

Local Government: O'Kane, Chair; Cooper and Renken.

*Do Pass* MAR 12 1985

House File 569

HOUSE FILE 569

LOCAL GOVERNMENT: C. Miller, Chair, Goodwin and Neighbour

*Do Pass 4/9/85 (p. 1274)*

BY VARN

Passed House, Date 3-26-85 (p. 1072) Passed Senate, Date 4-17-85 (p. 1438)

Vote: Ayes 92 Nays 0 Vote: Ayes 42 Nays 0

Approved May 22, 1985

### A BILL FOR

1 An Act relating to the administration of special land use dis-  
2 tricts.

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

H-3451

HOUSE FILE 569

- 1 Amend House File 569 as follows:
- 2 1. Page 3, line 33, by striking the word "as" and
- 3 inserting in lieu thereof the word "as".

H-3451 FILED MARCH 26, 1985 BY VARN of Johnson  
ADOPTED BY UNANIMOUS CONSENT  
*(p. 1072)*

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1 Section 1. Section 303.49, subsection 2, Code 1985, is  
2 amended to read as follows:

3 2. Following the initial special election, an annual  
4 election shall be held on the second Tuesday of each September  
5 at a single polling place within the district designated by  
6 the county auditor for the purpose of electing a trustee to  
7 replace a trustee whose term will expire. ~~Notice-of-the~~  
8 ~~election-shall-be-posted-by-the-county-auditor-at-seven-or~~  
9 ~~more-public-places-within-the-district-at-least-two-weeks~~  
10 ~~prior-to-the-date-of-the-election-~~ The county auditor shall  
11 perform all other acts with reference to the election and  
12 conduct it in like manner, as nearly as may be, as provided in  
13 ~~this-diviston-for-the-election-on-the-question-of-establishing~~  
14 ~~the-district~~ chapters 45 and 49. Each qualified elector at  
15 the election may ~~write-upon-the-ballot-the-name-of~~ vote for  
16 one person whom the elector desires as a trustee for each  
17 expiring term. The term of office for each trustee elected  
18 shall be three years.

19 Sec. 2. Section 303.52, subsections 1, 2, and 4, Code  
20 1985, are amended to read as follows:

21 1. The trustees elected under this division constitute the  
22 board of trustees for the district, which is the corporate  
23 authority of the district, and shall exercise all the powers  
24 and manage and control all the affairs of the district. A  
25 majority of the board of trustees is a quorum, but a smaller  
26 number may adjourn from day to day. The board of trustees may  
27 elect a president, vice president, clerk, and a treasurer from  
28 their own number and, from without their own number, employees  
29 of the district. The compensation of members of the board of  
30 trustees is fixed not to exceed ten dollars per day, or any  
31 part of a day, for each day the board is actually in session  
32 and ten dollars per day when not in session but employed on  
33 board service, and twenty cents for every mile traveled in  
34 going to and from sessions of the board and in going to and  
35 from the place of performing board service. Members of the

1 board shall not receive compensation for more than sixty days  
2 of session and board service each year.

3 2. The board of trustees shall formulate and administer a  
4 land use plan which includes all ordinances, resolutions,  
5 rules, and regulations necessary for the proper administration  
6 of the land use district. The land use plan shall be created  
7 for the primary purpose of regulating and restricting, where  
8 deemed necessary, the erection, construction, reconstruction,  
9 alteration, repair, or use of buildings, structures, or land  
10 in a manner which would maintain or enhance the distinctive  
11 historical and cultural character of the district. The  
12 ordinances, resolutions, rules, and regulations shall not  
13 apply to any tillable farmland, pastureland, timber pasture or  
14 forestland located within the district except to structures of  
15 an advertising or commercial nature located on the land.

16 4. The board of trustees shall appoint an administrative  
17 officer authorized to enforce the resolutions or ordinances  
18 adopted by the board of trustees. The board of trustees may  
19 pay the administrative officer such the compensation as it  
20 deems fit, ~~not-exceeding-that-authorized-for-the-members-of~~  
21 ~~the-board,~~ from the funds of the district.

22 Sec. 3. NEW SECTION. 303.52A INCLUSION OR EXCLUSION OF  
23 LAND.

24 If at least sixty percent of the qualified electors of a  
25 land area petition the board of supervisors for inclusion in  
26 or exclusion from a land use district, the board shall review  
27 the petition and determine if the petition contains a  
28 sufficient number of qualified electors residing in the  
29 affected land area and, if the petition is sufficient, submit  
30 it to the board of trustees of the land use district. The  
31 land area to be included in or excluded from the land use  
32 district must be contiguous to the land use district. If two  
33 thirds of the membership of the board of trustees vote in  
34 favor of the petition, the petition shall be granted and the  
35 land area included in or excluded from the district.

1 Sec. 4. Section 303.55, Code 1985, is amended to read as  
2 follows:

3 303.55 MEMBERSHIP OF BOARD.

4 The board of adjustment shall consist of five members, all  
5 of whom shall reside within the district, each to be appointed  
6 for a term of five years. For the initial board one member  
7 shall be appointed for a term of five years, one for a term of  
8 four years, one for a term of three years, one for a term of  
9 two years, and one for a term of one year. Members ~~shall be~~  
10 are removable for cause by the appointing authority upon  
11 written charges and after public hearing. Vacancies shall be  
12 filled for the unexpired term of a member whose term becomes  
13 vacant. The compensation for the members of the board of  
14 adjustment is the same as for the members of the board of  
15 trustees.

16 Sec. 5. Section 303.57, Code 1985, is amended to read as  
17 follows:

18 303.57 APPEALS TO BOARD.

19 Appeals to the board of adjustment may be taken by any  
20 person aggrieved or affected by the land use plan or by a  
21 decision of the administrative officer. The appeal shall be  
22 taken within a reasonable time, as provided by the rules of  
23 the board of adjustment, by filing with the administrative  
24 officer and the board of adjustment a notice of appeal  
25 specifying the grounds of the appeal.

26 Sec. 6. Section 303.59, Code 1985, is amended to read as  
27 follows:

28 303.59 DECISION.

29 In exercising its powers the board may, in conformity with  
30 this division, reverse or affirm, wholly or partly, or may  
31 modify the order, requirement, decision, or determination  
32 appealed from and may make ~~such~~ the order, requirement,  
33 decision, or determination ~~as ought to~~ should be made, and to  
34 that end ~~shall~~ have all the powers of the ~~board of trustees~~  
35 ~~from whom the appeal is taken~~ administrative officer of the

1 board.

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EXPLANATION

3 This bill amends provisions of chapter 303 relating to  
4 special land use districts. Section 1 provides that the  
5 annual election for membership on the board of trustees of a  
6 district shall be conducted in the same manner as other  
7 nonpartisan local elections.

8 Section 2 authorizes the election of a vice president for  
9 the board of trustees, authorizes the regulation of ad-  
10 vertising and commercial structures on farmland, pastureland,  
11 timber pasture and forestland within a district, and removes a  
12 restriction on the compensation allowed for the administrative  
13 officer of the board of trustees.

14 Section 3 provides procedures for inclusion or removal of  
15 contiguous land to a special district. The petition must be  
16 signed by at least sixty percent of the qualified voters of  
17 the affected area and must be approved by a two-thirds vote of  
18 the board of trustees.

19 Section 4 provides compensation for members of the board of  
20 adjustment at the same rate as provided for members of the  
21 board of trustees.

22 Section 5 authorizes appeals from the decisions of the ad-  
23 ministrative officer as well as the board of trustees.

24 Section 6 restricts the powers of the board of adjustment  
25 to those of the administrative officer when affirming,  
26 reversing or modifying an appeal taken from the board of  
27 trustees or administrative officer.

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HOUSE FILE 569

AN ACT  
RELATING TO THE ADMINISTRATION OF SPECIAL LAND USE DISTRICTS.

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

Section 1. Section 303.49, subsection 2, Code 1985, is amended to read as follows:

2. Following the initial special election, an annual election shall be held on the second Tuesday of each September at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. ~~Notice of the election shall be posted by the county auditor at seven or more public places within the district at least two weeks prior to the date of the election.~~ The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in ~~this division for the election on the question of establishing the district chapters 45 and 49.~~ Each qualified elector at the election may ~~write upon the ballot the name of~~ vote for one person whom the elector desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

Sec. 2. Section 303.52, subsections 1, 2, and 4, Code 1985, are amended to read as follows:

1. The trustees elected under this division constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, vice president, clerk, and a treasurer from their own number and, from without their own number, employees

of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district except to structures of an advertising or commercial nature located on the land.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer such the compensation as it deems fit, ~~not exceeding that authorized for the members of the board,~~ from the funds of the district.

Sec. 3. NEW SECTION. 303.52A INCLUSION OR EXCLUSION OF LAND.

If at least sixty percent of the qualified electors of a land area petition the board of supervisors for inclusion in or exclusion from a land use district, the board shall review the petition and determine if the petition contains a sufficient number of qualified electors residing in the

affected land area and, if the petition is sufficient, submit it to the board of trustees of the land use district. The land area to be included in or excluded from the land use district must be contiguous to the land use district. If two thirds of the membership of the board of trustees vote in favor of the petition, the petition shall be granted and the land area included in or excluded from the district.

Sec. 4. Section 303.55, Code 1985, is amended to read as follows:

303.55 MEMBERSHIP OF BOARD.

The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be are removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant. The compensation for the members of the board of adjustment is the same as for the members of the board of trustees.

Sec. 5. Section 303.57, Code 1985, is amended to read as follows:

303.57 APPEALS TO BOARD.

Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan or by a decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the administrative officer and the board of adjustment a notice of appeal specifying the grounds of the appeal.

Sec. 6. Section 303.59, Code 1985, is amended to read as follows:

303.59 DECISION.

In exercising its powers the board may, in conformity with this division, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such the order, requirement, decision, or determination as ought to should be made, and to that end shall have all the powers of the board of trustees from whom the appeal is taken administrative officer of the board.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 569, Seventy-first General Assembly.

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JOSEPH O'HEARN  
Chief Clerk of the House

Approved May 22, 1985

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TERRY E. BRANSTAD  
Governor