

Repealed 4/87

Local Government Muhlbaue, Chair: Black and Renken.

Amended (3,275) + Do Pass 3/24/87 (p 752)

MAR 3 1987

LOCAL GOVERNMENT

HOUSE FILE 398

BY MUHLBAUER and VAN MAANEN

Passed House, Date 3.31.87 (p 999) Passed Senate, Date _____

Vote: Ayes 98 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

Repealed to Muhlbaue 4/1/87

A BILL FOR

1 An Act relating to water districts, by providing for water
2 service by a benefited water district or a rural water
3 district within two miles of a city and the annexation of land
4 within a rural water district.

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

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HF 398

1 Section 1. Section 357.1, Code 1987, is amended by adding
2 the following new unnumbered paragraphs:

3 NEW UNNUMBERED PARAGRAPH. Land within two miles of the
4 limits of a city shall not be included within a proposed
5 district unless the governing body of the city approves
6 inclusion of the land. A certified copy of a resolution or
7 ordinance approving the district within two miles of the city
8 shall be filed with the petition required by this section. As
9 a condition for approval, the governing body of the city may
10 require that the district enter into an agreement pursuant to
11 chapter 28E which provides that the district shall design,
12 contract, and maintain the portion of its water distribution
13 system located within two miles of a city to standards
14 applicable to the water distribution system operated by the
15 city's water utility. If a city gives approval for location
16 of a water district within two miles of a city, the water
17 district may require the city to agree to provide the
18 conditions under which water service to the land to be served
19 may be altered and may require that the agreement specify the
20 manner in which the alteration will be financed.

21 NEW UNNUMBERED PARAGRAPH. A water district providing water
22 service within two miles of a city, on July 1, 1987, has the
23 dominant right to continue to provide the water service in the
24 area to families or customers being served on that date and to
25 new families or customers located nearer to its facilities
26 than to facilities of another water distribution system, based
27 on the location of the water facilities when service was
28 extended within the two-mile area. As used in this paragraph,
29 a water district includes a system operated by a nonprofit
30 corporation.

31 Sec. 2. Section 357A.2, Code 1987, is amended by adding
32 the following new unnumbered paragraphs:

33 NEW UNNUMBERED PARAGRAPH. Land within two miles of the
34 limits of a city shall not be included within a proposed
35 district unless the governing body of the city approves

1 inclusion of the land. A certified copy of a resolution or
2 ordinance approving the district within two miles of the city
3 shall be filed with the petition required by this section. As
4 a condition for approval, the governing body of the city may
5 require that the district enter into an agreement pursuant to
6 chapter 28E which provides that the district shall design,
7 contract, and maintain the portion of its water distribution
8 system located within two miles of a city to standards
9 applicable to the water distribution system operated by the
10 city's water utility. If a city gives approval for location
11 of a water district within two miles of a city, the water
12 district may require the city to agree to provide the
13 conditions under which water service to the land to be served
14 may be altered and may require that the agreement specify the
15 manner in which the alteration will be financed.

16 NEW UNNUMBERED PARAGRAPH. A water district providing water
17 service within two miles of a city, on July 1, 1987, has the
18 dominant right to continue to provide the water service in the
19 area to families being served on that date and to new families
20 located nearer to its facilities than to facilities of another
21 water distribution system, based on the location of the water
22 facilities when service was extended within the two-mile area.
23 As used in this paragraph, a water district includes a system
24 operated by a nonprofit corporation.

25 Sec. 3. NEW SECTION. 357A.21 ANNEXATION OF LAND BY A
26 CITY.

27 1. This section applies to lands and facilities of a
28 nonprofit corporation incorporated under the laws of this
29 state for the purpose of operating a rural water system in the
30 same manner as it applies to the lands and facilities of a
31 rural water district.

32 2. When a city annexes land located within a rural water
33 district, the governing body of the city water utility and the
34 board of directors of the rural water district shall agree to
35 terms which provide that water transmission facilities owned

1 by the district and located within the city be retained by the
2 district for the purpose of transporting water to customers
3 outside of the city. The city shall pay to the district an
4 amount equal to the outstanding indebtedness of the district
5 multiplied by a fraction of which the numerator is the total
6 number of customers residing in the annexed area and the
7 denominator is the total of all water customers. The portion
8 of the outstanding indebtedness shall be apportioned equally
9 among the water customers in the annexed area.

10 EXPLANATION

11 This bill provides that the inclusion of land within two
12 miles of a city in a benefited water district or a rural water
13 district is subject to approval of the city council. In
14 granting approval, the city may require that the district
15 design, contract, and maintain the portion of the water system
16 within the two-mile area to standards applicable to the city's
17 water utility, and the district may require that certain
18 agreements be provided by the city.

19 The bill also specifies procedures for determining which
20 existing water distribution system shall provide water service
21 to new families or customers within two miles of a city.

22 Provisions are also included for the annexation of land
23 within a rural water district by a city, for retention of
24 water transmission facilities located within a city for use of
25 the rural water district, and for payment by the city of the
26 outstanding indebtedness of the portion of the water district
27 land being annexed.

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HOUSE FILE 398

H-3499

Amend the Committee amendment, H-3275, to House File 398 as follows:

1. Page 1, by striking lines 2 through 37 and inserting the following:

"____. Page 1, line 2, by striking the word "paragraphs" and inserting the following: "paragraph".

____. Page 1, by striking lines 3 through 30 and inserting the following:

"NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of January 1, 1987, shall not be provided within two miles of the limits of a city unless the city has approved a new water service plan submitted by the benefited district. If the new water service plan is not approved by the city, the plan may be subject to arbitration."

____. Page 1, line 32, by striking the word "paragraphs" and inserting the following: "paragraph".

____. By striking page 1, line 33, through page 2, line 24, and inserting the following:

"NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of January 1, 1987, shall not be provided within two miles of the limits of a city by a rural water district incorporated under this chapter or chapter 504A unless the city has approved a new water service plan submitted by the district. If the new water service plan is not approved by the city, the plan may be subject to arbitration."

2. Page 1, lines 40 and 41, by striking the word and figure "or 357A" and inserting the following: ", 357A, or 504A".

3. Page 2, line 5, by inserting after the word "committee." the following: "A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Sec. ____ . Section 384.84, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

____. Title page, by striking lines 2 through 4 and inserting the following: "service within two miles of a city and by providing for the determination and apportionment of cost attributed to the annexation of land."

4. By renumbering sections as necessary.

H-3499 FILED MARCH 31, 1987

BY MUHLBAUER of Crawford

ADOPTED (7 9 87)

H-3275

1 Amend House File 398 as follows:

- 2 1. Page 1, line 12, by striking the word
 3 "contract" and inserting the following: "construct".
 4 2. Page 1, line 20, by striking the words "the
 5 alteration" and inserting the following: "a change in
 6 water service".
 7 3. Page 1, line 22, by striking the word "July"
 8 and inserting the following: "January".
 9 4. Page 1, by striking lines 24 through 30 and
 10 inserting the following: "area to families or
 11 customers being served on that date unless the
 12 families or customers are annexed to a city. If the
 13 customers or families are annexed into a city the
 14 water district may maintain its dominant right to
 15 continue to provide water service for ten years unless
 16 it voluntarily surrenders its right. As used in this
 17 paragraph, a water district includes a system operated
 18 by a nonprofit corporation organized under this
 19 chapter."
 20 5. Page 2, line 7, by striking the word
 21 "contract" and inserting the following: "construct".
 22 6. Page 2, line 15, by striking the words "the
 23 alteration" and inserting the following: "a change in
 24 water service".
 25 7. Page 2, line 17, by striking the word "July"
 26 and inserting the following: "January".
 27 8. Page 2, by striking lines 19 through 24 and
 28 inserting the following: "area to families or
 29 customers being served on that date unless the
 30 families or customers are annexed to a city. If the
 31 customers or families are annexed into a city the
 32 water district may maintain its dominant right to
 33 continue to provide water service for ten years unless
 34 it voluntarily surrenders its right. As used in this
 35 paragraph, a water district includes a system operated
 36 by a nonprofit corporation organized under this
 37 chapter."
 38 9. By striking page 2, line 27 through page 3,
 39 line 9, and inserting the following:
 40 "A water district organized under chapter 357 or
 41 357A shall be fairly compensated for losses resulting
 42 from annexation. The governing body of a city or
 43 water utility and the board of directors or trustees
 44 of the water district may agree to terms which provide
 45 that the facilities owned by the water district and
 46 located within the city shall be retained by the water
 47 district for the purpose of transporting water to
 48 customers outside the city. If an agreement is not
 49 reached within ninety days, the issues shall be
 50 submitted to arbitration. An arbitrator shall be

H-3275

Page Two

1 selected by a committee which includes one member of
 2 the governing body of the city or its designee, one
 3 member of the water district's board of directors or
 4 trustees or its designee, and a disinterested party.
 5 selected by the other two members of the committee."

H-3275 FILED MARCH 23, 1987 BY COMMITTEE ON LOCAL GOVERNMENT

(Adopted as amended by 34 41 3/21/87 (p 999)

See Amend Enact 4/2/87 L.S. Pass 4/13/87 (p. 1162)

HOUSE FILE 398

BY MUHLBAUER and VAN MAANEN

(As Amended and Passed by the House March 31, 1987)

By Passed House, Date 4/22/87 (p. 1559) Passed Senate, Date 4-13-87 (p. 1247)

Vote: Ayes 93 Nays 0 Vote: Ayes 48 Nays 0

Approved May 5, 1987 (p. 5007)

A BILL FOR

1 An Act relating to water districts, by providing for water
2 service within two miles of a city and by providing for the
3 determination and apportionment of cost attributed to the
4 annexation of land.

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

HOUSE FILE 398

S-3473

- 1 Amend House File 398, as amended, passed and
- 2 reprinted by the House, as follows:
- A 3 1. Page 1, line 4, by striking the word "January"
- 4 and inserting the following: "April".
- B 5 2. Page 1, line 8, by striking the word "may" and
- 6 inserting the following: "shall".
- A 7 3. Page 1, line 12, by striking the word
- 8 "January" and inserting the following: "April".
- B 9 4. Page 1, line 17, by striking the word "may"
- 10 and inserting the following: "shall".

S-3473

Filed April 8, 1987,

A. Udych, B. HD 4/13/87 (p. 1247)

BY EUGENE S. FRAISE

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1 Section 1. Section 357.1, Code 1987, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Water services, other than water
4 services provided as of January 1, 1987, shall not be provided
5 within two miles of the limits of a city unless the city has
6 approved a new water service plan submitted by the benefited
7 district. If the new water service plan is not approved by
8 the city, the plan may be subject to arbitration.

9 Sec. 2. Section 357A.2, Code 1987, is amended by adding
10 the following new unnumbered paragraph:

11 NEW UNNUMBERED PARAGRAPH. Water services, other than water
12 services provided as of January 1, 1987, shall not be provided
13 within two miles of the limits of a city by a rural water
14 district incorporated under this chapter or chapter 504A
15 unless the city has approved a new water service plan
16 submitted by the district. If the new water service plan is
17 not approved by the city, the plan may be subject to
18 arbitration.

19 Sec. 3. NEW SECTION. 357A.21 ANNEXATION OF LAND BY A
20 CITY.

21 A water district organized under chapter 357, 357A, or 504A
22 shall be fairly compensated for losses resulting from
23 annexation. The governing body of a city or water utility and
24 the board of directors or trustees of the water district may
25 agree to terms which provide that the facilities owned by the
26 water district and located within the city shall be retained
27 by the water district for the purpose of transporting water to
28 customers outside the city. If an agreement is not reached
29 within ninety days, the issues shall be submitted to
30 arbitration. An arbitrator shall be selected by a committee
31 which includes one member of the governing body of the city or
32 its designee, one member of the water district's board of
33 directors or trustees or its designee, and a disinterested
34 party selected by the other two members of the committee. A
35 list of qualified arbitrators may be obtained from the

1 American arbitration association or other recognized
2 arbitration organization or association.

3 Sec. 4. Section 384.84, Code 1987, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 3. The portion of cost attributable to
6 the agreement or arbitration awarded under section 357A.21 may
7 be apportioned in whole or in part among water customers
8 within an annexed area.

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SENATE AMENDMENT TO HOUSE FILE 398

H-3773

1 Amend House File 398, as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 1, line 4, by striking the word "January"
4 and inserting the following: "April".

5 2. Page 1, line 12, by striking the word
6 "January" and inserting the following: "April".

H-3773 FILED APRIL 15, 1987 RECEIVED FROM THE SENATE

Same concurred 4/22/87 (p 155)

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HOUSE FILE 398

AN ACT

RELATING TO WATER DISTRICTS, BY PROVIDING FOR WATER SERVICE WITHIN TWO MILES OF A CITY AND BY PROVIDING FOR THE DETERMINATION AND APPORTIONMENT OF COST ATTRIBUTED TO THE ANNEXATION OF LAND.

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

Section 1. Section 357.1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city unless the city has approved a new water service plan submitted by the benefited

district. If the new water service plan is not approved by the city, the plan may be subject to arbitration.

Sec. 2. Section 357A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city by a rural water district incorporated under this chapter or chapter 504A unless the city has approved a new water service plan submitted by the district. If the new water service plan is not approved by the city, the plan may be subject to arbitration.

Sec. 3. NEW SECTION. 357A.21 ANNEXATION OF LAND BY A CITY.

A water district organized under chapter 357, 357A, or 504A shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district may agree to terms which provide that the facilities owned by the water district and located within the city shall be retained by the water district for the purpose of transporting water to customers outside the city. If an agreement is not reached within ninety days, the issues shall be submitted to arbitration. An arbitrator shall be selected by a committee which includes one member of the governing body of the city or its designee, one member of the water district's board of directors or trustees or its designee, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Sec. 4. Section 384.84, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The portion of cost attributable to the agreement of arbitration awarded under section 357A.21 may

be apportioned in whole or in part among water customers within an annexed area.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 398, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 5, 1987

FERRY E. BRANSTAD
Governor