

FEB 15 1995

HOUSE FILE 173
BY BELL

LOCAL GOVERNMENT

(COMPANION TO LSB 1349SS
BY BLACK)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the creation of real estate improvement
2 districts, providing for the election of boards of trustees,
3 providing for the powers and duties of the trustees,
4 authorizing the issuance of general obligation bonds and
5 revenue bonds, authorizing the imposition of ad valorem
6 property taxes, special assessments, and fees, and making
7 provisions for other properly related matters.

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

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1 Section 1. NEW SECTION. 358C.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Board" means the board of trustees of a real estate
5 improvement district.

6 2. "Construction" includes materials, labor, acts,
7 operations, and services necessary to complete a public
8 improvement.

9 3. "Cost" of a public improvement includes the cost of
10 engineering, preliminary reports, property valuations,
11 estimates, plans, specifications, notices, legal services,
12 acquisition of land, consequential damages, easements, rights-
13 of-way, construction, repair, supervision, inspection,
14 testing, notices and publication, interest during construction
15 and for not more than six months thereafter, and printing and
16 sale of bonds.

17 4. "District" means a real estate improvement district as
18 created in this chapter.

19 5. "Public improvement" includes the principal structures,
20 works, component parts, and accessories of the facilities or
21 systems specified in section 358C.3.

22 6. "Repair" includes materials, labor, acts, operations,
23 and services necessary for the reconstruction, reconstruction
24 by widening, or resurfacing of a public improvement.

25 Sec. 2. NEW SECTION. 358C.2 REAL ESTATE IMPROVEMENT
26 DISTRICT CREATED.

27 1. A majority of the owners having an interest in the real
28 property within the limits of a proposed district may file a
29 petition in the office of county auditor of the county in
30 which the proposed district or major part of the proposed
31 district is located, requesting that the question be submitted
32 to the registered voters of the proposed district of whether
33 the territory within the boundaries of the proposed district
34 shall be organized as a real estate improvement district as
35 provided in this chapter. Areas of contiguous and

1 noncontiguous territory may be incorporated within a district.
2 The petition shall be addressed to the board of supervisors if
3 all or part of the proposed district includes territory
4 located outside the boundaries of a city, and shall set forth
5 the following information:

- 6 a. The name of the district.
- 7 b. The district shall have perpetual existence.
- 8 c. The boundaries of the district.
- 9 d. The names and addresses of the owners of land in the
10 proposed district.
- 11 e. The description of the tracts of land situated in the
12 proposed district owned by those persons who may organize the
13 district.
- 14 f. The names and descriptions of the real estate owned by
15 the persons who do not join in the organization of the
16 district, but who will be benefited by the district.
- 17 g. A listing of one or more of the district improvements
18 specified in section 358C.3 which will be carried out by the
19 district.
- 20 h. The owners of real estate in the proposed district that
21 are unknown may also be set out in the petition as being
22 unknown.
- 23 i. That the establishment of the proposed district will be
24 conducive to the public health, comfort, convenience, and
25 welfare.

26 2. The petition shall also state that the owners of real
27 estate who are forming the proposed district are willing to
28 pay the taxes which may be levied against all of the property
29 in the proposed district and special assessments against the
30 real property benefited which may be assessed against them to
31 pay the costs necessary to carry out the purposes of the
32 district.

33 3. The petition shall propose the names of five or more
34 trustees who shall be owners of real estate in the proposed
35 district, to serve as a board of trustees until their

1 successors are elected and qualified if the district is
2 organized. The board of trustees shall only carry out those
3 purposes which are authorized in this chapter and listed in
4 the petition.

5 4. If the proposed district includes real estate located
6 in whole or in part within the boundaries of a city, the
7 petition shall be submitted to and approved by the city
8 council before it is filed with the county auditor as provided
9 in subsection 1. If a petition includes a proposed district
10 located solely within the boundaries of a city, the petition
11 is not subject to action by the board of supervisors except
12 for the purpose of selecting the initial trustees and setting
13 the election date to finally organize the district.

14 5. A proposed district shall be created only from parcels
15 of land within the boundaries of a city, on parcels of land
16 within two miles of the boundaries of a city, or on parcels of
17 land from both locations.

18 Sec. 3. NEW SECTION. 358C.3 PUBLIC IMPROVEMENTS
19 AUTHORIZED.

20 1. A district may acquire, construct, reconstruct,
21 install, maintain, and repair any of the public improvements
22 listed in subsection 2.

23 2. A public improvement includes the principal structures,
24 works, component parts, and accessories of any of the
25 following:

26 a. Underground gas, water, heating, sewer, and electrical
27 connections located in streets for private property.

28 b. Sanitary, storm, and combined sewers.

29 c. Waterworks, water mains, and extensions.

30 d. Emergency warning systems.

31 e. Sidewalks and pedestrian underpasses or overpasses.

32 f. Drainage conduits, dikes, and levees for flood
33 protection.

34 g. Public waterways, docks, and wharfs.

35 h. Public parks, playgrounds, and recreational facilities.

1 i. Street grading, paving, graveling, macadamizing,
2 curbing, guttering, and surfacing with oil and gravel or
3 chloride.

4 j. Drives and driveway approaches located within the
5 public right-of-way.

6 k. Street lighting fixtures, connections, and facilities.

7 l. Sewage pumping stations and disposal and treatment
8 plants.

9 m. Traffic control devices, fixtures, connections, and
10 facilities.

11 n. Public roads, streets, and alleys.

12 Sec. 4. NEW SECTION. 358C.4 DATE AND NOTICE OF HEARING.

13 1. The board of supervisors to which the petition is
14 addressed, at its next meeting, shall set the time and place
15 for a hearing on the petition. The board shall direct the
16 county auditor in whose office the petition is filed to cause
17 notice to be given to all persons whom it may concern, without
18 naming them, of the pendency and content of the petition, by
19 publication of a notice as provided in section 331.305. Proof
20 of giving the notice shall be made by affidavit of the
21 publisher and the proof shall be on file with the county
22 auditor at the time the hearing begins. The notice of hearing
23 shall be directed to all persons it may concern, and shall
24 state:

25 a. That a petition has been filed with the county auditor
26 of the county, naming it, for establishment of a proposed
27 district, and the name of the proposed district.

28 b. An intelligible description of the boundaries of the
29 territory to be embraced in the district.

30 c. The date, hour, and the place where the petition will
31 be brought for hearing before the board of supervisors of the
32 named county.

33 d. That the board of supervisors will fix and determine
34 the boundaries of the proposed district as described in the
35 petition or otherwise, and for that purpose may alter and

1 amend the petition. At the hearing all interested persons
2 shall have an opportunity to be heard on the location and
3 boundaries of the proposed district and to make suggestions
4 regarding the location and boundaries.

5 2. For a district which does not include land within a
6 city, copy of the notice shall also be sent by mail to each
7 owner, without naming them, of each tract of land or lot
8 within the proposed district as shown by the transfer books of
9 the auditor's office. The mailings shall be to the last known
10 mailing address unless there is on file an affidavit of the
11 auditor or of a person designated by the board to make the
12 necessary investigation, stating that a mailing address is not
13 known and that diligent inquiry has been made to ascertain it.
14 The copy of notice shall be mailed no less than twenty days
15 before the day set for hearing and proof of service shall be
16 by affidavit of the auditor. The proofs of service required
17 by this subsection shall be on file at the time the hearing
18 begins.

19 3. In lieu of the mailing to the last known address a
20 person owning land affected by a proposed district may file
21 with the county auditor an instrument in writing designating
22 the address for the mailing. This designation when filed is
23 effective for five years and applies to all proceedings under
24 this chapter. The person making the designation may change
25 the address in the same manner as the original designation is
26 made.

27 4. In lieu of publication, personal service of the notice
28 may be made upon an owner of land in the proposed district in
29 the manner and for the time required for service of original
30 notices in the district court. Proof of the service shall be
31 on file with the auditor on the date of the hearing.

32 Sec. 5. NEW SECTION. 358C.5 HEARING OF PETITION AND
33 ORDER.

34 The board of supervisors to whom the petition is addressed
35 shall preside at the hearing provided for in section 358C.4

1 and shall continue the hearing in session, with adjournments
2 from day to day, if necessary, until completed, without being
3 required to give any further notice of the hearing. Proof of
4 the residences and qualifications of the petitioners as
5 registered voters shall be made by affidavit or otherwise as
6 the board may direct. The board may consider the boundaries
7 of a proposed district, whether the boundaries are described
8 in the petition or otherwise, and for that purpose may alter
9 and amend the petition and limit or change the boundaries of
10 the proposed district as stated in the petition. The board
11 shall adjust the boundaries of a proposed district as needed
12 to exclude land that has no reasonable likelihood of benefit
13 from inclusion in the proposed district. The boundaries of a
14 proposed district shall not be changed to incorporate property
15 not included in the original petition and published notice
16 until the owner of the property is given notice of inclusion
17 as on the original hearing. All persons in the proposed
18 district shall have an opportunity to be heard regarding the
19 location and boundaries of the proposed district and to make
20 suggestions regarding the location and boundaries, and the
21 board of supervisors, after hearing the statements, evidence,
22 and suggestions made and offered at the hearing, shall enter
23 an order fixing and determining the limits and boundaries of
24 the proposed district and directing that an election be held
25 for the purpose of submitting to the registered voters owning
26 land within the boundaries of the proposed district the
27 question of organization and establishment of the proposed
28 district as determined by the board of supervisors. The order
29 shall fix a date for the election not more than sixty days
30 after the date of the order.

31 Sec. 6. NEW SECTION. 358C.6 NOTICE OF ELECTION.

32 In its order for the election the board of supervisors
33 shall direct the county commissioner of elections of the
34 county in which the petition is filed to cause notice of the
35 election to be given at least thirty days before the date of

1 election by publication of the notice as provided in section
2 331.305. The notice shall state the time and place of holding
3 the election and the hours when the polls will open and close,
4 the purpose of the election, with the name of the proposed
5 district and a description of the boundaries of the proposed
6 district, and shall set forth briefly the limits of each
7 voting precinct and the location of the polling places. Proof
8 of publication shall be made in the manner provided in section
9 358C.4 and filed with the county auditor.

10 Sec. 7. NEW SECTION. 358C.7 ELECTION.

11 1. Each registered voter resident within the proposed
12 district shall have the right to cast a ballot at the election
13 and a person shall not vote in any precinct but that of the
14 person's residence. Ballots at the election shall be in
15 substantially the following form, to wit:

16 For Real Estate Improvement District

17 Against Real Estate Improvement District

18 2. The board of supervisors shall cause a statement of the
19 result of the election to be included in the records of the
20 county auditor. If a majority of the votes cast upon the
21 question of incorporation of the proposed district shall be in
22 favor of the proposed district, the proposed district shall be
23 deemed an organized real estate improvement district under
24 this chapter and established as conducive to the public
25 health, comfort, convenience, and welfare.

26 Sec. 8. NEW SECTION. 358C.8 EXPENSES AND COSTS OF
27 ELECTION.

28 The election held pursuant to this chapter shall be
29 conducted by the county commissioner of elections. All
30 expenses incurred in carrying out the preceding sections of
31 this chapter, and the costs of the election, as determined by
32 the county commissioner of elections, shall be paid by those
33 who will be benefited by the proposed district. If the
34 district is not established, the expenses and costs shall be
35 collected upon the bonds of the petitioners.

1 Sec. 9. NEW SECTION. 358C.9 SELECTION OF TRUSTEES --
2 TERM OF OFFICE.

3 1. At the election provided for in section 358C.7, the
4 names of candidates for trustee of the district shall be
5 submitted to the registered voters, and the board of
6 supervisors which had jurisdiction of the proceedings for
7 establishment of the district, together with the board of
8 supervisors of any other county in which any part of the
9 district is located, shall appoint five trustees from among
10 the five or more persons receiving the greatest number of
11 votes as trustees of the district. One of the trustees shall
12 be designated to serve a term expiring on the first day of
13 January which is not a Sunday or legal holiday following the
14 next general election, two to serve a term expiring on the
15 first day of January which is not a Sunday or legal holiday
16 two years later, and two to serve a term expiring on the first
17 day of January which is not a Sunday or legal holiday four
18 years later. Thereafter, each term shall be for a term of
19 years established by the board of supervisors, not less than
20 three years or more than six years. Successors to trustees
21 shall be elected by special election or at a special meeting
22 of the board of trustees called for that purpose. For each
23 special election called after the initial election, a
24 candidate for office of trustee shall be nominated by a
25 personal affidavit of the candidate or by petition of at least
26 ten registered voters of the district and the candidate's
27 personal affidavit, which shall be filed with the county
28 commissioner of elections at least twenty-five days before the
29 date of the election. The form of the candidate's affidavit
30 shall be substantially the same as provided in section 45.3.
31 2. Vacancies in the office of trustee of a district shall
32 be filled by the remaining members of the board for the period
33 until a successor is chosen in the manner prescribed by this
34 section or by section 69.12, whichever is applicable.
35 3. In lieu of a special election, successors to trustees

1 shall be elected at a special meeting of the board of trustees
2 called for that purpose. Upon its own motion, the board of
3 trustees may, or upon petition of landowners owning more than
4 fifty percent of the total land in the district, shall, call a
5 special meeting of the residents of the district to elect
6 successors to trustees of the board. Notice of the meeting
7 shall be given at least ten days before the date of the
8 meeting by publication of the notice in a newspaper of general
9 circulation in the district. The notice shall state the date,
10 times, and location of the meeting and that the meeting is
11 called for the purpose of electing one or more trustees to the
12 board.

13 Sec. 10. NEW SECTION. 358C.10 TRUSTEE'S BOND.

14 Each trustee, before entering upon the duties of office,
15 shall execute a bond payable to the district, with security to
16 be approved by the board of supervisors which had jurisdiction
17 of the petition for establishment of the district, in such
18 form and amount as the board of supervisors may determine,
19 which bond shall be filed with the county auditor of the
20 county.

21 Sec. 11. NEW SECTION. 358C.11 REAL ESTATE IMPROVEMENT
22 DISTRICT TO BE A BODY CORPORATE -- EMINENT DOMAIN.

23 1. Each district organized under this chapter shall be a
24 body corporate and politic, with the name and style under
25 which it was organized, and by that name and style may sue and
26 be sued, contract and be contracted with, acquire and hold
27 real and personal property necessary for corporate purposes,
28 adopt a corporate seal and alter the same at pleasure, and
29 exercise all the powers conferred in this chapter.

30 2. All courts of this state shall take judicial notice of
31 the existence of real estate improvement districts organized
32 under this chapter.

33 3. A district shall not own or hold land in excess of ten
34 acres unless the land is actually used for a public purpose
35 within three years of its acquisition. A district which owns

1 or holds land in excess of ten acres for more than three years
2 without devoting it to a public purpose as provided in this
3 chapter shall divest itself of the land by public auction to
4 the highest bidder.

5 4. A district may acquire by purchase, condemnation, or
6 gift, real or personal property, right-of-way, and easement
7 within or without its corporate limits necessary for its
8 corporate purposes specified in section 358C.3.

9 5. If the board of trustees of the district decide to make
10 a public improvement pursuant to this chapter which requires
11 that private property be taken or damaged, the board may
12 exercise the power of eminent domain. The procedure to
13 condemn property shall be exercised in the manner provided in
14 chapter 6B.

15 Sec. 12. NEW SECTION. 358C.12 BOARD OF TRUSTEES --
16 POWERS -- PROHIBITED ACTIONS.

17 1. The board of trustees is the corporate authority of the
18 district and shall manage and control the affairs and property
19 of the district. A majority of the board of trustees shall
20 constitute a quorum, but a smaller number may adjourn from day
21 to day. The board of trustees shall elect a president, a
22 clerk, and a treasurer from its membership and may employ
23 employees as necessary, who shall hold their employment during
24 the pleasure of the board. The board shall prescribe the
25 duties and fix the compensation of all employees of the
26 district and the amount of bond to be filed by the treasurer
27 of the district and by any employee for whom the board may
28 require bond. The members of the board of trustees shall
29 receive a per diem of forty dollars for attendance at a
30 meeting of the board or while otherwise engaged in official
31 duties, but the total per diem for each member shall not
32 exceed two thousand four hundred dollars for a fiscal year.
33 However, the board of trustees, by resolution, may establish
34 for its members a lower rate of pay than is fixed by this
35 section. The members of the board shall also be reimbursed

1 for their travel and other necessary expenses incurred in
2 performing their official duties. Travel expenses are
3 reimbursable at the rate specified in section 70A.9.

4 2. The board of trustees may adopt the necessary
5 ordinances, resolutions, and regulations for the proper
6 management and conduct of the business of the board of
7 trustees and the corporation and for carrying out the purposes
8 for which the district is formed.

9 3. If the board of trustees wishes to expand its authority
10 to carry out public improvements in addition to the public
11 improvements listed in the board's original petition as
12 provided in section 358C.3, the board shall submit a petition
13 to the board of supervisors specifying the additional public
14 improvements to be included within the authority of the
15 district and requesting that the board of supervisors order an
16 election as provided in section 358C.6 to approve or
17 disapprove the amendment. If the petition includes public
18 improvements as specified in section 358C.3, the board of
19 supervisors shall order the election to be conducted as
20 otherwise provided in this chapter. If the amendment is
21 approved, the original petition is amended to include the
22 additional public improvements.

23 4. The board of trustees of a district shall not purchase
24 and resell electric service.

25 Sec. 13. NEW SECTION. 358C.13 TAXES -- POWER TO LEVY --
26 TAX SALES.

27 1. The board of trustees of a real estate improvement
28 district shall have the power by ordinance to levy annually
29 for the purpose of paying the administrative costs of the
30 district, or for the payment of deficiencies in special
31 assessments, or for both, a tax upon property within the
32 territorial limits of the district not exceeding fifty-four
33 cents per thousand dollars of the adjusted taxable valuation
34 of the property within the district for the preceding fiscal
35 year.

1 2. All taxes thus levied by the board shall be certified
2 by the clerk on or before March 1 to the county auditor of
3 each county in which any of the property included within the
4 territorial limits of the district is located, and shall be
5 placed upon the tax list for the current fiscal year by the
6 auditor. The county treasurer of more than one county shall
7 collect all taxes so levied in the same manner as other taxes,
8 and when delinquent the taxes shall draw the same interest.
9 All taxes levied and collected shall be paid over by the
10 officer collecting the taxes to the treasurer of the district.

11 3. Sales for delinquent taxes owing to the district shall
12 be made at the same time and in the same manner as the sales
13 are made for other taxes, and all provisions of the law of
14 this state relating to the sale of property for delinquent
15 taxes shall be applicable, so far as may be, to the sales.

16 Sec. 14. NEW SECTION. 358C.14 RENTALS AND CHARGES.

17 1. A board of trustees may by ordinance establish
18 equitable rates, charges, or rentals for the utilities and
19 services furnished by the district to be paid to the district
20 by every person, firm, or corporation whose premises are
21 served by a connection to the utilities and services directly
22 or indirectly. The rates, charges, or rentals, as near as may
23 be in the judgment of the board of trustees, shall be
24 equitable and in proportion to the services rendered and the
25 cost of the services, and taking into consideration in the
26 case of the premises the quantity of sewage or water produced
27 or used and the concentration, strength, and pollution
28 qualities of the sewage. The board of trustees may change the
29 rates, charges, or rentals as it may deem advisable, and by
30 ordinance may provide for collection. The board may contract
31 with any municipality within the district, whereby the
32 municipality may collect or assist in collecting any of the
33 rates, charges, or rentals, whether in conjunction with water
34 rentals or otherwise, and the municipality may undertake the
35 collection and render the service. The rates, charges, or

1 rentals, if not paid when due, shall constitute a lien upon
2 the real property served by a connection. The lien shall have
3 equal precedence with ordinary taxes, may be certified to the
4 county treasurer and collected in the same manner as taxes,
5 and is not divested by a judicial sale.

6 2. Sewer rentals, charges, or rates may supplant or
7 replace, in whole or in part, any monetary levy of taxes which
8 may be, or have been, authorized by the board of trustees for
9 any of the following purposes:

10 a. To meet interest and principal payments on bonds
11 legally authorized for the financing of sanitary utilities in
12 any manner.

13 b. To pay costs of the construction, maintenance, or
14 repair of the facilities or utilities, including payments to
15 be made under any contract between municipalities for either
16 the joint use of water or sewage facilities, or for the use by
17 one municipality of all or a part of the water or sewer system
18 of another municipality.

19 Sec. 15. NEW SECTION. 358C.15 DEBT LIMIT -- BORROWING --
20 BONDS -- PURPOSES.

21 1. A district may borrow money for its corporate purposes,
22 but shall not become indebted in any manner or for any purpose
23 to an amount in the aggregate exceeding five percent on the
24 value of the taxable property within the district, to be
25 ascertained by the last state and county tax lists previous to
26 the incurring of the indebtedness. Indebtedness within this
27 constitutional limit shall not include the indebtedness of any
28 other municipal corporation located wholly or partly within
29 the boundaries of the district.

30 2. Subject only to this debt limitation, a district shall
31 have the same powers to issue bonds, including both general
32 obligation and revenue bonds, which cities have under the laws
33 of this state. In the application of the laws to this
34 chapter, the words used in the laws referring to municipal
35 corporations or to cities shall be held to include real estate

1 improvement districts organized under this chapter; the words
2 "council" or "city council" shall be held to include the board
3 of trustees of a district; the words "mayor" and "clerk" shall
4 be held to include the president and clerk of a board of
5 trustees; and like construction shall be given to any other
6 words in the laws where required to permit the exercise of the
7 powers by real estate improvement districts.

8 3. All bonds issued shall be signed by the president of
9 the board of trustees and attested by the clerk, with the seal
10 of the district, if any, affixed, and interest coupons
11 attached to the bonds shall be attested by the signature of
12 the clerk.

13 4. The proceeds of any bond issue made under this section
14 shall be used only for the public improvements specified in
15 section 358C.3. Proceeds from the bond issue may also be used
16 for the payment of special assessment deficiencies. The bonds
17 shall be payable in not more than forty annual installments
18 and with interest at a rate not exceeding that permitted by
19 chapter 74A, and shall be made payable at the place and be of
20 the form as the board of trustees shall by resolution
21 designate. A district issuing bonds as authorized in this
22 section is granted authority to pledge the future avails of a
23 tax levy to the payment of the principal and interest of the
24 bonds after the same come due, and the power to impose and
25 certify the levy is granted to the trustees of real estate
26 improvement districts organized under this chapter.

27 Sec. 16. NEW SECTION. 358C.16 SPECIAL ASSESSMENTS.

28 1. The board of trustees of a real estate improvement
29 district may provide for payment of all or any portion of the
30 costs of a public improvement specified in section 358C.3, by
31 assessing all, or any portion of the costs, on adjacent
32 property according to the benefits derived. For the purposes
33 of this chapter, the board of trustees may define "adjacent
34 property" as all that included within a designated benefited
35 district to be fixed by the board, which may be all of the

1 property located within the real estate improvement district
2 or any lesser portion of that property. It is not a valid
3 objection to a special assessment that the improvement for
4 which the assessment is levied is outside the limits of the
5 district, but a special assessment shall not be made upon
6 property situated outside of the district. Special
7 assessments pursuant to this section shall be in proportion to
8 the special benefits conferred upon the property, and not in
9 excess of the benefits. The value of a property is the
10 present fair market value of the property with the proposed
11 public improvements completed. Payment of installments of a
12 special assessment against property used and assessed as
13 agricultural property shall be deferred upon the filing of a
14 request by the owner in the same manner and under the same
15 procedures as provided in chapter 384 for special assessments
16 by cities.

17 2. The assessments may be made to extend over a period not
18 to exceed fifteen years, payable in as nearly equal annual
19 installments as practicable. A majority vote of the board of
20 trustees is requisite and sufficient for any action required
21 by the board of trustees under this section.

22 3. Subject to the limitations otherwise stated in this
23 section, a district organized under this chapter has all of
24 the powers to specially assess the costs of improvements
25 described in this section, including the power to issue
26 special assessment bonds, warrants, project notes, or other
27 forms of interim financing obligations, which cities have
28 under the laws of this state.

29 Sec. 17. NEW SECTION. 358C.17 REVENUE BONDS.

30 A district incorporated under this chapter may exercise the
31 powers granted to counties in sections 331.462 to 331.470, to
32 issue revenue bonds for the purposes in section 358C.3,
33 subsection 2, paragraphs "b", "c", "g", "h", and "l".

34 Sec. 18. NEW SECTION. 358C.18 ADDITIONAL TERRITORY.

35 1. The district may be enlarged and additional territory

1 annexed to the district by either of the following methods:

2 a. By petitions signed by the owners of all the property
3 to be annexed to the district. If a petition requesting
4 annexation is presented to the trustees and approved by the
5 trustees the change in the boundaries to include the
6 additional area shall be certified by the clerk of the
7 district to the county auditor in which the greater portion of
8 the district is located and thereafter the district shall
9 include the area thus annexed.

10 b. By a petition filed with the clerk of the district,
11 signed by persons owning not less than fifty percent of the
12 area to be annexed, but not signed by persons owning all the
13 area requested to be annexed. On the filing of the petition,
14 the trustees of the district shall fix a time and place for a
15 hearing on the petition and give notice of the hearing, as
16 provided in section 331.305, and by certified mail to the
17 record owners of all persons owning land within the territory
18 sought to be annexed, not less than ten days prior to the date
19 of the hearing, if the address of the owners is known or can
20 be ascertained by reasonable diligence by the trustees. At
21 the hearing, any person owning property within the area
22 proposed to be annexed or any person owning property or
23 residing within the district may appear and be heard. If,
24 after the hearing, the board of trustees determines that
25 annexation of the additional area will be conducive to the
26 public health, convenience, and welfare and will not be an
27 undue burden on the district, the board of trustees may, by
28 resolution, annex the additional area and fix the boundary
29 which shall not include more than the area requested in the
30 petition. A copy of the resolution shall be filed with the
31 county auditor of the county in which the largest portion of
32 the district is located and thereafter the area included by
33 the resolution shall be a part of the district.

34 2. All property, from and after it is annexed to the
35 district, shall be subject to all taxes and other burdens

1 levied by the district, regardless of when the obligation for
2 which the taxes or assessments are levied was incurred.

3 Sec. 19. NEW SECTION. 358C.19 ANNEXATION BY A CITY.

4 When a city annexes all the territory within the boundaries
5 of a real estate improvement district, the district shall
6 merge with the city and the city shall succeed to all the
7 property and property rights of every kind, contracts, and
8 obligations, held by or belonging to the district, and the
9 city shall be liable for and recognize, assume, and carry out
10 all valid contracts and obligations of the district. All
11 taxes, assessments, claims, and demands of every kind due or
12 owing to the district shall be paid to and collected by the
13 city. Any special assessments which the district was
14 authorized to levy, assess, relevel, or reassess, but which
15 were not levied, assessed, relevelled, or reassessed, at the
16 time of the merger, for improvements made by the district or
17 in the process of construction or contracted for may be
18 levied, assessed, relevelled, or reassessed by the annexing city
19 to the same extent as the district may have levied or assessed
20 but for the merger. However, this section does not authorize
21 the annexing city to revoke any resolution, order, or finding
22 made by the district in regard to special benefits or increase
23 any assessments made by the district, but the city shall be
24 bound by all findings or orders and assessments to the same
25 extent as the district would be bound. Also, a district shall
26 not levy any special assessments after the effective date of
27 the annexation.

28 Sec. 20. NEW SECTION. 358C.20 EFFECTIVE DATE OF MERGER.

29 The merger shall be effective thirty days after the
30 effective date of the ordinance annexing the territory within
31 the district. However, if the validity of the ordinance
32 annexing the territory is challenged by a court proceeding,
33 the effective date of the merger shall be thirty days after
34 the final determination of the validity of the ordinance. The
35 trustees of a district shall continue in possession and

1 conduct the affairs of the district until the effective date
2 of the merger, but shall not during the period levy any
3 special assessments after the effective date of annexation.

4 Sec. 21. NEW SECTION. 358C.21 PARTIAL ANNEXATION --
5 DIVISION AGREEMENT.

6 If only a part of the territory within a district is
7 annexed by a city, the district and the city may agree between
8 themselves as to the equitable division of the assets,
9 liabilities, maintenance, or other obligations of the district
10 for a change in the boundaries of the district so as to
11 exclude the portion annexed by the city or may agree upon a
12 merger of the district with the city. If a merger is agreed
13 upon, the city shall have all the rights, privileges, duties,
14 and obligations as provided in this chapter when the city
15 annexes the entire territory within the district, and the
16 trustees shall be relieved of all further duties and
17 liabilities and their bonds exonerated. An agreement between
18 the district and the city shall not be effective until
19 submitted to and approved by the district court of the county
20 in which the major portion of the district is located. An
21 agreement shall not be approved which may prejudice the rights
22 of any bondholder or creditor of the district. The district
23 court may direct amendments to the agreement before approving
24 the agreement. If the district and city do not agree upon the
25 proper adjustment of all matters growing out of the annexation
26 of a part of the territory located within the district, either
27 the district or the annexing city may apply to the district
28 court of the county where the major portion of the district is
29 located for an adjustment of all matters growing out of or in
30 any way connected with the annexation of the territory, and
31 after a hearing the district court may enter an order or
32 decree fixing the rights, duties, and obligations of the
33 parties. However, in every case the decree or order shall
34 require a change of the district boundaries so as to exclude
35 from the district that portion of the territory of the

1 district which has been annexed. The change of boundaries
2 shall become effective on the date of entry of the decree.
3 Only the district and the city shall be necessary parties to
4 the action. The decree when entered shall be binding on both
5 parties the same as though the parties had voluntarily agreed
6 thereto. This section does not authorize any district to levy
7 any special assessments within the annexed area after the
8 effective date of annexation.

9 Sec. 22. NEW SECTION. 358C.22 DISSOLUTION OF DISTRICT.

10 When a majority of the board of trustees of a district
11 desire that the district be wholly dissolved, the trustees
12 shall first propose a resolution declaring the advisability of
13 the dissolution and setting out the terms and conditions of
14 the dissolution, and also setting out the time and place when
15 the board of trustees shall meet to consider the adoption of
16 the resolution. Notice of the time and place when the
17 resolution shall be set for consideration shall be published
18 as provided in section 331.305, which publication shall
19 contain the entire wording of the proposed resolution. If any
20 part of the district lies within the area of the jurisdiction
21 of a city, then the trustees shall mail a copy of the proposed
22 resolution to the city on the date of first publication of the
23 resolution. At the hearing the owners of property within the
24 district, or a city if any part of the district lies within
25 the city, may appear and make objections to the proposed
26 resolution. If the owners representing a majority of the area
27 of real estate within the district fail to sign and present to
28 the board, on or prior to the hearing date, a written petition
29 opposing the resolution, a majority of the board of trustees
30 may pass the resolution and adopt the proposed dissolution.
31 However, the resolution shall not be adopted if the district
32 is obligated on any outstanding bonds, warrants, or other
33 debts or obligations unless the holders of the bonds,
34 warrants, or other debts or obligations all sign written
35 consents to the dissolution prior to the adoption of the

1 resolution of dissolution. If the petition opposing the
2 resolution is signed by property owners representing a
3 majority of the area of real estate within the district and
4 presented to the board of trustees on or prior to the hearing
5 date, the board of trustees shall not adopt the resolution.
6 After the board of trustees has adopted the resolution of
7 dissolution, the clerk of the district shall prepare and file
8 a certified copy of the resolution of dissolution in the
9 office of the county auditor where the original petition was
10 filed.

11 Sec. 23. NEW SECTION. 358C.23 DETACHMENT OF LAND.

12 1. When a majority of the board of trustees of a district
13 desires that any property within the district be detached from
14 the district, the trustees shall first propose a resolution
15 declaring the advisability of the detachment and setting out
16 the terms and conditions of the detachment and also setting
17 out the time and place when the board of trustees will meet to
18 consider the adoption of the resolution. Notice of the time
19 and place when the resolution is set for consideration shall
20 be published as provided in section 331.305, which publication
21 shall contain the entire wording of the proposed resolution.
22 If any part of the district lies within a city, then the
23 trustees shall mail a copy of the proposed resolution to the
24 city on the date of first publication of the resolution. At
25 the hearing the owners of property within the district, or any
26 city, may appear and make objections to the proposed
27 resolution. If the owners representing a majority of the area
28 of real estate within the district fail to sign and present to
29 the board of trustees, on or prior to the hearing date, a
30 written petition opposing the resolution, a majority of the
31 board of trustees may pass the resolution and adopt the
32 proposed detachment, except that the resolution shall not be
33 adopted if the district is indebted on any outstanding bonds
34 or warrants of the district unless the holders of the bonds
35 and warrants all sign written consents to the detachment prior

1 to the adoption of the resolution of detachment. If the
2 petition opposing the resolution is signed by property owners
3 representing a majority of the area of real estate within the
4 district and presented to the board of trustees on or prior to
5 the hearing date, the board of trustees shall not adopt the
6 resolution. After the board of trustees has adopted the
7 resolution of detachment, the clerk of the district shall
8 prepare and file a certified copy of the resolution of
9 detachment in the office of the county auditor where the
10 original petition was filed, and the area detached shall
11 become excluded and detached from the boundaries of the
12 district.

13 2. The owner of a discrete tract of land which is part of
14 a district but which is not connected to the main area of the
15 district may petition the board of trustees of the district to
16 have the property detached from the district. Following
17 receipt of the petition, the board of trustees shall propose a
18 resolution declaring the advisability of the detachment and
19 setting out the terms and conditions of the detachment and
20 setting out the time and place when the board of trustees will
21 meet to consider the adoption of the resolution. Notice of
22 the time and place for the consideration shall be published as
23 provided in subsection 1. If any part of the district lies in
24 whole or in part within a city, the board of trustees shall
25 mail a copy of the proposed resolution to the municipality
26 within five days after the date of first publication of the
27 resolution. At the hearing for consideration of the
28 resolution, the board of trustees shall determine if the tract
29 of land proposed for detachment has all of the following
30 characteristics:

31 a. Has an area of twenty-five acres or more.

32 b. Is wholly detached from the main area of the district
33 and separated from the district by a distance of at least one
34 thousand feet at the nearest points.

35 c. Is undeveloped and predominantly devoted to

1 agricultural uses.

2 d. Has no improvements placed upon it by the district and
3 receives no current services from the district.

4 3. If the board of trustees by majority vote determines
5 that the tract in question meets all of the conditions
6 provided in subsection 2, paragraphs "a" through "d", the
7 resolution shall be adopted, except that the resolution shall
8 not be adopted if the district is indebted on any outstanding
9 bonds or warrants of the district unless the holders of the
10 bonds and warrants all sign written consents to the
11 detachment. After the board of trustees has adopted the
12 resolution of detachment, the clerk of the district shall
13 prepare and file a certified copy of the resolution of
14 detachment in the office of the county auditor where the
15 original petition was filed and the area detached shall become
16 excluded and detached from the boundaries of the district.

17

EXPLANATION

18 This bill provides for the creation of real estate
19 improvement districts which are given the authority to
20 construct and install many types of infrastructure to
21 facilitate the development or redevelopment of real estate.
22 The types of infrastructure include underground gas, water,
23 heating, sewer and electrical connections; sanitary, storm,
24 and combined sewers; waterworks, water mains, and extensions;
25 emergency warning systems; sidewalk and pedestrian underpasses
26 or overpasses; drainage conduits, dikes, and levees; public
27 waterways, docks, and wharfs; public parks, playgrounds, and
28 recreational facilities; street grading and surfacing; drives
29 and driveway approaches; street lighting, sewage treatment
30 plants, and pumping stations; traffic control facilities; and
31 public streets, roads, and alleys.

32 A real estate improvement district is created by the
33 petition of a majority of the owners having an interest in
34 real property within a proposed district to the board of
35 supervisors of the county in which the largest part of the

1 proposed district is located. The proposed district may
2 include contiguous and noncontiguous parcels of land and is
3 restricted to land within the boundaries of a city, on land
4 within two miles of a city, or both. The petition shall
5 include the names of the petitioners, landowners not included
6 on the petition whose land will benefit from the public
7 improvements, description of all parcels included, the public
8 improvements to be constructed or installed, and the names of
9 five or more landowners who will serve as trustees of the
10 district. The organizational procedures are similar to those
11 followed to organize a sanitary district pursuant to chapter
12 358.

13 If a majority of voters of a proposed district approve of
14 its creation, the board of trustees may proceed to construct
15 or install the public improvements authorized by the district
16 voters. The board has the authority to levy annually 54 cents
17 per \$1,000 of assessed valuation for administrative purposes,
18 to adopt by ordinance, rates, charges, or rentals for
19 utilities such as sewer service, issue general obligation
20 bonds and revenue bonds and impose taxes and charges to repay
21 the interest and principal on the bonds, and provide for
22 special assessment for certain improvements. The district may
23 acquire and own land, but the amount of land shall not exceed
24 10 acres unless it is dedicated to a public purpose within
25 three years. The district may exercise the power of eminent
26 domain if necessary. Bond issues shall not exceed 5 percent
27 of the value of the taxable property and special assessments
28 are limited to the value of the property with the proposed
29 public improvement completed.

30 The bill also provides procedures for the dissolution of a
31 district, the annexation of all or part of a district, merger,
32 and the attachment or detachment of land to or from a
33 district.

34
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