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Place On Calendar

HOUSE FILE 582  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HF 143)

Passed House, <sup>(P. 1067)</sup> Date 4/3/01 Passed Senate, Date 4/19/01  
Vote: Ayes 99 Nays 0 Vote: Ayes 43 Nays 3  
Approved April 26, 2002

Re-Passed 4-12-02  
Vote 45-0  
(P. 1175)

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:

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HF 582

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, unnumbered paragraph 1, Code 2001,  
11 is amended to read as follows:

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

31 Sec. 3. Section 354.8, Code 2001, is amended by adding the  
32 following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. A city may establish  
34 jurisdiction to review subdivisions or plats of survey outside  
35 its boundaries pursuant to the provisions of section 354.9.

1 In the case of a city, the provisions of this section apply to  
2 the review by the city of both subdivision plats and plats of  
3 survey.

4 Sec. 4. Section 354.9, subsections 1 and 2, Code 2001, are  
5 amended to read as follows:

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

19 2. If a subdivision lies in a county, which has adopted  
20 ordinances regulating the division of land, and also lies  
21 within the area of review established by a city pursuant to  
22 this section, then the subdivision plat or plat of survey for  
23 the division or subdivision shall be submitted to both the  
24 city and county for approval. The standards and conditions  
25 applied by a city or county for review and approval of the  
26 subdivision shall be the same standards and conditions used  
27 for review and approval of subdivisions within the city limits  
28 or shall be the standards and conditions for review and  
29 approval established by agreement of the city and county  
30 pursuant to chapter 28E. Either the city or county may, by  
31 resolution, waive its right to review the subdivision or waive  
32 the requirements of any of its standards or conditions for  
33 approval of subdivisions, and certify the resolution which  
34 shall be recorded with the plat.

35 Sec. 5. Section 368.4, Code 2001, is amended to read as

1 follows:

2 368.4 ANNEXING MORATORIUM.

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

20 The city development board shall review the agreement and  
21 make a determination of approval or disapproval upon receipt  
22 of a petition challenging the resolution. The petition must  
23 be filed with the city development board by the county board  
24 of supervisors of a county in which the territory is located  
25 or by property owners comprising twenty-five percent of the  
26 land area in the territory impacted by the agreement. The  
27 petition must be filed within twenty days of enactment of the  
28 resolution by the cities. If a petition is not filed with the  
29 city development board, the agreement is deemed approved. The  
30 city development board shall base its finding upon all  
31 relevant information, including but not limited to the  
32 following in descending order of importance:

- 33 1. The degree to which the agreement is consistent with  
34 the ability of the respective cities and private service  
35 providers to logically provide cost-effective services to the

1 area, including but not limited to water supply, sewer  
2 disposal, road maintenance and repair, and fire and police.

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

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

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

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

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

13 PARAGRAPH DIVIDED. If such an agreement is in force, the  
14 board shall dismiss a an involuntary petition or plan which  
15 violates the terms of the agreement. A voluntary annexation  
16 of territory is not subject to the terms of an agreement  
17 created pursuant to this section, and shall not be dismissed  
18 on the basis that it would violate the terms of such an  
19 agreement.

20 Sec. 6. Section 368.7, subsection 1, Code 2001, is amended  
21 to read as follows:

22 1. All of the owners of land in a territory adjoining a  
23 city may apply in writing to the council of the adjoining city  
24 requesting annexation of the territory. Territory comprising  
25 railway right-of-way or territory comprising not more than  
26 twenty percent of the land area may be included in the  
27 application without the consent of the owner to avoid creating  
28 an island or to create more uniform boundaries if a copy of  
29 the application is mailed by certified mail to the owner and  
30 each affected public utility, at least ~~ten~~ fourteen business  
31 days prior to any action taken by the city council on the  
32 application. The application must contain a legal description  
33 and a map of the territory showing its location in  
34 relationship to the city.

35 An application for voluntary annexation of territory by a

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

13 Sec. 7. Section 368.7, subsection 1, Code 2001, is amended  
14 by adding the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. The city shall provide for a  
16 public hearing on the application before approving or denying  
17 it. The city shall provide written notice at least fourteen  
18 business days prior to any action by the city council  
19 regarding the application, including a public hearing, by  
20 certified mail to the chairperson of the board of supervisors  
21 of each county which contains a portion of the territory  
22 proposed to be annexed, each public utility which serves the  
23 territory proposed to be annexed, each owner of property  
24 located within the territory to be annexed who is not a party  
25 to the application, and each owner of property which adjoins  
26 the territory to be annexed. The city shall publish notice of  
27 the application and public hearing on the application in an  
28 official county newspaper in each county which contains a  
29 portion of the territory proposed to be annexed. Both the  
30 written and published notice shall include the time and place  
31 of the public hearing and a legal description of the territory  
32 to be annexed. The city may assess the costs of providing  
33 notice as required in this section to the applicants.

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

1     2. An application for annexation of territory not within  
2 an urbanized area of a city other than the city to which the  
3 annexation is directed must be approved by resolution of the  
4 council which receives the application. In the discretion of  
5 a city council, the resolution may include a provision for a  
6 transition for the imposition of taxes as provided in section  
7 368.11, subsection 13. The city council shall mail a copy of  
8 the application by certified mail to the board of supervisors  
9 of each county which contains a portion of the territory at  
10 least fourteen business days prior to any action taken by the  
11 city council on the application. The council shall also  
12 publish notice of the application in an official county  
13 newspaper in each county which contains a portion of the  
14 territory at least fourteen days prior to any action taken by  
15 the council on the application. Upon receiving approval of  
16 the council, the city clerk shall file a copy of the  
17 resolution, map, and legal description of the territory  
18 involved with the secretary of state, the county board of  
19 supervisors of each county which contains a portion of the  
20 territory, each affected public utility, and the state  
21 department of transportation. The city clerk shall also  
22 record a copy of the legal description, map, and resolution  
23 with the county recorder of each county which contains a  
24 portion of the territory. The secretary of state shall not  
25 accept and acknowledge a copy of a legal description, map, and  
26 resolution of annexation which would create an island. The  
27 annexation is completed upon acknowledgment by the secretary  
28 of state that the secretary of state has received the legal  
29 description, map, and resolution.

30     Sec. 9. Section 368.7, subsection 3, Code 2001, is amended  
31 to read as follows:

32     3. An application for annexation of territory within an  
33 urbanized area of a city other than the city to which the  
34 annexation is directed must be approved both by resolution of  
35 the council which receives the application and by the board.

1 The board shall not approve an application which creates an  
2 island. Notice of the application shall be mailed by  
3 certified mail, by the city to which the annexation is  
4 directed, at least ~~ten~~ fourteen business days prior to any  
5 action by the city council on the application to the council  
6 of each city whose boundary adjoins the territory or is within  
7 two miles of the territory, to the board of supervisors of  
8 each county which contains a portion of the territory, each  
9 affected public utility, and to the regional planning  
10 authority of the territory. Notice of the application shall  
11 be published in an official county newspaper in each county  
12 which contains a portion of the territory at least ten  
13 business days prior to any action by the city council on the  
14 application. In the discretion of a city council, the  
15 resolution may include a provision for a transition for the  
16 imposition of taxes as provided in section 368.11, subsection  
17 13. The annexation is completed when the board has filed and  
18 recorded copies of applicable portions of the proceedings as  
19 required by section 368.20, subsection 2.

20 Sec. 10. Section 368.9, subsection 2, paragraphs c and d,  
21 Code 2001, are amended to read as follows:

22 c. One member, who resides in an unincorporated area,  
23 appointed from a county with a population of more than fifty  
24 thousand, according to the most recent certified federal  
25 census.

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

29 Sec. 11. Section 368.11, unnumbered paragraph 2, Code  
30 2001, is amended to read as follows:

31 Within thirty days of receipt of a petition, the board of  
32 supervisors of each county where the territory is located  
33 shall approve or disapprove the petition. The county auditor  
34 shall immediately notify the city development board of the  
35 county's decision. Within ninety days of receipt of a



1 petition notification from the county, the city development  
2 board shall initiate appropriate proceedings or dismiss the  
3 petition. The board may combine for consideration petitions  
4 or plans which concern the same territory or city or which  
5 provide for a boundary adjustment or incorporation affecting  
6 common territory. The combined petitions may be submitted for  
7 consideration by a special local committee pursuant to section  
8 368.14A.

9 Sec. 12. Section 368.11, Code 2001, is amended by adding  
10 the following new subsections:

11 NEW SUBSECTION. 14. Plans for extending municipal  
12 services to be provided by the annexing city to the annexed  
13 territory within three years after city taxes are imposed in  
14 the annexed territory.

15 NEW SUBSECTION. 15. Historical, current, transitional,  
16 and projected land usage and density for the land  
17 classifications established by the board within the boundaries  
18 of the city and within the territory to be annexed.

19 NEW SUBSECTION. 16. Projection of the ability to meet  
20 residential, commercial, and industrial development needs with  
21 land currently within the boundaries of the city for the next  
22 five years.

23 NEW SUBSECTION. 17. Projection of the ability of the  
24 petitioner to absorb the costs of development, including  
25 municipal services provided to owners or residents of land  
26 located within the city limits, or owners or residents of the  
27 land proposed to be annexed.

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

31 NEW SUBSECTION. 19. Programs and incentives developed by  
32 the petitioner to preserve agricultural, open space, and  
33 environmentally sensitive land.

34 Sec. 13. Section 368.11, Code 2001, is amended by adding  
35 the following new unnumbered paragraph before unnumbered

1 paragraph 4:

2 NEW UNNUMBERED PARAGRAPH. Plans required by this section  
3 to be filed with a petition shall include specific information  
4 pertaining to estimated costs of implementing the plan, the  
5 time frame involved in implementing the plan, and any other  
6 specific information related to implementing the plan.

7 Sec. 14. Section 368.11, unnumbered paragraph 4, Code  
8 2001, is amended to read as follows:

9 At least ~~ten~~ fourteen business days before a petition for  
10 involuntary annexation is filed as provided in this section,  
11 the petitioner shall make its intention known by sending a  
12 letter of intent by certified mail to the council of each city  
13 whose urbanized area contains a portion of the territory, the  
14 board of supervisors of each county which contains a portion  
15 of the territory, the regional planning authority of the  
16 territory involved, each affected public utility, and to each  
17 property owner listed in the petition. The written  
18 notification shall include notice that the petitioners shall  
19 hold a public meeting on the petition for involuntary  
20 annexation prior to the filing of the petition.

21 Sec. 15. Section 368.14, subsection 3, Code 2001, is  
22 amended to read as follows:

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

35 Sec. 16. Section 368.16, Code 2001, is amended to read as

1 follows:

2 368.16 APPROVAL OF PROPOSAL.

3 Subject to section 368.17, ~~the committee shall approve any~~  
4 ~~proposal which it finds to be in the public interest.~~ A a  
5 committee shall base its finding upon all relevant information  
6 before the committee, including but not limited to the  
7 following:

8 1. Whether the board of supervisors approved or  
9 disapproved the petition.

10 ~~1-~~ 2. Statements in the petition or plan, and evidence  
11 supporting or not supporting those statements.

12 ~~2-~~ 3. Recommendations of the regional planning authority  
13 for the area.

14 ~~3-~~ 4. Commercial The potential need, or lack thereof, for  
15 territory to accommodate future commercial, residential, and  
16 industrial development.

17 ~~4-~~ 5. Potential growth in population causing the  
18 exhaustion of available land in the city limits within the  
19 next ten years.

20 ~~5-~~ 6. Cost and adequacy of existing services and  
21 facilities to the persons owning land located within the  
22 territory and to persons owning land located within city  
23 limits.

24 ~~6-~~ 7. Potential effect of the proposal and of possible  
25 alternative proposals on the cost and adequacy of services and  
26 facilities to the persons owning land located within the  
27 territory and to persons owning land located within city  
28 limits.

29 ~~7-~~ 8. Potential effect of the proposal on adjacent areas,  
30 and on any unit of government directly affected, including but  
31 not limited to the potential effect on future revenues of any  
32 such unit of government.

33 9. The amount of agricultural land included in territory  
34 to be involuntarily annexed and whether such land is in the  
35 top twenty-five percent of productive land in the county based

1 on its corn stability rating.

2 10. Whether accommodations will be made to preserve  
3 existing agricultural activities on agricultural land within  
4 the territory to be annexed until its transition to urban  
5 development.

6 Sec. 17. Section 368.17, Code 2001, is amended by adding  
7 the following new subsections:

8 NEW SUBSECTION. 8. An annexation of territory that  
9 exceeds twenty-five percent of the land area within the  
10 corporate limits of the city and evidence exists that  
11 projected development density is low for the type of projected  
12 development.

13 NEW SUBSECTION. 9. An annexation when providing municipal  
14 services to land annexed will place an unreasonable financial  
15 burden on landowners or residents within the city or  
16 landowners or residents within the territory.

17 NEW SUBSECTION. 10. An annexation of agricultural land  
18 when developed land adjacent to the city and adjacent to the  
19 territory to be annexed has not been annexed to the city.

20 Sec. 18. NEW SECTION. 368.25 RECORDING DATE -- VALUATION  
21 OF PROPERTY.

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

30 Sec. 19. NEW SECTION. 368.26 FAILURE TO PROVIDE  
31 MUNICIPAL SERVICES.

32 If a city fails to provide municipal services to territory  
33 involuntarily annexed, according to the plan filed pursuant to  
34 section 368.11, within three years after city taxes are  
35 imposed in the annexed territory, the city development board

1 shall initiate proceedings to sever the annexed territory from  
2 the city. However, a city may appeal to the board for an  
3 additional three years to provide municipal services if good  
4 cause is shown. A petition for severance filed pursuant to  
5 this section shall be filed and acted upon in the same manner  
6 as a petition under section 368.11. For purposes of this  
7 section and section 368.11, subsection 14, "municipal  
8 services" includes, but is not limited to, water supply,  
9 sewage disposal, street and road maintenance, and police and  
10 fire protection.

11 Sec. 20. APPLICABILITY. This Act applies to applications,  
12 petitions, or plans filed for boundary adjustment on or after  
13 the effective date of this Act.

14 EXPLANATION

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

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

22 Code sections 354.8 and 354.9 are amended to give a city  
23 council authority to review for approval divisions of land  
24 lying within their jurisdiction outside the city's boundaries  
25 for which a plat of survey has been prepared. Current law  
26 gives them authority only to review subdivision plats.

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

1 the city development board. The bill amends Code section  
2 368.4 to provide that a voluntary annexation shall not be  
3 dismissed on the basis that it violates the terms of an  
4 annexing moratorium agreement.

5 Code section 368.7 is amended to provide that an  
6 application for voluntary annexation which does not have the  
7 consent of all the landowners in the territory must be  
8 approved by resolution of the city council after notice and  
9 public hearing. The bill increases from 10 days to 14  
10 business days the time period which must expire between the  
11 time a copy of an application is mailed to each landowner and  
12 public utility and the time at which the council may take  
13 action on the application. The bill provides that the city  
14 must hold a public hearing on the application and provide  
15 notice of the hearing to the county board of supervisors, each  
16 land owner, and each public utility in the territory to be  
17 annexed. The bill provides that the city may assess the costs  
18 of providing notice to the applicants.

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

34 Finally, the bill amends the provision relating to  
35 voluntary annexations not within the annexing city's urbanized

1 area to increase from 10 days to 14 business days the time  
2 period which must expire between mailed notice to certain  
3 entities and persons and action taken by the city council.

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

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

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

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

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

27 Code section 368.16 is amended to add more specific  
28 information to the description of relevant information to be  
29 considered by a local committee when considering whether to  
30 approve a proposal. The local committee is to give  
31 consideration to whether the board approved or disapproved the  
32 petition.

33 Code section 368.17 is amended to add more reasons for  
34 which the local committee may not approve a boundary  
35 adjustment.

1 Code section 368.25 is enacted to provide that if documents  
2 relating to the annexation which are required to be filed with  
3 the county recorder are filed on or before December 1 of the  
4 year the annexation was completed, taxes collected in the  
5 annexed territory for the following fiscal year shall be  
6 disbursed to the annexing city. If recording is made after  
7 December 1, such taxes for the following fiscal year shall be  
8 disbursed as if the territory had not been annexed.

9 Code section 368.26 is enacted to require the city  
10 development board to initiate an action for severance of  
11 territory which had been involuntarily annexed to a city if  
12 the city fails to provide municipal services to the territory  
13 within three years after city taxes are imposed in the annexed  
14 territory. However, the bill also provides that a city may  
15 appeal to the city development board for an additional three  
16 years if good cause is shown. A petition for severance filed  
17 by the board under these circumstances is to be acted upon in  
18 the same manner as an involuntary petition, and is subject to  
19 approval by the committee of local representatives and is  
20 subject to approval at an election.

21 The bill applies to applications, petitions, or plans for  
22 boundary adjustment filed on or after the effective date of  
23 the bill.

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HOUSE FILE 582

H-1305

1 Amend House File 582 as follows:

2 1. Page 1, by inserting before line 1, the  
3 following:

4 "Section 100. Section 331.303, Code 2001, is  
5 amended by adding the following new subsection:

6 NEW SUBSECTION. 8A. Upon petition of twenty  
7 percent of the eligible electors residing in an  
8 unincorporated area of a county and affected by a city  
9 zoning ordinance or regulation or an amendment to a  
10 city zoning ordinance or regulation, approve or  
11 disapprove a city zoning ordinance or regulation or an  
12 amendment to the ordinance or regulation affecting the  
13 unincorporated area of the county pursuant to section  
14 414.23."

15 2. Page 12, by inserting before line 11, the  
16 following:

17 "Sec. 200. Section 414.23, unnumbered paragraph 3,  
18 Code 2001, is amended to read as follows:

19 Property owners affected by such zoning regulations  
20 shall have the same rights of hearing, protest, and  
21 appeal as those within the municipality exercising  
22 this power. However, upon petition of twenty percent  
23 of the eligible electors residing in an unincorporated  
24 area of a county and affected by a city zoning  
25 ordinance or regulation or an amendment to a city  
26 zoning ordinance or regulation, the city zoning  
27 ordinance or regulation or amendment to an ordinance  
28 or regulation shall not take effect within the  
29 unincorporated area unless the zoning ordinance or  
30 regulation or an amendment to an ordinance or  
31 regulation is approved by the board of supervisors.  
32 The petition shall be submitted to the county auditor.  
33 The auditor shall notify the city of receipt of the  
34 petition."

35 3. Page 12, line 11, by striking the word "This"  
36 and inserting the following: "Sections 100 and 200 of  
37 this Act apply to a city zoning ordinance or  
38 regulation or an amendment to a city ordinance or  
39 regulation affecting an unincorporated area of a  
40 county, which is adopted on or after the effective  
41 date of this Act. The remainder of this".

42 4. Title page, line 2, by inserting after the  
43 word "to" the following: "city zoning, relating to".

44 5. Title page, line 3, by striking the word  
45 "survey" and inserting the following: "survey,".

46 6. By renumbering as necessary.

By WISE of Lee

H-1305 FILED MARCH 22, 2001

Lat 4/3/01  
(P. 1062)

**HOUSE FILE 582**

**H-1313**

1 Amend House File 582 as follows:

2 1. Page 4, line 18, by striking the word "if" and  
3 inserting the following: "it".

**By** HOUSER of Pottawattamie

**H-1313** FILED MARCH 22, 2001

*o/o*

*4/3/01*

*(P. 1045)*

## HOUSE FILE 582

H-1359

1 Amend House File 582 as follows:

2 1. Page 4, by striking lines 14 through 19 and  
3 inserting the following: "board shall dismiss a  
4 petition, application, or plan for voluntary or  
5 involuntary annexation which violates the terms of the  
6 agreement."

7 2. Page 4, line 28, by inserting after the word  
8 "uniform" the following: "and regular city".

9 3. Page 4, line 32, by inserting after the word  
10 "application." the following: "A certified survey of  
11 the land area must be made if territory comprising  
12 less than eighty-five percent of the land area is  
13 included with the consent of the property owners. The  
14 survey shall be paid by the applicants."

15 4. Page 4, by striking lines 33 and 34 and  
16 inserting the following: "and a map ~~of~~ showing the  
17 territory showing its location in relationship to and  
18 the entire city."

19 5. Page 5, line 8, by inserting after the word  
20 "county." the following: "The board shall not approve  
21 an annexation filed under this subsection if the  
22 territory included without the consent of the property  
23 owners is the only portion of the territory to be  
24 annexed that is adjacent to the annexing city."

25 6. Page 6, line 4, by inserting after the word  
26 "application." the following: "The council shall not  
27 approve an application if the territory to be added  
28 does not create more uniform and regular city  
29 boundaries."

30 7. Page 6, line 29, by inserting after the word  
31 "resolution." the following: "The map shall show the  
32 territory and the entire city to which the annexation  
33 is directed."

34 8. Page 6, line 35, by inserting after the word  
35 "board." the following: "The application must contain  
36 a legal description and a map showing the territory  
37 and the entire city to which the annexation is  
38 directed."

39 9. Page 7, line 2, by inserting after the word  
40 "island." the following: "The board shall not approve  
41 an application if the territory to be added does not  
42 create more uniform and regular city boundaries."

43 10. Page 8, by inserting after line 8 the  
44 following:

45 "Sec. \_\_\_\_ . Section 368.11, subsection 2, Code  
46 2001, is amended to read as follows:

47 2. A map of the territory, and of the entire city  
48 or cities involved."

49 11. Page 8, line 24, by striking the word  
50 "petitioner" and inserting the following: "annexing

H-1359

**H-1359**

Page 2

1 city".

2 12. Page 11, line 18, by inserting after the word  
3 "developed" the following: "or subdivided".

4 13. Page 11, by inserting after line 19, the  
5 following:

6 "NEW SUBSECTION. 11. An annexation if the  
7 territory to be added does not create more uniform and  
8 regular city boundaries."

9 14. By renumbering as necessary.

By FALLON of Polk

H-1359 FILED MARCH 27, 2001

*O/O 4/3/01*

**HOUSE FILE 582**

**H-1385**

1 Amend House File 582 as follows:

2 1. Page 1, by striking lines 1 through 9.

3 2. By renumbering as necessary.

By RICHARDSON of Warren

H-1385 FILED MARCH 29, 2001

*adopted*

*4/3/01*

*(P. 1062)*

**HOUSE FILE 582**

**H-1404**

- 1 Amend House File 582 as follows:
- 2 1. By striking page 3, line 19, through page 4,
- 3 line 19, and inserting the following: "enactment. If
- 4 such an agreement is in force, the board shall dismiss
- 5 a petition or plan which violates the terms of the
- 6 agreement."
- 7 2. By striking page 4, line 35 through page 5,
- 8 line 4, and inserting the following: "An annexation
- 9 including territory".
- 10 3. Page 5, by striking lines 8 through 12, and
- 11 inserting the following: "hearing for all affected
- 12 property owners and the county."
- 13 4. Page 5, line 20, by striking the word
- 14 "certified" and inserting the following: "regular".
- 15 5. By striking page 7, line 20 through page 9,
- 16 line 6.
- 17 6. By striking page 9, line 21 through page 11,
- 18 line 19.
- 19 7. Page 12, line 12, by striking the words
- 20 "boundary adjustment" and inserting the following:
- 21 "annexation of territory".
- 22 8. By renumbering as necessary.

**By HOUSER of Pottawattamie**

**H-1404 FILED APRIL 2, 2001**

*Adopted  
4/3/01 (P. 1065)*

**HOUSE FILE 582**

**H-1413**

- 1 Amend House File 582 as follows:
- 2 1. Page 11, by striking lines 20 through 29.
- 3 2. Page 12, by striking line 8, and inserting the
- 4 following: ""services" means services selected by a
- 5 landowner to be provided by the city, including, but
- 6 not limited to, water supply".

**By HOUSER of Pottawattamie**

**H-1413 FILED APRIL 2, 2001**

*Adopted  
4/3/01  
(P. 1066)*

HOUSE FILE 582

H-1425

1 Amend the amendment, H-1404, to House File 582, as  
2 follows:

3 1. Page 1, by inserting after line 6, the  
4 following:

5 "\_\_\_\_\_. Page 4, line 28, by inserting after the  
6 word "uniform" the following: "and regular city"."

7 2. Page 1, by inserting after line 6, the  
8 following:

9 "\_\_\_\_\_. Page 4, line 32, by inserting after the  
10 word "application." the following: "A certified  
11 survey of the land area must be made if territory  
12 comprising less than eighty-five percent of the land  
13 area is included with the consent of the property  
14 owners. The survey shall be paid by the applicants."

15 3. Page 1, by inserting after line 6, the  
16 following:

17 "\_\_\_\_\_. Page 4, by striking lines 33 and 34 and  
18 inserting the following: "and a map of showing the  
19 territory showing its location in relationship to and  
20 the entire city."

21 4. Page 1, by inserting after line 14, the  
22 following:

23 "\_\_\_\_\_. Page 6, line 4, by inserting after the word  
24 "application." the following: "The council shall not  
25 approve an application if the territory to be added  
26 does not create more uniform and regular city  
27 boundaries."

28 5. Page 1, by inserting after line 14, the  
29 following:

30 "\_\_\_\_\_. Page 6, line 29, by inserting after the  
31 word "resolution." the following: "The map shall show  
32 the territory and the entire city to which the  
33 annexation is directed."

34 6. Page 1, by inserting after line 14, the  
35 following:

36 "\_\_\_\_\_. Page 6, line 35, by inserting after the  
37 word "board." the following: "The application must  
38 contain a legal description and a map showing the  
39 territory and the entire city to which the annexation  
40 is directed."

41 7. Page 1, by inserting after line 14, the  
42 following:

43 "\_\_\_\_\_. Page 7, line 2, by inserting after the word  
44 "island." the following: "The board shall not approve  
45 an application if the territory to be added does not  
46 create more uniform and regular city boundaries."

47 8. Page 1, by inserting after line 16, the  
48 following:

49 "\_\_\_\_\_. Page 9, by inserting before line 7, the  
50 following:

H-1425

-1-

*Lost*  
*4/3/01*  
*(P. 1065)*

**H-1425**

Page 2

1 "Sec. \_\_\_\_ . Section 368.11, subsection 2, Code  
2 2001, is amended to read as follows:  
3 2. A map of the territory, and of the entire city  
4 or cities involved.""  
5 9. Page 1, by inserting before line 19, the  
6 following:  
7 "\_\_\_\_ . Page 11, by inserting before line 20, the  
8 following:  
9 "Sec. \_\_\_\_ . Section 368.17, Code 2001, is amended  
10 by adding the following new subsection:  
11 NEW SUBSECTION. 8. An annexation if the territory  
12 to be added does not create more uniform and regular  
13 city boundaries.""  
14 10. By renumbering as necessary.

By FALLON of Polk

**H-1425** FILED APRIL 3, 2001LOT  
4/3/01

4/12/01

UNION BUSINESS CALENDAR

5-4/3/01 amend  
S. 4/10/01 Amend/Do Pass

~~UNION BUSINESS CALENDAR~~

HOUSE FILE **582**  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HF 143)

(As Amended and Passed by the House April 3, 2001)

Passed House, Date \_\_\_\_\_ Passed Senate, Date 4/19/01  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 43 Nays 3  
Approved April 26, 2002

*Passed 4-12-02  
Vote 45-0 P. 1175*

**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 House Amendments \_\_\_\_\_  
8 Deleted Language \*

9  
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\* 1 Section 1. Section 354.8, unnumbered paragraph 1, Code  
2 2001, is amended to read as follows:

3 A proposed subdivision plat lying within the jurisdiction  
4 of a governing body shall be submitted to that governing body  
5 for review and approval prior to recording. ~~A city may~~  
6 ~~establish jurisdiction to review subdivisions outside its~~  
7 ~~boundaries pursuant to the provisions of section 354.9.~~  
8 Governing bodies shall apply reasonable standards and  
9 conditions in accordance with applicable statutes and  
10 ordinances for the review and approval of subdivisions. The  
11 governing body, within sixty days of application for final  
12 approval of the subdivision plat, shall determine whether the  
13 subdivision conforms to its comprehensive plan and shall give  
14 consideration to the possible burden on public improvements  
15 and to a balance of interests between the proprietor, future  
16 purchasers, and the public interest in the subdivision when  
17 reviewing the proposed subdivision and when requiring the  
18 installation of public improvements in conjunction with  
19 approval of a subdivision. The governing body shall not issue  
20 final approval of a subdivision plat unless the subdivision  
21 plat conforms to sections 354.6, 354.11, and 355.8.

22 Sec. 2. Section 354.8, Code 2001, is amended by adding the  
23 following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. A city may establish  
25 jurisdiction to review subdivisions or plats of survey outside  
26 its boundaries pursuant to the provisions of section 354.9.  
27 In the case of a city, the provisions of this section apply to  
28 the review by the city of both subdivision plats and plats of  
29 survey.

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

32 1. If a city, which has adopted ordinances regulating the  
33 division of land, desires to review subdivision plats or plats  
34 of survey for divisions or subdivisions outside the city's  
35 boundaries, then the city shall establish by ordinance

1 specifically referring to the authority of this section, the  
2 area subject to the city's review and approval. The area of  
3 review may be identified by individual tracts, by describing  
4 the boundaries of the area, or by including all land within a  
5 certain distance of the city's boundaries, which shall not  
6 extend more than two miles distance from the city's  
7 boundaries. The ordinance establishing the area of review or  
8 modifying the area of review by a city, shall be recorded in  
9 the office of the recorder and filed with the county auditor.

10 2. If a subdivision lies in a county, which has adopted  
11 ordinances regulating the division of land, and also lies  
12 within the area of review established by a city pursuant to  
13 this section, then the subdivision plat or plat of survey for  
14 the division or subdivision shall be submitted to both the  
15 city and county for approval. The standards and conditions  
16 applied by a city or county for review and approval of the  
17 subdivision shall be the same standards and conditions used  
18 for review and approval of subdivisions within the city limits  
19 or shall be the standards and conditions for review and  
20 approval established by agreement of the city and county  
21 pursuant to chapter 28E. Either the city or county may, by  
22 resolution, waive its right to review the subdivision or waive  
23 the requirements of any of its standards or conditions for  
24 approval of subdivisions, and certify the resolution which  
25 shall be recorded with the plat.

26 Sec. 4. Section 368.4, Code 2001, is amended to read as  
27 follows:

28 368.4 ANNEXING MORATORIUM.

29 A city, following notice and hearing, may by resolution  
30 agree with another city or cities to refrain from annexing  
31 specifically described territory for a period not to exceed  
32 ten years and, following notice and hearing, may by resolution  
33 extend the agreement for subsequent periods not to exceed ten  
34 years each. Notice of a hearing shall be served at least  
35 thirty days before the hearing on the city development board,

1 ~~and-a~~ on the board of supervisors of the county in which the  
2 territory is located, and on all persons owning land within  
3 the area subject to the agreement. The notice shall include  
4 the time and place of the hearing, describe the territory  
5 subject to the proposed agreement, and the general terms of  
6 the agreement. After passage of a resolution by the cities  
7 approving the agreements, a copy of the agreement and a copy  
8 of any resolution extending an agreement shall be filed with  
9 the city development board within thirty ten days of  
10 enactment. If such an agreement is in force, the board shall  
11 dismiss a petition or plan which violates the terms of the  
12 agreement.

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

15 1. All of the owners of land in a territory adjoining a  
16 city may apply in writing to the council of the adjoining city  
17 requesting annexation of the territory. Territory comprising  
18 railway right-of-way or territory comprising not more than  
19 twenty percent of the land area may be included in the  
20 application without the consent of the owner to avoid creating  
21 an island or to create more uniform boundaries if a copy of  
22 the application is mailed by certified mail to the owner and  
23 each affected public utility, at least ~~ten~~ fourteen business  
24 days prior to any action taken by the city council on the  
25 application. The application must contain a legal description  
26 and a map of the territory showing its location in  
27 relationship to the city. An annexation including territory  
28 comprising not more than twenty percent of the land area  
29 without consent of the property owners is not complete without  
30 approval by four-fifths of the members of the board after a  
31 hearing for all affected property owners and the county.

32 Sec. 6. Section 368.7, subsection 1, Code 2001, is amended  
33 by adding the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. The city shall provide for a  
35 public hearing on the application before approving or denying

1 it. The city shall provide written notice at least fourteen  
2 business days prior to any action by the city council  
3 regarding the application, including a public hearing, by  
4 regular mail to the chairperson of the board of supervisors of  
5 each county which contains a portion of the territory proposed  
6 to be annexed, each public utility which serves the territory  
7 proposed to be annexed, each owner of property located within  
8 the territory to be annexed who is not a party to the  
9 application, and each owner of property which adjoins the  
10 territory to be annexed. The city shall publish notice of the  
11 application and public hearing on the application in an  
12 official county newspaper in each county which contains a  
13 portion of the territory proposed to be annexed. Both the  
14 written and published notice shall include the time and place  
15 of the public hearing and a legal description of the territory  
16 to be annexed. The city may assess the costs of providing  
17 notice as required in this section to the applicants.

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

20 2. An application for annexation of territory not within  
21 an urbanized area of a city other than the city to which the  
22 annexation is directed must be approved by resolution of the  
23 council which receives the application. In the discretion of  
24 a city council, the resolution may include a provision for a  
25 transition for the imposition of taxes as provided in section  
26 368.11, subsection 13. The city council shall mail a copy of  
27 the application by certified mail to the board of supervisors  
28 of each county which contains a portion of the territory at  
29 least fourteen business days prior to any action taken by the  
30 city council on the application. The council shall also  
31 publish notice of the application in an official county  
32 newspaper in each county which contains a portion of the  
33 territory at least fourteen days prior to any action taken by  
34 the council on the application. Upon receiving approval of  
35 the council, the city clerk shall file a copy of the

1 resolution, map, and legal description of the territory  
2 involved with the secretary of state, the county board of  
3 supervisors of each county which contains a portion of the  
4 territory, each affected public utility, and the state  
5 department of transportation. The city clerk shall also  
6 record a copy of the legal description, map, and resolution  
7 with the county recorder of each county which contains a  
8 portion of the territory. The secretary of state shall not  
9 accept and acknowledge a copy of a legal description, map, and  
10 resolution of annexation which would create an island. The  
11 annexation is completed upon acknowledgment by the secretary  
12 of state that the secretary of state has received the legal  
13 description, map, and resolution.

14 Sec. 8. Section 368.7, subsection 3, Code 2001, is amended  
15 to read as follows:

16 3. An application for annexation of territory within an  
17 urbanized area of a city other than the city to which the  
18 annexation is directed must be approved both by resolution of  
19 the council which receives the application and by the board.  
20 The board shall not approve an application which creates an  
21 island. Notice of the application shall be mailed by  
22 certified mail, by the city to which the annexation is  
23 directed, at least ~~ten~~ fourteen business days prior to any  
24 action by the city council on the application to the council  
25 of each city whose boundary adjoins the territory or is within  
26 two miles of the territory, to the board of supervisors of  
27 each county which contains a portion of the territory, each  
28 affected public utility, and to the regional planning  
29 authority of the territory. Notice of the application shall  
30 be published in an official county newspaper in each county  
31 which contains a portion of the territory at least ten  
32 business days prior to any action by the city council on the  
33 application. In the discretion of a city council, the  
34 resolution may include a provision for a transition for the  
35 imposition of taxes as provided in section 368.11, subsection

1 13. The annexation is completed when the board has filed and  
2 recorded copies of applicable portions of the proceedings as  
3 required by section 368.20, subsection 2.

\*4 Sec. 9. Section 368.11, unnumbered paragraph 4, Code 2001,  
5 is amended to read as follows:

6 At least ~~ten~~ fourteen business days before a petition for  
7 involuntary annexation is filed as provided in this section,  
8 the petitioner shall make its intention known by sending a  
9 letter of intent by certified mail to the council of each city  
10 whose urbanized area contains a portion of the territory, the  
11 board of supervisors of each county which contains a portion  
12 of the territory, the regional planning authority of the  
13 territory involved, each affected public utility, and to each  
14 property owner listed in the petition. The written  
15 notification shall include notice that the petitioners shall  
16 hold a public meeting on the petition for involuntary  
17 annexation prior to the filing of the petition.

18 Sec. 10. NEW SECTION. 368.26 FAILURE TO PROVIDE  
MUNICIPAL SERVICES.

If a city fails to provide municipal services to territory  
involuntarily annexed, according to the plan filed pursuant to  
22 section 368.11, within three years after city taxes are  
23 imposed in the annexed territory, the city development board  
24 shall initiate proceedings to sever the annexed territory from  
25 the city. However, a city may appeal to the board for an  
26 additional three years to provide municipal services if good  
27 cause is shown. A petition for severance filed pursuant to  
28 this section shall be filed and acted upon in the same manner  
29 as a petition under section 368.11. For purposes of this  
30 section and section 368.11, subsection 14, "municipal  
31 services" means services selected by a landowner to be  
32 provided by the city, including, but not limited to, water  
33 supply, sewage disposal, street and road maintenance, and  
34 police and fire protection.

35 Sec. 11. APPLICABILITY. This Act applies to applications,

1 petitions, or plans filed for annexation of territory on or  
2 after the effective date of this Act.

3

**HOUSE FILE 582**

**S-3321**

1 Amend House File 582, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, line 34, by inserting after the word  
4 "served" the following: "by regular mail".  
5 2. Page 6, by inserting after line 3, the  
6 following:

7 "Sec. \_\_\_\_ . Section 368.11, unnumbered paragraph 2,  
8 Code 2001, is amended to read as follows:

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

24 3. Page 6, by inserting after line 17, the  
25 following:

26 "Sec. \_\_\_\_ . Section 368.16, Code 2001, is amended  
27 by adding the following new subsection:

28 NEW SUBSECTION. 8. Whether the board of  
29 supervisors approved or disapproved the petition."

30 4. Page 6, line 22, by inserting after the word  
31 "after" the following: "full".

32 5. By renumbering, relettering, or redesignating  
33 and correcting internal references as necessary.

**By** COMMITTEE ON LOCAL GOVERNMENT  
DAVID MILLER, CHAIRPERSON

*Adopted 4/19/01  
(p.1217)*

**S-3321 FILED APRIL 10, 2001**

32  
33  
34  
35

SENATE AMENDMENT TO HOUSE FILE 582

H-1625

1 Amend House File 582, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, line 34, by inserting after the word  
4 "served" the following: "by regular mail".  
5 2. Page 6, by inserting after line 3, the  
6 following:  
7 "Sec. \_\_\_\_\_. Section 368.11, unnumbered paragraph 2,  
8 Code 2001, is amended to read as follows:  
9 Within thirty days of receipt of a petition, the  
10 board of supervisors of each county where the  
11 territory is located shall approve or disapprove the  
12 petition. The county auditor shall immediately notify  
13 the city development board of the county's decision.  
14 Within ninety days of receipt of a ~~petition~~  
15 notification from the county, the city development  
16 board shall initiate appropriate proceedings or  
17 dismiss the petition. The board may combine for  
18 consideration petitions or plans which concern the  
19 same territory or city or which provide for a boundary  
20 adjustment or incorporation affecting common  
21 territory. The combined petitions may be submitted  
22 for consideration by a special local committee  
23 pursuant to section 368.14A."  
24 3. Page 6, by inserting after line 17, the  
25 following:  
26 "Sec. \_\_\_\_\_. Section 368.16, Code 2001, is amended  
27 by adding the following new subsection:  
28 NEW SUBSECTION. 8. Whether the board of  
29 supervisors approved or disapproved the petition."  
30 4. Page 6, line 22, by inserting after the word  
31 "after" the following: "full".  
32 5. By renumbering, relettering, or redesignating  
33 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1625 FILED APRIL 20, 2001

*House refused 3-27-02 (p. 1013)*  
*Senate Receded 4/12/02 P. 1175*

HOUSE FILE 582

H-1743

1 Amend the Senate amendment, H-1625, to House File  
2 582, as amended, passed, and reprinted by the House,  
3 as follows:  
4 1. Page 1, by striking lines 5 through 29.  
5 2. By renumbering as necessary.

By METCALF of Polk

H-1743 FILED APRIL 26, 2001

*W/D 3-27-02 p. 1013)*



HOUSE FILE 582

AN ACT

RELATING TO THE DIVISION AND DEVELOPMENT OF LAND BY AMENDING PROVISIONS RELATING TO SUBDIVISION PLATS AND PLATS OF SURVEY AND RELATING TO ANNEXATION AND OTHER BOUNDARY ADJUSTMENTS, AND PROVIDING FOR THE ACT'S APPLICABILITY.

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

Section 1. Section 354.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A proposed subdivision plat lying within the jurisdiction of a governing body shall be submitted to that governing body for review and approval prior to recording. ~~A city may establish jurisdiction to review subdivisions outside its boundaries pursuant to the provisions of section 354.9.~~ Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. The governing body shall not issue final approval of a subdivision plat unless the subdivision plat conforms to sections 354.6, 354.11, and 355.8.

Sec. 2. Section 354.8, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A city may establish jurisdiction to review subdivisions or plats of survey outside its boundaries pursuant to the provisions of section 354.9. In the case of a city, the provisions of this section apply to the review by the city of both subdivision plats and plats of survey.

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

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

2. If a subdivision lies in a county, which has adopted ordinances regulating the division of land, and also lies within the area of review established by a city pursuant to this section, then the subdivision plat or plat of survey for the division or subdivision shall be submitted to both the city and county for approval. The standards and conditions applied by a city or county for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the city limits or shall be the standards and conditions for review and approval established by agreement of the city and county pursuant to chapter 28E. Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.

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

368.4 ANNEXING MORATORIUM.

A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served at least thirty days before the hearing on the city development board, and-a on the board of supervisors of the county in which the territory is located, and on all persons owning land within the area subject to the agreement. The notice shall include the time and place of the hearing, describe the territory subject to the proposed agreement, and the general terms of the agreement. After passage of a resolution by the cities approving the agreements, a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the city development board within thirty ten days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

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

1. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail to the owner and each affected public utility, at least ten fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory

comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county.

Sec. 6. Section 368.7, subsection 1, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The city shall provide for a public hearing on the application before approving or denying it. The city shall provide written notice at least fourteen business days prior to any action by the city council regarding the application, including a public hearing, by regular mail to the chairperson of the board of supervisors of each county which contains a portion of the territory proposed to be annexed, each public utility which serves the territory proposed to be annexed, each owner of property located within the territory to be annexed who is not a party to the application, and each owner of property which adjoins the territory to be annexed. The city shall publish notice of the application and public hearing on the application in an official county newspaper in each county which contains a portion of the territory proposed to be annexed. Both the written and published notice shall include the time and place of the public hearing and a legal description of the territory to be annexed. The city may assess the costs of providing notice as required in this section to the applicants.

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

2. An application for annexation of territory not within an urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The city council shall mail a copy of the application by certified mail to the board of supervisors of each county which contains a portion of the territory at least fourteen business days prior to any action taken by the

city council on the application. The council shall also publish notice of the application in an official county newspaper in each county which contains a portion of the territory at least fourteen days prior to any action taken by the council on the application. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the secretary of state, the county board of supervisors of each county which contains a portion of the territory, each affected public utility, and the state department of transportation. The city clerk shall also record a copy of the legal description, map, and resolution with the county recorder of each county which contains a portion of the territory. The secretary of state shall not accept and acknowledge a copy of a legal description, map, and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the legal description, map, and resolution.

Sec. 8. Section 368.7, subsection 3, Code 2001, is amended to read as follows:

3. An application for annexation of territory within an urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least ten fourteen business days prior to any action by the city council on the application to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, each affected public utility, and to the regional planning authority of the territory. Notice of the application shall be published in an official county newspaper in each county which contains a portion of the territory at least ten

business days prior to any action by the city council on the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed and recorded copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 9. Section 368.11, unnumbered paragraph 4, Code 2001, is amended to read as follows:

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

Sec. 10. NEW SECTION. 368.26 FAILURE TO PROVIDE MUNICIPAL SERVICES.

If a city fails to provide municipal services to territory involuntarily annexed, according to the plan filed pursuant to section 368.11, within three years after city taxes are imposed in the annexed territory, the city development board shall initiate proceedings to sever the annexed territory from the city. However, a city may appeal to the board for an additional three years to provide municipal services if good cause is shown. A petition for severance filed pursuant to this section shall be filed and acted upon in the same manner as a petition under section 368.11. For purposes of this section and section 368.11, subsection 14, "municipal services" means services selected by a landowner to be provided by the city, including, but not limited to, water supply, sewage disposal, street and road maintenance, and police and fire protection.

Sec. 11. APPLICABILITY. This Act applies to applications, petitions, or plans filed for annexation of territory on or after the effective date of this Act.

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 582, Seventy-ninth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved April 26, 2002

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THOMAS J. VILSACK  
Governor