

House File 2325 - Introduced

HOUSE FILE 2325
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HSB 619)

A BILL FOR

1 An Act authorizing the severance of territory and transfer of
2 services of a sanitary district by resolution.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 358.30A Severance of territory by
2 resolution.

3 1. The board of trustees of a sanitary district may by
4 resolution propose the severance of a portion of the sanitary
5 district's territory. The resolution shall specify the
6 boundaries of the territory sought to be severed and shall
7 propose another sanitary district or other governmental
8 entity to which responsibility for the services provided
9 by the sanitary district that adopted the resolution will
10 be transferred. Within ten days following adoption of the
11 resolution, the board of trustees shall file a copy of the
12 resolution with the board of trustees of the sanitary district
13 or the governing body of the other governmental entity to
14 which responsibility for the services provided by the sanitary
15 district seeking severance is proposed to be transferred.

16 2. a. At the next regular meeting of the board of
17 trustees following adoption of the resolution, the board of
18 trustees seeking severance shall set the time and place for
19 a public hearing on the proposed severance and transfer, and
20 any agreement between the sanitary district and the sanitary
21 district or governmental entity to which responsibility for
22 the services being provided will be transferred pursuant to
23 subsection 3. The board of trustees shall give notice to
24 interested persons of the resolution and of the public hearing
25 by publication as provided in section 331.305. Proof of
26 publication shall be filed with and preserved by the county
27 auditor. A copy of the notice shall also be sent by regular
28 mail to each owner of each tract of land within the area to be
29 severed, as shown by the transfer books of the county auditor's
30 office.

31 b. The notice of the public hearing shall include the
32 following information:

33 (1) That a resolution has been adopted proposing to sever
34 property from the sanitary district.

35 (2) A description of the property to be severed from the

1 sanitary district.

2 (3) Identification of the sanitary district or governmental
3 entity to which the responsibility for services will be
4 transferred and a description of such services.

5 (4) The date, time, and place of the public hearing at which
6 the severance and transfer will be considered.

7 3. a. Unless otherwise provided by an agreement under
8 paragraph "b", and upon approval of the severance and transfer
9 under subsection 4, the real and personal property of the
10 sanitary district located in the territory to be severed shall
11 be transferred to the sanitary district or governmental entity
12 assuming responsibility for services, and all liabilities,
13 indebtedness, and all other property of the sanitary district
14 outside of the territory to be severed shall remain with the
15 sanitary district seeking severance.

16 b. The sanitary district seeking severance and the sanitary
17 district or governmental entity to which the responsibility
18 for services will be transferred may enter into an agreement
19 for the transition of such services, the distribution and
20 transfer of assets located in the territory to be severed, and
21 the allocation of liabilities related to the territory to be
22 severed.

23 4. At the hearing, all persons interested in the matter of
24 the severance and transfer may appear and shall be heard and
25 the board of trustees shall receive evidence on the matter.
26 After hearing and reviewing the statements and evidence, if the
27 board of trustees determines that the public health, comfort,
28 convenience, or welfare will be promoted by the severance and
29 transfer and that the other sanitary district or governmental
30 entity has by resolution agreed to assume the duties,
31 responsibilities, and functions of the sanitary district, the
32 board of trustees of the sanitary district seeking severance
33 may approve or deny the severance and transfer by order of the
34 board of trustees. A decision of the board of trustees either
35 approving or denying the severance and transfer shall not occur

1 until at least two weeks have elapsed following the public
2 hearing. The order of the board of trustees approving or
3 denying the severance and transfer is not subject to approval
4 at an election.

5 5. When a severance and transfer has been approved by order
6 of the board of trustees, the order of the board of trustees
7 shall be filed in the office of the recorder. The severance
8 and transfer order shall be entered on the county records,
9 showing the date when the severance and transfer became
10 effective. Any agreement entered into under subsection 3 shall
11 also be filed along with, and as part of, the order of the board
12 of trustees.

13 6. The assumption of duties, responsibilities, and
14 functions by the sanitary district or other governmental entity
15 shall not affect or impair any rights or liabilities then
16 existing for or against either the sanitary district from which
17 the territory was severed or the assuming sanitary district or
18 governmental entity, and they may be enforced as provided in
19 this subchapter.

20 7. An action shall not be commenced to contest action of
21 the board of trustees of a sanitary district seeking severance
22 under this section unless it is brought within thirty days of
23 the entry of the severance and transfer order in the county
24 records.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 Code chapter 358 governs the establishment, operation, and
29 dissolution of sanitary districts.

30 This bill establishes a procedure by which a portion of the
31 territory of a sanitary district may be severed and transferred
32 to another sanitary district or governmental entity. Under
33 the bill, the board of trustees of a sanitary district may
34 by resolution propose the severance of a portion of the
35 sanitary district's territory. The resolution must specify

1 the boundaries of the territory sought to be severed and shall
2 propose another sanitary district or other governmental entity
3 to which responsibility for the services provided by the
4 sanitary district seeking severance will be transferred. The
5 board of trustees must then file a copy of the resolution with
6 the board of trustees of the sanitary district or the governing
7 body of the other governmental entity to which responsibility
8 for the services provided by the sanitary district seeking
9 severance is proposed to be transferred.

10 The bill also requires the board of trustees of the sanitary
11 district seeking severance to set the time and place for a
12 public hearing on the proposed severance and transfer. The
13 bill establishes notice requirements for the resolution and the
14 public hearing.

15 Under the bill, unless otherwise provided by an agreement
16 between the sanitary district and the district or entity to
17 which responsibility for the services will be transferred, the
18 real and personal property of the sanitary district located
19 in the territory to be severed shall be transferred to the
20 district or entity assuming responsibility for services, and
21 all liabilities, indebtedness, and all other property of the
22 sanitary district outside of the territory to be severed shall
23 remain with the sanitary district that adopted the resolution.

24 After the public hearing, if the board of trustees
25 determines that the public health, comfort, convenience, or
26 welfare will be promoted by the severance and transfer and
27 that the other sanitary district or governmental entity has by
28 resolution agreed to assume the duties, responsibilities, and
29 functions of the sanitary district, the board of trustees, no
30 earlier than two weeks after the hearing, may approve or deny
31 the severance and transfer by order of the board of trustees.
32 The order of the board of trustees approving or denying
33 the severance and transfer is not subject to approval at an
34 election. When a severance and transfer has been approved by
35 order of the board of trustees, the order shall be filed in the

1 office of the recorder along with any agreement between the
2 severing sanitary district and the assuming district or entity.
3 The bill also provides that an action shall not be commenced
4 to contest action of the board of trustees seeking severance
5 under the bill unless it is brought within 30 days of the entry
6 of the severance and transfer order on the county record.