

HOUSE BILL No. 2058

AN ACT concerning municipalities; amending K.S.A. 12-3010 and 12-3304 and K.S.A. 2006 Supp. 12-520 and 19-101d and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2006 Supp. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, ~~except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation-related activity or which has primary use as a county-owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county~~ *except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).*

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

Sec. 2. K.S.A. 12-3304 is hereby amended to read as follows: 12-

3304. ~~Not less than three copies~~ *At least one copy* of such code incorporated by reference by a county resolution shall be marked or stamped “official copy as incorporated by resolution no. _____,” with all sections or portions thereof intended to be omitted clearly marked to show any such omission or showing the sections, articles, chapters, parts or portions that are incorporated, as the case may be, and to which shall be attached a copy of the incorporating resolution, such ~~copies~~ *copy* filed with the county clerk shall be open to inspection and available to the public at all reasonable business hours. Copies of such code, or part thereof which are incorporated by reference shall be furnished without charge to the courts and all administrative agencies charged with the enforcement of such code.

Sec. 3. K.S.A. 12-3010 is hereby amended to read as follows: 12-3010. The provisions of any standard or model code or ordinance, state regulation or statute or portions thereof incorporated in an ordinance by reference shall be as much a part of the ordinance as if the same had been set out in full therein when the ordinance shall have been passed by the governing body of the city and published in the manner provided by law, and any section, article, chapter, part or portion not incorporated shall be clearly and specifically described and declared to be omitted and any provisions changing or adding to the incorporated provisions shall be stated in full and published as a part of the ordinance. *Instead of incorporating with omissions, the incorporating ordinance may designate specifically the sections, articles, chapters, parts or portions of the standard or model code or ordinance, state regulation or statute that are incorporated. No such ordinance shall be deemed to have incorporated therein any standard or model code or ordinance or state regulation unless the same shall be clearly described in the ordinance by name or title, the name or title of the agency, organization, or group or state officer, board or agency which prepared, compiled, published or promulgated the same, the year or edition of the work or other sufficiently identifying description, and statutes or portions thereof shall be identified by appropriate reference to Session Laws, General Statutes or Supplements Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto. Provided further, That not less than three (3) copies. At least one copy* of any such standard or model code or ordinance or state regulation shall be marked or stamped “official copy as incorporated by Ordinance No. _____,” with all sections or portions thereof intended to be omitted clearly marked to show any such omission or showing the sections, articles, chapters, parts or portions that are incorporated, as the case may be, and to which shall be attached a copy of the incorporating ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable business hours. ~~Provided further, That the~~ *The* police department, police judge and all administrative departments of the city charged with the enforcement of any such ordinance shall be supplied, at the cost of the city, such number of official copies of any such standard or model code or ordinance or state regulation similarly marked as may be deemed expedient.

Sec. 4. K.S.A. 2006 Supp. 19-101d is hereby amended to read as follows: 19-101d. (a) (1) The board of county commissioners of any county shall have the power to enforce all resolutions passed pursuant to county home rule powers, as designated by K.S.A. 19-101c, and amendments thereto. Resolutions may be enforced by enjoining violations, by prescribing penalties for violations by fine, by confinement in the county jail or by both fine and confinement. Unless otherwise provided by the resolution that defines and makes punishable the violation of such resolution, the penalty imposed shall be in accordance with the penalties established by law for conviction of a class C misdemeanor. In no event shall the penalty imposed for the violation of a resolution exceed the penalties established by law for conviction of a class B misdemeanor.

(2) Prosecution for any violation shall be commenced in the district court in the name of the county and, except as provided in subsection (b), shall be conducted in the manner provided by law for the prosecution of misdemeanor violations of state laws. Writs and process necessary for the prosecution of such violations shall be in the form prescribed by the judge or judges of the courts vested with jurisdiction of such violations by this act, and shall be substantially in the form of writs and process

issued for the prosecution of misdemeanor violations of state laws. Each county shall provide all necessary supplies, forms and records at its own expense.

(b) (1) In addition to all other procedures authorized for the enforcement of county codes and resolutions, in Crawford, Douglas, Franklin, Jefferson, Johnson, Miami, Riley, Sedgwick, Shawnee and Wyandotte counties, the prosecution for violation of codes and resolutions adopted by the board of county commissioners may be commenced in the district court in the name of the county and may be conducted, except as otherwise provided in this section, in the manner provided for and in accordance with the provisions of the code for the enforcement of county codes and resolutions.

(2) *The board of county commissioners of any county which has not provided for the enforcement of county codes and resolutions in accordance with provisions of the code for enforcement of county codes and resolutions on or before July 1, 2007, and which desires to utilize the provisions of the code for enforcement of county codes and resolutions set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, shall cause a notice of its intention to utilize the provisions of the code for enforcement of county codes and resolutions set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, be published in the official newspaper of the county. If within 30 days next following the date of the publication of such notice a petition, signed by electors equal in number to not less than 5% of the electors of the county, requesting an election thereon, shall be filed in the office of the county election officer, no utilization of the provisions of the code for enforcement of county codes and resolutions set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, may be made without such proposition having first been submitted to and having been approved by a majority of the electors of the county voting at an election called and held thereon. Any election shall be called, noticed and held in the manner provided by K.S.A. 10-120, and amendments thereto.*

~~(2)~~(3) For the purposes of aiding in the enforcement of county codes and resolutions, the board of county commissioners may employ or appoint code enforcement officers for the county who shall have power to sign, issue and execute notices to appear and uniform citations or uniform complaints and notices to appear, as provided in the appendix of forms of the code contained in this act to enforce violations of county codes and resolutions, but shall have no power to issue warrants or make arrests. All warrants shall be issued and arrests made by law enforcement officers pursuant to and in the manner provided in chapter 21 of the Kansas Statutes Annotated.

~~(3)~~(4) The board of county commissioners may employ or appoint attorneys for the purpose of prosecuting actions for the enforcement of county codes and resolutions. The attorneys shall have the duties, powers and authorities provided by the board that are necessary to prosecute actions under the code.

~~(4)~~(5) All costs for the enforcement and prosecution of violations of county codes and resolutions, except for compensation and expenses of the district court judge, shall be paid from the revenues of the county. The board of county commissioners may establish a special law enforcement fund for the purpose of paying for the costs of code enforcement within the county. ~~In addition, the board of county commissioners is authorized to levy a tax not to exceed ½ mill upon all taxable tangible property within the county to pay the costs of code enforcement.~~

(c) Notwithstanding the provisions of subsection (b), any action commenced in the district court for the enforcement of county codes and resolutions, in which a person may be subject to detention or arrest or in which an accused person, if found guilty, would or might be deprived of the person's liberty, shall be conducted in the manner provided by law for the prosecution of misdemeanor violations of state laws under the Kansas code of criminal procedure and not under the code for the enforcement of county codes and resolutions.

Sec. 5. K.S.A. 12-3010 and 12-3304 and K.S.A. 2006 Supp. 12-520 and 19-101d are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.