

Senate File 25 - Introduced

SENATE FILE 25

BY BOLKCOM

A BILL FOR

1 An Act relating to city development and approval of voluntary
2 annexation or voluntary severance of territory.

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

1 Section 1. Section 368.7, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* An annexation for which a board of
4 supervisors has stated its opposition by resolution under
5 paragraph "b", subparagraph (2), is not complete without
6 approval by four-fifths of the members of the city development
7 board after a hearing for all affected property owners and the
8 county.

9 Sec. 2. Section 368.7, subsections 2, 3, and 4, Code 2013,
10 are amended to read as follows:

11 2. An application for annexation of territory not within
12 an urbanized area of a city other than the city to which the
13 annexation is directed must be approved by resolution of the
14 council which receives the application. The city council shall
15 mail a copy of the application by certified mail to the board
16 of supervisors of each county which contains a portion of the
17 territory at least fourteen business days prior to any action
18 taken by the city council on the application. The council
19 shall also publish notice of the application in an official
20 county newspaper in each county which contains a portion of
21 the territory at least fourteen days prior to any action taken
22 by the council on the application. Upon receiving approval of
23 the council and approval of the city development board under
24 subsection 1, paragraph "g", if applicable, the city clerk shall
25 file a copy of the resolution, map, and legal description of
26 the territory involved with the secretary of state, the county
27 board of supervisors of each county which contains a portion
28 of the territory, each affected public utility, and the state
29 department of transportation. The city clerk shall also record
30 a copy of the legal description, map, and resolution with the
31 county recorder of each county which contains a portion of
32 the territory. The secretary of state shall not accept and
33 acknowledge a copy of a legal description, map, and resolution
34 of annexation which would create an island. The annexation is
35 completed upon acknowledgment by the secretary of state that

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

3 3. An application for annexation of territory within an
4 urbanized area of a city other than the city to which the
5 annexation is directed must be approved both by resolution of
6 the council which receives the application and by the city
7 development board, including approval under subsection 1,
8 paragraph "g", if applicable. The board shall not approve an
9 application which creates an island. Notice of the application
10 shall be mailed by certified mail, by the city to which the
11 annexation is directed, at least fourteen business days prior
12 to any action by the city council on the application to the
13 council of each city whose boundary adjoins the territory or is
14 within two miles of the territory, to the board of supervisors
15 of each county which contains a portion of the territory, each
16 affected public utility, and to the regional planning authority
17 of the territory. Notice of the application shall be published
18 in an official county newspaper in each county which contains
19 a portion of the territory at least ten business days prior
20 to any action by the city council on the application. ~~The~~ An
21 annexation approved by the council and the board as provided
22 in this subsection is completed when the board has filed and
23 recorded copies of applicable portions of the proceedings as
24 required by section 368.20, subsection 1, paragraph "b".

25 4. a. If one or more applications for a voluntary
26 annexation and one or more petitions for an involuntary
27 annexation or incorporation for a common territory are
28 submitted to the board within thirty days of the date the first
29 application or petition was submitted to the board, the board
30 shall approve the application for voluntary annexation, if the
31 application meets the applicable requirements of this chapter,
32 unless the board determines by a preponderance of the evidence
33 that the application was filed in bad faith, or that the
34 application as filed is contrary to the best interests of the
35 citizens of the urbanized area, or that the applicant cannot

1 within a reasonable period of time meet its obligation to
 2 provide services to the territory to be annexed sufficient to
 3 meet the needs of the territory. Subsection 1, paragraph "g",
 4 applies to board approval of voluntary annexations under this
 5 subsection. In consideration of the requests, the board may
 6 appoint a committee in the manner provided in section 368.14 to
 7 seek additional information from the applicant for voluntary
 8 annexation as necessary, including the information required
 9 of petitioners pursuant to section 368.11. The board, or the
 10 committee, if applicable, shall hold a public hearing on the
 11 application for voluntary annexation in the manner provided for
 12 involuntary petitions in section 368.15. The decision of the
 13 board under this subsection shall be made within ninety days
 14 of receipt of the application by the board. The failure of the
 15 board to approve an application under this paragraph shall be
 16 deemed final agency action subject to judicial review.

17 *b.* If an application for voluntary annexation is not
 18 approved pursuant to this section, the board shall cause the
 19 conversion of the application to a petition pursuant to section
 20 368.13 and shall proceed under section 368.14A. The conversion
 21 of an application to a petition shall not prejudice the status
 22 of the applicant. Judicial review of a board decision under
 23 this subsection may be requested by an aggrieved party.

24 Sec. 3. Section 368.8, Code 2013, is amended to read as
 25 follows:

26 **368.8 Voluntary severing of territory.**

27 Any territory may be severed upon the unanimous consent of
 28 all owners of the territory, and approval by resolution of the
 29 council of the city in which the territory is located, and
 30 either approval by resolution of each board of supervisors
 31 in which the territory is located or approval by the city
 32 development board. When considering a voluntary severance
 33 under this section, the city development board shall take into
 34 account each adopted city or county comprehensive plan that
 35 is or will be applicable to the territory, any applicable

1 zoning ordinance for the territory, the stated reasons for the
2 voluntary severance, and all other factors deemed relevant by
3 the board. The council shall provide in the resolution for the
4 equitable distribution of assets and equitable distribution
5 and assumption of liabilities of the territory as between
6 the city and the severed territory. ~~The~~ If the severance is
7 approved, as provided in this section, the city clerk shall
8 file a copy of the resolution, map, and a legal description of
9 the territory involved with the county board of supervisors,
10 secretary of state, and state department of transportation.
11 The city clerk shall also record a copy of the map and
12 resolution with the county recorder. The secretary of state
13 shall not accept and acknowledge a copy of a map and resolution
14 of severance which would create an island. The severance is
15 completed upon acknowledgment by the secretary of state that
16 the secretary of state has received the map and resolution.

17 EXPLANATION

18 This bill relates to the approval of a voluntary annexation
19 of territory and the approval of a voluntary severance of
20 territory.

21 The bill requires approval by four-fifths of the city
22 development board, after a hearing for all affected property
23 owners and the county, of a voluntary annexation under Code
24 section 368.7 for which a board of supervisors has stated its
25 opposition by resolution. Current Code section 368.7(1)(b)(2)
26 requires the annexing city only to forward a copy of the board
27 of supervisors' resolution to the city development board.

28 Current Code section 368.8 provides that any territory may
29 be severed upon the unanimous consent of all owners of the
30 territory and approval by resolution of the council of the
31 city in which the territory is located. The bill adds to such
32 consent and approval a requirement that a voluntary severance
33 must also be approved by a resolution of each board of
34 supervisors in which the territory is located or be approved by
35 the city development board. The bill also provides that when

1 considering a voluntary severance under this section, the city
2 development board must take into account each adopted city or
3 county comprehensive plan that is or will be applicable to the
4 territory, any applicable zoning ordinance for the territory,
5 the stated reasons for the voluntary severance, and all other
6 factors deemed relevant by the board.