

2/25/98 Amend/Revised H-8118

REPRINTED

FEB 9 1998
LOCAL GOVERNMENT

HOUSE FILE 2175
BY GREIG

(COMPANION TO SF 2071 BY KIBBIE)

Passed House, ^(P.737) Date 3-17-98 Passed Senate, ^(P.1039) Date 4/2/98
Vote: Ayes 96 Nays 2 Vote: Ayes 46 Nays 1
Approved April 22, 1998

A BILL FOR

1 An Act relating to the creation of, and annexation of property
2 to, a sanitary sewer district.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HOUSE FILE 2175

H-8118

- 1 Amend House File 2175 as follows:
- 2 1. Page 2, by striking lines 1 and 2.
- 3 2. Page 2, line 4, by striking the word "The" and
- 4 inserting the following: "In a county which has more
- 5 than seven thousand five hundred acres of natural
- 6 lakes, the"...

By COMMITTEE ON LOCAL GOVERNMENT
VANDE HOEF of Osceola, Chairperson

H-8118 FILED FEBRUARY 25, 1998
adapted 3-17-98 (P.737)

H-8118

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1 Section 1. Section 358.5, unnumbered paragraph 1, Code
2 1997, is amended to read as follows:

3 The board of supervisors to whom the petition is addressed
4 shall preside at the hearing provided for in section 358.4 and
5 shall continue the hearing in session, with adjournments from
6 day to day, if necessary, until completed, without being
7 required to give any further notice of the hearing. Proof of
8 the residences and qualifications of the petitioners as
9 eligible electors shall be made by affidavit or otherwise as
10 the board may direct. The board may consider the boundaries
11 of a proposed sanitary district, whether they shall be as
12 described in the petition or otherwise, and for that purpose
13 may alter and amend the petition and limit or change the
14 boundaries of the proposed district as stated in the petition.
15 The board shall adjust the boundaries of a proposed district
16 as needed to exclude land that has no reasonable likelihood of
17 benefit from inclusion in the proposed district. The
18 boundaries of a proposed district shall not be changed to
19 incorporate property not included in the original petition and
20 published notice until the owner of the property is given
21 notice of inclusion as on the original hearing. All persons
22 in the proposed district shall have an opportunity to be heard
23 regarding the location and boundaries of the proposed district
24 and to make suggestions regarding the location and boundaries,
25 ~~and the~~. The board of supervisors, after hearing the
26 statements, evidence and suggestions made and offered at the
27 hearing, shall enter an order fixing and determining the
28 limits and boundaries of the proposed district and directing
29 that an election be held for the purpose of submitting to the
30 registered voters ~~owning-land~~ residing within the boundaries
31 of the proposed district the question of organization and
32 establishment of the proposed sanitary district as determined
33 by ~~said~~ the board of supervisors. The order shall fix a date
34 for the election not more than sixty days after the date of
35 the order.

1 Sec. 2. Section 358.16, unnumbered paragraph 2, Code 1997,
2 is amended by striking the unnumbered paragraph.

3 Sec. 3. NEW SECTION. 358.26 ANNEXATION.

4 1. The board of trustees may, or upon request of property
5 owners representing twenty-five percent of the valuation of
6 the property to be annexed shall file a petition in the office
7 of county auditor of the county in which the property to be
8 annexed or the major part of the property is located,
9 requesting that there be submitted to the voters of the
10 existing district and the area to be annexed the question
11 whether the territory proposed to be annexed should be annexed
12 to the sanitary district. The board of supervisors of the
13 county in which the property to be annexed, or the major part
14 of the property is located, shall have jurisdiction of the
15 proceedings on the petition.

16 2. The petition shall be addressed to the board of
17 supervisors of the county in which the property to be annexed
18 or the major part of the property is located and shall include
19 the following:

20 a. An intelligible description of the property to be
21 annexed to the sanitary district.

22 b. A statement that the public health, comfort,
23 convenience, or welfare will be promoted by the annexation of
24 the property.

25 c. The signatures of the president and the clerk of the
26 board of trustees.

27 Sec. 4. NEW SECTION. 358.27 HEARING ON ANNEXATION --
28 DATE AND NOTICE.

29 1. The board of supervisors to which a petition filed
30 pursuant to section 358.26 is addressed, at its next meeting,
31 shall set the time and place for a public hearing on the
32 petition. The board of supervisors shall direct the county
33 auditor to give notice to interested persons of the pendency
34 and content of the petition and of the public hearing by
35 publication of a notice as provided in section 331.305. Proof

1 of publication shall be filed with and preserved by the county
2 auditor. The notice of the public hearing shall include the
3 following information:

4 a. That a petition has been filed with the county auditor
5 proposing to annex property to the district.

6 b. An intelligible description of the property to be
7 annexed to the district.

8 c. The date, time, and place of the public hearing at
9 which the petition shall be considered by the county board of
10 supervisors.

11 d. That the county board of supervisors shall determine
12 the property to be annexed as described in the petition or
13 otherwise described and, for the purpose of describing the
14 property, the county board of supervisors may alter and amend
15 the petition.

16 2. A copy of the notice shall also be sent by mail to each
17 owner, without naming the owners, of each tract of land within
18 the area to be annexed as shown by the transfer books of the
19 county auditor's office. The mailings shall be to the last
20 known address unless there is on file an affidavit of the
21 county auditor or of a person designated by the board of
22 supervisors to make the necessary investigation, stating that
23 an address is not known and that diligent inquiry has been
24 made to ascertain the address. The copy of the notice shall
25 be mailed not less than twenty days before the date of the
26 public hearing and the proof of service shall be made by
27 affidavit of the county auditor. The proof of service shall
28 be on file at the commencement of the public hearing.

29 3. In lieu of the mailing to the last known address, a
30 person owning land to be annexed may file with the county
31 auditor a written instrument designating the owner's mailing
32 address for annexation purposes. The designated address is
33 effective for five years and applies to all annexation
34 proceedings pursuant to sections 358.26 through 358.29.

35 4. In lieu of publication or notice by mail, personal

1 service of the notice may be made upon an owner of land
2 proposed for annexation in the same manner as required for the
3 service of original notices in the district court.

4 Sec. 5. NEW SECTION. 358.28 ANNEXATION HEARING.

5 The board of supervisors to whom a petition filed pursuant
6 to section 358.26 is addressed shall preside at the public
7 hearing provided for in section 358.27 and shall continue the
8 hearing with adjournments from day to day until completed
9 without giving further notice of the hearing. The board of
10 supervisors may consider the property to be annexed, whether
11 the property shall be described as provided in the petition or
12 be otherwise described, and for the purpose of describing the
13 property, may amend the petition by limiting or changing the
14 property to be annexed as stated in the petition. The board
15 of supervisors shall adjust the property to be annexed as
16 needed to exclude land that has no reasonable likelihood of
17 benefit from inclusion in the area to be annexed. The
18 boundaries of the area to be annexed shall not be changed to
19 incorporate property which is not included in the petition
20 until the owner of the property is given notice of the
21 proposed annexation as provided in section 358.27.

22 All persons in the district and in the area to be annexed
23 shall have an opportunity to be heard regarding the proposed
24 annexation and make suggestions regarding the property to be
25 annexed. The board of supervisors, after hearing the
26 statements, evidence, and suggestions at the public hearing,
27 shall enter an order determining the property to be annexed
28 and directing that the question of annexation be submitted at
29 an election to the registered voters residing within the
30 district and within the area to be annexed. The order shall
31 fix a date for the election which shall be held not more than
32 sixty days after the date of the order.

33 Sec. 6. NEW SECTION. 358.29 NOTICE, ELECTION, AND
34 EXPENSES -- COSTS.

35 1. In the order for the election pursuant to section

1 358.28, the board of supervisors shall direct the county
2 commissioner of elections to give notice of the election at
3 least twenty days before the date of election by publication
4 of the notice as provided in section 331.305. The notice
5 shall state the time and place of the election, the hours when
6 the polls will be open, the purpose of the election including
7 a description of the property to be annexed, a brief
8 description of the limits of each voting precinct, and the
9 location of polling places. Proof of publication shall be
10 made in the same manner as provided in section 358.27 and
11 filed with the county auditor.

12 2. Each registered voter who resides within the sanitary
13 district and each registered voter who resides in the area to
14 be annexed shall have the right to cast a ballot at the
15 election. A registered voter shall not vote in any precinct
16 except the precinct in which the voter resides. The ballots
17 at the election shall be in substantially the following form:

18 For annexation

19 Against annexation

20 3. The results of an election shall be noted on the
21 records of the county auditor. If a majority of the votes
22 cast on the question of annexation favors annexation, the
23 property contained in the area to be annexed shall be included
24 in the sanitary district.

25 4. An election held pursuant to this section shall be
26 conducted by the county commissioner of elections. All
27 expenses incurred in implementing sections 358.26 through
28 358.29, including the costs of an election as determined by
29 the county commissioner of elections, shall be paid by the
30 sanitary district.

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EXPLANATION

32 This bill removes a conflict relating to the qualifications
33 of registered voters who may vote on the creation of a
34 sanitary district. Currently, Code section 358.5 specifies
35 that all registered voters owning land within the proposed

1 district may vote, while Code section 358.7 allows registered
2 voters residing in the proposed district to vote. Code
3 section 358.5 is amended to match Code section 358.7 which
4 allows registered voters residing within the proposed district
5 to vote on the question.

6 The bill also strikes a paragraph which allows annexation
7 of property to a sanitary district upon petition of property
8 owners representing at least 25 percent of the valuation of
9 property not included within the district which seeks benefit
10 from the operation of the district. The provisions of this
11 paragraph are replaced by Code sections 358.26 through 358.29.

12 This bill provides procedures for a sanitary district or
13 property owners representing 25 percent of the valuation of
14 the property to be annexed to initiate proceedings to
15 accomplish an annexation of property to a sanitary district.
16 A petition must be addressed by the board of trustees to the
17 board of supervisors of the county in which the property to be
18 annexed, or the major part of the property, is located. The
19 petition shall include a description of the property to be
20 annexed.

21 Upon receipt of the petition, the board of supervisors
22 shall direct the county auditor to give notice by publication
23 of a public hearing on the annexation proposal to interested
24 persons. The notice shall include a description of the
25 property to be annexed and the date, time, and place of the
26 public hearing. The board of supervisors shall review the
27 description of the property to be annexed and may alter and
28 amend the description to improve its accuracy and
29 intelligibility. A copy of the published notice shall also be
30 sent to each owner of each tract of land to be annexed as
31 shown on the transfer books of the county auditor.

32 At the public hearing, all interested persons shall be
33 allowed to comment and make recommendations concerning the
34 proposed annexation. The board of supervisors shall adjust
35 the property to be annexed by removing land that has no

1 reasonable likelihood of benefit from inclusion. The board of
2 supervisors shall not add any property which is not included
3 in the petition without giving the affected property owners
4 the same notice as the other property owners were given.

5 At the conclusion of the public hearing, the board of
6 supervisors shall issue an order for an election on the
7 proposed annexation within 60 days. Each registered voter
8 residing in the sanitary district or the area to be annexed is
9 eligible to vote. If a majority of the votes cast on the
10 question of annexation favors annexation, the annexation takes
11 effect. The costs of annexation proceedings, including the
12 costs of an election, shall be paid by the sanitary district.

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S-3/17/98 Local Gov
S-3/19/98 Do Case

S-3/26/98 UNFINISHED BUSINESS CALENDAR

2175

HOUSE FILE
BY GREIG

(COMPANION TO SF 2071 BY KIBBIE)

(As Amended and Passed by the House, March 17, 1998)

Passed House, Date ^(p.1480) 4-13-98 Passed Senate, Date ^(p.1039) 4/2/98
Vote: Ayes 95 Nays 0 Vote: Ayes 46 Nays 1
Approved April 22, 1998

A BILL FOR

- 1 An Act relating to the creation of, and annexation of property
- 2 to, a sanitary sewer district.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2175

S-5465

- 1 Amend House File 2175, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 11, by inserting after the word
- 4 "district." the following: "The property to be
- 5 annexed must be located within the watershed of a
- 6 natural lake or navigable water as defined in section
- 7 462A.2 in the existing district."
- 8 2. Page 3, line 16, by striking the words "
- 9 without naming the owners,".
- 10 3. Page 4, line 8, by inserting after the word
- 11 "hearing." the following: "A representative of the
- 12 sanitary district board of trustees shall attend the
- 13 public hearing and be available to answer questions
- 14 regarding the proposed annexation."

By JERRY BEHN
MERLIN E. BARTZ

Adopted 4/2/98 (p.1038)

S-5465 FILED APRIL 1, 1998

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1 Section 1. Section 358.5, unnumbered paragraph 1, Code
2 1997, is amended to read as follows:

3 The board of supervisors to whom the petition is addressed
4 shall preside at the hearing provided for in section 358.4 and
5 shall continue the hearing in session, with adjournments from
6 day to day, if necessary, until completed, without being
7 required to give any further notice of the hearing. Proof of
8 the residences and qualifications of the petitioners as
9 eligible electors shall be made by affidavit or otherwise as
10 the board may direct. The board may consider the boundaries
11 of a proposed sanitary district, whether they shall be as
12 described in the petition or otherwise, and for that purpose
13 may alter and amend the petition and limit or change the
14 boundaries of the proposed district as stated in the petition.
15 The board shall adjust the boundaries of a proposed district
16 as needed to exclude land that has no reasonable likelihood of
17 benefit from inclusion in the proposed district. The
18 boundaries of a proposed district shall not be changed to
19 incorporate property not included in the original petition and
20 published notice until the owner of the property is given
21 notice of inclusion as on the original hearing. All persons
22 in the proposed district shall have an opportunity to be heard
23 regarding the location and boundaries of the proposed district
24 and to make suggestions regarding the location and boundaries,
25 ~~and the.~~ The board of supervisors, after hearing the
26 statements, evidence and suggestions made and offered at the
27 hearing, shall enter an order fixing and determining the
28 limits and boundaries of the proposed district and directing
29 that an election be held for the purpose of submitting to the
30 registered voters ~~owning-land~~ residing within the boundaries
31 of the proposed district the question of organization and
32 establishment of the proposed sanitary district as determined
33 by ~~said~~ the board of supervisors. The order shall fix a date
34 for the election not more than sixty days after the date of
35 the order.

*
1 Sec. 2. NEW SECTION. 358.26 ANNEXATION.

2 1. In a county which has more than seven thousand five
3 hundred acres of natural lakes, the board of trustees may, or
4 upon request of property owners representing twenty-five
5 percent of the valuation of the property to be annexed shall
6 file a petition in the office of county auditor of the county
7 in which the property to be annexed or the major part of the
8 property is located, requesting that there be submitted to the
9 voters of the existing district and the area to be annexed the
10 question whether the territory proposed to be annexed should
11 be annexed to the sanitary district. The board of supervisors
12 of the county in which the property to be annexed, or the
13 major part of the property is located, shall have jurisdiction
14 of the proceedings on the petition.

15 2. The petition shall be addressed to the board of
16 supervisors of the county in which the property to be annexed
17 or the major part of the property is located and shall include
18 the following:

19 a. An intelligible description of the property to be
20 annexed to the sanitary district.

21 b. A statement that the public health, comfort,
22 convenience, or welfare will be promoted by the annexation of
23 the property.

24 c. The signatures of the president and the clerk of the
25 board of trustees.

26 Sec. 3. NEW SECTION. 358.27 HEARING ON ANNEXATION --
27 DATE AND NOTICE.

28 1. The board of supervisors to which a petition filed
29 pursuant to section 358.26 is addressed, at its next meeting,
30 shall set the time and place for a public hearing on the
31 petition. The board of supervisors shall direct the county
32 auditor to give notice to interested persons of the pendency
33 and content of the petition and of the public hearing by
34 publication of a notice as provided in section 331.305. Proof
35 of publication shall be filed with and preserved by the county

2175

1 auditor. The notice of the public hearing shall include the
2 following information:

3 a. That a petition has been filed with the county auditor
4 proposing to annex property to the district.

5 b. An intelligible description of the property to be
6 annexed to the district.

7 c. The date, time, and place of the public hearing at
8 which the petition shall be considered by the county board of
9 supervisors.

10 d. That the county board of supervisors shall determine
11 the property to be annexed as described in the petition or
12 otherwise described and, for the purpose of describing the
13 property, the county board of supervisors may alter and amend
14 the petition.

15 2. A copy of the notice shall also be sent by mail to each
16 owner, without naming the owners, of each tract of land within
17 the area to be annexed as shown by the transfer books of the
18 county auditor's office. The mailings shall be to the last
19 known address unless there is on file an affidavit of the
20 county auditor or of a person designated by the board of
21 supervisors to make the necessary investigation, stating that
22 an address is not known and that diligent inquiry has been
23 made to ascertain the address. The copy of the notice shall
24 be mailed not less than twenty days before the date of the
25 public hearing and the proof of service shall be made by
26 affidavit of the county auditor. The proof of service shall
27 be on file at the commencement of the public hearing.

28 3. In lieu of the mailing to the last known address, a
29 person owning land to be annexed may file with the county
30 auditor a written instrument designating the owner's mailing
31 address for annexation purposes. The designated address is
32 effective for five years and applies to all annexation
33 proceedings pursuant to sections 350.25 through 350.29.

34 4. In lieu of publication or notice by mail, personal
35 service of the notice may be made upon an owner of land

1 proposed for annexation in the same manner as required for the
2 service of original notices in the district court.

3 Sec. 4. NEW SECTION. 358.28 ANNEXATION HEARING.

4 The board of supervisors to whom a petition filed pursuant
5 to section 358.26 is addressed shall preside at the public
6 hearing provided for in section 358.27 and shall continue the
7 hearing with adjournments from day to day until completed
8 without giving further notice of the hearing. The board of
9 supervisors may consider the property to be annexed, whether
10 the property shall be described as provided in the petition or
11 be otherwise described, and for the purpose of describing the
12 property, may amend the petition by limiting or changing the
13 property to be annexed as stated in the petition. The board
14 of supervisors shall adjust the property to be annexed as
15 needed to exclude land that has no reasonable likelihood of
16 benefit from inclusion in the area to be annexed. The
17 boundaries of the area to be annexed shall not be changed to
18 incorporate property which is not included in the petition
19 until the owner of the property is given notice of the
20 proposed annexation as provided in section 358.27.

21 All persons in the district and in the area to be annexed
22 shall have an opportunity to be heard regarding the proposed
23 annexation and make suggestions regarding the property to be
24 annexed. The board of supervisors, after hearing the
25 statements, evidence, and suggestions at the public hearing,
26 shall enter an order determining the property to be annexed
27 and directing that the question of annexation be submitted at
28 an election to the registered voters residing within the
29 district and within the area to be annexed. The order shall
30 fix a date for the election which shall be held not more than
31 sixty days after the date of the order.

32 Sec. 5. NEW SECTION. 358.29 NOTICE, ELECTION, AND
33 EXPENSES -- COSTS.

34 1. In the order for the election pursuant to section
35 358.28, the board of supervisors shall direct the county

1 commissioner of elections to give notice of the election at
2 least twenty days before the date of election by publication
3 of the notice as provided in section 331.305. The notice
4 shall state the time and place of the election, the hours when
5 the polls will be open, the purpose of the election including
6 a description of the property to be annexed, a brief
7 description of the limits of each voting precinct, and the
8 location of polling places. Proof of publication shall be
9 made in the same manner as provided in section 358.27 and
10 filed with the county auditor.

11 2. Each registered voter who resides within the sanitary
12 district and each registered voter who resides in the area to
13 be annexed shall have the right to cast a ballot at the
14 election. A registered voter shall not vote in any precinct
15 except the precinct in which the voter resides. The ballots
16 at the election shall be in substantially the following form:

17 For annexation _____
18 Against annexation _____

19 3. The results of an election shall be noted on the
20 records of the county auditor. If a majority of the votes
21 cast on the question of annexation favors annexation, the
22 property contained in the area to be annexed shall be included
23 in the sanitary district.

24 4. An election held pursuant to this section shall be
25 conducted by the county commissioner of elections. All
26 expenses incurred in implementing sections 358.26 through
27 358.29, including the costs of an election as determined by
28 the county commissioner of elections, shall be paid by the
29 sanitary district.

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SENATE AMENDMENT TO HOUSE FILE 2175

H-8888

1 Amend House File 2175, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, line 11, by inserting after the word
4 "district." the following: "The property to be
5 annexed must be located within the watershed of a
6 natural lake or navigable water as defined in section
7 462A.2 in the existing district."

8 2. Page 3, line 16, by striking the words "
9 without naming the owners,".

10 3. Page 4, line 8, by inserting after the word
11 "hearing." the following: "A representative of the
12 sanitary district board of trustees shall attend the
13 public hearing and be available to answer questions
14 regarding the proposed annexation."

RECEIVED FROM THE SENATE

H-8888 FILED APRIL 2, 1998

House Concurred
4-13-98
(P. 1480)

HOUSE FILE 2175

AN ACT

RELATING TO THE CREATION OF, AND ANNEXATION OF PROPERTY TO,
A SANITARY SEWER DISTRICT.

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

Section 1. Section 358.5, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 358.4 and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of the hearing. Proof of the residences and qualifications of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. The board may consider the boundaries of a proposed sanitary district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The board shall adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district. The boundaries of a proposed district shall not be changed to incorporate property not included in the original petition and published notice until the owner of the property is given notice of inclusion as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries and the. The board of supervisors, after hearing the statements, evidence and suggestions made and offered at the hearing, shall enter an order fixing and determining the

limits and boundaries of the proposed district and directing that an election be held for the purpose of submitting to the registered voters owning-land residing within the boundaries of the proposed district the question of organization and establishment of the proposed sanitary district as determined by said the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order.

Sec. 2. NEW SECTION. 358.26 ANNEXATION.

1. In a county which has more than seven thousand five hundred acres of natural lakes, the board of trustees may, or upon request of property owners representing twenty-five percent of the valuation of the property to be annexed shall file a petition in the office of county auditor of the county in which the property to be annexed or the major part of the property is located, requesting that there be submitted to the voters of the existing district and the area to be annexed the question whether the territory proposed to be annexed should be annexed to the sanitary district. The property to be annexed must be located within the watershed of a natural lake or navigable water as defined in section 462A.2 in the existing district. The board of supervisors of the county in which the property to be annexed, or the major part of the property is located, shall have jurisdiction of the proceedings on the petition.

2. The petition shall be addressed to the board of supervisors of the county in which the property to be annexed or the major part of the property is located and shall include the following:

a. An intelligible description of the property to be annexed to the sanitary district.

b. A statement that the public health, comfort, convenience, or welfare will be promoted by the annexation of the property.

c. The signatures of the president and the clerk of the board of trustees.

Sec. 3. NEW SECTION. 358.27 HEARING ON ANNEXATION -- DATE AND NOTICE.

1. The board of supervisors to which a petition filed pursuant to section 358.26 is addressed, at its next meeting, shall set the time and place for a public hearing on the petition. The board of supervisors shall direct the county auditor to give notice to interested persons of the pendency and content of the petition and of the public hearing by publication of a notice as provided in section 331.305. Proof of publication shall be filed with and preserved by the county auditor. The notice of the public hearing shall include the following information:

a. That a petition has been filed with the county auditor proposing to annex property to the district.

b. An intelligible description of the property to be annexed to the district.

c. The date, time, and place of the public hearing at which the petition shall be considered by the county board of supervisors.

d. That the county board of supervisors shall determine the property to be annexed as described in the petition or otherwise described and, for the purpose of describing the property, the county board of supervisors may alter and amend the petition.

2. A copy of the notice shall also be sent by mail to each owner of each tract of land within the area to be annexed as shown by the transfer books of the county auditor's office. The mailings shall be to the last known address unless there is on file an affidavit of the county auditor or of a person designated by the board of supervisors to make the necessary investigation, stating that an address is not known and that diligent inquiry has been made to ascertain the address. The copy of the notice shall be mailed not less than twenty days

before the date of the public hearing and the proof of service shall be made by affidavit of the county auditor. The proof of service shall be on file at the commencement of the public hearing.

3. In lieu of the mailing to the last known address, a person owning land to be annexed may file with the county auditor a written instrument designating the owner's mailing address for annexation purposes. The designated address is effective for five years and applies to all annexation proceedings pursuant to sections 358.26 through 358.29.

4. In lieu of publication or notice by mail, personal service of the notice may be made upon an owner of land proposed for annexation in the same manner as required for the service of original notices in the district court.

Sec. 4. NEW SECTION. 358.28 ANNEXATION HEARING.

The board of supervisors to whom a petition filed pursuant to section 358.26 is addressed shall preside at the public hearing provided for in section 358.27 and shall continue the hearing with adjournments from day to day until completed without giving further notice of the hearing. A representative of the sanitary district board of trustees shall attend the public hearing and be available to answer questions regarding the proposed annexation. The board of supervisors may consider the property to be annexed, whether the property shall be described as provided in the petition or be otherwise described, and for the purpose of describing the property, may amend the petition by limiting or changing the property to be annexed as stated in the petition. The board of supervisors shall adjust the property to be annexed as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the area to be annexed. The boundaries of the area to be annexed shall not be changed to incorporate property which is not included in the petition until the owner of the property is given notice of the proposed annexation as provided in section 358.27.

All persons in the district and in the area to be annexed shall have an opportunity to be heard regarding the proposed annexation and make suggestions regarding the property to be annexed. The board of supervisors, after hearing the statements, evidence, and suggestions at the public hearing, shall enter an order determining the property to be annexed and directing that the question of annexation be submitted at an election to the registered voters residing within the district and within the area to be annexed. The order shall fix a date for the election which shall be held not more than sixty days after the date of the order.

Sec. 5. NEW SECTION. 358.29 NOTICE, ELECTION, AND EXPENSES -- COSTS.

1. In the order for the election pursuant to section 358.28, the board of supervisors shall direct the county commissioner of elections to give notice of the election at least twenty days before the date of election by publication of the notice as provided in section 331.305. The notice shall state the time and place of the election, the hours when the polls will be open, the purpose of the election including a description of the property to be annexed, a brief description of the limits of each voting precinct, and the location of polling places. Proof of publication shall be made in the same manner as provided in section 358.27 and filed with the county auditor.

2. Each registered voter who resides within the sanitary district and each registered voter who resides in the area to be annexed shall have the right to cast a ballot at the election. A registered voter shall not vote in any precinct except the precinct in which the voter resides. The ballots at the election shall be in substantially the following form:

For annexation _____
Against annexation _____

3. The results of an election shall be noted on the records of the county auditor. If a majority of the votes

cast on the question of annexation favors annexation, the property contained in the area to be annexed shall be included in the sanitary district.

4. An election held pursuant to this section shall be conducted by the county commissioner of elections. All expenses incurred in implementing sections 358.26 through 358.29, including the costs of an election as determined by the county commissioner of elections, shall be paid by the sanitary district.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2175, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 22, 1998

TERRY E. BRANSTAD
Governor