, and duties conferred upon them by the Constitution of the State of Iowa and shall retain all the rights, powers, and duties conferred upon them by the laws of the state of Iowa, except to the extent those statutory rights, powers, and duties are limited by the charter government in fulfilling its duty to provide efficient administration and delivery of services to its citizens.

The consolidation charter may provide for the replacement of the city government of the member city with the largest population, according to the most recent certified federal census. That city shall be known as the home city of the consolidated metropolitan corporation. If its government is replaced, the consolidation charter shall provide that the home city be governed either directly by the metropolitan council or by those members of the metropolitan council who reside within the corporate boundaries of the home city. The home city shall retain its geographic boundaries for the purposes of taxation.

Cities participating in consolidation shall be referred to as member cities of the consolidated metropolitan corporation.

A city may join an existing consolidated metropolitan corporation government by resolution of the city council or upon petition of eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the city council of the petitioning city shall adopt a resolution in favor of participation and shall immediately forward the resolution to the metropolitan council. If a majority of the metropolitan council approves the resolution, the question of joining the consolidated metropolitan corporation shall be submitted to the electorate of the petitioning city within sixty days after approval of the resolution.

Sec. 48. NEW SECTION. 372A.9 METROPOLITAN COUNCIL.

1. A consolidated metropolitan corporation shall be governed by a metropolitan council. The council shall consist of an odd number of members, not less than eleven and not more than seventeen. If a vacancy on the metropolitan council occurs more than sixty days before the next general election, the council shall direct the county commissioner of elections to conduct a special election to fill the vacancy until the next general election.

2. Unless otherwise specified in the consolidation charter, the council shall act by a majority vote of the members on the council.

Sec. 49. NEW SECTION. 372A.10 TAXING AUTHORITY.

The metropolitan council shall have the authority to levy city taxes to the extent the city tax levy authority is transferred by the charter to the metropolitan council. A member city shall transfer a portion of the city's tax levy authorized under section 384.1 or 384.12, whichever is applicable, to the metropolitan council. The maximum rates of taxes authorized to be levied under sections 384.1 and 384.12 by a member city shall be reduced by an amount equal to the rates of the same or similar taxes levied in the city by the metropolitan council.

Sec. 50. NEW SECTION. 372A.11 SERVICE DELIVERY.

1. The charter of consolidation shall provide for the transfer into the metropolitan consolidated corporation of areawide services which had been provided by other boards, commissions, and local governments. The metropolitan council shall have the authority to determine the boundaries of the service areas, except that formation of a consolidated metropolitan corporation shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.

For each service provided by the consolidated metropolitan corporation, the consolidated metropolitan corporation shall assume the same statutory rights, powers, and duties, except taxing authority, relating to the provision of such service as if the member city were itself providing the service to its citizens. However, the consolidated metropolitan corporation shall not assume any of the governmental functions of its member cities except as the functions relate to the delivery of services and except as provided in section 372A.8.

If a service is being provided by the consolidated metropolitan corporation to any member city that member city shall not invoke any statutory right, power, or duty relating to the delivery of the service to its citizens.

2. A member city may apply to the metropolitan council for the purchase of any service which is being provided by the consolidated metropolitan corporation to any other member city, including the home city of the consolidated metropolitan corporation. Such an agreement to provide services shall be executed pursuant to chapter 28E and must contain provisions necessary for the lawful execution of the agreement.

Approved June 10, 1991

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## CHAPTER 257

### DISPOSAL OF SOLID WASTE

*H.F. 706*

**AN ACT** relating to solid waste, providing for the appropriation of certain solid waste tonnage fees collected, and providing a penalty.

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

Section 1. **NEW SECTION. 9B.1 REGISTRATION OF WASTE TIRE HAULERS.**

1. For the purposes of this section, "waste tire hauler" means a person who transports for hire more than forty waste tires in a single load for commercial purposes.

2. A waste tire hauler shall register with, and obtain a certificate of registration from, the secretary of state before hauling waste tires in this state. Requirements for registration of a waste tire hauler shall include a provision that waste tire haulers shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment. The waste tire hauler may apply for a certificate of registration by submitting the forms provided for that purpose and shall provide the name of the applicant and the address of the applicant's principal place of business and any additional information as deemed appropriate by the secretary of state.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered waste tire hauler may renew the certificate by filing a renewal application in the form prescribed by the secretary of state, accompanied by any applicable renewal fee.

4. The secretary of state shall establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this section.

5. The secretary of state shall require that a waste tire hauler have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of a minimum of ten thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days' notice in writing to the waste tire hauler and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the waste tire hauler's willingness to comply with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from a waste tire hauler to the amount of the surety bond. This subsection shall not limit the recovery of damages to the amount of the surety bond. The bond