

Senate Study Bill 1051

SENATE FILE _____
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON ZIEMAN)

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

A BILL FOR

1 An Act amending certain procedures for local government
2 consolidation and allowing formation of local government
3 empowerment committees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1742SC 80
6 sc/pj/5

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1 1 Section 1. Section 331.235, Code 2003, is amended to read
1 2 as follows:

1 3 331.235 COMMISSION PROCEDURES AND REPORTS.

1 4 1. Within sixty days after its organization, the
1 5 commission shall hold at least one public hearing for the
1 6 purpose of receiving information and material which will
1 7 assist in the drafting of a charter. Notice of the date,
1 8 time, and place of the hearing shall be given as provided in
1 9 chapter 21. If the commission is created pursuant to section
1 10 331.264, subsection 4, the hearing shall be held thirty days
1 11 after submission of the preliminary report to the board,
1 12 pursuant to section 331.264, subsection 3.

1 13 2. Within nine months after the organization of the
1 14 commission, the commission shall submit a preliminary report
1 15 to the board, which report may include the text of the
1 16 proposed charter. If a proposed charter is included in the
1 17 preliminary report, the report shall also include an analysis
1 18 of the fiscal impact of the proposed charter. Sufficient
1 19 copies of the report shall be made available for distribution
1 20 to residents of the county who request a copy. The commission
1 21 shall hold at least one public hearing after submission of the
1 22 preliminary report to obtain public comment. This subsection
1 23 does not apply if the commission is created pursuant to
1 24 section 331.264, subsection 4.

1 25 3. Within twenty months after organization, the commission
1 26 shall submit the final report to the board. If the commission
1 27 is created pursuant to section 331.264, subsection 4, the
1 28 commission shall submit the final report to the board within
1 29 five months after submission of the preliminary report to the
1 30 board pursuant to section 331.264, subsection 3. A commission
1 31 created pursuant to section 331.264, subsection 4, may adopt a
1 32 motion granting itself a sixty-day extension of time for
1 33 submission of its final report. If the commission recommends
1 34 a charter including a form of government other than the
1 35 existing form of government, the final report shall include
2 1 the full text and an explanation of the proposed charter, a
2 2 statement of whether the elected officers shall be elected on
2 3 a partisan or nonpartisan basis, an analysis of the fiscal
2 4 impact of the proposed charter, any comments deemed desirable
2 5 by the commission, and any minority reports. The final report
2 6 may recommend no change to the existing form of government and
2 7 that no charter be submitted to the electorate, in which case,
2 8 the report shall state the reasons for and against a change in
2 9 the existing form of government. The final report shall be
2 10 made available to the residents of the county upon request. A
2 11 summary of the final report shall be published in the official
2 12 newspapers of the county and in a newspaper of general
2 13 circulation in each participating city.

2 14 4. The commission is dissolved on the date of the ~~general~~
2 15 election at which the proposed charter is submitted to the
2 16 electorate. If a charter is not recommended, the commission
2 17 is dissolved upon submission of its final report to the board.

2 18 Sec. 2. Section 331.237, subsection 1, Code 2003, is
2 19 amended to read as follows:

2 20 1. ~~if a~~ The board shall direct the county commissioner of
2 21 elections to submit to the registered voters of the county the

2 22 question of whether the proposed charter for county government
2 23 shall be adopted. The proposed charter for county government
2 24 is may be submitted at the general election or at a special
2 25 election called for that purpose. To be submitted at the
2 26 general election, the proposed charter must be received not
2 27 less than five working days before the filing deadline for
2 28 candidates for county offices specified in section 44.4 for
2 29 the next general election, the board shall direct the county
2 30 commissioner of elections to submit to the registered voters
2 31 of the county at the next general election the question of
2 32 whether the proposed charter shall be adopted. A summary of
2 33 the proposed charter or amendment shall be published in the
2 34 official county newspapers and in a newspaper of general
2 35 circulation in each participating city, if applicable, at
3 1 least ten but not more than twenty days before the date of the
3 2 election. If a majority of the votes cast on the question is
3 3 in favor of the proposal, the proposal is adopted.
3 4 Sec. 3. Section 331.237, subsection 2, paragraph a, Code
3 5 2003, is amended to read as follows:
3 6 a. The adopted charter shall take effect July 1 following
3 7 the ~~general~~ election at which it is approved unless the
3 8 charter provides a later effective date. If the adopted
3 9 charter calls for a change in the form of government, officers
3 10 to fill elective offices shall be elected in the general
3 11 election in the even-numbered year following the adoption of
3 12 the charter. Those county officers holding office at the time
3 13 of the adoption of the charter shall continue in office until
3 14 the general election in the even-numbered year following the
3 15 adoption of the charter. If the charter provides that one or
3 16 more elective offices are combined, the board of supervisors
3 17 shall appoint one of the elective officers of the combined
3 18 offices to serve until the general election in the even=
3 19 numbered year. If the charter calls for the elimination of an
3 20 elective office, that elective officer's term of office shall
3 21 expire on the date the adopted charter takes effect.
3 22 Sec. 4. Section 331.248, subsection 2, Code 2003, is
3 23 amended by adding the following new paragraph:
3 24 NEW PARAGRAPH. g. Notwithstanding section 331.238,
3 25 subsection 3, provide whether the election of its officers
3 26 shall be on a partisan or nonpartisan basis.
3 27 Sec. 5. Section 331.249, subsection 2, unnumbered
3 28 paragraph 2, Code 2003, is amended to read as follows:
3 29 If a city-county consolidation charter is proposed, within
3 30 ninety days following the final report of the commission, a
3 31 resident or property owner of the commission area proposed to
3 32 be consolidated may bring an action in district court for
3 33 declaratory judgment to determine the legality of the proposed
3 34 charter and to otherwise declare the effect of the charter.
3 35 The court shall expedite its review and determination in this
4 1 matter. The referendum on the proposed charter shall be
4 2 stayed during pendency of the action and for such additional
4 3 time during which the proposed charter or its enabling
4 4 legislation does not conform to the Constitution or laws of
4 5 the State of Iowa. If in its final judgment the court
4 6 determines that the proposed charter fails to conform to the
4 7 Constitution or laws of this state, the commission shall have
4 8 a period of six months in which to revise and resubmit the
4 9 proposed charter.
4 10 Sec. 6. Section 331.254, subsection 7, Code 2003, is
4 11 amended to read as follows:
4 12 7. The merger of the elective offices of each
4 13 consolidating county with the election of new officers within
4 14 sixty days after the effective date of the charter which shall
4 15 specifically provide whether the election of new officers
4 16 shall be on a partisan or nonpartisan basis, notwithstanding
4 17 section 331.238, subsection 3. The elections shall be
4 18 conducted by the county commissioner of elections of each
4 19 county. No primary election shall be held. Nominations shall
4 20 be made pursuant to section 43.78 and chapters 44 and 45, as
4 21 applicable, except that the filing deadline shall be forty
4 22 days before the election.
4 23 Sec. 7. Section 331.261, subsection 11, Code 2003, is
4 24 amended to read as follows:
4 25 11. The partisan Notwithstanding section 331.238,
4 26 subsection 3, whether the election of community commonwealth
4 27 government officials shall be on a partisan or nonpartisan
4 28 basis.
4 29 Sec. 8. NEW SECTION. 331.264 LOCAL GOVERNMENT
4 30 EMPOWERMENT COMMITTEE.
4 31 1. A local government empowerment committee may be created
4 32 in a county. The committee shall be composed of the following

4 33 members:

4 34 a. Three city council members chosen by the city council
4 35 of each participating city with a population of twenty-five
5 1 thousand or more.

5 2 b. Three county supervisors chosen by the county board of
5 3 supervisors.

5 4 c. One city council member appointed by each participating
5 5 city with a population of less than twenty-five thousand.

5 6 d. Two members shall be appointed by each state legislator
5 7 whose legislative district is located in the county if a
5 8 majority of the constituents of that legislative district
5 9 reside in the county. However, if a county does not have a
5 10 state representative's legislative district which has a
5 11 majority of a state representative's constituency residing in
5 12 the county, the state representative having the largest
5 13 plurality of constituents residing in the county shall appoint
5 14 two members. At least one of the members appointed by each
5 15 state legislator shall be a person who is not holding elected
5 16 office and who is a resident of the legislative district of
5 17 the state legislator.

5 18 Organization and expenses of the committee are subject to
5 19 section 331.234 as if the committee were a city-county
5 20 consolidation or community commonwealth commission. Sections
5 21 69.16 and 69.16A shall not apply to the committee. However, a
5 22 city allowed more than one appointment and state legislators
5 23 who are allowed more than one appointment shall balance their
5 24 appointments in accordance with sections 69.16 and 69.16A,
5 25 when possible.

5 26 2. Members shall be appointed to the empowerment committee
5 27 within thirty days after any of the following occurs:

5 28 a. The county board of supervisors and each city council
5 29 in the county adopt a joint resolution calling for appointment
5 30 of members to the committee and files the resolution with the
5 31 county board of supervisors.

5 32 b. The county board of supervisors in a county adopts a
5 33 resolution calling for appointment of members to the
5 34 committee.

5 35 c. A petition signed by eligible electors of the county
6 1 equal in number to at least twenty-five percent of the votes
6 2 cast in the county for the office of president of the United
6 3 States or governor at the preceding general election or the
6 4 signatures of at least ten thousand eligible electors of the
6 5 county, whichever number is fewer, is filed with the county
6 6 board of supervisors.

6 7 3. Within seven months after the organization of the
6 8 empowerment committee, the committee shall submit a
6 9 preliminary report to the county board of supervisors with a
6 10 recommendation as to what the committee believes to be the
6 11 best proposal for an alternative form of government for the
6 12 county. The auditor's office shall make the report available
6 13 to the public upon request. A summary of the report shall be
6 14 published in the official newspapers of the county and in a
6 15 newspaper of general circulation in each participating city.

6 16 4. If the committee report recommends a city-county
6 17 consolidation or community commonwealth, the committee shall
6 18 continue its existence and be designated, and operate with the
6 19 powers and duties of, a commission created pursuant to section
6 20 331.233A. If the committee report recommends a multicounty
6 21 consolidation, the committee shall continue its existence and
6 22 be designated, and operate with the powers and duties of, a
6 23 commission created pursuant to section 331.233. If the
6 24 committee recommends an alternative form of government, that
6 25 recommendation shall state whether elections conducted under
6 26 that form of government shall be partisan or nonpartisan.

6 27 5. This section does not apply to a county in which a
6 28 charter commission has been established and is operating as of
6 29 July 1, 2003.

6 30 Sec. 9. IMPLEMENTATION OF ACT. Section 25B.2, subsection
6 31 3, shall not apply to this Act.

6 32 EXPLANATION

6 33 This bill allows establishment of a local government
6 34 empowerment committee in a county to study whether a charter
6 35 of consolidation should be presented to the voters. Members
7 1 shall be appointed within 30 days of a resolution being
7 2 adopted by the county board of supervisors or city councils or
7 3 within 30 days of a petition signed by eligible electors being
7 4 filed with the county.

7 5 Within seven months of organizing, the committee is to
7 6 submit a preliminary report to the county board of supervisors
7 7 on what form of consolidation it recommends. The report is to
7 8 be published in the official newspapers of the county and in a

7 9 newspaper of general circulation in each city. If the
7 10 committee recommends city=county consolidation, multicounty
7 11 consolidation, or a community commonwealth, the committee
7 12 shall become the commission that will draft the proposal in
7 13 lieu of the commission member requirements currently in
7 14 statute. The requirement to establish a consolidation
7 15 committee does not apply to a county in which a charter
7 16 commission has been established and is operating as of July 1,
7 17 2003.

7 18 The bill provides that a commission created from a local
7 19 government empowerment committee shall hold a public hearing
7 20 30 days after submission of its preliminary report to the
7 21 county board of supervisors. A commission created from a
7 22 local government empowerment committee is not subject to the
7 23 requirement that a preliminary report be submitted to the
7 24 county board of supervisors within nine months after
7 25 organization of the commission. The bill provides that a
7 26 commission created from a local government empowerment
7 27 committee shall submit a final report to the county board of
7 28 supervisors within five months after submission of the
7 29 empowerment committee's preliminary report to the board. Such
7 30 a commission may, on its own motion, extend that deadline by
7 31 60 days.

7 32 The bill provides that a consolidation commission formed by
7 33 any means that recommends a form of government other than the
7 34 existing form is to include in its final report a statement
7 35 whether the elected officers shall be elected on a partisan or
8 1 nonpartisan basis. The bill further provides that if a
8 2 commission recommends no change to the existing form of
8 3 government, the final report shall state the reasons for and
8 4 against a change in the existing form of government. The bill
8 5 requires that a summary of a commission's final report is to
8 6 be published in a newspaper of general circulation in each
8 7 participating city, in addition to the official newspapers of
8 8 the participating county.

8 9 The bill also allows a proposed charter for county
8 10 government to be submitted to the voters at a special election
8 11 called for that purpose in addition to at the general
8 12 election.

8 13 The bill provides that a charter shall take effect the July
8 14 1 following the election at which the charter is approved.

8 15 The bill provides that a city=county consolidation charter,
8 16 a multicounty consolidation charter, or a community
8 17 commonwealth charter may provide for the election of its
8 18 officers on a partisan or nonpartisan basis.

8 19 The bill also provides that when a charter for city=county
8 20 consolidation is challenged in district court, the court is to
8 21 expedite its review and determination on the challenge.

8 22 The bill may include a state mandate as defined in Code
8 23 section 25B.3. The bill makes inapplicable Code section
8 24 25B.2, subsection 3, which would relieve a political
8 25 subdivision from complying with a state mandate if funding for
8 26 the cost of the state mandate is not provided or specified.
8 27 Therefore, political subdivisions are required to comply with
8 28 any state mandate included in the bill.

8 29 LSB 1742SC 80
8 30 sc/pj/5