

April 28, 1969  
Place on Calendar

HOUSE FILE 812

By COMMITTEE ON CONSTITUTIONAL AMENDMENTS AND REAPPORTIONMENT *State*  
*to Pass 5-15-69*

Passed House, Date 5-13-69 Passed Senate, Date 5-22-69

Vote: Ayes 102 Nays 6 Vote: Ayes 50 Nays 0

Approved .....

## A BILL FOR

1 An Act relating to the election of county boards of supervisors.

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

3 Section 1.

4 1. Each county board of supervisors shall, by November 1,  
5 1969, select one of the following alternative supervisor rep-  
6 resentation plans:

7 a. Plan one. Election at large and without district  
8 residence requirements for members.

9 b. Plan two. Election at large but with equal population  
10 district residence requirements for members.

11 c. Plan three. Election from single member equal population  
12 districts in which the electors of each district shall elect one  
13 member who shall be required to reside in that district.

14 2. The plan so selected and any plan thereafter selected  
15 by the board shall, subject to the provisions of section two  
16 (2) of this Act, remain in effect for at least six years.

17 3. In the event that a plan is not selected by resolution  
18 of the board by November 1, 1969, and a special election  
19 pursuant to section two (2) of this Act has not thereafter been  
20 petitioned for, plan one as provided in subsection one (1), para-  
21 graph a of this section shall become effective on January 1, 1970.

22 Sec. 2. The board of supervisors, when petitioned by ten  
23 percent of the number of qualified electors of the county having  
24 voted in the last previous general election for the office of  
25 governor, shall cause a special election to be held within the

1 county for the purpose of selecting the supervisor representation  
2 plan enumerated in section one (1) of this Act under which such  
3 county board shall thereafter be elected.

4 Such petition shall be filed with the county auditor by  
5 January 1 of the year 1970 or any general election year there-  
6 after. However, the plan selected by such special election  
7 and any plan thereafter selected by special election shall re-  
8 main in effect for at least six years. Said special election  
9 shall be held at least seventy-five days prior to the primary  
10 election. Notice of such special election shall be published  
11 once each week for three successive weeks in an official  
12 newspaper of the county and shall state the alternative  
13 representation plans to be submitted to the electors and that  
14 the election will be held not less than five nor more than  
15 twenty days from the date of last publication.

16 The alternative supervisor representation plans shall be  
17 stated in substantially the following manner:

18 "The individual members of the county board of supervisors  
19 in ..... County, Iowa, shall be elected:

20 Plan 1. At large and without district residence require-  
21 ments for members.

22 Plan 2. At large but with equal population district resi-  
23 dence requirements for members.

24 Plan 3. From single-member equal-population districts  
25 in which the electors of each district shall elect one member  
26 who shall be required to reside in that district."

27 If the plan adopted by a plurality of the ballots cast in  
28 the special election is not the supervisor representation  
29 plan currently in effect in the county, the members of the  
30 board serving at the time of the special election shall  
31 continue their terms until the second secular day in January  
32 following the next general election, at which time the terms  
33 of all such members shall expire and members shall be elected  
34 pursuant to the requirements of the plan adopted by the  
35 people and set out in sections three (3), four (4), and five

1 (5) of this Act.

2 Sec. 3. Plan one. If plan one is selected pursuant to  
3 sections one (1) or two (2) of this Act, the county board  
4 shall be elected as provided in this section.

5 1. In the primary and general elections, the number of  
6 supervisors, or candidates for such offices, which constitutes  
7 the county board in such county, shall be elected by the quali-  
8 fied electors of the county at large and no district residence  
9 requirements shall be imposed upon the candidates for such  
10 office.

11 2. In counties with three supervisors, one person shall  
12 be elected as a member of the board for two years and two per-  
13 sons shall be elected as members of the board for four years.

14 In counties with five supervisors, two persons shall be  
15 elected as members of the board for two years and three per-  
16 sons shall be elected as members of the board for four years.

17 In no case shall a board be composed of more than five  
18 members.

19 The determination as to whether a term of office shall be  
20 for two or four years shall be decided by lot prior to the  
21 primary election, and the results of such determination in-  
22 dicated on the ballot in such primary and general elections.  
23 If section six (6) of this Act is applicable, terms shall be  
24 designated in compliance therewith. Terms of office in all  
25 subsequent general elections shall be for four years, except  
26 as otherwise provided by this Act.

27 Sec. 4. Plan two. If plan two is selected pursuant to  
28 sections one (1) or two (2) of this Act, the county board  
29 shall be elected as provided in this section.

30 1. The board of supervisors shall, before November 1, 1969,  
31 and before November first of the nonelection year following  
32 each federal decennial census thereafter, if necessary, divide  
33 the county into a number of supervisor districts corresponding  
34 to the number of supervisors in such county. The board shall  
35 make a good-faith effort to achieve precise mathematical

1 equality in the population of such districts as indicated by  
2 the most recent federal decennial census.

3 Such supervisor districts may be drawn on the basis of  
4 existing natural or artificial divisions and boundaries of  
5 the county; township and voting precinct lines may be crossed;  
6 but in no event shall the existence of convenient district  
7 boundaries justify the designation of supervisor districts  
8 which are not of as nearly precise mathematical equality in  
9 population as is practicable.

10 2. Members of the county board shall be required to reside  
11 one to each supervisor district but shall be elected by the  
12 electors of the county at large. Election ballots shall be  
13 prepared to specify the district which each candidate seeks to  
14 represent and each elector may cast a vote for one candidate  
15 from each district for which a supervisor is to be chosen in  
16 the general election.

17 3. The county board may redesignate supervisor districts  
18 once in every two years, and no sooner. In the event that the  
19 board redistricts, it must be completed and available to the  
20 public by November first of the year prior to the election to  
21 be applicable in that election year. The provisions of this  
22 subsection shall not be construed as having the effect of  
23 lengthening or diminishing the term of office of any member  
24 of such board as a result of such redesignation, nor shall  
25 districts be redesignated except in compliance with this sec-  
26 tion. No supervisor district shall be designated by the county  
27 board pursuant to subsection one (1) of this section which,  
28 while complying with the requirement that it be of as nearly  
29 precise mathematical equality in population as practicable  
30 to the other supervisor districts of the county, discriminates  
31 by design for or against any political party, board member,  
32 candidate for board membership, racial or ethnic minority or  
33 any other group of persons.

34 4. At the primary and general elections the number of  
35 supervisors, or candidates for such offices, which constitute

1 the county board in such county shall be elected as provided  
2 in this section. Terms of members shall be as provided in  
3 section three (3), subsection two (2) of this Act.

4 Sec. 5. Plan three. If plan three is selected pursuant to  
5 sections one (1) or two (2) of this Act, the county board shall  
6 be elected as provided in section four (4) of this Act, except  
7 that each member of the board, and candidates for such office,  
8 shall, at the primary and general elections, be elected only by  
9 the electors of the district which he or they seek to represent.

10 Sec. 6.

11 1. In the event there is no special election pursuant to  
12 section two (2) of this Act or a special election does not  
13 change the supervisor representation plan selected by the board  
14 pursuant to section one (1) of this Act, the members of the board  
15 elected in the 1968 general election shall, except as provided  
16 in subsection two (2) of this section, continue to retain office  
17 until their terms expire. If plan one is selected, or imposed  
18 pursuant to section one (1), subsection three (3) of this Act,  
19 such holdover members shall become supervisors at large.

20 2. If plan two or three is selected under the circumstances  
21 described in subsection one (1) of this section, each holdover  
22 member shall represent the supervisor district wherein he resides;  
23 however, if two or more such holdover members are residents of  
24 the same district the terms of both or all of such members shall  
25 expire on the second secular day in January following the 1970  
26 general election and members shall be chosen in such election to  
27 fill the vacancies thus created. The terms of such members shall  
28 be two years. All subsequent members shall be elected pursuant  
29 to this Act.

30 Sec. 7. Section three hundred thirty-one point two (331.2),  
31 Code 1966, is hereby repealed and the following enacted in lieu  
32 thereof:

33 "When petitioned to do so by one-tenth of the qualified  
34 electors of said county having voted in the last previous gen-  
35 eral election for the office of governor, the board of supervisors

1 shall, or may on its own motion by resolution, submit to the  
2 qualified electors of the county, at any regular election, a  
3 proposition as to whether or not the number of supervisors should  
4 be increased to five.

5 If a majority of the votes cast shall be in favor of the  
6 increase to five members, then at the next general election two  
7 additional supervisors shall be elected; one for a term of two  
8 years and one for a term of four years.

9 The length of term for which any person is a candidate and  
10 the time when the term begins shall be indicated on the ballot.”

11 Sec. 8. Section three hundred thirty-one point three (331.3),  
12 Code 1966, is hereby repealed and the following enacted in lieu  
13 thereof:

14 “In any county where the number of supervisors has been in-  
15 creased to five, the board of supervisors shall, on petition of  
16 one-tenth of the qualified electors of the county having voted  
17 in the last previous general election for the office of governor,  
18 or may on its own motion by resolution, submit to the qualified  
19 electors of the county, at any regular election, a proposition  
20 as to whether or not the number of supervisors shall be decreased  
21 to three.

22 If a majority of the votes cast shall be in favor of the de-  
23 crease to three members, then the number of supervisors shall be  
24 so reduced as provided in section three hundred thirty-one point  
25 six (331.6) of the Code and section nine (9) of this Act.”

26 Sec. 9. Section three hundred thirty-one point seven (331.7),  
27 Code 1966, as amended by chapter one hundred four (104), section  
28 two (2), Acts of the Sixty-second General Assembly, is hereby re-  
29 pealed and the following enacted in lieu thereof:

30 “At the next general election following the one at which the  
31 proposition to reduce the number of members of the board to  
32 three was carried, such members shall be elected pursuant to the  
33 supervisor representation plan currently in effect in such county.  
34 One person shall be elected as member of the board for two years  
35 and two for four years.

1 The length of term for which any person is a candidate and  
2 the time when the term begins shall be indicated on the ballot.”

3 Sec. 10. Chapter one hundred four (104), section one (1),  
4 Acts of the Sixty-second General Assembly, amending section  
5 thirty-nine point eighteen (39.18), Code 1966, is hereby  
6 amended by striking from line eight (8) the words “super-  
7 visor or”.

8 Sec. 11. Sections thirty-nine point nineteen (39.19),  
9 thirty-nine point twenty (39.20), three hundred thirty-one  
10 point eight (331.8), three hundred thirty-one point nine (331.9),  
11 three hundred thirty-one point ten (331.10), three hundred thirty-  
12 one point eleven (331.11), three hundred thirty-one point twenty-  
13 five (331.25), three hundred thirty-one point twenty-six (331.26),  
14 three hundred thirty-one point twenty-seven (331.27), three hun-  
15 dred thirty-one point twenty-eight (331.28), Code 1966, are hereby  
16 repealed.

#### EXPLANATION OF HOUSE FILE 812

The U. S. Supreme Court, in *Avery v. Midland County, Texas*, 20 L. Ed. 2d 45 (1968) held that the “one man, one vote” rule derived from the Fourteenth Amendment applies not only to the election of state legislators but also to the elected governing bodies of political subdivisions of the state, including county boards of supervisors. Iowa law governing the election of county supervisor boards appears to be contrary to the guidelines set out in the *Avery* case in many instances, e.g., where election is by district, township lines must be followed whether equal population is preserved or not; where election is at large not more than one supervisor can live in any one township unless the township has 35,000 or more population in which case the permissible number is increased to two. The Iowa Supreme Court case of *Mandicino v. Kelley*, 158 N.W. 2d 754 (1968), declared the apportionment plan for electing Woodbury County supervisors to be unconstitutional, and in so doing cast considerable doubt on other county plans. The court charged the Sixty-third General Assembly with the task of enacting corrective legislation.

This bill undertakes to repeal existing provisions of questionable and declared unconstitutionality, and provides three alternative representative plans which are designed to comply with the “one man, one vote” rule. The first plan provides for election of supervisors by all the electors of the county (at large) and without imposing residence requirements on board members. The second plan provides for election of supervisors at large but imposes equal population district residence requirements on board members. The third plan provides for election of board members from single-member, equal population districts by the electors of each district only.

In the second and third plans districts must be so drawn as to be of "as nearly precise mathematical equality in population as is practicable". This requirement is imposed in compliance with the latest U. S. Supreme Court pronouncement concerning the "one man, one vote rule" in Kirkpatrick v. Preisler, 37 L.W. 4308 (April 7, 1969). The U. S. Supreme Court and other federal courts have consistently declined to indicate a maximum percentage of population variance to be applied in drawing such districts, and has insisted on deciding each case on its own merits. This bill also declines to set maximum population percentage variations, but does provide that the existence of a convenient district division line does not justify straying from the "equal population" requirements which are imposed.

## HOUSE FILE 812

1 Amend House File 812 as follows:

2 1. Page two (2), line nine (9), by striking the word  
3 "seventy-five" and inserting in lieu thereof the words  
4 "one hundred".

5 2. Page three (3), line thirty-four (34), by inserting  
6 after the period the following: "However, if such plan is  
7 selected pursuant to section two of this Act, the board  
8 shall so divide the county before March 15 of the election  
9 year."

10 3. Page five (5), line twenty (20), by inserting before  
11 the word "If" the following:

12 "The terms of holdover members elected to five-year  
13 terms in the 1968 general election shall expire on the second  
14 secular day in January, 1973. No county board shall, after  
15 the second secular day in January, 1971, be composed of more  
16 than five members. Boards of more than five members shall,  
17 before the 1970 general election, reduce their number of five  
18 in a manner determined by the board and pursuant to law."

Filed and adopted  
May 13, 1969

PELTON of Clinton

1 Amend House File 812, as passed by the house, by striking  
2 the first sentence of subsection two (2) of section six (6)  
3 thereof.

Filed - *Let 5-22*  
May 21, 1969

By SHIRLEY

1 Amend House File 812 by striking on page 5, line 24, the words,  
2 "Boards of more than five (5) members", and all of lines 25, 26 and  
3 27.

Filed and lost  
May 22, 1969

By POTGETER