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LOCAL GOVERNMENT

SENATE FILE 2071

BY KIBBIE

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

**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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S.F. 2071

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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