

MAR 17 2003  
Place On Calendar

HOUSE FILE **595**  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO HF 196)

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

**A BILL FOR**

1 An Act relating to land use, by limiting condemnation of century  
2 farms, by modifying procedures pertaining to certain voluntary  
3 annexations and to involuntary annexations and providing an  
4 effective date.

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

6

HOUSE FILE 595

H-1133

1 Amend House File 595 as follows:

2 1. Page 2, by striking lines 3 through 8, and  
3 inserting the following: "~~hearing for all affected~~  
4 ~~property owners and the county.~~ Public land may be  
5 included in the".

By HUSER of Polk

H-1133 FILED MARCH 24, 2003

*Out of order 4/3/03*

15

HOUSE FILE 595

H-1134

1 Amend House File 595 as follows:

2 1. Page 5, by striking lines 23 and 24, and  
3 inserting the following: "chapter, shall,".

By HUSER of Polk

H-1134 FILED MARCH 24, 2003

*out of order 4/3/03*

HF 595

1 Section 1. Section 6A.21, subsection 1, Code 2003, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. aa. "Century farm" means a farm in which  
4 at least forty acres of such farm have been held in continuous  
5 ownership by the same family for one hundred years or more.

6 Sec. 2. Section 6A.21, Code 2003, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 3. Notwithstanding subsection 2, the  
9 right of eminent domain granted in this chapter does not  
10 extend to condemnation of a century farm, or any portion of a  
11 century farm, except for establishment, relocation, or  
12 improvement of a road pursuant to chapter 306 or for purposes  
13 relating to electric or gas utilities pursuant to section  
14 478.15 or 479.24.

15 Sec. 3. Section 368.1, Code 2003, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 10A. "Public land" means land owned by  
18 the federal government, the state, or a political subdivision  
19 of the state.

20 Sec. 4. Section 368.7, subsection 1, Code 2003, is amended  
21 to read as follows:

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

1 ~~without consent of the property owners is not complete without~~  
2 ~~approval by four-fifths of the members of the board after a~~  
3 ~~hearing for all affected property owners and the county. When~~  
4 determining the percentage of territory that may be included  
5 in an application with the consent of the owner and without  
6 the consent of the owner, if the territory is located in more  
7 than one county, the twenty percent maximum must be met in  
8 each county separately. Public land may be included in the  
9 territory to be annexed. However, the area of the territory  
10 that is public land may not be used to determine the  
11 percentage of territory that is included with the consent of  
12 the owner and without the consent of the owner.

13 b. Prior to notification in paragraph "c", the annexing  
14 city shall provide written notice to the board of supervisors  
15 and township trustees of each county and township that  
16 contains all or a portion of the territory to be annexed. The  
17 written notice shall include the same information required in  
18 paragraph "c" and shall set a time for a consultation on the  
19 proposed annexation between the annexing city and each county  
20 and township that contains all or a portion of the territory  
21 to be annexed. The consultation shall be held at least  
22 fourteen business days before the applications in paragraph  
23 "c" are mailed. The governing body of each such county and  
24 township may designate one of its members to attend the  
25 consultation. Each such county and township may make written  
26 recommendations for modification to the proposed annexation no  
27 later than seven business days following the date of the  
28 consultation.

29 Not later than thirty days after the consultation, the  
30 board of supervisors of each county that contains all or a  
31 portion of the territory to be annexed shall, by resolution,  
32 state whether or not it supports the application or whether it  
33 takes no position in support of or against the application.  
34 If there is a comprehensive plan for the county, the board  
35 shall take the plan into account when considering its

1 resolution. A copy of the resolution shall be immediately  
2 filed with the annexing city and shall be considered by the  
3 city council when taking action on the application. The city  
4 council shall forward a copy of the resolution to the city  
5 development board as part of the city proceedings on the  
6 annexation. Failure of a board of supervisors to adopt a  
7 resolution shall not delay the proceedings on the application  
8 nor shall such failure be considered a deficiency either in  
9 the application or in the annexing city's proceedings.

10 c. A copy of the application shall be mailed by certified  
11 mail to the nonconsenting owner and each affected public  
12 utility, at least fourteen business days prior to any action  
13 taken by the city council on the application. The application  
14 must contain a legal description and a map of the territory  
15 showing its location in relationship to the city.

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

35 e. An application for annexation under this subsection may

1 be withdrawn by an applicant at any time within three business  
2 days after the public hearing unless the application was made  
3 pursuant to a written agreement for the extension of city  
4 services or unless the right to withdraw the application was  
5 specifically identified and waived by the applicant in the  
6 application. A landowner who has consented to the annexation  
7 may, within three business days after the public hearing,  
8 withdraw the landowner's consent to the annexation unless the  
9 landowner has entered into a written agreement for extension  
10 of city services or unless the right to withdraw consent was  
11 specifically identified and waived by the landowner.

12 f. An annexation including territory comprising not more  
13 than twenty percent of the land area without consent of the  
14 property owners is not complete without approval by four-  
15 fifths of the members of the city development board after a  
16 hearing for all affected property owners and the county. When  
17 considering such an annexation application, the board must  
18 take into consideration the amount of land located in the  
19 annexing city that is currently vacant or undeveloped and  
20 whether municipal services are being provided to current  
21 residents of the annexing city.

22 Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003,  
23 is amended to read as follows:

24 Before a petition for involuntary annexation may be filed,  
25 the petitioner shall hold a public meeting on the petition.  
26 Notice of the meeting shall be published in an official county  
27 newspaper in each county which contains a part of the  
28 territory at least five days before the date of the public  
29 meeting. The mayor of the city proposing to annex the  
30 territory, or that person's designee, shall serve as  
31 chairperson of the public meeting. The city clerk of the same  
32 city or the city clerk's designee shall record the proceedings  
33 of the public meeting. Any person attending the meeting may  
34 submit written comments and may be heard on the petition. The  
35 minutes of the public meeting and all documents submitted at

1 the public meeting shall be forwarded to the county board of  
2 supervisors of each county where the territory is located and  
3 to the board by the chairperson of the meeting.

4 Sec. 6. Section 368.11, Code 2003, is amended by adding  
5 the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. Before a petition for  
7 involuntary annexation may be submitted to the board, the  
8 board of supervisors of each county that contains all or a  
9 portion of the territory to be annexed shall, by resolution,  
10 state whether or not it supports the petition or whether it  
11 takes no position in support of or against the petition. If  
12 there is a comprehensive plan for the county, the board shall  
13 take the plan into account when considering its resolution. A  
14 copy of the resolution shall be immediately filed with the  
15 annexing city and with the city development board. Failure of  
16 a board of supervisors to adopt a resolution shall not delay  
17 the proceedings on the petition nor shall such failure be  
18 considered a deficiency either in the petition or in the  
19 annexing city's proceedings.

20 Sec. 7. NEW SECTION. 368.26 ANNEXATION OF CERTAIN  
21 PROPERTY -- COMPLIANCE WITH LESS STRINGENT REGULATIONS.

22 Century farm owners whose land is annexed pursuant to this  
23 chapter or owners of land whose property was annexed without  
24 their consent pursuant to section 368.7, subsection 1, shall,  
25 after annexation, have the option of continuing to comply with  
26 a county ordinance or regulation rather than the equivalent  
27 city ordinance or regulation if such city ordinance or  
28 regulation is more stringent than the county ordinance or  
29 regulation.

30 Sec. 8. IMMEDIATE EFFECTIVE DATE. This Act, being deemed  
31 of immediate importance, takes effect upon enactment.

32 EXPLANATION

33 This bill makes changes to the law relating to land use,  
34 including condemnation, certain voluntary annexations of  
35 territory, and involuntary annexations of territory.

1 The bill provides that the right of eminent domain granted  
2 by statute does not extend to condemnation of a century farm  
3 except for purposes relating to roads or utilities.

4 For voluntary annexations that include territory comprising  
5 not more than 20 percent of the land area without consent of  
6 the property owners, the bill makes the following changes:

7 1. If the territory to be annexed is located in more than  
8 one county, the 20 percent involuntary maximum must be met in  
9 each county separately.

10 2. Public land may not be used when determining the amount  
11 of territory being annexed with and without consent of  
12 property owners. The bill defines "public land".

13 3. Prior to notification of property owners and affected  
14 public utilities, the city must notify the board of  
15 supervisors and township trustees of each county and township  
16 that contains all or a portion of the territory to be annexed  
17 and provide for consultation with them on the proposed  
18 annexation.

19 4. Within 30 days of the consultation, the county board of  
20 supervisors in each county where the territory to be annexed  
21 is located shall, by resolution, state whether or not it  
22 supports the application for annexation or whether it takes no  
23 position on the application.

24 5. An applicant or land owner who has consented to the  
25 annexation may, within three business days of the public  
26 hearing, withdraw the application or their consent unless an  
27 agreement to extend services is in place or the right to  
28 withdraw has been waived.

29 6. The annexing city may not assess the costs of providing  
30 notice to the applicants for annexation.

31 7. When considering an annexation application, the city  
32 development board must take into consideration the amount of  
33 land currently located in the annexing city that is vacant or  
34 undeveloped and whether municipal services are being provided  
35 to current residents of the annexing city.

1 8. Century farm owners or owners of land who did not  
2 consent to the annexation have the option of continuing to  
3 comply with a county ordinance or regulation if the equivalent  
4 ordinance or regulation of the annexing city is more stringent  
5 than the county's.

6 Relating to involuntary annexations of territory, the bill  
7 provides that before a petition for involuntary annexation may  
8 be submitted to the city development board, the board of  
9 supervisors of each county where the territory to be annexed  
10 is located shall, by resolution, state whether or not it  
11 supports the petition or whether it takes no position on the  
12 petition. The bill also provides that century farm owners  
13 whose land has been involuntarily annexed have the option of  
14 continuing to comply with a county ordinance or regulation if  
15 the equivalent ordinance or regulation of the annexing city is  
16 more stringent than the county's.

17 The bill takes effect upon enactment.

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20 HOUSE FILE 595

21 H-1223

22 1 Amend House File 595 as follows:

23 2 1. Page 1, by striking lines 1 through 14.

24 3 2. Title page, by striking lines 1 and 2 and  
25 4 inserting the following: "An Act relating to certain  
26 5 voluntary".

27 6 3. By renumbering as necessary.

By TJEPKES of Webster

28 H-1223 FILED APRIL 2, 2003

29 *Adopted 4/3/03*

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HOUSE FILE 595

H-1224

1 Amend House File 595 as follows:

2 1. Page 1, by inserting after line 19, the  
3 following:

4 "Sec. \_\_\_\_ . Section 368.4, Code 2003, is amended to  
5 read as follows:

6 368.4 ANNEXING MORATORIUM.

7 A city, following notice and hearing, may by  
8 resolution agree with another city or cities to  
9 refrain from annexing specifically described territory  
10 for a period not to exceed ten years and, following  
11 notice and hearing, may by resolution extend the  
12 agreement for subsequent periods not to exceed ten  
13 years each. Notice of a hearing shall be served by  
14 regular mail at least thirty days before the hearing  
15 on the city development board, and on the board of  
16 supervisors of the county in which the territory is  
17 located, and on all persons owning land within the  
18 area subject to the agreement and shall be published  
19 in an official county newspaper in each county  
20 containing a city conducting a hearing regarding the  
21 agreement, in any county within two miles of any such  
22 city, and in an official newspaper of each city  
23 conducting a hearing regarding the agreement. The  
24 notice shall include the time and place of the  
25 hearing, describe the territory subject to the  
26 proposed agreement, and the general terms of the  
27 agreement. After passage of a resolution by the  
28 cities approving the agreements, a copy of the  
29 agreement and a copy of any resolution extending an  
30 agreement shall be filed with the city development  
31 board within ten days of enactment. If such an  
32 agreement is in force, the board shall dismiss a  
33 petition or plan which violates the terms of the  
34 agreement."

35 2. Page 2, by striking lines 3 through 8, and  
36 inserting the following: "~~hearing for all affected~~  
37 ~~property owners and the county.~~ Public land may be  
38 included in the".

39 3. Page 3, line 26, by inserting after the word  
40 "annexed" the following: "unless the adjoining  
41 property is in a city".

42 4. Page 4, by striking lines 17 and 18, and  
43 inserting the following: "considering such an  
44 annexation application, the board may request that the  
45 annexing city provide information on the amount of  
46 land located in the".

47 5. Page 4, by inserting after line 21, the  
48 following:

49 "Sec. \_\_\_\_ . Section 368.11, Code 2003, is amended  
50 by adding the following new subsection:

H-1224

1 NEW SUBSECTION. 14. In the case of an annexation,  
2 a plan for extending municipal services to be provided  
3 by the annexing city to the annexed territory within  
4 three years of July 1 of the fiscal year in which city  
5 taxes are collected against property in the annexed  
6 territory."

7 6. Page 5, line 6, by striking the word "Before"  
8 and inserting the following: "Within thirty days  
9 after receiving notice that".

10 7. Page 5, line 7, by striking the words "may be  
11 submitted to" and inserting the following: "has been  
12 filed with".

13 8. Page 5, by inserting before line 20, the  
14 following:

15 "Sec. \_\_\_\_ . Section 368.25, Code 2003, is amended  
16 to read as follows:

17 368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

18 Prior to expiration of the three-year period  
19 established in section 368.11, subsection 14, the  
20 annexing city shall submit a report to the board  
21 describing the status of the provision of municipal  
22 services identified in the plan required in section  
23 368.11, subsection 14. If a city fails to provide  
24 municipal services, or fails to show substantial and  
25 continuing progress in the provision of municipal  
26 services, to territory involuntarily annexed,  
27 according to the plan for extending municipal services  
28 filed pursuant to section 368.11, subsection 14,  
29 within three years after city taxes are imposed in the  
30 annexed territory the time period specified in that  
31 subsection, the city development board shall may  
32 initiate proceedings to sever the annexed territory  
33 from the city. The board shall notify the city of the  
34 severance proceedings and shall hold a public hearing  
35 on the proposed severance. The board shall give  
36 notice of the hearing in the same manner as notice of  
37 a public meeting in section 368.11. The board may  
38 order severance of all or a portion of the territory  
39 and the order to sever is not subject to approval at  
40 an election. However, a A city may appeal to request  
41 that the board for allow up to an additional three  
42 years to provide municipal services if good cause is  
43 shown. A petition for severance filed pursuant to  
44 this section shall be filed and acted upon in the same  
45 manner as a petition under section 368.11. As an  
46 alternative to severance of the territory, the board  
47 may impose a moratorium on additional annexation by  
48 the city until the city complies with its plan for  
49 extending municipal services. For purposes of this  
50 section, "municipal services" means services selected

~~1 by a landowner to be provided by the city, including,  
2 but not limited to, water supply, sewage disposal,  
3 street and road maintenance, and police and fire  
4 protection, if the provision of such services is  
5 within the legal authority of the annexing city  
6 included in the plan required by section 368.11,  
7 subsection 14, for extending municipal services."~~

8 9. Page 5, by striking lines 22 through 29 and  
9 inserting the following:

10 "A city ordinance or regulation that regulates a  
11 condition or activity occurring on protected farmland  
12 or regulates a person who owns or operates protected  
13 farmland is unenforceable against the owner or  
14 operator of the protected farmland for a period of ten  
15 years from the effective date of the annexation, to  
16 the extent the city ordinance or regulation is more  
17 stringent than county legislation. Section 335.2  
18 shall apply to the protected farmland until the owner  
19 of the protected farmland determines that the land  
20 will no longer be operated as an agricultural  
21 operation. Any enforcement activity conducted in  
22 violation of this section is void.

23 A "condition or activity occurring on protected  
24 farmland" includes but is not limited to the raising,  
25 harvesting, drying, or storage of crops; the marketing  
26 of products at roadside stands or farm markets; the  
27 creation of noise, odor, dust, or fumes; the  
28 production, care, feeding, or housing of animals  
29 including but not limited to the construction,  
30 operation, or management of an animal feeding  
31 operation, an animal feeding operation structure, or  
32 aerobic structure, and to the storage, handling, or  
33 application of manure or egg washwater; the operation  
34 of machinery including but not limited to planting and  
35 harvesting equipment, grain dryers, grain handling  
36 equipment, and irrigation pumps; ground and aerial  
37 seeding and spraying; the application of chemical  
38 fertilizers, conditioners, insecticides, pesticides,  
39 and herbicides; and the employment and use of labor.

40 For the purposes of this section, "protected  
41 farmland" means land that is part of a century farm as  
42 that term is defined in section 403.17, subsection 10.  
43 "County legislation" means any ordinance, motion,  
44 resolution, or amendment adopted by a county pursuant  
45 to section 331.302."

46 10. By renumbering, redesignating, and correcting  
47 internal references as necessary.

By TJEPKES of Webster

HOUSE FILE 595

H-1256

1 Amend the amendment, H-1224, to House File 595, as  
2 follows:

3 1. Page 3, line 12, by striking the word "or" and  
4 inserting the following: "and".

5 2. Page 3, lines 13 and 14, by striking the words  
6 "or operator".

By HUSER of Polk

H-1256 FILED APRIL 2, 2003

Adopted 4/3/03

HOUSE FILE 595

H-1272

1 Amend the amendment, H-1224, to House File 595 as  
2 follows:

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

5 "\_\_\_\_. Page 1, by inserting before line 15, the  
6 following:

7 "Sec. \_\_\_\_ Section 6A.21, Code 2003, is amended by  
8 adding the following new subsection:

9 NEW SUBSECTION. 3. A county may adopt an  
10 ordinance restricting the county from exercising the  
11 right of eminent domain over a century farm. For  
12 purposes of this subsection, "century farm" means a  
13 farm in which at least forty acres of such farm have  
14 been held in continuous ownership by the same family  
15 for one hundred years or more."

16 2. Page 1, by inserting after line 1, the  
17 following:

18 "\_\_\_\_. Page 1, by inserting before line 15, the  
19 following:

20 "Sec. \_\_\_\_ Section 6A.21, Code 2003, is amended by  
21 adding the following new subsection:

22 NEW SUBSECTION. 4. A city may adopt an ordinance  
23 restricting the city from exercising the right of  
24 eminent domain over a century farm. For purposes of  
25 this subsection, "century farm" means a farm in which  
26 at least forty acres of such farm have been held in  
27 continuous ownership by the same family for one  
28 hundred years or more."

29 3. Page 3, by inserting before line 46, the  
30 following:

31 "\_\_\_\_. Title page, line 3, by inserting after the  
32 words "involuntary annexations" the following: "and  
33 condemnation of century farms"."

By D. OLSON of Boone

H-1272 FILED APRIL 3, 2003

A-NOT GERMANE B & C - WITHDRAWN

HOUSE FILE 595

H-1260

1 Amend House File 595, as follows:

2 1. Page 1, by inserting before line 15, the  
3 following:

4 "Sec. \_\_\_\_ . Section 331.247, subsection 4, Code  
5 2003, is amended to read as follows:

6 4. ~~If an alternative form of government for a~~  
7 ~~consolidated unit of local government is proposed,~~  
8 ~~approval of the consolidation charter shall be a~~  
9 ~~separate ballot issue from approval of the alternative~~  
10 ~~form of government in those cities proposed to be~~  
11 ~~included in the consolidation. The consolidation~~  
12 ~~charter shall be effective in regard to a city~~  
13 ~~government only if a majority of the voters of the~~  
14 ~~city voting on the question voted for participation in~~  
15 ~~the consolidation charter. The consolidation charter~~  
16 is adopted only if all of the following apply:

17 a. A majority of the votes cast in the  
18 unincorporated area of the county approves the  
19 proposal.

20 b. A majority of the votes cast in the entire  
21 county approves the proposal.

22 c. A majority of the votes cast in at least one  
23 city named on the ballot approves the proposal.

24 Sec. \_\_\_\_ . Section 331.260, subsection 2,  
25 unnumbered paragraph 1, Code 2003, is amended to read  
26 as follows:

27 A charter proposing a community commonwealth as an  
28 alternative form of government may be submitted to the  
29 voters only by a commission established under section  
30 331.232. A majority vote by the commission is  
31 required for the submission of a charter proposing a  
32 community commonwealth as an alternative form of local  
33 government. The commission submitting a community  
34 commonwealth form of government shall issue a final  
35 report and proposal. ~~If an alternative form of~~  
36 ~~government for a community commonwealth form of local~~  
37 ~~government is proposed, approval of the commonwealth~~  
38 ~~charter shall be a separate ballot issue from approval~~  
39 ~~of the alternative form of government in those cities~~  
40 ~~proposed to be included in the commonwealth. The~~  
41 ~~commonwealth charter shall be effective in regard to a~~  
42 ~~city government only if a majority of the voters of~~  
43 ~~the city voting on the question voted for~~  
44 ~~participation in the commonwealth charter. The~~  
45 community commonwealth charter is adopted only if all  
46 of the following apply:

47 a. A majority of the votes cast in the  
48 unincorporated area of the county approves the  
49 proposal.

50 b. A majority of the votes cast in the entire

H-1260

H-1260

Page 2

1 county approves the proposal.

2 c. A majority of the votes cast in at least one

3 city named on the ballot approves the proposal."

4 2. Title page, line 3, by inserting after the

5 words "involuntary annexations" the following: "and

6 to elections relating to certain alternative forms of

7 county government".

By WISE of Lee

H-1260 FILED APRIL 2, 2003

Withdrawn 4/3/03

HOUSE FILE 595

H-1262

1 Amend House File 595 as follows:

2 1. Page 1, by inserting before line 15, the  
3 following:

4 "Sec. \_\_\_\_\_. Section 331.303, Code 2003, is amended  
5 by adding the following new subsection:  
6 NEW SUBSECTION. 8A. Upon petition of twenty  
7 percent of the eligible electors residing in the area  
8 outside the city limits over which the zoning  
9 jurisdiction is extended, approve or disapprove  
10 pursuant to section 414.23 a city zoning ordinance or  
11 regulation or an amendment to such an ordinance or  
12 regulation affecting such area."

13 2. Page 5, by inserting before line 30, the  
14 following:

15 "Sec. \_\_\_\_\_. Section 414.23, unnumbered paragraph 3,  
16 Code 2003, is amended to read as follows:

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

31 3. Page 5, by inserting after line 31 the  
32 following:

33 "Sec. \_\_\_\_\_. APPLICABILITY DATE. The sections of  
34 this Act enacting section 331.303, subsection 8A, and  
35 amending section 414.23 apply to a city zoning  
36 ordinance or regulation or an amendment to a city  
37 ordinance or regulation affecting an unincorporated  
38 area of a county over which a city has extended its  
39 jurisdiction, which is adopted on or after the  
40 effective date of this Act".

41 4. Title page, line 3, by inserting after the  
42 words "involuntary annexations" the following: "and  
43 authorizing a county board of supervisors to approve  
44 or disapprove certain city zoning ordinances or  
45 regulations,".

46 5. Title page, line 4, by inserting after the  
47 word "date" the following: "and an applicability  
48 date".

49 6. By renumbering as necessary.

By WISE of Lee

H-1262 FILED APRIL 2, 2003

*Ruled not germane 4/3/03*

HOUSE FILE 595  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO HF 196)

(As Amended and Passed by the House April 3, 2003)

Passed House, Date 5/1/03 Passed Senate, Date 4/30/03  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 5/23/03

**A BILL FOR**

1 An Act relating to certain voluntary annexations and to  
2 involuntary annexations and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4  
5 House Amendments \_\_\_\_\_  
6 Deleted Language \*

7  
8  
9 **SENATE AMENDMENT TO**  
10 **HOUSE FILE 595**

11 **H-1579**

12 1 Amend House File 595, as amended, passed, and  
13 2 reprinted by the House, as follows:  
14 3 1. Page 2, by striking lines 17 through 20 and  
15 4 inserting the following: "However, the area of the  
16 5 territory that is public land included without the  
17 6 written consent of the agency with jurisdiction over  
18 7 the public land may not be used to determine the  
19 8 percentage of territory that is included with the  
20 9 consent of the owner and without the consent of the  
10 owner."

RECEIVED FROM THE SENATE

11 **H-1579** FILED APRIL 30, 2003

12 House concurred 5/1/03

HF 595

1 Section 1. Section 368.1, Code 2003, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 10A. "Public land" means land owned by  
4 the federal government, the state, or a political subdivision  
5 of the state.

6 Sec. 2. Section 368.4, Code 2003, is amended to read as  
7 follows:

8 368.4 ANNEXING MORATORIUM.

9 A city, following notice and hearing, may by resolution  
10 agree with another city or cities to refrain from annexing  
11 specifically described territory for a period not to exceed  
12 ten years and, following notice and hearing, may by resolution  
13 extend the agreement for subsequent periods not to exceed ten  
14 years each. Notice of a hearing shall be served by regular  
15 mail at least thirty days before the hearing on the city  
16 development board, and on the board of supervisors of the  
17 county in which the territory is located, and on all persons  
18 owning land within the area subject to the agreement and shall  
19 be published in an official county newspaper in each county  
20 containing a city conducting a hearing regarding the  
21 agreement, in any county within two miles of any such city,  
22 and in an official newspaper of each city conducting a hearing  
23 regarding the agreement. The notice shall include the time  
24 and place of the hearing, describe the territory subject to  
25 the proposed agreement, and the general terms of the  
26 agreement. After passage of a resolution by the cities  
27 approving the agreements, a copy of the agreement and a copy  
28 of any resolution extending an agreement shall be filed with  
29 the city development board within ten days of enactment. If  
30 such an agreement is in force, the board shall dismiss a  
31 petition or plan which violates the terms of the agreement.

32 Sec. 3. Section 368.7, subsection 1, Code 2003, is amended  
33 to read as follows:

34 1. a. All of the owners of land in a territory adjoining  
35 a city may apply in writing to the council of the adjoining

1 city requesting annexation of the territory. Territory  
2 comprising railway right-of-way or territory comprising not  
3 more than twenty percent of the land area may be included in  
4 the application without the consent of the owner to avoid  
5 creating an island or to create more uniform boundaries ~~if a~~  
6 ~~copy of the application is mailed by certified mail to the~~  
7 ~~owner and each affected public utility, at least fourteen~~  
8 ~~business days prior to any action taken by the city council on~~  
9 ~~the application. The application must contain a legal~~  
10 ~~description and a map of the territory showing its location in~~  
11 ~~relationship to the city. -- An annexation including territory~~  
12 ~~comprising not more than twenty percent of the land area~~  
13 ~~without consent of the property owners is not complete without~~  
14 ~~approval by four fifths of the members of the board after a~~  
15 ~~hearing for all affected property owners and the county.~~  
16 Public land may be included in the territory to be annexed.  
17 However, the area of the territory that is public land may not  
18 be used to determine the percentage of territory that is  
19 included with the consent of the owner and without the consent  
20 of the owner.

21 b. Prior to notification in paragraph "c", the annexing  
22 city shall provide written notice to the board of supervisors  
23 and township trustees of each county and township that  
24 contains all or a portion of the territory to be annexed. The  
25 written notice shall include the same information required in  
26 paragraph "c" and shall set a time for a consultation on the  
27 proposed annexation between the annexing city and each county  
28 and township that contains all or a portion of the territory  
29 to be annexed. The consultation shall be held at least  
30 fourteen business days before the applications in paragraph  
31 "c" are mailed. The governing body of each such county and  
32 township may designate one of its members to attend the  
33 consultation. Each such county and township may make written  
34 recommendations for modification to the proposed annexation no  
35 later than seven business days following the date of the

1 July 1 of the fiscal year in which city taxes are collected  
2 against property in the annexed territory.

3 Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003,  
4 is amended to read as follows:

5 Before a petition for involuntary annexation may be filed,  
6 the petitioner shall hold a public meeting on the petition.  
7 Notice of the meeting shall be published in an official county  
8 newspaper in each county which contains a part of the  
9 territory at least five days before the date of the public

HOUSE FILE 595

S-3275

1 Amend House File 595, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 1, line 10, by inserting after the word  
4 "with" the following: "a commercial property owner  
5 or".

6 2. Page 1, line 26, by inserting after the words  
7 "by the" the following: "city or".

8 3. Page 1, line 27, by inserting after the word  
9 "agreements" the following: "and after the commercial  
10 property owner signs the agreement, if applicable".

By KEITH A. KREIMAN

S-3275 FILED APRIL 22, 2003

Lost 4/30/03

HOUSE FILE 595

S-3310

1 Amend House File 595, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 4, line 35, by striking the word "three"  
4 and inserting the following: "two".

5 2. By striking page 6, line 5, through page 7,  
6 line 4, and inserting the following:

7 "If a city fails to provide municipal services to  
8 territory involuntarily annexed, according to the plan  
9 filed pursuant to section 368.11, subsection 14,  
10 within three two years after city taxes are imposed in  
11 the annexed territory, the city development board  
12 shall initiate proceedings to sever the annexed  
13 territory from the city. ~~However, a city may appeal~~  
14 ~~to the board for an additional three years to provide~~

1 city requesting annexation of the territory. Territory  
2 comprising railway right-of-way or territory comprising not  
3 more than twenty percent of the land area may be included in  
4 the application without the consent of the owner to avoid  
5 creating an island or to create more uniform boundaries if a  
6 ~~copy of the application is mailed by certified mail to the~~  
7 ~~owner and each affected public utility, at least fourteen~~  
8 ~~business days prior to any action taken by the city council on~~  
9 ~~the application. The application must contain a legal~~  
10 ~~description and a map of the territory showing its location in~~  
11 ~~relationship to the city. An annexation including territory~~  
12 ~~comprising not more than twenty percent of the land area~~  
13 ~~without consent of the property owners is not complete without~~  
14 ~~approval by four fifths of the members of the board after a~~  
15 ~~hearing for all affected property owners and the county.~~

16 Public land may be included in the territory to be annexed.  
17 However, the area of the territory that is public land may not  
18 be used to determine the percentage of territory that is  
19 included with the consent of the owner and without the consent  
20 of the owner.

21 b. Prior to notification in paragraph "c", the annexing  
22 city shall provide written notice to the board of supervisors  
23 and township trustees of each county and township that  
24 contains all or a portion of the territory to be annexed. The  
25 written notice shall include the same information required in  
26 paragraph "c" and shall set a time for a consultation on the  
27 proposed annexation between the annexing city and each county  
28 and township that contains all or a portion of the territory  
29 to be annexed. The consultation shall be held at least  
30 fourteen business days before the applications in paragraph  
31 "c" are mailed. The governing body of each such county and  
32 township may designate one of its members to attend the  
33 consultation. Each such county and township may make written  
34 recommendations for modification to the proposed annexation no  
35 later than seven business days following the date of the

1 consultation.

2 Not later than thirty days after the consultation, the  
3 board of supervisors of each county that contains all or a  
4 portion of the territory to be annexed shall, by resolution,  
5 state whether or not it supports the application or whether it  
6 takes no position in support of or against the application.  
7 If there is a comprehensive plan for the county, the board  
8 shall take the plan into account when considering its  
9 resolution. A copy of the resolution shall be immediately  
10 filed with the annexing city and shall be considered by the  
11 city council when taking action on the application. The city  
12 council shall forward a copy of the resolution to the city  
13 development board as part of the city proceedings on the  
14 annexation. Failure of a board of supervisors to adopt a  
15 resolution shall not delay the proceedings on the application  
16 nor shall such failure be considered a deficiency either in  
17 the application or in the annexing city's proceedings.

18 c. A copy of the application shall be mailed by certified  
19 mail to the nonconsenting owner and each affected public  
20 utility, at least fourteen business days prior to any action  
21 taken by the city council on the application. The application  
22 must contain a legal description and a map of the territory  
23 showing its location in relationship to the city.

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

1 publish notice of the application and public hearing on the  
2 application in an official county newspaper in each county  
3 which contains a portion of the territory proposed to be  
4 annexed. Both the written and published notice shall include  
5 the time and place of the public hearing and a legal  
6 description of the territory to be annexed. The city may not  
7 assess the costs of providing notice as required in this  
8 section to the applicants.

9 e. An application for annexation under this subsection may  
10 be withdrawn by an applicant at any time within three business  
11 days after the public hearing unless the application was made  
12 pursuant to a written agreement for the extension of city  
13 services or unless the right to withdraw the application was  
14 specifically identified and waived by the applicant in the  
15 application. A landowner who has consented to the annexation  
16 may, within three business days after the public hearing,  
17 withdraw the landowner's consent to the annexation unless the  
18 landowner has entered into a written agreement for extension  
19 of city services or unless the right to withdraw consent was  
20 specifically identified and waived by the landowner.

21 f. An annexation including territory comprising not more  
22 than twenty percent of the land area without consent of the  
23 property owners is not complete without approval by four-  
24 fifths of the members of the city development board after a  
25 hearing for all affected property owners and the county. When  
26 considering such an annexation application, the board may  
27 request that the annexing city provide information on the  
28 amount of land located in the annexing city that is currently  
29 vacant or undeveloped and whether municipal services are being  
30 provided to current residents of the annexing city.

31 Sec. 4. Section 368.11, Code 2003, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 14. In the case of an annexation, a plan  
34 for extending municipal services to be provided by the  
35 annexing city to the annexed territory within three years of

1 July 1 of the fiscal year in which city taxes are collected  
2 against property in the annexed territory.

3 Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003,  
4 is amended to read as follows:

5 Before a petition for involuntary annexation may be filed,  
6 the petitioner shall hold a public meeting on the petition.  
7 Notice of the meeting shall be published in an official county  
8 newspaper in each county which contains a part of the  
9 territory at least five days before the date of the public  
10 meeting. The mayor of the city proposing to annex the  
11 territory, or that person's designee, shall serve as  
12 chairperson of the public meeting. The city clerk of the same  
13 city or the city clerk's designee shall record the proceedings  
14 of the public meeting. Any person attending the meeting may  
15 submit written comments and may be heard on the petition. The  
16 minutes of the public meeting and all documents submitted at  
17 the public meeting shall be forwarded to the county board of  
18 supervisors of each county where the territory is located and  
19 to the board by the chairperson of the meeting.

20 Sec. 6. Section 368.11, Code 2003, is amended by adding  
21 the following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. Within thirty days after  
23 receiving notice that a petition for involuntary annexation  
24 has been filed with the board, the board of supervisors of  
25 each county that contains all or a portion of the territory to  
26 be annexed shall, by resolution, state whether or not it  
27 supports the petition or whether it takes no position in  
28 support of or against the petition. If there is a  
29 comprehensive plan for the county, the board shall take the  
30 plan into account when considering its resolution. A copy of  
31 the resolution shall be immediately filed with the annexing  
32 city and with the city development board. Failure of a board  
33 of supervisors to adopt a resolution shall not delay the  
34 proceedings on the petition nor shall such failure be  
35 considered a deficiency either in the petition or in the

1 annexing city's proceedings.

2 Sec. 7. Section 368.25, Code 2003, is amended to read as  
3 follows:

4 368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

5 Prior to expiration of the three-year period established in  
6 section 368.11, subsection 14, the annexing city shall submit  
7 a report to the board describing the status of the provision  
8 of municipal services identified in the plan required in  
9 section 368.11, subsection 14. If a city fails to provide  
10 municipal services, or fails to show substantial and  
11 continuing progress in the provision of municipal services, to  
12 territory involuntarily annexed, according to the plan for  
13 extending municipal services filed pursuant to section 368.11,  
14 subsection 14, within three-years-after-city-taxes-are-imposed  
15 in-the-annexed-territory the time period specified in that  
16 subsection, the city development board shall may initiate  
17 proceedings to sever the annexed territory from the city. The  
18 board shall notify the city of the severance proceedings and  
19 shall hold a public hearing on the proposed severance. The  
20 board shall give notice of the hearing in the same manner as  
21 notice of a public meeting in section 368.11. The board may  
22 order severance of all or a portion of the territory and the  
23 order to sever is not subject to approval at an election.  
24 However, a A city may appeal to request that the board for  
25 allow up to an additional three years to provide municipal  
26 services if good cause is shown. A-petition-for-severance  
27 filed-pursuant-to-this-section-shall-be-filed-and-acted-upon  
28 in-the-same-manner-as-a-petition-under-section-368-11. As an  
29 alternative to severance of the territory, the board may  
30 impose a moratorium on additional annexation by the city until  
31 the city complies with its plan for extending municipal  
32 services. For purposes of this section, "municipal services"  
33 means services selected-by-a-landowner-to-be-provided-by-the  
34 city, including, but not limited to, water supply, sewage  
35 disposal, street and road maintenance, and police and fire

1 ~~protection, if the provision of such services is within the~~  
2 ~~legal authority of the annexing city included in the plan~~  
3 ~~required by section 368.11, subsection 14, for extending~~  
4 ~~municipal services.~~

5 Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN  
6 PROPERTY -- COMPLIANCE WITH LESS STRINGENT REGULATIONS.

7 A city ordinance or regulation that regulates a condition  
8 or activity occurring on protected farmland or regulates a  
9 person who owns and operates protected farmland is  
10 unenforceable against the owner of the protected farmland for  
11 a period of ten years from the effective date of the  
12 annexation, to the extent the city ordinance or regulation is  
13 more stringent than county legislation. Section 335.2 shall  
14 apply to the protected farmland until the owner of the  
15 protected farmland determines that the land will no longer be  
16 operated as an agricultural operation. Any enforcement  
17 activity conducted in violation of this section is void.

18 A "condition or activity occurring on protected farmland"  
19 includes but is not limited to the raising, harvesting,  
20 drying, or storage of crops; the marketing of products at  
21 roadside stands or farm markets; the creation of noise, odor,  
22 dust, or fumes; the production, care, feeding, or housing of  
23 animals including but not limited to the construction,  
24 operation, or management of an animal feeding operation, an  
25 animal feeding operation structure, or aerobic structure, and  
26 to the storage, handling, or application of manure or egg  
27 washwater; the operation of machinery including but not  
28 limited to planting and harvesting equipment, grain dryers,  
29 grain handling equipment, and irrigation pumps; ground and  
30 aerial seeding and spraying; the application of chemical  
31 fertilizers, conditioners, insecticides, pesticides, and  
32 herbicides; and the employment and use of labor.

33 For the purposes of this section, "protected farmland"  
34 means land that is part of a century farm as that term is  
35 defined in section 403.17, subsection 10. "County

1 legislation" means any ordinance, motion, resolution, or  
2 amendment adopted by a county pursuant to section 331.302.

3 Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed  
4 of immediate importance, takes effect upon enactment.

5  
6 **HOUSE FILE 595**

7 **S-3192**

8 1 Amend House File 595, as amended, passed, and  
9 2 reprinted by the House, as follows:

10 3 1. Page 2, by striking lines 17 through 20 and  
11 4 inserting the following: "However, the area of the  
12 5 territory that is public land included without the  
13 6 written consent of the agency with jurisdiction over  
14 7 the public land may not be used to determine the  
15 8 percentage of territory that is included with the  
16 9 consent of the owner and without the consent of the  
17 10 owner."

18 **By JEFF ANGELO**

19 **S-3192 FILED APRIL 10, 2003**

20 *Adopted 4/30/03*

21 **HOUSE FILE 595**

22 **S-3236**

23 1 Amend House File 595, as amended, passed, and  
24 2 reprinted by the House, as follows:

25 3 1. Page 1, line 10, by inserting after the word  
26 4 "with" the following: "a property owner or".  
27 5 2. Page 1, line 26, by inserting after the words  
28 6 "by the" the following: "city or".  
29 7 3. Page 1, line 27, by inserting after the word  
30 8 "agreements" the following: "and after the property  
31 9 owner signs the agreement, if applicable".

32 **By KEITH A. KREIMAN**

33 **S-3236 FILED APRIL 16, 2003**

34 *Withdrawn 4/30/03*

HOUSE FILE 595

S-3275

1 Amend House File 595, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 1, line 10, by inserting after the word  
4 "with" the following: "a commercial property owner  
5 or".

6 2. Page 1, line 26, by inserting after the words  
7 "by the" the following: "city or".

8 3. Page 1, line 27, by inserting after the word  
9 "agreements" the following: "and after the commercial  
10 property owner signs the agreement, if applicable".

By KEITH A. KREIMAN

S-3275 FILED APRIL 22, 2003

Lost 4/30/03

HOUSE FILE 595

S-3310

1 Amend House File 595, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 4, line 35, by striking the word "three"  
4 and inserting the following: "two".

5 2. By striking page 6, line 5, through page 7,  
6 line 4, and inserting the following:

7 "If a city fails to provide municipal services to  
8 territory involuntarily annexed, according to the plan  
9 filed pursuant to section 368.11, subsection 14,  
10 within three two years after city taxes are imposed in  
11 the annexed territory, the city development board  
12 shall initiate proceedings to sever the annexed  
13 territory from the city. ~~However, a city may appeal~~  
14 ~~to the board for an additional three years to provide~~  
15 ~~municipal services if good cause is shown.~~ A petition  
16 for severance filed pursuant to this section shall be  
17 filed and acted upon in the same manner as a petition  
18 under section 368.11. For purposes of this section,  
19 "municipal services" means services selected by a  
20 landowner to be provided by the city, including, but  
21 not limited to, water supply, sewage disposal, street  
22 and road maintenance, and police and fire protection,  
23 if the provision of such services is within the legal  
24 authority of the annexing city and if such services  
25 are being provided to other residents of the city."

By RON WIECK

S-3310 FILED APRIL 24, 2003

Withdrawn 4/30/03

AN ACT  
RELATING TO CERTAIN VOLUNTARY ANNEXATIONS AND TO INVOLUNTARY  
ANNEXATIONS AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 368.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Public land" means land owned by the federal government, the state, or a political subdivision of the state.

Sec. 2. Section 368.4, Code 2003, 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 by regular mail at least thirty days before the hearing on the city development board, and 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~~ and shall be published in an official county newspaper in each county containing a city conducting a hearing regarding the agreement, in any county within two miles of any such city, and in an official newspaper of each city conducting a hearing regarding 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 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. 3. Section 368.7, subsection 1, Code 2003, is amended to read as follows:

1. a. 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 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.~~ Public land may be included in the territory to be annexed. However, the area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land may not be used to determine the percentage of territory that is included with the consent of the owner and without the consent of the owner.

b. Prior to notification in paragraph "c", the annexing city shall provide written notice to the board of supervisors and township trustees of each county and township that contains all or a portion of the territory to be annexed. The written notice shall include the same information required in

paragraph "c" and shall set a time for a consultation on the proposed annexation between the annexing city and each county and township that contains all or a portion of the territory to be annexed. The consultation shall be held at least fourteen business days before the applications in paragraph "c" are mailed. The governing body of each such county and township may designate one of its members to attend the consultation. Each such county and township may make written recommendations for modification to the proposed annexation no later than seven business days following the date of the consultation.

Not later than thirty days after the consultation, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the application or whether it takes no position in support of or against the application. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and shall be considered by the city council when taking action on the application. The city council shall forward a copy of the resolution to the city development board as part of the city proceedings on the annexation. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the application nor shall such failure be considered a deficiency either in the application or in the annexing city's proceedings.

c. A copy of the application shall be mailed by certified mail to the nonconsenting owner and each affected public utility, at least 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.

d. 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 that adjoins the territory to be annexed unless the adjoining property is in a city. 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 not assess the costs of providing notice as required in this section to the applicants.

e. An application for annexation under this subsection may be withdrawn by an applicant at any time within three business days after the public hearing unless the application was made pursuant to a written agreement for the extension of city services or unless the right to withdraw the application was specifically identified and waived by the applicant in the application. A landowner who has consented to the annexation may, within three business days after the public hearing, withdraw the landowner's consent to the annexation unless the landowner has entered into a written agreement for extension of city services or unless the right to withdraw consent was specifically identified and waived by the landowner.

f. 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 city development board after a hearing for all affected property owners and the county. When considering such an annexation application, the board may request that the annexing city provide information on the

amount of land located in the annexing city that is currently vacant or undeveloped and whether municipal services are being provided to current residents of the annexing city.

Sec. 4. Section 368.11, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 14. In the case of an annexation, a plan for extending municipal services to be provided by the annexing city to the annexed territory within three years of July 1 of the fiscal year in which city taxes are collected against property in the annexed territory.

Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003, is amended to read as follows:

Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each county which contains a part of the territory at least five days before the date of the public meeting. The mayor of the city proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The city clerk of the same city or the city clerk's designee shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the county board of supervisors of each county where the territory is located and to the board by the chairperson of the meeting.

Sec. 6. Section 368.11, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Within thirty days after receiving notice that a petition for involuntary annexation has been filed with the board, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the petition or whether it takes no position in support of or against the petition. If there is a

comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and with the city development board. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the petition nor shall such failure be considered a deficiency either in the petition or in the annexing city's proceedings.

Sec. 7. Section 368.25, Code 2003, is amended to read as follows:

**368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.**

Prior to expiration of the three-year period established in section 368.11, subsection 14, the annexing city shall submit a report to the board describing the status of the provision of municipal services identified in the plan required in section 368.11, subsection 14. If a city fails to provide municipal services, or fails to show substantial and continuing progress in the provision of municipal services, to territory involuntarily annexed, according to the plan for extending municipal services filed pursuant to section 368.11, subsection 14, within ~~three-years-after-city-taxes-are-imposed in-the-annexed-territory~~ the time period specified in that subsection, the city development board ~~shall~~ may initiate proceedings to sever the annexed territory from the city. The board shall notify the city of the severance proceedings and shall hold a public hearing on the proposed severance. The board shall give notice of the hearing in the same manner as notice of a public meeting in section 368.11. The board may order severance of all or a portion of the territory and the order to sever is not subject to approval at an election. However, ~~a~~ A city may ~~appeal to~~ request that the board for allow up to 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.~~ As an alternative to severance of the territory, the board may

impose a moratorium on additional annexation by the city until the city complies with its plan for extending municipal services. For purposes of this section, "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,-if-the-provision-of-such-services-is-within-the legal-authority-of-the-annexing-city~~ included in the plan required by section 368.11, subsection 14, for extending municipal services.

Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN PROPERTY -- COMPLIANCE WITH LESS STRINGENT REGULATIONS.

A city ordinance or regulation that regulates a condition or activity occurring on protected farmland or regulates a person who owns and operates protected farmland is unenforceable against the owner of the protected farmland for a period of ten years from the effective date of the annexation, to the extent the city ordinance or regulation is more stringent than county legislation. Section 335.2 shall apply to the protected farmland until the owner of the protected farmland determines that the land will no longer be operated as an agricultural operation. Any enforcement activity conducted in violation of this section is void.

A "condition or activity occurring on protected farmland" includes but is not limited to the raising, harvesting, drying, or storage of crops; the marketing of products at roadside stands or farm markets; the creation of noise, odor, dust, or fumes; the production, care, feeding, or housing of animals including but not limited to the construction, operation, or management of an animal feeding operation, an animal feeding operation structure, or aerobic structure, and to the storage, handling, or application of manure or egg washwater; the operation of machinery including but not limited to planting and harvesting equipment, grain dryers, grain handling equipment, and irrigation pumps; ground and aerial seeding and spraying; the application of chemical

fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

For the purposes of this section, "protected farmland" means land that is part of a century farm as that term is defined in section 403.17, subsection 10. "County legislation" means any ordinance, motion, resolution, or amendment adopted by a county pursuant to section 331.302.

Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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CHRISTOPHER C. RANTS  
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 595, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK  
Governor