Local Govt Amend (3082) v Dr Pass 2/27 (y 476)

Reprinted

FILED JAN 14 1991

SENATE FILE 4

BY RIORDAN

Passed Senate, Date 4/5/91 (y.1080) Passed House, Date 5/3/91 (P.2054)

Vote: Ayes 27 Nays 21 Vote: Ayes 67 Nays 32

Approved June 10, 1991

A BILL FOR

1 An Act relating to consideration of voluntary and involuntary
2 annexation petitions which concern the same territory or city.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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3082 amend all
3251

Section 1. Section 368.11, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration involuntary annexation petitions or plans which concern the same territory or city. The board shall consider a voluntary petition which concerns the same territory or city as an involuntary petition, and which is filed after the involuntary petition but before approval or disapproval of the involuntary petition, before further action is taken on the involuntary petition.

3115

EXPLANATION

This bill provides that voluntary annexation petitions which concern the same territory or city as an involuntary annexation petition, and which are filed after the involuntary petition but before approval or disapproval of the involuntary petition, shall be considered by the city development board before the involuntary petition.

SENATE FILE 4

S-3082

1 Amend Senate File 4 as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. Section 368.1, subsection 13, Code
5 1991, is amended to read as follows:
6 13. "Urbanized area" means the land area within
7 three miles of the boundaries of a city ~~of fifteen~~
8 ~~thousand or more population~~.
9 Sec. 2. Section 368.7, unnumbered paragraph 2,
10 Code 1991, is amended to read as follows:
11 An application for voluntary annexation of
12 territory ~~not within the urbanized area of a city~~
13 ~~other than the city to which the annexation is~~
14 ~~directed~~ must be approved by resolution of the council
15 which receives the application. In the discretion of
16 a city council, the resolution may include a provision
17 for a transition for the imposition of taxes as
18 provided in section 368.11, subsection 13. Upon
19 receiving approval of the council, the city clerk
20 shall file a copy of the resolution, map, and legal
21 description of the territory involved with the state
22 department of transportation. The city clerk shall
23 also file a copy of the map and resolution with the
24 county recorder, the board, and the secretary of
25 state. The annexation is completed upon
26 acknowledgment by the secretary of state that the
27 secretary of state has received the map and
28 resolution.
29 Sec. 3. Section 368.7, unnumbered paragraph 3,
30 Code 1991, is amended by striking the paragraph.
31 Sec. 4. Section 368.11, unnumbered paragraphs 1
32 and 2, Code 1991, are amended to read as follows:
33 A petition for incorporation, discontinuance, ~~or~~
34 ~~boundary adjustment~~ severance, consolidation, or
35 involuntary annexation may be filed with the board by
36 a city council, a county board of supervisors, a
37 regional planning authority, or five percent of the
38 qualified electors of a city or territory involved in
39 the proposal. Notice of the filing, including a copy
40 of the petition, must be served upon the council of
41 each city for which a discontinuance ~~or boundary~~
42 ~~adjustment~~, severance, consolidation, or involuntary
43 annexation is proposed, the board of supervisors for
44 each county which contains a portion of a city to be
45 discontinued or territory to be incorporated, annexed,
46 or severed, and any regional planning authority for
47 the area involved.
48 Within ninety days of receipt of a petition, the
49 board shall initiate appropriate proceedings or
50 dismiss the petition. The board may combine for

S-3082
Page 2

consideration petitions or plans which concern the same territory or city, provided, however, that if a map and resolution approving an application for voluntary annexation is filed with the board pursuant to section 368.7, prior to final committee action pursuant to section 368.16, the filing of the resolution and map shall be deemed to amend any petition or plan for involuntary annexation by deleting from the petition or plan all of the territory included in the voluntary annexation."

By COMMITTEE ON LOCAL GOVERNMENT
ALVIN V. MILLER, Chairperson

S-3082 FILED FEBRUARY 27, 1991
Adopted as amended by 3120 4/5 (p. 1080)

SENATE FILE 4

S-3115

Amend Senate File 4 as follows:

1. Page 1, by inserting after line 12, the following:

"Sec. ___. Section 368.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date within ninety days for a special election on the proposal and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, qualified electors of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, qualified electors of the territory and of the city may vote~~, and the~~. The proposal is authorized only if a majority of the ~~total number of persons~~ electors voting ~~approves~~ in the territory to be annexed and a majority of the electors voting in the annexing city approve it. In a case of consolidation, qualified electors of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 49.53 and shall conduct the election in the same manner as other special city elections."

2. By renumbering as necessary.

By EUGENE FRAISE
JOHN A. PETERSON
JOHN W. JENSEN
LEONARD L. BOSWELL
RICHARD VANDEHOEF
EMIL J. HUSAK
JAMES R. RIORDAN
JAMES B. KERSTEN
ALVIN V. MILLER
JOHN P. KIBBIE
BERL E. PRIEBE

S-3115 FILED MARCH 13, 1991
Placed o/o 4/5/91

SENATE FILE 4

S-3251

1 Amend Senate File 4 as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. Section 368.4, Code 1991, is amended
5 by adding the following new unnumbered paragraph:
6 NEW UNNUMBERED PARAGRAPH. All cities within an
7 urbanized area shall develop nonannexation agreements
8 with one another by July 1, 1992. In the absence of
9 an agreement, the board may impose a nonannexation
10 line between two cities which may be a line
11 equidistant from the corporate boundaries of the
12 cities.
13 Sec. 2. Section 368.7, unnumbered paragraph 3,
14 Code 1991, is amended to read as follows:
15 An application for annexation of territory within
16 the urbanized area of a city other than the city to
17 which the annexation is directed must be approved both
18 by resolution of the council which receives the
19 application and by the board. Notice of filing,
20 including a copy of the application, must be served
21 upon the council of each city whose boundary adjoins
22 the territory or is within two miles of the territory,
23 the board of supervisors for each county which
24 contains a portion of the territory, and any regional
25 planning authority for the area involved. In the
26 discretion of a city council, the resolution may
27 include a provision for a transition for the
28 imposition of taxes as provided in section 368.11,
29 subsection 13. The annexation is completed when the
30 board has filed copies of applicable portions of the
31 proceedings as required by section 368.20, subsection
32 2.
33 Sec. 3. Section 368.7, Code 1991, is amended by
34 adding the following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. If an application for
36 voluntary annexation and a petition for an involuntary
37 annexation for a common territory are submitted to the
38 board at approximately the same time, the board may
39 consider the application and the petition together
40 without prejudice to either one. In consideration of
41 the requests, the board may seek additional
42 information from the applicant for voluntary
43 annexation as necessary, including directing the
44 applicant to follow the procedure and submit a
45 petition pursuant to section 368.11.
46 Sec. 4. Section 368.9, Code 1991, is amended to
47 read as follows:
48 368.9 BOARD CREATED.
49 1. A city development board is created. The
50 department of economic development shall provide

1 office space and staff assistance, and shall budget
2 funds to cover expenses of the board and committees.
3 The board consists of ~~three~~ seven members appointed by
4 the governor subject to confirmation by the senate.
5 The appointments must be for six-year staggered terms
6 beginning and ending as provided by section 69.19, or
7 to fill an unexpired term in case of a vacancy.
8 Members are eligible for reappointment, but no member
9 shall serve more than two complete six-year terms.
10 2. All board members shall possess demonstrated
11 expertise and interest in the growth and development
12 of communities in this state through a combination of
13 training, experience, or activity. The board shall be
14 composed of the following:
15 a. Three members representing cities; one from a
16 city with a population of more than fifty thousand,
17 one from a city with a population of more than two
18 thousand five hundred and not more than fifty
19 thousand, and one from a city with a population of not
20 more than two thousand five hundred.
21 b. Two members representing counties; one from a
22 county with a population of more than fifty thousand,
23 and one from a county with a population of fifty
24 thousand or less.
25 c. One member who is a faculty member of an
26 institution of higher education under the jurisdiction
27 of the state board of regents.
28 d. One member representing the general public.
29 3. Each member is entitled to receive from the
30 state actual and necessary expenses in performance of
31 board duties and may also be eligible to receive
32 compensation as provided in section 7E.6.
33 Sec. 5. Section 368.11, Code 1991, is amended by
34 adding the following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. Before a petition for
36 any involuntary city development action within an
37 urban area is filed as provided in this section, the
38 applicant shall make its intention known to all
39 affected parties by sending a letter of intent or a
40 proposed action plan to the council of each city and
41 the board of supervisors of each county within the
42 urban area, and any regional planning authority for
43 the area involved.
44 Sec. 6. TRANSITION. The members of the city
45 development board serving unexpired terms of office
46 immediately before the effective date of this Act may
47 continue to serve their unexpired terms unless they
48 are otherwise disqualified under this Act. The
49 governor shall initially appoint only the members
50 needed to comply with section 368.9, subsection 2. Of

S-3251
Page 3
1 the board members appointed by the governor pursuant
2 to section 368.9, subsection 2, paragraphs "a" and
3 "b", one shall be appointed to an initial term of two
4 years, one shall be appointed to an initial term of
5 four years, and the remainder to an initial term of
6 six years. Thereafter, appointments shall be for
7 terms of six years.
8 Sec. 7. EFFECTIVE DATES. This Act, being deemed
9 of immediate importance, takes effect upon enactment
10 except that new members appointed to the city
11 development board shall not take office until May 1,
12 1991."
13 2. Title page, by striking lines 1 and 2, and
14 inserting the following: "An Act relating to the city
15 development board, its powers and duties, and the
16 annexation of land, and providing an effective date."
By ELAINE SZYMONIAK

S-3251 FILED APRIL 2, 1991
Placed o/c 4/5 (p. 1080)

SENATE FILE 4

S-3259
1 Amend amendment, S-3082, to Senate File 4 as
2 follows:
3 1. Page 2, by inserting after line 10 the
4 following:
5 "Sec. ___. APPLICABILITY. This Act is
6 retroactively applicable to annexation petitions
7 pending before a city development board or city
8 council on or after April 1, 1991."
9 2. Title page, line 2, by inserting after the
10 word "city" the following: "and providing a
11 retroactive applicability date".
12 3. By renumbering as necessary.
By JIM RIORDAN

S-3259 FILED APRIL 2, 1991
w/d 4/5/91

SENATE FILE 4

S-3120

1 Amend the amendment, S-3082, to Senate File 4 as
2 follows:
3 1. Page 2, by inserting after line 10 the
4 following:
5 "Sec. ___. Section 368.19, unnumbered paragraph 1,
6 Code 1991, is amended to read as follows:
7 The committee shall approve or disapprove the
8 petition or plan as amended, within ninety days of the
9 final hearing, and shall file its decision for record
10 and promptly notify the parties to the proceeding of
11 its decision. If a petition or plan is approved, the
12 board shall set a date within ninety days for a
13 special election on the proposal and the county
14 commissioner of elections shall conduct the election.
15 In a case of incorporation or discontinuance,
16 qualified electors of the territory or city may vote,
17 and the proposal is authorized if a majority of those
18 voting approves it. In a case of annexation or
19 severance, qualified electors of the territory and of
20 the city may vote, and the proposal is authorized only
21 if a majority of the ~~total number of persons~~ electors
22 voting ~~approves it~~ in the territory to be annexed and
23 a majority of the electors voting in the annexing city
24 approve the proposal. In a case of consolidation,
25 qualified electors of each city to be consolidated may
26 vote, and the proposal is authorized only if it
27 receives a favorable majority vote in each city. The
28 county commissioner of elections shall publish notice
29 of the election as provided in section 49.53 and shall
30 conduct the election in the same manner as other
31 special city elections."
32 2. By renumbering as necessary.

By EUGENE FRAISE
EMIL J. HUSAK
JOHN P. KIBBIE
JOHN A. PETERSON
JOHN W. JENSEN
WILMER RENSINK
RICHARD VANDE HOEF
JAMES B. KERSTEN
ALVIN V. MILLER
JAMES R. RIORDAN
BERL E. PRIEBE
LEONARD L. BOSWELL

S-3120 FILED MARCH 18, 1991
Adopted 4/5/91 (p. 1080)

Hse. Local Govt. 4/8 Amend (3627) + Do Pass 4/15/91

SENATE FILE 4
BY RIORDAN

(AS AMENDED AND PASSED BY THE SENATE APRIL 5, 1991)

ALL New Language by the Senate

as amended by House - further amended

Passed Senate, Date 5/10/91 (p.1772) Passed House, Date 5/3/91 (p.2054)
Vote: Ayes 47 Nays 2 Vote: Ayes 67 Nays 32
Approved June 10, 1991

Reported House as further amended 5/10/91 (p.2260)
87-6

A BILL FOR

1 An Act relating to consideration of voluntary and involuntary
2 annexation petitions which concern the same territory or city.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 4 H.F. _____

1 Section 1. Section 368.1, subsection 13, Code 1991, is
2 amended to read as follows:
3 13. "Urbanized area" means the land area within three
4 miles of the boundaries of a city ~~of-fifteen-thousand-or-more~~
5 ~~population~~.
6 Sec. 2. Section 368.7, unnumbered paragraph 2, Code 1991,
7 is amended to read as follows:
8 An application for voluntary annexation of territory ~~not~~
9 ~~within-the-urbanized-area-of-a-city-other-than-the-city-to~~
10 ~~which-the-annexation-is-directed~~ must be approved by
11 resolution of the council which receives the application. In
12 the discretion of a city council, the resolution may include a
13 provision for a transition for the imposition of taxes as
14 provided in section 368.11, subsection 13. Upon receiving
15 approval of the council, the city clerk shall file a copy of
16 the resolution, map, and legal description of the territory
17 involved with the state department of transportation. The
18 city clerk shall also file a copy of the map and resolution
19 with the county recorder, the board, and the secretary of
20 state. The annexation is completed upon acknowledgment by the
21 secretary of state that the secretary of state has received
22 the map and resolution.
23 Sec. 3. Section 368.7, unnumbered paragraph 3, Code 1991,
24 is amended by striking the paragraph.
25 Sec. 4. Section 368.11, unnumbered paragraphs 1 and 2,
26 Code 1991, are amended to read as follows:
27 A petition for incorporation, discontinuance, ~~or-boundary~~
28 ~~adjustment~~ severance, consolidation, or involuntary annexation
29 may be filed with the board by a city council, a county board
30 of supervisors, a regional planning authority, or five percent
31 of the qualified electors of a city or territory involved in
32 the proposal. Notice of the filing, including a copy of the
33 petition, must be served upon the council of each city for
34 which a discontinuance ~~or-boundary-adjustment~~, severance,
35 consolidation, or involuntary annexation is proposed, the

1 board of supervisors for each county which contains a portion
2 of a city to be discontinued or territory to be incorporated,
3 annexed, or severed, and any regional planning authority for
4 the area involved.
5 Within ninety days of receipt of a petition, the board
6 shall initiate appropriate proceedings or dismiss the
7 petition. The board may combine for consideration petitions
8 or plans which concern the same territory or city, provided,
9 however, that if a map and resolution approving an application
10 for voluntary annexation is filed with the board pursuant to
11 section 368.7, prior to final committee action pursuant to
12 section 368.16, the filing of the resolution and map shall be
13 deemed to amend any petition or plan for involuntary
14 annexation by deleting from the petition or plan all of the
15 territory included in the voluntary annexation.
16 Sec. 5. Section 368.19, unnumbered paragraph 1, Code 1991,
17 is amended to read as follows:
18 The committee shall approve or disapprove the petition or
19 plan as amended, within ninety days of the final hearing, and
20 shall file its decision for record and promptly notify the
21 parties to the proceeding of its decision. If a petition or
22 plan is approved, the board shall set a date within ninety
23 days for a special election on the proposal and the county
24 commissioner of elections shall conduct the election. In a
25 case of incorporation or discontinuance, qualified electors of
26 the territory or city may vote, and the proposal is authorized
27 if a majority of those voting approves it. In a case of
28 annexation or severance, qualified electors of the territory
29 and of the city may vote, and the proposal is authorized only
30 if a majority of the ~~total number of persons~~ electors voting
31 ~~approves it~~ in the territory to be annexed and a majority of
32 the electors voting in the annexing city approve the proposal.
33 In a case of consolidation, qualified electors of each city to
34 be consolidated may vote, and the proposal is authorized only
35 if it receives a favorable majority vote in each city. The

county commissioner of elections shall publish notice of the election as provided in section 49.53 and shall conduct the election in the same manner as other special city elections.

SENATE FILE 4

H-3627

1 Amend Senate File 4, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. Section 368.1, subsection 13, Code
6 1991, is amended to read as follows:
7 13. "Urbanized area" means the land area ~~within~~
8 ~~three miles of the boundaries of a city of fifteen~~
9 ~~thousand or more population~~ which is located in an
10 area that contains a city of at least fifty thousand
11 population, or an urban area of at least fifty
12 thousand with a total metropolitan population of at
13 least one hundred thousand.
14 Sec. 2. Section 368.7, unnumbered paragraph 3,
15 Code 1991, is amended to read as follows:
16 An application for annexation of territory within
17 the urbanized area of a city other than the city to
18 which the annexation is directed must be approved both
19 by resolution of the council which receives the
20 application and by the board. A copy of the
21 application shall be mailed by certified mail, at
22 least ten days prior to the filing of the application
23 with the city council, to the council of each city
24 whose boundary adjoins the territory or is within two
25 miles of the territory, to the board of supervisors of
26 each county which contains a portion of the territory,
27 and to the regional planning authority of the
28 territory. Notice of the filing of the application
29 shall be published in a newspaper of general
30 circulation in each affected county and city at least
31 ten days prior to the filing of the application with
32 the city council. In the discretion of a city
33 council, the resolution may include a provision for a
34 transition for the imposition of taxes as provided in
35 section 368.11, subsection 13. The annexation is
36 completed when the board has filed copies of
37 applicable portions of the proceedings as required by
38 section 368.20, subsection 2.
39 Sec. 3. Section 368.7, Code 1991, is amended by
40 adding the following new unnumbered paragraph:
41 NEW UNNUMBERED PARAGRAPH. If one or more
42 applications for a voluntary annexation and one or
43 more petitions for an involuntary annexation for a
44 common territory are submitted to the board within
45 thirty days of each other, the board shall either
46 approve the application for voluntary annexation or
47 consider the applications and the petitions together
48 without prejudice, provided that the applications or
49 petitions meet the applicable requirements of this
50 chapter. In consideration of the requests, the board

1 may seek additional information from the applicant for
2 voluntary annexation as necessary, including the
3 information required of petitioners pursuant to
4 section 368.11.
5 Sec. 4. Section 368.9, Code 1991, is amended to
6 read as follows:
7 368.9 BOARD CREATED.
8 1. A city development board is created. The
9 department of economic development shall provide
10 office space and staff assistance, and shall budget
11 funds to cover expenses of the board and committees.
12 The board consists of ~~three~~ five members appointed by
13 the governor subject to confirmation by the senate.
14 The appointments must be for six-year staggered terms
15 beginning and ending as provided by section 69.19, or
16 to fill an unexpired term in case of a vacancy.
17 Members are eligible for reappointment, but no member
18 shall serve more than two complete six-year terms.
19 2. The board shall be composed of the following
20 members:
21 a. One member appointed from a city with a
22 population of more than forty-five thousand, according
23 to the most recent certified federal census.
24 b. One member appointed from a city with a
25 population of forty-five thousand or less, according
26 to the most recent certified federal census.
27 c. One member appointed from a county with a
28 population of more than fifty thousand, according to
29 the most recent certified federal census.
30 d. One member appointed from a county with a
31 population of fifty thousand or less, according to the
32 most recent certified federal census.
33 e. One member appointed to represent the general
34 public.
35 3. Each member is entitled to receive from the
36 state actual and necessary expenses in performance of
37 board duties and may also be eligible to receive
38 compensation as provided in section 7E.6.
39 Sec. 5. Section 368.11, Code 1991, is amended by
40 adding the following new unnumbered paragraph:
41 NEW UNNUMBERED PARAGRAPH. At least ten days before
42 a petition for involuntary city development action
43 within an urbanized area is filed as provided in this
44 section, the applicant shall make its intention known
45 to all affected parties by sending a letter of intent
46 or a proposed action plan by certified mail to the
47 council of each city, the board of supervisors of each
48 county within the urbanized area, and the regional
49 planning authority of the territory involved.
50 Sec. 6. Section 368.12, Code 1991, is amended to

H-3627
Page 3
1 read as follows:
2 SEC. 12. DISMISSAL.
3 The board may dismiss a petition only an
4 application for voluntary annexation within an
5 urbanized area or a petition for involuntary
6 annexation if it finds that the petition or
7 application does not meet the applicable requirements
8 of this part chapter, or that substantially the same
9 incorporation, discontinuance, or boundary adjustment
10 has been disapproved by a committee formed to consider
11 the proposal, or by the voters, within the two years
12 prior to the date the petition is filed with the
13 board. The board shall file for record a statement of
14 each dismissal and the reason for it, and shall
15 promptly notify the parties to the proceeding of its
16 decision.
17 Sec. 7. Section 368.14, unnumbered paragraph 1,
18 Code 1991, is amended to read as follows:
19 If a petition an application for voluntary
20 annexation within an urbanized area or a petition for
21 involuntary annexation is not dismissed, the board
22 shall direct the appointment of local representatives
23 to serve with board members as a committee to consider
24 the proposal. Each local representative is entitled
25 to receive from the state the representative's actual
26 and necessary expenses spent in performance of
27 committee duties. Two Three board members and one
28 local representative, or if the number of local
29 representatives exceeds one, two three board members
30 and at least one-half of the appointed local
31 representatives, are required for a quorum of the
32 committee. A local representative must be a qualified
33 elector of the territory or city which the
34 representative represents, and must be selected as
35 follows:
36 Sec. 8. Section 368.14, Code 1991, is amended by
37 adding the following new unnumbered paragraph:
38 NEW UNNUMBERED PARAGRAPH. If multiple applications
39 or petitions are being considered together, the board
40 shall direct the appointment of an equal number of
41 city and county local representatives as a committee
42 to consider the applications or petitions.
43 Sec. 9. TRANSITION.
44 1. The members of the city development board
45 serving unexpired terms of office immediately before
46 the effective date of this Act may continue to serve
47 their unexpired terms unless they are otherwise
48 disqualified under this Act. Within thirty days of
49 the effective date of this Act, the governor shall
50 appoint only those additional members needed to comply

H-3627
Page 4

1 with section 368.9, subsection 2. Of the board
2 members appointed by the governor pursuant to section
3 368.9, subsection 2, paragraphs "a" through "e", one
4 shall be appointed to an initial term of two years,
5 two shall be appointed to an initial term of four
6 years, and the remainder to an initial term of six
7 years.
8 2. Any voluntary application or involuntary city
9 development petition which is pending before the board
10 or a committee of the board on the effective date of
11 this Act shall be remanded to the board for action
12 under chapter 368 as amended by this Act. Notice of
13 the remand shall be served upon the council of each
14 city whose boundary adjoins the territory or is within
15 two miles of the territory, the board of supervisors
16 of each county which contains a portion of the
17 territory, and the regional planning authority of the
18 territory involved.
19 Sec. 10. EFFECTIVE DATE. This Act, being deemed
20 of immediate importance, takes effect upon enactment."
21 2. Title page, line 2, by inserting after the
22 word "city" the following: "and providing an
23 effective date".

By COMMITTEE ON LOCAL GOVERNMENT
DVORSKY of Johnson, Chairperson

H-3627 FILED APRIL 15, 1991
Adopted as amended by 4041 5/3/91 (p. 2094)

SENATE FILE 4

H-4041

1 Amend amendment, H-3627, to Senate File 4, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 7 through 13, and
5 inserting the following:
6 "13. "Urbanized area" means ~~the land area within~~
7 ~~three miles of the boundaries of a city of fifteen~~
8 ~~thousand or more population~~ a metropolitan statistical
9 area as determined by the United States census bureau
10 in the statistical abstract of the United States."
11 NEW SECTION. 368.6 INTENT.
12 It is the intent of the general assembly to provide
13 an annexation approval procedure which gives due
14 consideration to the wishes of the residents of
15 territory to be annexed, and to the interests of the
16 residents of all territories affected by an
17 annexation. The general assembly presumes that a
18 voluntary annexation of territory more closely
19 reflects the wishes of the residents of territory to
20 be annexed, and, therefore, intends that the
21 annexation approval procedure include a presumption of
22 validity for voluntary annexation approval."
23 2. By striking page 1, line 45 through page 2,
24 line 1, and inserting the following: "thirty days of
25 each other, the board shall approve the application
26 for voluntary annexation, provided that the
27 application meets the applicable requirements of this
28 chapter, unless the board determines by a
29 preponderance of the evidence that the application was
30 filed in bad faith, or that the application as filed
31 is contrary to the best interests of the citizens of
32 the urbanized area, or that the applicant cannot
33 within a reasonable period of time meet its obligation
34 to provide services to the territory to be annexed
35 sufficient to meet the needs of the territory. In
36 consideration of the requests, the board may appoint a
37 committee in the manner provided in section 368.14 to
38 seek additional information from the applicant for".
39 3. Page 3, by striking lines 36 through 42 and
40 inserting the following:
41 "Sec. ___. NEW SECTION. 368.14A SPECIAL LOCAL
42 COMMITTEES.
43 When two or more involuntary petitions for boundary
44 adjustment describing common territory are being
45 considered together pursuant to section 368.11, the
46 board shall direct the appointment of representatives
47 for each of the petitions to serve on one special
48 committee to consider the petitions. Expense
49 reimbursement and qualifications of these
50 representatives shall be as provided in section

H-4041
Page 2

1 368.14. Three board members and at least one [illegible] of
2 the appointed local representatives are required for a
3 quorum of the special local committee. The manner of
4 appointment of representatives shall be the same as
5 for single petition committees except that if one or
6 more of the territories to be annexed is in more than
7 one county, the board of supervisors of the county
8 containing the greatest area of the territory proposed
9 to be annexed shall appoint one representative. The
10 special committee shall consider the petitions in
11 conformity with the provisions of this part, and shall
12 resolve common territory issues between petitioners.
13 The special committee shall conduct a public hearing
14 on the petitions pursuant to section 368.15. If the
15 common territory issue is resolved, the special local
16 committee may approve the resulting compatible
17 petitions by a single vote or separately, in its
18 discretion."
19 4. Page 4, by striking lines 10 and 11, and
20 inserting the following: "or a committee of the board
21 on or after April 1, 1991, shall be remanded to the
22 board for action".

By DVORSKY of Johnson
BERNAU of Story

H-4041 FILED MAY 3, 1991
ADOPTED (p. 2074)

HOUSE AMENDMENT TO
SENATE FILE 4

S-3714

1 Amend Senate File 4, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. Section 368.1, subsection 13, Code
6 1991, is amended to read as follows:
7 13. "Urbanized area" means ~~the land area within~~
8 ~~three miles of the boundaries of a city of fifteen~~
9 ~~thousand or more population~~ a metropolitan statistical
10 area as determined by the United States census bureau
11 in the statistical abstract of the United States.
12 NEW SECTION. 368.6 INTENT.
13 It is the intent of the general assembly to provide
14 an annexation approval procedure which gives due
15 consideration to the wishes of the residents of
16 territory to be annexed, and to the interests of the
17 residents of all territories affected by an
18 annexation. The general assembly presumes that a
19 voluntary annexation of territory more closely
20 reflects the wishes of the residents of territory to
21 be annexed, and, therefore, intends that the
22 annexation approval procedure include a presumption of
23 validity for voluntary annexation approval."
24 Sec. 2. Section 368.7, unnumbered paragraph 3,
25 Code 1991, is amended to read as follows:
26 An application for annexation of territory within
27 the urbanized area of a city other than the city to
28 which the annexation is directed must be approved both
29 by resolution of the council which receives the
30 application and by the board. A copy of the
31 application shall be mailed by certified mail, at
32 least ten days prior to the filing of the application
33 with the city council, to the council of each city
34 whose boundary adjoins the territory or is within two
35 miles of the territory, to the board of supervisors of
36 each county which contains a portion of the territory,
37 and to the regional planning authority of the
38 territory. Notice of the filing of the application
39 shall be published in a newspaper of general
40 circulation in each affected county and city at least
41 ten days prior to the filing of the application with
42 the city council. In the discretion of a city
43 council, the resolution may include a provision for a
44 transition for the imposition of taxes as provided in
45 section 368.11, subsection 13. The annexation is
46 completed when the board has filed copies of
47 applicable portions of the proceedings as required by
48 section 368.20, subsection 2.
49 Sec. 3. Section 368.7, Code 1991, is amended by
50 adding the following new unnumbered paragraph:

S-3714
Page 2

1 NEW UNNUMBERED PARAGRAPH. If one or more
2 applications for a voluntary annexation and one or
3 more petitions for an involuntary annexation for a
4 common territory are submitted to the board within
5 thirty days of each other, the board shall approve the
6 application for voluntary annexation, provided that
7 the application meets the applicable requirements of
8 this chapter, unless the board determines by a
9 preponderance of the evidence that the application was
10 filed in bad faith, or that the application as filed
11 is contrary to the best interests of the citizens of
12 the urbanized area, or that the applicant cannot
13 within a reasonable period of time meet its obligation
14 to provide services to the territory to be annexed
15 sufficient to meet the needs of the territory. In
16 consideration of the requests, the board may appoint a
17 committee in the manner provided in section 368.14 to
18 seek additional information from the applicant for
19 voluntary annexation as necessary, including the
20 information required of petitioners pursuant to
21 section 368.11.
22 Sec. 4. Section 368.9, Code 1991, is amended to
23 read as follows:
24 368.9 BOARD CREATED.
25 1. A city development board is created. The
26 department of economic development shall provide
27 office space and staff assistance, and shall budget
28 funds to cover expenses of the board and committees.
29 The board consists of ~~three~~ five members appointed by
30 the governor subject to confirmation by the senate.
31 The appointments must be for six-year staggered terms
32 beginning and ending as provided by section 69.19, or
33 to fill an unexpired term in case of a vacancy.
34 Members are eligible for reappointment, but no member
35 shall serve more than two complete six-year terms.
36 2. The board shall be composed of the following
37 members:
38 a. One member appointed from a city with a
39 population of more than forty-five thousand, according
40 to the most recent certified federal census.
41 b. One member appointed from a city with a
42 population of forty-five thousand or less, according
43 to the most recent certified federal census.
44 c. One member appointed from a county with a
45 population of more than fifty thousand, according to
46 the most recent certified federal census.
47 d. One member appointed from a county with a
48 population of fifty thousand or less, according to the
49 most recent certified federal census.
50 e. One member appointed to represent the general

S-3714
Page 3

1 public.
2 3. Each member is entitled to receive from the
3 state actual and necessary expenses in performance of
4 board duties and may also be eligible to receive
5 compensation as provided in section 7E.6.
6 Sec. 5. Section 368.11, Code 1991, is amended by
7 adding the following new unnumbered paragraph:
8 NEW UNNUMBERED PARAGRAPH. At least ten days before
9 a petition for involuntary city development action
10 within an urbanized area is filed as provided in this
11 section, the applicant shall make its intention known
12 to all affected parties by sending a letter of intent
13 or a proposed action plan by certified mail to the
14 council of each city, the board of supervisors of each
15 county within the urbanized area, and the regional
16 planning authority of the territory involved.
17 Sec. 6. Section 368.12, Code 1991, is amended to
18 read as follows:
19 368.12 DISMISSAL.
20 The board may dismiss ~~a petition only~~ an
21 application for voluntary annexation within an
22 urbanized area or a petition for involuntary
23 annexation if it finds that the petition or
24 application does not meet the applicable requirements
25 of this ~~part~~ chapter, or that substantially the same
26 incorporation, discontinuance, or boundary adjustment
27 has been disapproved by a committee formed to consider
28 the proposal, or by the voters, within the two years
29 prior to the date the petition is filed with the
30 board. The board shall file for record a statement of
31 each dismissal and the reason for it, and shall
32 promptly notify the parties to the proceeding of its
33 decision.
34 Sec. 7. Section 368.14, unnumbered paragraph 1,
35 Code 1991, is amended to read as follows:
36 If ~~a petition~~ an application for voluntary
37 annexation within an urbanized area or a petition for
38 involuntary annexation is not dismissed, the board
39 shall direct the appointment of local representatives
40 to serve with board members as a committee to consider
41 the proposal. Each local representative is entitled
42 to receive from the state the representative's actual
43 and necessary expenses spent in performance of
44 committee duties. ~~Two~~ Three board members and one
45 local representative, or if the number of local
46 representatives exceeds one, ~~two~~ three board members
47 and at least one-half of the appointed local
48 representatives, are required for a quorum of the
49 committee. A local representative must be a qualified
50 elector of the territory or city which the

1 representative represents, and must be selected as
2 follows:
3 Sec. ___. NEW SECTION. 368.14A SPECIAL LOCAL
4 COMMITTEES.
5 When two or more involuntary petitions for boundary
6 adjustment describing common territory are being
7 considered together pursuant to section 368.11, the
8 board shall direct the appointment of representatives
9 for each of the petitions to serve on one special
10 committee to consider the petitions. Expense
11 reimbursement and qualifications of these
12 representatives shall be as provided in section
13 368.14. Three board members and at least one-half of
14 the appointed local representatives are required for a
15 quorum of the special local committee. The manner of
16 appointment of representatives shall be the same as
17 for single petition committees except that if one or
18 more of the territories to be annexed is in more than
19 one county, the board of supervisors of the county
20 containing the greatest area of the territory proposed
21 to be annexed shall appoint one representative. The
22 special committee shall consider the petitions in
23 conformity with the provisions of this part, and shall
24 resolve common territory issues between petitioners.
25 The special committee shall conduct a public hearing
26 on the petitions pursuant to section 368.15. If the
27 common territory issue is resolved, the special local
28 committee may approve the resulting compatible
29 petitions by a single vote or separately, in its
30 discretion.
31 Sec. 9. TRANSITION.
32 1. The members of the city development board
33 serving unexpired terms of office immediately before
34 the effective date of this Act may continue to serve
35 their unexpired terms unless they are otherwise
36 disqualified under this Act. Within thirty days of
37 the effective date of this Act, the governor shall
38 appoint only those additional members needed to comply
39 with section 368.9, subsection 2. Of the board
40 members appointed by the governor pursuant to section
41 368.9, subsection 2, paragraphs "a" through "e", one
42 shall be appointed to an initial term of two years,
43 two shall be appointed to an initial term of four
44 years, and the remainder to an initial term of six
45 years.
46 2. Any voluntary application or involuntary city
47 development petition which is pending before the board
48 or a committee of the board on or after April 1, 1991,
49 shall be remanded to the board for action under
50 chapter 368 as amended by this Act. Notice of the

1 remand shall be served upon the council of each city
2 whose boundary adjoins the territory or is within two
3 miles of the territory, the board of supervisors of
4 each county which contains a portion of the territory,
5 and the regional planning authority of the territory
6 involved.
7 Sec. 10. EFFECTIVE DATE. This Act, being deemed
8 of immediate importance, takes effect upon enactment."
9 2. Title page, line 2, by inserting after the
10 word "city" the following: "and providing an
11 effective date".

RECEIVED FROM THE HOUSE

S-3714 FILED MAY 3, 1991
Senate concurred as amended by 3769 5/10/91 (p.1772)

SENATE FILE 4

S-3748

1 Amend the House amendment, S-3714, to Senate File
2 4, as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 39 and 40 and
5 inserting the following: "shall be published in an
6 official county newspaper in each affected county at
7 least".
8 2. Page 2, line 21, by inserting after the figure
9 "368.11." the following: "If an application for
10 voluntary annexation is not approved pursuant to this
11 section, the board shall cause the conversion of the
12 application to a petition pursuant to section 368.13
13 and shall proceed under section 368.14A."
14 3. Page 3, line 7, by striking the word
15 "paragraph" and inserting the following:
16 "paragraphs".
17 4. Page 3, by striking lines 9 through 11 and
18 inserting the following: "a petition for involuntary
19 annexation is filed as provided in this section, the
20 petitioner shall make its intention known".
21 5. Page 3, by striking line 13 and inserting the
22 following: "by certified mail to the".
23 6. Page 3, line 15, by striking the word "and".
24 7. Page 3, line 16, by striking the word
25 "involved." and inserting the following: "involved,
26 and to each property owner listed in the petition.
27 The written notification shall include notice that the
28 petitioners shall hold a public meeting on the
29 petition for involuntary annexation prior to the
30 filing of the petition.
31 NEW UNNUMBERED PARAGRAPH. Before a petition for
32 involuntary annexation may be filed, the petitioner
33 shall hold a public meeting on the petition. Notice
34 of the meeting shall be published in an official
35 county newspaper in each affected county at least five
36 days before the date of the public meeting. The
37 chairperson of the board of supervisors of the county
38 containing the greatest area of the territory proposed
39 to be annexed, or that person's designee, shall serve
40 as chairperson of the public meeting. The auditor of
41 the same county, or the auditor's designee, shall
42 record the proceedings of the public meeting. Any
43 person attending the meeting may submit written
44 comments and may be heard on the petition. The
45 minutes of the public meeting and all documents
46 submitted at the public meeting shall be forwarded to
47 the board by the chairperson of the meeting."
48 8. Page 3, by striking lines 20 through 33 and
49 inserting the following:
50 The board may dismiss a petition only if it finds

S-3748
Page 2

1 that the petition does not meet the requirements of
2 this ~~part~~ chapter, or that substantially the same
3 incorporation, discontinuance, or boundary adjustment
4 has been disapproved by a committee formed to consider
5 the proposal, or by the voters, within the two years
6 prior to the date the petition is filed with the
7 board, or that the territory to be annexed, or a
8 portion of that territory, has been voluntarily
9 annexed under section 368.7. The board shall file for
10 record a statement of each dismissal and the reason
11 for it, and shall promptly notify the parties to the
12 proceeding of its decision."
13 9. Page 3, by striking lines 36 through 38 and
14 inserting the following:
15 "If ~~a~~ an involuntary petition is not dismissed, the
16 board".
17 10. Page 4, line 5, by inserting after the word
18 "petitions" the following: "or voluntary
19 applications".
20 11. Page 4, line 7, by striking the words
21 "pursuant to section 368.11".
22 12. Page 4, line 23, by striking the word "part"
23 and inserting the following: "chapter".
24 13. Page 5, by striking lines 7 and 8 and
25 inserting the following:
26 "Sec. ___. EFFECTIVE DATES.
27 1. Except as provided in subsection 2 of this
28 section, this Act, being deemed of immediate
29 importance, takes effect upon enactment.
30 2. Section 5 of this Act takes effect July 1,
31 1991, and is applicable to petitions for involuntary
32 annexation filed on or after July 1, 1991."
33 14. Page 5, line 11, by inserting after the word
34 "date" the following: "and an applicability date".
35 15. By renumbering, relettering, redesignating,
36 and correcting internal references as necessary.

By MICHAEL E. GRONSTAL
RICHARD F. DRAKE

S-3748 FILED MAY 9, 1991
a/o 5/10/91 (S 1773)

SENATE FILE 4

S-3743

1 Amend the House amendment, S-3714, to Senate File
2 4, as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 2, line 21, by inserting after the figure
5 "368.11." the following: "If the board does not
6 approve the application, the application shall be
7 dismissed."
8 2. Page 3, line 7, by striking the word
9 "paragraph" and inserting the following:
10 "paragraphs".
11 3. Page 3, by striking lines 9 through 11 and
12 inserting the following: "a petition for involuntary
13 annexation is filed as provided in this section, the
14 petitioner shall make its intention known".
15 4. Page 3, by striking line 13 and inserting the
16 following: "by certified mail to the".
17 5. Page 3, line 15, by striking the word "and".
18 6. Page 3, line 16, by striking the word
19 "involved." and inserting the following: "involved,
20 and to each property owner listed in the petition.
21 The written notification shall include notice that the
22 petitioners shall hold a public meeting on the
23 petition for involuntary annexation prior to the
24 filing of the petition.
25 NEW UNNUMBERED PARAGRAPH. Before a petition for
26 involuntary annexation may be filed, the petitioner
27 shall hold a public meeting on the petition. Notice
28 of the meeting shall be published in a newspaper of
29 general circulation in each affected county and city
30 at least five days before the date of the public
31 meeting. The chairperson of the board of supervisors
32 of the county containing the greatest area of the
33 territory proposed to be annexed, or that person's
34 designee, shall serve as chairperson of the public
35 meeting. The auditor of the same county shall record
36 the proceedings of the public meeting. Any person
37 attending the meeting may submit written comments and
38 may be heard on the petition. The minutes of the
39 public meeting and all documents submitted at the
40 public meeting shall be forwarded to the board by the
41 chairperson of the meeting."
42 7. Page 3, by striking lines 20 through 23 and
43 inserting the following:
44 The board may dismiss a petition only if it finds
45 that the petition does not meet the requirements of
46 this part chapter, or that substantially the same
47 incorporation, discontinuance, or boundary adjustment
48 has been disapproved by a committee formed to consider
49 the proposal, or by the voters, within the two years
50 prior to the date the petition is filed in the

S-3743
Page 2

1 board, or that the territory to be annexed, or a
2 portion of that territory, has been voluntarily
3 annexed under section 368.7. The board shall file for
4 record a statement of each dismissal and the reason
5 for it, and shall promptly notify the parties to the
6 proceeding of its decision."
7 8. Page 3, by striking lines 36 through 38 and
8 inserting the following:
9 "If a an involuntary petition is not dismissed, the
10 board".
11 9. Page 5, by striking lines 7 and 8 and
12 inserting the following:
13 "Sec. ___. EFFECTIVE DATES.
14 1. Except as provided in subsection 2 of this
15 section, this Act, being deemed of immediate
16 importance, takes effect upon enactment.
17 2. Section 5 of this Act takes effect July 1,
18 1991, and is applicable to petitions for involuntary
19 annexation filed on or after July 1, 1991."
20 10. Page 5, line 11, by inserting after the word
21 "date" the following: "and an applicability date".
22 11. By renumbering, relettering, redesignating,
23 and correcting internal references as necessary.

By JIM RIORDAN
EUGENE S. FRAISE
BEVERLY A. HANNON
LARRY MURPHY
JOHN P. KIBBIE
BERL E. PRIEBE
ALVIN V. MILLER
JOHN A. PETERSON
DONALD V. DOYLE
JOHN E. SOORHOLTZ
ALLEN BORLAUG
RAY TAYLOR
JOHN W. JENSEN
JACK W. HESTER
RICHARD VANDE HOEF
WILMER RENSINK
H. KAY HEDGE
DALE L. TIEDEN
WILLIAM W. DIELEMAN

S-3743 FILED MAY 9, 1991
o/s 5/10/91 (q 1775)

S-3769

1 Amend the House amendment, S-3714, to Senate File
2 4, as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 39 and 40 and
5 inserting the following: "shall be published in an
6 official county newspaper in each affected county at
7 least".
8 2. Page 2, line 21, by inserting after the figure
9 "368.11." the following: "The board, or the
10 committee, if applicable, shall hold a public hearing
11 on the application for voluntary annexation in the
12 manner provided for involuntary petitions in section
13 368.15. The decision of the board under this
14 paragraph shall be made within ninety days of receipt
15 of the application by the board. The failure of the
16 board to approve an application under this paragraph
17 shall be deemed final agency action subject to
18 judicial review. An applicant may appeal a decision
19 of the board no earlier than one hundred eighty days
20 after the decision is issued or not later than thirty
21 days after a final decision is made by the special
22 local committee under section 368.14A, whichever is
23 earlier. If an application for voluntary annexation
24 is not approved pursuant to this section, the board
25 shall cause the conversion of the application to a
26 petition pursuant to section 368.13 and shall proceed
27 under section 368.14A. The conversion of an
28 application to a petition shall not prejudice the
29 status of the applicant. Judicial review of a board
30 decision under this paragraph shall be limited to
31 review of the testimony and documents presented to the
32 board prior to issuing its decision on the application
33 for voluntary annexation."
34 3. Page 3, line 7, by striking the word
35 "paragraph" and inserting the following:
36 "paragraphs".
37 4. Page 3, by striking lines 9 through 11 and
38 inserting the following: "a petition for involuntary
39 annexation is filed as provided in this section, the
40 petitioner shall make its intention known".
41 5. Page 3, by striking line 13 and inserting the
42 following: "by certified mail to the".
43 6. Page 3, line 15, by striking the word "and".
44 7. Page 3, line 16, by striking the word
45 "involved." and inserting the following: "involved,
46 and to each property owner listed in the petition.
47 The written notification shall include notice that the
48 petitioners shall hold a public meeting on the
49 petition for involuntary annexation prior to the
50 filing of the petition.

S-3769
Page 2

1 NEW UNNUMBERED PARAGRAPH. Before a petition for
2 involuntary annexation may be filed, the petitioner
3 shall hold a public meeting on the petition. Notice
4 of the meeting shall be published in an official
5 county newspaper in each affected county at least five
6 days before the date of the public meeting. The
7 chairperson of the board of supervisors of the county
8 containing the greatest area of the territory proposed
9 to be annexed, or that person's designee, shall serve
10 as chairperson of the public meeting. The auditor of
11 the same county, or the auditor's designee, shall
12 record the proceedings of the public meeting. Any
13 person attending the meeting may submit written
14 comments and may be heard on the petition. The
15 minutes of the public meeting and all documents
16 submitted at the public meeting shall be forwarded to
17 the board by the chairperson of the meeting."
18 8. Page 3, by striking lines 20 through 33 and
19 inserting the following:
20 The board may dismiss a petition only if it finds
21 that the petition does not meet the requirements of
22 this ~~part~~ chapter, or that substantially the same
23 incorporation, discontinuance, or boundary adjustment
24 has been disapproved by a committee formed to consider
25 the proposal, or by the voters, within the two years
26 prior to the date the petition is filed with the
27 board, or that the territory to be annexed, or a
28 portion of that territory, has been voluntarily
29 annexed under section 368.7. The board shall file for
30 record a statement of each dismissal and the reason
31 for it, and shall promptly notify the parties to the
32 proceeding of its decision."
33 9. Page 3, by striking lines 36 through 38 and
34 inserting the following:
35 "If ~~a~~ an involuntary petition is not dismissed, the
36 board".
37 10. Page 4, line 5, by inserting after the word
38 "petitions" the following: "or voluntary
39 applications".
40 11. Page 4, line 7, by striking the words
41 "pursuant to section 368.11".
42 12. Page 4, line 23, by striking the word "part"
43 and inserting the following: "chapter".
44 13. Page 4, by inserting after line 30 the
45 following:
46 "Sec. ___. Section 368.19, unnumbered paragraph 1,
47 Code 1991, is amended to read as follows:
48 The committee shall approve or disapprove the
49 petition or plan as amended, within ninety days of the
50 final hearing, and shall file its decision for record

S-3769
Page 3

1 and promptly notify the parties to the proceeding of
2 its decision. If a petition or plan is approved, the
3 board shall set a date ~~within~~ not less than thirty
4 days nor more than ninety days after approval for a
5 special election on the proposal and the county
6 commissioner of elections shall conduct the election.
7 In a case of incorporation or discontinuance,
8 qualified electors of the territory or city may vote,
9 and the proposal is authorized if a majority of those
10 voting approves it. In a case of annexation or
11 severance, qualified electors of the territory and of
12 the city may vote, and the proposal is authorized if a
13 majority of the total number of persons voting
14 approves it. In a case of consolidation, qualified
15 electors of each city to be consolidated may vote, and
16 the proposal is authorized only if it receives a
17 favorable majority vote in each city. The county
18 commissioner of elections shall publish notice of the
19 election as provided in section 49.53 and shall
20 conduct the election in the same manner as other
21 special city elections."
22 14. Page 5, by striking lines 7 and 8 and
23 inserting the following:
24 "Sec. ___. EFFECTIVE DATES.
25 1. Except as provided in subsection 2 of this
26 section, this Act, being deemed of immediate
27 importance, takes effect upon enactment.
28 2. Section 5 of this Act takes effect July 1,
29 1991, and is applicable to petitions for involuntary
30 annexation filed on or after July 1, 1991."
31 15. Page 5, line 11, by inserting after the word
32 "date" the following: "and an applicability date".
33 16. By renumbering, relettering, redesignating,
34 and correcting internal references as necessary.

By JIM RIORDAN RICHARD F. DRAKE
MICHAEL E. GRONSTAL EUGENE FRAISE

S-3769 FILED MAY 10, 1991
ADOPTED (p. 1713)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 4
H-4125

1 Amend the House amendment, S-3714, to Senate File
2 4, as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 39 and 40 and
5 inserting the following: "shall be published in an
6 official county newspaper in each affected county at
7 least".
8 2. Page 2, line 21, by inserting after the figure
9 "368.11." the following: "The board, or the
10 committee, if applicable, shall hold a public hearing
11 on the application for voluntary annexation in the
12 manner provided for involuntary petitions in section
13 368.15. The decision of the board under this
14 paragraph shall be made within ninety days of receipt
15 of the application by the board. The failure of the
16 board to approve an application under this paragraph
17 shall be deemed final agency action subject to
18 judicial review. An applicant may appeal a decision
19 of the board no earlier than one hundred eighty days
20 after the decision is issued or not later than thirty
21 days after a final decision is made by the special
22 local committee under section 368.14A, whichever is
23 earlier. If an application for voluntary annexation
24 is not approved pursuant to this section, the board
25 shall cause the conversion of the application to a
26 petition pursuant to section 368.13 and shall proceed
27 under section 368.14A. The conversion of an
28 application to a petition shall not prejudice the
29 status of the applicant. Judicial review of a board
30 decision under this paragraph shall be limited to
31 review of the testimony and documents presented to the
32 board prior to issuing its decision on the application
33 for voluntary annexation."
34 3. Page 3, line 7, by striking the word
35 "paragraph" and inserting the following:
36 "paragraphs".
37 4. Page 3, by striking lines 9 through 11 and
38 inserting the following: "a petition for involuntary
39 annexation is filed as provided in this section, the
40 petitioner shall make its intention known".
41 5. Page 3, by striking line 13 and inserting the
42 following: "by certified mail to the".
43 6. Page 3, line 15, by striking the word "and".
44 7. Page 3, line 16, by striking the word
45 "involved." and inserting the following: "involved,
46 and to each property owner listed in the petition.
47 The written notification shall include notice that the
48 petitioners shall hold a public meeting on the
49 petition for involuntary annexation prior to the
50 filing of the petition.

H-4125
Page 2

1 NEW UNNUMBERED PARAGRAPH. Before a petition for
2 involuntary annexation may be filed, the petitioner
3 shall hold a public meeting on the petition. Notice
4 of the meeting shall be published in an official
5 county newspaper in each affected county at least five
6 days before the date of the public meeting. The
7 chairperson of the board of supervisors of the county
8 containing the greatest area of the territory proposed
9 to be annexed, or that person's designee, shall serve
10 as chairperson of the public meeting. The auditor of
11 the same county, or the auditor's designee, shall
12 record the proceedings of the public meeting. Any
13 person attending the meeting may submit written
14 comments and may be heard on the petition. The
15 minutes of the public meeting and all documents
16 submitted at the public meeting shall be forwarded to
17 the board by the chairperson of the meeting."
18 8. Page 3, by striking lines 20 through 30 and
19 inserting the following:
20 The board may dismiss a petition only if it finds
21 that the petition does not meet the requirements of
22 this ~~part~~ chapter, or that substantially the same
23 incorporation, discontinuance, or boundary adjustment
24 has been disapproved by a committee formed to consider
25 the proposal, or by the voters, within the two years
26 prior to the date the petition is filed with the
27 board, or that the territory to be annexed, or a
28 portion of that territory, has been voluntarily
29 annexed under section 368.7. The board shall file for
30 record a statement of each dismissal and the reason
31 for it, and shall promptly notify the parties to the
32 proceeding of its decision."
33 9. Page 3, by striking lines 36 through 38 and
34 inserting the following:
35 "If ~~a~~ an involuntary petition is not dismissed, the
36 board".
37 10. Page 4, line 5, by inserting after the word
38 "petitions" the following: "or voluntary
39 applications".
40 11. Page 4, line 7, by striking the words
41 "pursuant to section 368.11".
42 12. Page 4, line 23, by striking the word "part"
43 and inserting the following: "chapter".
44 13. Page 4, by inserting after line 30 the
45 following:
46 "Sec. ___. Section 368.19, unnumbered paragraph 1,
47 Code 1991, is amended to read as follows:
48 The committee shall approve or disapprove the
49 petition or plan as amended, within ninety days of the
50 final hearing, and shall file its decision for record

H-4125
Page 3

1 and promptly notify the parties to the proceeding of
2 its decision. If a petition or plan is approved, the
3 board shall set a date ~~within~~ not less than thirty
4 days nor more than ninety days after approval for a
5 special election on the proposal and the county
6 commissioner of elections shall conduct the election.
7 In a case of incorporation or discontinuance,
8 qualified electors of the territory or city may vote,
9 and the proposal is authorized if a majority of those
10 voting approves it. In a case of annexation or
11 severance, qualified electors of the territory and of
12 the city may vote, and the proposal is authorized if a
13 majority of the total number of persons voting
14 approves it. In a case of consolidation, qualified
15 electors of each city to be consolidated may vote, and
16 the proposal is authorized only if it receives a
17 favorable majority vote in each city. The county
18 commissioner of elections shall publish notice of the
19 election as provided in section 49.53 and shall
20 conduct the election in the same manner as other
21 special city elections."
22 14. Page 5, by striking lines 7 and 8 and
23 inserting the following:
24 "Sec. ___. EFFECTIVE DATES.
25 1. Except as provided in subsection 2 of this
26 section, this Act, being deemed of immediate
27 importance, takes effect upon enactment.
28 2. Section 5 of this Act takes effect July 1,
29 1991, and is applicable to petitions for involuntary
30 annexation filed on or after July 1, 1991."
31 15. Page 5, line 11, by inserting after the word
32 "date" the following: "and an applicability date".
33 16. By renumbering, relettering, redesignating,
34 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4125 FILED MAY 10, 1991
CONCURRED (J. 2259)

SENATE FILE 4

AN ACT

RELATING TO CONSIDERATION OF VOLUNTARY AND INVOLUNTARY ANNEXATION PETITIONS WHICH CONCERN THE SAME TERRITORY OR CITY AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Section 368.1, subsection 13, Code 1991, is amended to read as follows:

13. "Urbanized area" means ~~the land area within three miles of the boundaries of a city of fifteen thousand or more population~~ a metropolitan statistical area as determined by the United States census bureau in the statistical abstract of the United States.

Sec. 2. NEW SECTION. 368.6 INTENT.

It is the intent of the general assembly to provide an annexation approval procedure which gives due consideration to the wishes of the residents of territory to be annexed, and to the interests of the residents of all territories affected by an annexation. The general assembly presumes that a voluntary annexation of territory more closely reflects the wishes of the residents of territory to be annexed, and, therefore, intends that the annexation approval procedure include a presumption of validity for voluntary annexation approval.

Sec. 3. Section 368.7, unnumbered paragraph 3, Code 1991, is amended to read as follows:

An application for annexation of territory within the urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. A copy of the application shall be mailed by certified mail, at least ten days prior to the filing of the application with the city council, to the council of each city whose boundary

adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, and to the regional planning authority of the territory. Notice of the filing of the application shall be published in an official county newspaper in each affected county at least ten days prior to the filing of the application with the city council. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 4. Section 368.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation for a common territory are submitted to the board within thirty days of each other, the board shall approve the application for voluntary annexation, provided that the application meets the applicable requirements of this chapter, unless the board determines by a preponderance of the evidence that the application was filed in bad faith, or that the application as filed is contrary to the best interests of the citizens of the urbanized area, or that the applicant cannot within a reasonable period of time meet its obligation to provide services to the territory to be annexed sufficient to meet the needs of the territory. In consideration of the requests, the board may appoint a committee in the manner provided in section 368.14 to seek additional information from the applicant for voluntary annexation as necessary, including the information required of petitioners pursuant to section 368.11. The board, or the committee, if applicable, shall hold a public hearing on the application for voluntary annexation in the manner provided for involuntary petitions in section 368.15. The decision of the board under this

paragraph shall be made within ninety days of receipt of the application by the board. The failure of the board to approve an application under this paragraph shall be deemed final agency action subject to judicial review. An applicant may appeal a decision of the board no earlier than one hundred eighty days after the decision is issued or not later than thirty days after a final decision is made by the special local committee under section 368.14A, whichever is earlier. If an application for voluntary annexation is not approved pursuant to this section, the board shall cause the conversion of the application to a petition pursuant to section 368.13 and shall proceed under section 368.14A. The conversion of an application to a petition shall not prejudice the status of the applicant. Judicial review of a board decision under this paragraph shall be limited to review of the testimony and documents presented to the board prior to issuing its decision on the application for voluntary annexation.

Sec. 5. Section 368.9, Code 1991, is amended to read as follows:

368.9 BOARD CREATED.

1. A city development board is created. The department of economic development shall provide office space and staff assistance, and shall budget funds to cover expenses of the board and committees. The board consists of three five members appointed by the governor subject to confirmation by the senate. The appointments must be for six-year staggered terms beginning and ending as provided by section 69.19, or to fill an unexpired term in case of a vacancy. Members are eligible for reappointment, but no member shall serve more than two complete six-year terms.

2. The board shall be composed of the following members:

a. One member appointed from a city with a population of more than forty-five thousand, according to the most recent certified federal census.

b. One member appointed from a city with a population of forty-five thousand or less, according to the most recent certified federal census.

c. One member appointed from a county with a population of more than fifty thousand, according to the most recent certified federal census.

d. One member appointed from a county with a population of fifty thousand or less, according to the most recent certified federal census.

e. One member appointed to represent the general public.

3. Each member is entitled to receive from the state actual and necessary expenses in performance of board duties and may also be eligible to receive compensation as provided in section 7E.6.

Sec. 6. Section 368.11, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. At least ten days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known to all affected parties by sending a letter of intent by certified mail to the council of each city, the board of supervisors of each county within the urbanized area, the regional planning authority of the territory involved, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

NEW UNNUMBERED PARAGRAPH. Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each affected county at least five days before the date of the public meeting. The chairperson of the board of supervisors of the county containing the greatest area of the territory proposed to be annexed, or that person's designee, shall serve as

chairperson of the public meeting. The auditor of the same county, or the auditor's designee, shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the board by the chairperson of the meeting.

Sec. 7. Section 368.12, Code 1991, is amended to read as follows:

368.12 DISMISSAL.

The board may dismiss a petition only if it finds that the petition does not meet the requirements of this part chapter, or that substantially the same incorporation, discontinuance, or boundary adjustment has been disapproved by a committee formed to consider the proposal, or by the voters, within the two years prior to the date the petition is filed with the board, or that the territory to be annexed, or a portion of that territory, has been voluntarily annexed under section 368.7. The board shall file for record a statement of each dismissal and the reason for it, and shall promptly notify the parties to the proceeding of its decision.

Sec. 8. Section 368.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If a an involuntary petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state the representative's actual and necessary expenses spent in performance of committee duties. ~~Two~~ Three board members and one local representative, or if the number of local representatives exceeds one, two three board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city which the representative represents, and must be selected as follows:

Sec. 9. NEW SECTION. 368.14A SPECIAL LOCAL COMMITTEES.

When two or more involuntary petitions or voluntary applications for boundary adjustment describing common territory are being considered together, the board shall direct the appointment of representatives for each of the petitions to serve on one special committee to consider the petitions. Expense reimbursement and qualifications of these representatives shall be as provided in section 368.14. Three board members and at least one-half of the appointed local representatives are required for a quorum of the special local committee. The manner of appointment of representatives shall be the same as for single petition committees except that if one or more of the territories to be annexed is in more than one county, the board of supervisors of the county containing the greatest area of the territory proposed to be annexed shall appoint one representative. The special committee shall consider the petitions in conformity with the provisions of this chapter, and shall resolve common territory issues between petitioners. The special committee shall conduct a public hearing on the petitions pursuant to section 368.15. If the common territory issue is resolved, the special local committee may approve the resulting compatible petitions by a single vote or separately, in its discretion.

Sec. 10. Section 368.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date ~~within~~ not less than thirty days nor more than ninety days after approval for a special election on the proposal and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, qualified electors of the territory or city may vote, and the proposal is authorized if

SF 4

a majority of those voting approves it. In a case of annexation or severance, qualified electors of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, qualified electors of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 49.53 and shall conduct the election in the same manner as other special city elections.

Sec. 11. TRANSITION.

1. The members of the city development board serving unexpired terms of office immediately before the effective date of this Act may continue to serve their unexpired terms unless they are otherwise disqualified under this Act. Within thirty days of the effective date of this Act, the governor shall appoint only those additional members needed to comply with section 368.9, subsection 2. Of the board members appointed by the governor pursuant to section 368.9, subsection 2, paragraphs "a" through "e", one shall be appointed to an initial term of two years, two shall be appointed to an initial term of four years, and the remainder to an initial term of six years.

2. Any voluntary application or involuntary city development petition which is pending before the board or a committee of the board on or after April 1, 1991, shall be remanded to the board for action under chapter 368 as amended by this Act. Notice of the remand shall be served upon the council of each city whose boundary adjoins the territory or is within two miles of the territory, the board of supervisors of each county which contains a portion of the territory, and the regional planning authority of the territory involved.

Sec. 12. EFFECTIVE DATES.

1. Except as provided in subsection 2 of this section, this Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 6 of this Act takes effect July 1, 1991, and is applicable to petitions for involuntary annexation filed on or after July 1, 1991.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 4, Seventy-fourth General Assembly.

JOHN P. DWYER
Secretary of the Senate

Approved June 10, 1991

TERRY E. BRANSTAD
Governor