

FEB 7 2006
LOCAL GOVERNMENT

HOUSE FILE 2291
BY FALLON

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

A BILL FOR

1 An Act relating to state land management and planning and local
2 land management and planning for certain counties and cities
3 and providing effective dates.

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

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DIVISION I

STATE LAND MANAGEMENT AND PLANNING

Section 1. NEW SECTION. 6C.1 TITLE.

This chapter shall be known and may be cited as the "Land Management Planning Act".

Sec. 2. NEW SECTION. 6C.2 LAND DEVELOPMENT AND USE -- STATE POLICY ESTABLISHED.

It is the policy of this state to provide for the sound and orderly development and use of land and to provide for the protection and preservation of the private and public interest in the land, water, and related resources of this state for the public health, safety, morals, and general welfare of present and future generations. It is further the policy of this state to preserve the use of prime agricultural land for agricultural production and to preserve natural, cultural, and historical areas while striking a balance between legitimate public purposes and private property rights.

Sec. 3. NEW SECTION. 6C.3 DEFINITIONS.

1. "Agricultural land" means agricultural land as defined in section 9H.1.

2. "Board" means the land management planning board established in section 6C.4.

3. "Department" means the department of economic development.

4. "Public agency" means an agency as defined in section 17A.2, a county, a city, or other political subdivision, including but not limited to a principal department as provided in section 7E.5, a school corporation organized under chapter 273 or 274, a community college as provided in chapter 260C, or a township as provided in chapter 359.

5. "Strategic development plan" means a plan adopted by a county and the cities within the county and approved by the land management planning board as provided in chapter 366.

Sec. 4. NEW SECTION. 6C.4 LAND MANAGEMENT PLANNING BOARD.

1 1. A land management planning board is established as the
2 state's principal agency overseeing land management planning
3 by cities and counties. The board shall oversee the
4 administration of this chapter, and chapters 366 and 368,
5 monitor the effectiveness of public agencies in carrying out
6 the policy of this state as established in section 6C.2, and
7 study methods to successfully implement the policy.

8 2. The board shall be composed of the following members:

9 a. One member appointed from a city with a population of
10 more than forty-five thousand, according to the most recent
11 certified federal census.

12 b. One member appointed from a city with a population of
13 forty-five thousand or less, according to the most recent
14 certified federal census.

15 c. One member appointed from a county with a population of
16 more than fifty thousand, according to the most recent
17 certified federal census.

18 d. One member appointed from a county with a population of
19 fifty thousand or less, according to the most recent certified
20 federal census.

21 e. One member appointed to represent the general public.

22 3. The members shall be appointed by the governor subject
23 to confirmation by the senate as provided in section 2.32.

24 The appointments shall be for six-year staggered terms
25 beginning and ending as provided in section 69.19, or for an
26 unexpired term if a vacancy occurs. No member shall serve
27 more than two complete six-year terms.

28 4. The board shall elect a chairperson each year.

29 5. Members of the board, other than a state officer or
30 employee, are entitled to receive a per diem as specified in
31 section 7E.6 for each day spent in performance of duties as
32 members, and shall be reimbursed for all actual and necessary
33 expenses incurred in the performance of duties as members.

34 6. The department shall provide office space and staff
35 assistance, and shall budget funds to cover expenses of the

1 board and of committees established pursuant to chapter 368.
2 The office of attorney general shall provide legal counsel to
3 the board.

4 Sec. 5. NEW SECTION. 6C.5 POWERS AND DUTIES OF THE
5 BOARD.

6 1. The board shall do all of the following:

7 a. Review strategic development plans submitted for
8 dispute resolution pursuant to section 366.6.

9 b. Review and approve plans submitted for final approval
10 pursuant to section 366.7.

11 c. Fulfill duties relating to city development as provided
12 in chapter 368.

13 d. Establish policies for administration of the land
14 management planning fund created in section 6C.6.

15 e. Establish minimum qualifications for mediators,
16 establish procedures for qualifying and appointing persons
17 representative of the public to be available to serve as
18 mediators, maintain a list of qualified mediators, and
19 establish compensation rates for mediators.

20 f. Adopt rules pursuant to chapter 17A necessary to
21 administer its duties under this chapter and chapters 366 and
22 368. The rules may include establishing filing fees for
23 applications and petitions submitted to the board pursuant to
24 chapter 368.

25 2. The board may adopt forms to be completed and submitted
26 by cities and counties as necessary for the efficient
27 administration of this chapter and chapters 366 and 368.

28 Sec. 6. NEW SECTION. 6C.6 LAND MANAGEMENT PLANNING FUND.

29 1. A land management planning fund is created within the
30 state treasury under the control of the department. Moneys in
31 the fund shall be used to pay for the costs of administration
32 of this chapter and chapters 366 and 368 by the department.

33 2. The fund shall consist of all of the following:

34 a. Moneys appropriated by the general assembly.

35 b. Moneys available to and obtained or accepted by the

1 department from the federal government or private sources for
2 deposit in the fund.

3 c. Filing fees paid for applications and petitions
4 submitted to the board pursuant to chapter 368.

5 DIVISION II

6 LOCAL GOVERNMENT LAND MANAGEMENT AND PLANNING

7 Sec. 7. NEW SECTION. 366.1 DEFINITIONS.

8 1. "Agricultural land" means agricultural land as defined
9 in section 9H.1.

10 2. "Board" means the land management planning board
11 established in section 6C.4.

12 3. "Department" means the department of economic
13 development.

14 Sec. 8. NEW SECTION. 366.2 LOCAL STRATEGIC DEVELOPMENT
15 COMMITTEE.

16 1. Each metropolitan statistical area county, as
17 designated by the United States census bureau, and the cities
18 within the county, shall comply with the provisions of this
19 chapter. A county that is not designated a metropolitan
20 statistical area county and cities within such a county may
21 comply with the provisions of this chapter.

22 2. A local strategic development committee is created
23 within each county required to comply with this chapter or
24 that chooses to comply with this chapter. Members shall be
25 appointed to the committee on or before September 1, 2006.
26 The strategic development committee shall be composed of the
27 following members:

28 a. Three members appointed by the county board of
29 supervisors. Two of the three members must be residents of
30 the unincorporated area of the county.

31 b. One member appointed by the city council of each city
32 located in the county.

33 c. One member appointed by the mayor of each of the two
34 cities with the highest population located in the county.

35 d. An additional member shall be appointed by the mayor of

1 each participating city for every fifty thousand residents in
2 the city.

3 3. A city shall be represented on a committee if any part
4 of the city is located in the county.

5 4. Two or more contiguous counties required to create a
6 strategic development plan may organize as one combined
7 strategic development committee. Each county's membership on
8 a combined committee shall be appointed as provided in
9 subsection 2, paragraphs "a" through "d".

10 5. The committee shall hold an organizational meeting no
11 later than ten days after appointment of members. The
12 organizational meeting shall be convened by the chairperson of
13 the county board of supervisors.

14 Sec. 9. NEW SECTION. 366.3 STRATEGIC DEVELOPMENT PLAN --
15 GOALS AND OBJECTIVES.

16 1. The local strategic development committee shall create
17 and recommend a strategic development plan for the county.

18 2. The purpose of a strategic development plan is to
19 direct coordinated, efficient, and orderly development that
20 will, based on an analysis of present and future needs, best
21 promote the public health, safety, morals, and general
22 welfare. The goals and objectives of a strategic development
23 plan include the following:

24 a. Encouraging a pattern of compact development in
25 strategic development areas.

26 b. Promoting redevelopment of existing urban areas.

27 c. Promoting employment opportunities and the economic
28 health of the county and all cities in the county.

29 d. Providing for a variety of housing choices within
30 strategic development areas and assuring affordable housing
31 for future population growth.

32 e. Identifying and conserving natural resource areas,
33 environmentally sensitive land, and features of significant
34 local, statewide, or regional architectural, cultural,
35 historical, or archaeological interest.

1 f. Preserving land identified by the strategic development
2 committee as prime agricultural land for use in agricultural
3 production.

4 g. Balancing the need for land management regulations with
5 the protection of private property rights.

6 h. Ensuring the efficient use of infrastructure and that
7 adequate municipal services are provided concurrently with
8 development.

9 i. Taking into consideration such other matters that are
10 related to the coordinated, efficient, and orderly development
11 of the county and all cities in the county.

12 Sec. 10. NEW SECTION. 366.4 STRATEGIC DEVELOPMENT PLAN
13 -- REQUIREMENTS.

14 1. A strategic development plan shall divide the county
15 into strategic development areas where future development
16 would be allowed and strategic preservation areas where
17 development would not be allowed. A strategic development
18 plan shall address transportation, public infrastructure,
19 municipal services, economic development, housing, recreation,
20 natural resources, and land use. A strategic development plan
21 may address hazard mitigation, energy systems, cultural
22 preservation, and other elements appropriate to the area
23 governed by the plan.

24 2. The committee shall conduct a review of existing
25 comprehensive plans governing the county, if applicable, and
26 governing each city located in the county, if applicable.

27 3. Before the committee drafts a strategic development
28 plan, the committee shall hold a public hearing in order to
29 obtain citizen input on preparation of the strategic
30 development plan. The hearing shall be held no later than
31 thirty days after the committee's organizational meeting. The
32 county auditor shall publish notice of the time, date, place,
33 and purpose of the public hearing in a newspaper of general
34 circulation in the county. The notice must be published not
35 less than ten days but no more than twenty days before the

1 hearing. The notice shall include a description of the
2 general duties of the strategic development committee and the
3 cities and counties represented on the strategic development
4 committee.

5 4. A strategic development plan shall include documents
6 describing and depicting the corporate limits of each city in
7 the county and the boundaries of each strategic development
8 area and each strategic preservation area.

9 5. a. In establishing a strategic development area, the
10 plan shall do all of the following:

11 (1) Identify territory that a reasonable and prudent
12 person would project as the likely site of commercial,
13 industrial, or residential growth over the next twenty years
14 based on historical experience, economic trends, population
15 growth patterns, topographical characteristics, and any
16 professional planning, engineering, and economic studies that
17 are available. The city shall report population growth
18 projections for the city based upon federal census data.

19 (2) Identify agricultural land which has a corn
20 suitability rating of sixty or higher, according to
21 information released by Iowa state university to the
22 department of revenue for assessment and taxation of
23 agricultural land. Agricultural land with a corn suitability
24 rating of sixty or higher shall not be included in a strategic
25 development area unless the local strategic development
26 committee makes a showing that the land is necessary for the
27 orderly development of the strategic development area.

28 b. In establishing a strategic preservation area, the plan
29 shall identify territory to be preserved for the next twenty
30 years for agricultural purposes, forests, recreational areas,
31 wildlife management areas, cultural areas, historical areas,
32 or other areas planned for preservation.

33 6. When designating that part of a strategic development
34 area contiguous to a city, the committee shall identify, and
35 give consideration to, the amount of territory within the

1 current incorporated boundaries of the city that is vacant or
2 undeveloped land.

3 7. The committee shall utilize planning resources that are
4 available within the county, including city and county
5 planning commissions, zoning administrators, and a council of
6 governments established pursuant to chapter 28H. The
7 committee is also encouraged to utilize the services of a
8 joint planning commission established pursuant to chapter 28I
9 and colleges and universities in the state.

10 Sec. 11. NEW SECTION. 366.5 LOCAL GOVERNMENT

11 RATIFICATION OF STRATEGIC DEVELOPMENT PLAN.

12 1. Before the committee submits the plan recommended for
13 ratification, the committee shall hold at least one public
14 hearing on the proposed recommended strategic development
15 plan. The county auditor shall publish notice of the time,
16 place, and purpose of the public hearing in a newspaper of
17 general circulation in the county. The notice must be
18 published at least ten days but no more than twenty days
19 before the hearing.

20 2. Not later than January 1, 2008, the committee shall
21 submit the recommended strategic development plan to the
22 county board of supervisors and the city council of each city
23 in the county.

24 a. Not later than sixty days after receiving the
25 recommended strategic development plan, the county board of
26 supervisors and each city council shall by resolution either
27 ratify or reject the recommended strategic development plan.
28 A city or county that fails to timely act on the resolution
29 shall be deemed to have ratified the recommended strategic
30 development plan on the last day of the sixty-day period. If
31 the strategic development plan is ratified, the committee
32 shall submit the plan to the land management planning board
33 for approval.

34 b. If the county board of supervisors or a city council
35 rejects the recommended strategic development plan submitted

1 by the committee, the county or city shall submit its
2 objections to the plan along with the notice of rejection.
3 After receiving objections to the plan, the committee may
4 recommend a revised strategic development plan no later than
5 sixty days after the recommended plan is rejected or may
6 resubmit the original plan. Before the committee submits the
7 revised plan recommended for ratification, the committee shall
8 hold at least one public hearing on the revised plan in the
9 manner provided in subsection 1. The committee shall submit
10 any revised strategic development plan, or resubmit the
11 original plan, to the county board of supervisors and the city
12 council of each city in the county for ratification.

13 Not later than sixty days after receiving a revised
14 strategic development plan or resubmitted original plan, the
15 county board of supervisors and each city council shall either
16 ratify or reject the plan in the same manner as provided in
17 paragraph "a". A city or county that fails to timely act on a
18 resolution shall be deemed to have ratified the plan on the
19 last day of the sixty-day period.

20 If the resubmitted original plan or the revised plan is
21 rejected, the county or city rejecting the plan shall submit
22 its objections, and the reasons for its objections, to
23 mediation in accordance with section 366.6.

24 Sec. 12. NEW SECTION. 366.6 MEDIATION OF DISPUTED
25 ISSUES.

26 1. If the county board of supervisors or a city council
27 rejects the resubmitted original plan or the revised plan, the
28 local strategic development committee shall declare the
29 existence of an impasse and shall notify the board.

30 2. Within ten days of receiving notice of the existence of
31 an impasse, the board shall appoint a mediator from the list
32 of mediators maintained pursuant to section 6C.5. The board
33 shall not appoint a person as a mediator if the immediate
34 family of the person or such person's spouse is a resident,
35 property owner, official, or employee of the county or of any

1 city in the county.

2 3. The mediator shall attempt to mediate the unresolved
3 disputes. If, after reasonable efforts, mediation does not
4 resolve such disputes, the mediator shall so notify the board.
5 The mediation process must be concluded within thirty days.
6 The county board of supervisors and the cities may submit
7 final recommendations regarding the impasse to the board. For
8 the sole purpose of resolving the impasse, the board shall
9 adopt a strategic development plan that resolves those issues
10 in dispute. The strategic development plan adopted by the
11 board shall conform to the provisions of this chapter.

12 4. In mediating the dispute, the mediator may consult with
13 the university of Iowa, Iowa state university of science and
14 technology, the university of northern Iowa, or others with
15 expertise in urban planning, growth, and development.

16 5. The board shall certify the reasonable and necessary
17 costs incurred by the mediator, including, but not limited to,
18 salaries, supplies, travel expenses, and staff support for the
19 mediator. The county and the cities shall reimburse the board
20 for such costs. The costs shall be divided equally, without
21 regard to population, among the county and the cities in the
22 county.

23 6. If a county or city fails to reimburse its allocated
24 share of mediation costs to the board after sixty days' notice
25 of such costs, the department of revenue shall be notified and
26 shall deduct such costs from such county's or city's
27 reimbursement payment authorized in section 425.1. The amount
28 deducted shall be forwarded to the board until the allocated
29 share of mediation costs is reimbursed in full.

30 Sec. 13. NEW SECTION. 366.7 PLAN SUBMITTED TO BOARD FOR
31 FINAL APPROVAL.

32 A strategic development plan ratified pursuant to section
33 366.5 or a plan that has been agreed to by mediation pursuant
34 to section 366.6 or a plan adopted by the board pursuant to
35 section 366.6 shall be submitted to the board for approval

1 within ten days of ratification or approval of the plan. If
2 the board determines that a plan conforms with the
3 requirements of section 366.4, the board shall approve the
4 plan. If the board determines that a plan does not so
5 conform, the board shall return the plan, along with a
6 statement specifying the deficiencies, to the local strategic
7 development committee. The committee shall promptly adopt
8 such amendments to the plan necessary to correct the
9 deficiencies and shall return the amended plan to the board.
10 The board shall have approved all plans by January 1, 2009.

11 Sec. 14. NEW SECTION. 366.8 RECORDING OF STRATEGIC
12 DEVELOPMENT PLAN.

13 After the board has approved a strategic development plan,
14 the board shall retain a copy of the plan on file and shall
15 forward a copy to the county auditor who shall record the plan
16 in the office of county recorder no later than five days after
17 receiving the plan from the board.

18 Sec. 15. NEW SECTION. 366.9 DURATION OF PLANS -- REVIEW
19 AND AMENDMENT.

20 After a strategic development plan has been recorded with
21 the county recorder, the plan shall remain in effect for not
22 less than five years absent a showing of extraordinary
23 circumstances necessitating a change in the plan. After
24 expiration of the five-year period, the county or a city in
25 the county may propose an amendment to the strategic
26 development plan or may propose a review of the plan by filing
27 notice with the county board of supervisors for the county and
28 the city council of each city in the county. Upon receipt of
29 such notice by the county and each city, the county board of
30 supervisors shall promptly reconvene the local strategic
31 development committee. The burden of proving the
32 reasonableness of a proposed amendment to the plan shall be
33 upon the party proposing the amendment. The procedures for
34 amending the strategic development plan shall be the same as
35 the procedures set forth in this chapter for creating the

1 original strategic development plan.

2 Sec. 16. NEW SECTION. 366.10 JUDICIAL REVIEW.

3 1. The county, a city in the county, a resident of the
4 county, or an owner of real property located in the county may
5 seek judicial review of a decision of the board relating to
6 the strategic development plan presented to the board for its
7 approval. The judicial review provisions of this section and
8 chapter 17A shall be the exclusive means by which a person or
9 party who is aggrieved or adversely affected by action of the
10 board may seek judicial review of the action of the board.

11 2. A petition for judicial review must be filed within
12 sixty days after the strategic development plan is recorded
13 with the county recorder. In accordance with the Iowa rules
14 of civil procedure pertaining to service of process, copies of
15 the petition shall be served upon the board.

16 3. The court's review is limited to questions relating to
17 jurisdiction, regularity of proceedings, and whether the
18 action of the board is, by a preponderance of the evidence,
19 arbitrary, unreasonable, or without substantial supporting
20 evidence. The court may nullify an action of the board and
21 return the plan with appropriate directions to the board.

22 4. The filing of a petition for judicial review does not
23 stay the effectiveness of the strategic development plan or
24 recognition of strategic development areas and strategic
25 preservation areas identified in the plan. However, the court
26 may order a stay upon appropriate terms if it is shown to the
27 satisfaction of the court that any party or the public at
28 large is likely to suffer significant injury if a stay is not
29 granted. If more than one petition for judicial review
30 regarding a single board action is filed, all such petitions
31 shall be consolidated and tried as a single civil action.

32 5. The following portions of section 17A.19 are not
33 applicable to this chapter:

34 a. The portion of subsection 2 relating to where
35 proceedings for judicial review shall be instituted. Such

1 proceedings shall be instituted in the district court where
2 the real property governed by the strategic development plan
3 is located.

4 b. Subsection 5.

5 c. Subsection 8.

6 d. Subsections 10 through 12.

7 Sec. 17. NEW SECTION. 366.11 LOCAL IMPLEMENTATION.

8 1. A city or county governed by a strategic development
9 plan shall not adopt ordinances regulating land development
10 and management within its territory that are inconsistent with
11 the strategic development plan governing the territory.

12 2. A county that has approved a strategic development plan
13 pursuant to this chapter, and any city in such county, shall
14 use the strategic development plan as the basis for the
15 comprehensive plan required pursuant to section 335.5 or 414.3
16 if the county or city has adopted a zoning ordinance. The
17 county and each city shall amend its comprehensive plan to
18 conform to the strategic development plan. After a strategic
19 development plan is approved, all land use decisions made by
20 the governing body of each city and county and the city's or
21 county's planning commission shall be consistent with the
22 strategic development plan.

23 3. A city or county is under no obligation to provide
24 municipal services for development that does not conform to
25 the applicable strategic development plan.

26 Sec. 18. NEW SECTION. 366.12 COUNTY AND CITY ZONING
27 DISCRETIONARY.

28 This chapter shall not be construed as imposing a
29 requirement on a county or city to adopt a zoning ordinance
30 pursuant to chapter 335 or 414.

31 Sec. 19. NEW SECTION. 366.13 STATE AGENCIES.

32 State agencies are encouraged to consider the strategic
33 development plan governing a locality when carrying out
34 projects relating to, or affecting, land use in the locality.
35 If action taken by a state agency in carrying out a project

1 relating to, or affecting, land use in a locality is not
2 consistent with the strategic development plan for the
3 locality, the reasons for the action must be explained in
4 writing by the state agency and made a part of the project
5 plans or specifications.

6 Sec. 20. NEW SECTION. 366.14 INCENTIVES FOR COMPLIANCE
7 WITH CHAPTER -- REQUIREMENT OF DEPARTMENT OF ECONOMIC
8 DEVELOPMENT.

9 A county and cities within the county that are required to
10 comply with this chapter and that have not had a strategic
11 development plan approved by the board by January 1, 2009,
12 shall not be eligible to receive funds for projects under
13 programs identified by the department of economic development
14 and shall not be allowed to utilize statutory economic
15 development incentives that are available to local
16 governments.

17 The department of economic development shall prepare a list
18 of economic development incentives and programs currently
19 available to local governments and shall transmit such list to
20 the general assembly on or before January 1, 2007.

21 Sec. 21. NEW SECTION. 414.32 REGULATORY INCENTIVES.

22 Cities may provide regulatory incentives, including
23 expedited permitting and waiver of permit fees, for new
24 development, expansion of existing development, and
25 redevelopment within all or part of the incorporated
26 boundaries of the city in areas containing undeveloped or
27 underdeveloped land or buildings that are substandard,
28 dilapidated, vacant, abandoned, or functionally obsolete.

29 DIVISION III
30 CITY DEVELOPMENT

31 Sec. 22. Section 368.1, subsection 3, Code 2005, is
32 amended to read as follows:

33 3. "Board" means the city-development land management
34 planning board established in section 368-9 6C.4.

35 Sec. 23. NEW SECTION. 368.5A ANNEXATION PROHIBITED --

1 STRATEGIC PRESERVATION AREAS.

2 Beginning January 1, 2009, for territory located in a
3 county governed by a strategic development plan, only
4 territory contained in a strategic development area may be
5 annexed. The city council or land management planning board
6 shall not approve any application or petition that seeks to
7 annex territory contained in a strategic preservation area.
8 However, a city may annex territory in a strategic
9 preservation area if the city intends to retain the area's
10 designation as a strategic preservation area and if the
11 annexation is a voluntary annexation applied for pursuant to
12 section 368.7.

13 Sec. 24. Section 368.4, Code 2005, is amended to read as
14 follows:

15 368.4 ANNEXING MORATORIUM.

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

1 development land management planning board within ten days of
2 enactment. If such an agreement is in force, the board shall
3 dismiss a petition or plan which violates the terms of the
4 agreement.

5 Sec. 25. Section 368.7, subsection 1, paragraph b,
6 unnumbered paragraph 2, Code Supplement 2005, is amended to
7 read as follows:

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

25 Sec. 26. Section 368.7, subsection 1, paragraph f, Code
26 Supplement 2005, is amended to read as follows:

27 f. An annexation including territory comprising not more
28 than twenty percent of the land area without consent of the
29 property owners is not complete without approval by four-
30 fifths of the members of the city-development land management
31 planning board after a hearing for all affected property
32 owners and the county. When considering such an annexation
33 application, the board may request that the annexing city
34 provide information on the amount of land located in the
35 annexing city that is currently vacant or undeveloped and

1 whether municipal services are being provided to current
2 residents of the annexing city.

3 Sec. 27. Section 368.7A, subsection 1, Code 2005, is
4 amended to read as follows:

5 1. The board of supervisors of each affected county shall
6 notify the city-development land management planning board of
7 the existence of that portion of any secondary road which
8 extends to the center line but has not become part of the city
9 by annexation and has a common boundary with a city. The
10 notification shall include a legal description and a map
11 identifying the location of the secondary road. The city
12 development land management planning board shall provide
13 notice and an opportunity to be heard to each city in or next
14 to which the secondary road is located. The city-development
15 land management planning board shall certify that the
16 notification is correct and declare the road, or portion of
17 the road extending to the center line, annexed to the city as
18 of the date of certification. This section is not intended to
19 interfere with or modify existing chapter 28E agreements on
20 jurisdictional transfer of roads, or continuing negotiations
21 between jurisdictions.

22 Sec. 28. Section 368.11, subsection 6, Code Supplement
23 2005, is amended to read as follows:

24 6. Within thirty days after receiving notice that a
25 petition for involuntary annexation has been filed with the
26 board, the board of supervisors of each county that contains
27 all or a portion of the territory to be annexed shall, by
28 resolution, state whether or not it supports the petition or
29 whether it takes no position in support of or against the
30 petition. If there is a comprehensive plan for the county,
31 the board shall take the plan into account when considering
32 its resolution. If there is a strategic development plan for
33 the county, the board shall take the plan into account when
34 considering its resolution. A copy of the resolution shall be
35 immediately filed with the annexing city and with the city

1 development land management planning board. Failure of a
2 board of supervisors to adopt a resolution shall not delay the
3 proceedings on the petition nor shall such failure be
4 considered a deficiency either in the petition or in the
5 annexing city's proceedings.

6 Sec. 29. Section 368.25, Code Supplement 2005, is amended
7 to read as follows:

8 368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

9 Prior to expiration of the three-year period established in
10 section 368.11, subsection 3, paragraph "n", the annexing city
11 shall submit a report to the board describing the status of
12 the provision of municipal services identified in the plan
13 required in section 368.11, subsection 3, paragraph "n". If a
14 city fails to provide municipal services, or fails to show
15 substantial and continuing progress in the provision of
16 municipal services, to territory involuntarily annexed,
17 according to the plan for extending municipal services filed
18 pursuant to section 368.11, subsection 3, paragraph "n",
19 within the time period specified in that subsection, the city
20 development land management planning board may initiate
21 proceedings to sever the annexed territory from the city. The
22 board shall notify the city of the severance proceedings and
23 shall hold a public hearing on the proposed severance. The
24 board shall give notice of the hearing in the same manner as
25 notice of a public meeting in section 368.11. The board may
26 order severance of all or a portion of the territory and the
27 order to sever is not subject to approval at an election. A
28 city may request that the board allow up to an additional
29 three years to provide municipal services if good cause is
30 shown. As an alternative to severance of the territory, the
31 board may impose a moratorium on additional annexation by the
32 city until the city complies with its plan for extending
33 municipal services. For purposes of this section, "municipal
34 services" means services included in the plan required by
35 section 368.11, subsection 3, paragraph "n", for extending

1 municipal services.

2 Sec. 30. Sections 368.9 and 368.10, Code 2005, are
3 repealed.

4 DIVISION IV

5 CORRESPONDING AMENDMENTS

6 Sec. 31. Section 15.108, subsection 3, paragraph a,
7 subparagraph (2), Code 2005, is amended to read as follows:

8 (2) Provide office space and staff assistance to the city
9 development land management planning board as provided in
10 section ~~368-9~~ 6C.4.

11 Sec. 32. Section 331.304, subsection 7, Code 2005, is
12 amended to read as follows:

13 7. The board may file a petition with the city-development
14 land management planning board as provided in section 368.11.

15 Sec. 33. Section 331.321, subsection 1, paragraph t, Code
16 2005, is amended to read as follows:

17 t. Local representatives to serve with the city
18 development land management planning board as provided in
19 section 368.14.

20 Sec. 34. Section 384.38, subsection 2, Code 2005, is
21 amended to read as follows:

22 2. Upon petition as provided in section 384.41, subsection
23 1, a city may assess to private property affected by public
24 improvements within three miles of the city's boundaries the
25 cost of construction and repair of public improvements within
26 that area. The right-of-way of a railway company shall not be
27 assessed unless the company joins as a petitioner for such
28 improvements. In the petition the property owners shall waive
29 the limitation provided in section 384.62 that an assessment
30 shall not exceed twenty-five percent of the value of the lot.
31 The petition shall contain a statement that the owners agree
32 to pay the city an amount equal to five percent of the cost of
33 the improvements, to cover administrative expenses incurred by
34 the city. This amount may be added to the cost of the
35 improvements. Before the council may adopt the resolution of

1 necessity, the preliminary resolution, preliminary plans and
2 specifications, plat, schedule, and estimate of cost must be
3 submitted to, and receive written approval from, the board of
4 supervisors of any county which contains part of the property,
5 and the city-development land management planning board
6 established in section 368-9 6C.4.

7 DIVISION V

8 IMPLEMENTATION AND EFFECTIVE DATES

9 Sec. 35. IMPLEMENTATION OF ACT. Section 25B.2, subsection
10 3, shall not apply to this Act.

11 Sec. 36. EFFECTIVE DATES.

12 1. Except as otherwise provided in this section, divisions
13 I, III, and IV, and this division of this Act, being deemed of
14 immediate importance, take effect upon enactment.

15 2. The section of division III of this Act enacting
16 section 368.5A takes effect January 1, 2009.

17 3. Division II of this Act takes effect May 1, 2006.

18 EXPLANATION

19 This bill makes changes to the law relating to state and
20 local land management planning and development.

21 The bill establishes a statewide land management planning
22 board, which is the current city development board with
23 expanded duties. The land management planning board, besides
24 being involved with city development and annexation, will
25 oversee administration of the land management planning fund.
26 The land management planning fund is created to help pay the
27 costs of administering the board's duties.

28 The bill requires each metropolitan statistical area county
29 and cities in those counties to establish a strategic
30 development committee by September 1, 2006, for the purpose of
31 creating a strategic development plan for the entire county.
32 Two or more contiguous counties may form one combined
33 strategic development committee. Prior to writing a strategic
34 development plan, the committee is to hold a public hearing.
35 The purpose of the plan is to direct coordinated, efficient,

1 and orderly development. A strategic development plan shall
2 identify areas for future development and shall identify
3 strategic preservation areas where development would not be
4 allowed. Prior to recommendation of a strategic development
5 plan, the committee is required to hold a public hearing on
6 the proposed plan. Plans are to be submitted by the committee
7 to the cities and county by January 1, 2008, for ratification.
8 If a proposed strategic development plan is not ratified by
9 the cities and county, the committee shall revise the plan and
10 submit it to the cities and county for ratification. If the
11 revised plan is not ratified, both the recommended plan and
12 the revised plan are submitted to a mediator for resolution of
13 the issues in dispute. The mediation process must be
14 concluded within 30 days. If the mediator cannot resolve the
15 disputed issues, the board must resolve the impasse and adopt
16 a plan.

17 A plan ratified by the cities and county must be approved
18 by the land management planning board. All plans must be
19 approved by the board by January 1, 2009. Approved plans must
20 be recorded with the county recorder and filed with the land
21 management planning board. A plan does not take effect until
22 it is recorded with the county recorder. A plan remains in
23 effect for five years. The bill provides that the strategic
24 development plan shall be the basis for the comprehensive
25 zoning plan of the cities and county. The bill encourages
26 state agencies to consider the strategic development plan of a
27 locality when carrying out a project relating to, or
28 affecting, land use in the locality.

29 The bill contains an intent section pertaining to rewards
30 for complying with the planning requirements and penalties for
31 failure to comply. The bill directs the department of
32 economic development to submit to the general assembly, on or
33 before January 1, 2007, a list of economic development
34 incentives and programs currently available to local
35 governments. The bill authorizes cities to provide regulatory

1 incentives, such as expedited permitting and waiver of permit
2 fees, for development within certain parts of the city.

3 The bill may include a state mandate as defined in Code
4 section 25B.3. The bill makes inapplicable Code section
5 25B.2, subsection 3, which would relieve a political
6 subdivision from complying with a state mandate if funding for
7 the cost of the state mandate is not provided or specified.
8 Therefore, political subdivisions are required to comply with
9 any state mandate included in the bill.

10 The sections of the bill relating to the state land
11 management planning board and certain sections relating to
12 city development take effect immediately. The division of the
13 bill relating to local strategic development takes effect May
14 1, 2006. The section of the bill relating to annexation in
15 strategic preservation areas takes effect January 1, 2009.

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