

JAN 31 2001
LOCAL GOVERNMENT

HOUSE FILE 143
BY RICHARDSON

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

A BILL FOR

1 An Act relating to the division and development of land by
2 amending provisions relating to subdivision plats and plats of
3 survey and relating to annexation and other boundary
4 adjustments, and providing for the Act's applicability.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

HF 143

1 Section 1. Section 354.6, subsection 1, Code 2001, is
2 amended to read as follows:

3 1. A subdivision plat shall be made when a tract of land
4 is subdivided by repeated divisions or simultaneous division
5 into three or more parcels, any of which are described by
6 metes and bounds description ~~for which no plat of survey is~~
7 **recorded**. A subdivision plat is not required when land is
8 divided by conveyance to a governmental agency for public
9 improvements.

10 Sec. 2. Section 354.8, Code 2001, is amended to read as
11 follows:

12 354.8 REVIEW AND APPROVAL BY GOVERNING BODIES.

13 A proposed subdivision plat or plat of survey lying within
14 the jurisdiction of a governing body shall be submitted to
15 that governing body for review and approval prior to
16 recording. A city may establish jurisdiction to review
17 subdivisions or plats of survey outside its boundaries
18 pursuant to the provisions of section 354.9. Governing bodies
19 shall apply reasonable standards and conditions in accordance
20 with applicable statutes and ordinances for the review and
21 approval of subdivisions or plats of survey. The governing
22 body, within sixty days of application for final approval of
23 the subdivision plat or plat of survey, shall determine
24 whether the subdivision or plat of survey conforms to its
25 comprehensive plan and shall give consideration to the
26 possible burden on public improvements and to a balance of
27 interests between the proprietor, future purchasers, and the
28 public interest in the subdivision when reviewing the proposed
29 subdivision or plat of survey and when requiring the
30 installation of public improvements in conjunction with
31 approval of a subdivision. The governing body shall not issue
32 final approval of a subdivision plat or plat of survey unless
33 the subdivision plat or plat of survey conforms to sections
34 354.6, 354.11, and 355.8.

35 If the subdivision plat or plat of survey and all matters

1 related to final approval of the subdivision plat or plat of
2 survey conform to the standards and conditions established by
3 the governing body, including a city that has established
4 jurisdiction under section 354.9, and conform to this chapter
5 and chapter 355, the governing body, by resolution, shall
6 approve the plat and certify the resolution which shall be
7 recorded with the plat. The recorder shall refuse to accept a
8 subdivision plat or plat of survey presented for recording
9 without a resolution from each applicable governing body
10 approving the subdivision plat or waiving the right to review.

11 Sec. 3. Section 354.9, subsections 1 and 2, Code 2001, are
12 amended to read as follows:

13 1. If a city, which has adopted ordinances regulating the
14 division of land, desires to review subdivision plats or plats
15 of survey for divisions or subdivisions outside the city's
16 boundaries, then the city shall establish by ordinance
17 specifically referring to the authority of this section, the
18 area subject to the city's review and approval. The area of
19 review may be identified by individual tracts, by describing
20 the boundaries of the area, or by including all land within a
21 certain distance of the city's boundaries, which shall not
22 extend more than two miles distance from the city's
23 boundaries. The ordinance establishing the area of review or
24 modifying the area of review by a city, shall be recorded in
25 the office of the recorder and filed with the county auditor.

26 2. If a subdivision lies in a county, which has adopted
27 ordinances regulating the division of land, and also lies
28 within the area of review established by a city pursuant to
29 this section, then the subdivision plat or plat of survey for
30 the division or subdivision shall be submitted to both the
31 city and county for approval. The standards and conditions
32 applied by a city or county for review and approval of the
33 subdivision shall be the same standards and conditions used
34 for review and approval of subdivisions within the city limits
35 or shall be the standards and conditions for review and

1 approval established by agreement of the city and county
2 pursuant to chapter 28E. Either the city or county may, by
3 resolution, waive its right to review the subdivision or waive
4 the requirements of any of its standards or conditions for
5 approval of subdivisions, and certify the resolution which
6 shall be recorded with the plat.

7 Sec. 4. Section 368.4, Code 2001, is amended to read as
8 follows:

9 368.4 ANNEXING MORATORIUM.

10 A city, following notice and hearing, may by resolution
11 agree with another city or cities to refrain from annexing
12 specifically described territory for a period not to exceed
13 ten years and, following notice and hearing, may by resolution
14 extend the agreement for subsequent periods not to exceed ten
15 years each. Notice of a hearing shall be served at least
16 thirty days before the hearing on the city development board,
17 and-a on the board of supervisors of the county in which the
18 territory is located, and on all persons owning land within
19 the area subject to the agreement. Service shall be by
20 certified mail or personal service. The notice shall include
21 the time and place of the hearing, describe the territory
22 subject to the proposed agreement, and the general terms of
23 the agreement. After passage of a resolution by the cities
24 approving the agreements, a copy of the agreement and a copy
25 of any resolution extending an agreement shall be filed with
26 the city development board within thirty ten days of
27 enactment.

28 The city development board shall review the agreement and
29 make a determination of approval or disapproval upon receipt
30 of a petition challenging the resolution. The petition must
31 be filed with the city development board by the county board
32 of supervisors of a county in which the territory is located
33 or by property owners comprising twenty-five percent of the
34 land area in the territory impacted by the agreement. The
35 petition must be filed within twenty days of enactment of the

1 resolution by the cities. If a petition is not filed with the
2 city development board, the agreement is deemed approved. The
3 city development board shall base its finding upon all
4 relevant information, including but not limited to the
5 following in descending order of importance:

6 1. The degree to which the agreement is consistent with
7 the ability of the respective cities and private service
8 providers to logically provide cost-effective services to the
9 area, including but not limited to water supply, sewer
10 disposal, road maintenance and repair, and fire and police.

11 2. The degree to which the agreement is consistent with
12 existing land use plans for the area.

13 3. The degree to which the agreement is consistent with
14 wishes of the landowners and residents of the territory.

15 4. The location of the territory in relation to each
16 city's urbanized area.

17 5. The degree to which the projected population growth
18 patterns of the communities is consistent with the agreement.

19 6. The degree to which the agreement is consistent with
20 street addresses and school districts of the territory.

21 PARAGRAPH DIVIDED. If such an agreement is in force, the
22 board shall dismiss a an involuntary petition or plan which
23 violates the terms of the agreement. A voluntary annexation
24 of territory is not subject to the terms of an agreement
25 created pursuant to this section, and shall not be dismissed
26 on the basis that it would violate the terms of such an
27 agreement.

28 Sec. 5. Section 368.7, subsection 1, Code 2001, is amended
29 to read as follows:

30 1. All of the owners of land in a territory adjoining a
31 city may apply in writing to the council of the adjoining city
32 requesting annexation of the territory. Territory comprising
33 railway right-of-way or territory comprising not more than
34 twenty percent of the land area may be included in the
35 application without the consent of the owner to avoid creating

1 an island or to create more uniform boundaries if a copy of
2 the application is mailed by certified mail to the owner and
3 each affected public utility, at least ~~ten~~ fourteen days prior
4 to any action taken by the city council on the application.
5 The application must contain a legal description and a map of
6 the territory showing its location in relationship to the
7 city.

8 An application for voluntary annexation of territory by a
9 city must be approved by resolution of the council that
10 receives the application. The city council shall approve or
11 deny the application following notice and public hearing as
12 required in this section. An annexation including territory
13 comprising not more than twenty percent of the land area
14 without consent of the property owners is not complete without
15 approval by four-fifths of the members of the board after a
16 hearing for all affected property owners and the county. Upon
17 approval of the annexation, the board shall file a copy of the
18 resolution, map, and legal description of the territory with
19 the county recorder of each county which contains a portion of
20 the territory.

21 Sec. 6. Section 368.7, Code 2001, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 1A. The city shall provide for a public
24 hearing on the application before approving or denying it.
25 The city shall provide written notice at least fourteen days
26 prior to any action by the city council regarding the
27 application, including a public hearing, by certified mail to
28 the chairperson of the board of supervisors of each county
29 which contains a portion of the territory proposed to be
30 annexed, each public utility which serves the territory
31 proposed to be annexed, each owner of property located within
32 the territory to be annexed who is not a party to the
33 application, and each owner of property which adjoins the
34 territory to be annexed. The city shall publish notice of the
35 application and public hearing on the application in an

1 official county newspaper in each county which contains a
2 portion of the territory proposed to be annexed. Both the
3 written and published notice shall include the time and place
4 of the public hearing and a legal description of the territory
5 to be annexed. The city may assess the costs of providing
6 notice as required in this section to the applicants.

7 Sec. 7. Section 368.7, subsection 2, Code 2001, is amended
8 to read as follows:

9 2. An application for annexation of territory not within
10 an urbanized area of a city other than the city to which the
11 annexation is directed must be approved by resolution of the
12 council which receives the application. In the discretion of
13 a city council, the resolution may include a provision for a
14 transition for the imposition of taxes as provided in section
15 368.11, subsection 13. The city council shall mail a copy of
16 the application by certified mail to the board of supervisors
17 of each county which contains a portion of the territory at
18 least fourteen days prior to any action taken by the city
19 council on the application. The council shall also publish
20 notice of the application in an official county newspaper in
21 each county which contains a portion of the territory at least
22 fourteen days prior to any action taken by the council on the
23 application. Upon receiving approval of the council, the city
24 clerk shall file a copy of the resolution, map, and legal
25 description of the territory involved with the secretary of
26 state, the county board of supervisors of each county which
27 contains a portion of the territory, each affected public
28 utility, and the state department of transportation. The city
29 clerk shall also record a copy of the legal description, map,
30 and resolution with the county recorder of each county which
31 contains a portion of the territory. The secretary of state
32 shall not accept and acknowledge a copy of a legal
33 description, map, and resolution of annexation which would
34 create an island. The annexation is completed upon
35 acknowledgment by the secretary of state that the secretary of

1 state has received the legal description, map, and resolution.

2 Sec. 8. Section 368.9, subsection 2, paragraphs c and d,
3 Code 2001, are amended to read as follows:

4 c. One member, who resides in an unincorporated area,
5 appointed from a county with a population of more than fifty
6 thousand, according to the most recent certified federal
7 census.

8 d. One member, who resides in an unincorporated area,
9 appointed from a county with a population of fifty thousand or
10 less, according to the most recent certified federal census.

11 Sec. 9. Section 368.11, unnumbered paragraph 2, Code 2001,
12 is amended to read as follows:

13 Within thirty days of receipt of a petition, the board of
14 supervisors of each county where the territory is located
15 shall approve or disapprove the petition. The county auditor
16 shall immediately notify the city development board of the
17 county's decision. Within ninety days of receipt of a
18 petition notification from the county, the city development
19 board shall initiate appropriate proceedings or dismiss the
20 petition. The board may combine for consideration petitions
21 or plans which concern the same territory or city or which
22 provide for a boundary adjustment or incorporation affecting
23 common territory. The combined petitions may be submitted for
24 consideration by a special local committee pursuant to section
25 368.14A.

26 Sec. 10. Section 368.11, Code 2001, is amended by adding
27 the following new subsections:

28 NEW SUBSECTION. 14. Plans for extending municipal
29 services to be provided by the annexing city to the annexed
30 territory within three years of completion of the annexation
31 process, which date is established pursuant to section 368.7
32 or 368.20.

33 NEW SUBSECTION. 15. Historical, current, transitional,
34 and projected land usage and density for the land
35 classifications established by the board within the boundaries

1 of the city and within the territory to be annexed.

2 NEW SUBSECTION. 16. Projection of the ability to meet
3 residential, commercial, and industrial development needs with
4 land currently within the boundaries of the city for the next
5 five years.

6 NEW SUBSECTION. 17. Projection of the ability of the
7 petitioner to absorb the costs of development, including
8 municipal services provided to owners or residents of land
9 located within the city limits, or owners or residents of the
10 land proposed to be annexed.

11 NEW SUBSECTION. 18. Identification of all agricultural
12 land located in the area proposed to be annexed and such
13 land's corn suitability rating.

14 NEW SUBSECTION. 19. Programs and incentives developed by
15 the petitioner to preserve agricultural, open space, and
16 environmentally sensitive land.

17 Sec. 11. Section 368.11, Code 2001, is amended by adding
18 the following new unnumbered paragraph before unnumbered
19 paragraph 4:

20 NEW UNNUMBERED PARAGRAPH. Plans required by this section
21 to be filed with a petition shall include specific information
22 pertaining to estimated costs of implementing the plan, the
23 time frame involved in implementing the plan, and any other
24 specific information related to implementing the plan.

25 Sec. 12. Section 368.14, subsection 3, Code 2001, is
26 amended to read as follows:

27 3. From a territory to be annexed to or severed from a
28 city, one representative residing in the territory to be
29 annexed to or severed from the city and appointed by the
30 county board of supervisors. If there are no registered
31 voters residing in an area to be annexed to or severed from a
32 city, the county board of supervisors shall appoint as local
33 representative an individual owning property in the territory
34 whether or not the individual is a registered voter or appoint
35 a designee of such individual. If the territory is in more

1 than one county, the board shall direct the appointment of a
2 local representative from each county involved by its board of
3 supervisors.

4 Sec. 13. Section 368.16, Code 2001, is amended to read as
5 follows:

6 368.16 APPROVAL OF PROPOSAL.

7 Subject to section 368.17, ~~the-committee-shall-approve-any~~
8 ~~proposal-which-it-finds-to-be-in-the-public-interest---~~ A a
9 committee shall base its finding upon all relevant information
10 before the committee, including but not limited to the
11 following:

12 1. Statements in the petition or plan, and evidence
13 supporting or not supporting those statements.

14 2. Recommendations of the regional planning authority for
15 the area.

16 3. ~~Commercial~~ The potential need, or lack thereof, for
17 territory to accommodate future commercial, residential, and
18 industrial development.

19 4. Potential growth in population causing the exhaustion
20 of available land in the city limits within the next ten
21 years.

22 5. Cost and adequacy of existing services and facilities
23 to the persons owning land located within the territory and to
24 persons owning land located within city limits.

25 6. Potential effect of the proposal and of possible
26 alternative proposals on the cost and adequacy of services and
27 facilities to the persons owning land located within the
28 territory and to persons owning land located within city
29 limits.

30 7. Potential effect of the proposal on adjacent areas, and
31 on any unit of government directly affected, including but not
32 limited to the potential effect on future revenues of any such
33 unit of government.

34 8. The wishes of the residents of the territory to be
35 annexed and of those residents affected by the annexation.

1 Sec. 14. Section 368.17, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 8. An annexation of territory that
4 exceeds twenty-five percent of the land area within the
5 corporate limits of the city.

6 NEW SUBSECTION. 9. An annexation when providing municipal
7 services to land annexed will place an unreasonable financial
8 burden on landowners or residents within the city or
9 landowners or residents within the territory.

10 NEW SUBSECTION. 10. An annexation of agricultural land
11 when developed land adjacent to the city has not been annexed
12 to the city.

13 NEW SUBSECTION. 11. An annexation of territory for which
14 evidence exists that projected development density is low for
15 the type of projected development.

16 NEW SUBSECTION. 12. An annexation if agricultural land is
17 included in the territory to be annexed and such land is in
18 the top twenty-five percent of productive land in the county
19 based on its corn stability rating.

20 NEW SUBSECTION. 13. Annexation when accommodations are
21 not made to preserve existing agricultural activities on
22 agricultural land within the territory to be annexed until its
23 transition to urban development.

24 Sec. 15. NEW SECTION. 368.25 RECORDING DATE -- VALUATION
25 OF PROPERTY.

26 If applicable portions of the annexation proceedings are
27 recorded with the county recorder on or before December 1 of
28 the calendar year in which the annexation was completed, the
29 annexing city may impose city taxes in the annexed territory
30 for the following fiscal year. If such recording is made
31 after December 1, taxes shall be imposed in the annexed
32 territory for the following fiscal year as if the territory
33 had not been annexed.

34 Sec. 16. NEW SECTION. 368.26 FAILURE TO PROVIDE
35 MUNICIPAL SERVICES.

1 If a city fails to provide municipal services to territory
2 involuntarily annexed, according to the plan filed pursuant to
3 section 368.11, within three years after the annexation
4 process is completed, the city development board shall
5 initiate proceedings to sever the annexed territory from the
6 city. A petition for severance filed pursuant to this section
7 shall be filed and acted upon in the same manner as a petition
8 under section 368.11. For purposes of this section and
9 section 368.11, subsection 14, "municipal services" includes,
10 but is not limited to, water supply, sewer disposal, solid
11 waste collection, street and road maintenance, and police and
12 fire protection.

13 Sec. 17. APPLICABILITY. This Act applies to applications,
14 petitions, or plans filed for boundary adjustment on or after
15 the effective date of this Act.

16 EXPLANATION

17 This bill makes changes to the law relating to development
18 of land by subdividing land and by annexation of territory and
19 other boundary adjustments.

20 Code section 354.6 is amended to require that a subdivision
21 plat be made when a tract of land is subdivided regardless of
22 whether or not a plat of survey is recorded for the
23 subdivision.

24 Code sections 354.8 and 354.9 are amended to give a city
25 council and board of supervisors authority to review for
26 approval subdivisions of land lying within their jurisdiction
27 for which a plat of survey has been prepared. Current law
28 gives them authority to review subdivision plats.

29 Code section 368.4, relating to annexing moratorium
30 agreements, is amended to require that notice of a hearing on
31 an agreement be served at least 30 days before the hearing.
32 Besides notice being served on the city development board, the
33 bill requires that notice also be served on the board of
34 supervisors of the county where the area is located and on all
35 landowners whose property is located in the area that is the

1 subject of the agreement. The bill provides that notice must
2 be served by certified mail or by personal service. The
3 county or property owners may challenge the moratorium
4 agreement by filing a petition with the city development
5 board. The bill amends Code section 368.4 to provide that a
6 voluntary annexation shall not be dismissed on the basis that
7 it violates the terms of an annexing moratorium agreement.

8 Code section 368.7 is amended to provide that an
9 application for voluntary annexation must be approved by
10 resolution of the city council after notice and public
11 hearing. The bill increases from 10 days to 14 days the time
12 period which must expire between the time a copy of an
13 application is mailed to each landowner and public utility and
14 the time at which the council may take action on the
15 application. The bill provides that the city must hold a
16 public hearing on the application and provide notice of the
17 hearing to the county board of supervisors, each land owner,
18 and each public utility in the territory to be annexed. The
19 bill provides that the city may assess the costs of providing
20 notice to the applicants.

21 Code section 368.7 is also amended, relating to annexation
22 applications involving territory within the urbanized area of
23 the annexing city and not within any other city's urbanized
24 area. The Code section is amended to provide that a copy of
25 the application for such annexations must be sent by certified
26 mail to the board of supervisors of the county at least 14
27 days prior to any action. The council is also required to
28 publish notice of the application at least 14 days prior to
29 any action taken by the council. Code section 368.7 is
30 amended to require that certain documents relating to all
31 voluntary annexations be filed with the county recorder. The
32 requirements for voluntary annexations contained as amendments
33 to Code section 368.7 in this bill currently are in place only
34 for voluntary annexations of territory within the urbanized
35 area of a city other than the annexing city.

1 Code section 368.9 is amended to provide that those members
2 of the city development board appointed to represent a county
3 must reside in the unincorporated area of the county.

4 Code section 368.11 is amended to require that a county
5 board of supervisors approve or disapprove an involuntary
6 annexation before it is reviewed by the city development
7 board. The board of supervisors must take action on the
8 petition within 30 days of receiving it.

9 Code section 368.11 is also amended to require that a city
10 include in its petition for involuntary annexation the city's
11 plans for providing municipal services to territory proposed
12 to be annexed. Specific information about soil conditions and
13 land preservation programs within the territory, and
14 historical and projected land usage is also required to be
15 contained in the plan.

16 Code section 368.11 is amended to require that each plan
17 required to be filed with a petition must contain specific
18 information relating to implementation of the plan.

19 Code section 368.14 is amended to provide that the member
20 of the local committee appointed by the board of supervisors
21 must be a resident of the territory to be annexed or severed.
22 The local committee is appointed to consider involuntary
23 annexation and severance petitions.

24 Code section 368.16 is amended to add more specific
25 information to the description of relevant information to be
26 considered by a local committee when considering whether to
27 approve a proposal.

28 Code section 368.17 is amended to add more reasons for
29 which the local committee may not approve a boundary
30 adjustment.

31 Code section 368.25 is enacted to provide that if documents
32 relating to the annexation which are required to be filed with
33 the county recorder are filed on or before December 1 of the
34 year the annexation was completed, taxes collected in the
35 annexed territory for the following fiscal year shall be

1 disbursed to the annexing city. If recording is made after
2 December 1, such taxes for the following fiscal year shall be
3 disbursed as if the territory had not been annexed.

4 Code section 368.26 is enacted to require the city
5 development board to initiate an action for severance of
6 territory which had been involuntarily annexed to a city if
7 the city fails to provide municipal services to the territory
8 within three years of the date the annexation is completed. A
9 petition for severance filed by the board under these
10 circumstances is to be acted upon in the same manner as an
11 involuntary petition, and is subject to approval by the
12 committee of local representatives and is subject to approval
13 at an election.

14 The bill applies to applications, petitions, or plans for
15 boundary adjustment filed on or after the effective date of
16 the bill.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35