

HOUSE BILL No. 2978

By Committee on Appropriations

3-19

10 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
11 531 and 12-532 and **K.S.A. 2007 Supp. 12-520** and repealing the
12 existing sections.

13

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

15 **[New Section 1. Except as provided in this section no land**
16 **shall be annexed pursuant to subsections (a)(1), (4), (5) and (6) of**
17 **K.S.A. 12-520, and amendments thereto, unless the board of**
18 **county commissioners determines by resolution adopted within 30**
19 **days following the conclusion of the hearing on the proposed an-**
20 **nexation that the proposed annexation will not have an adverse**
21 **effect on such county. The board of county commissioners shall**
22 **deliver a copy of such resolution to the city. If the board of county**
23 **commissioners fails to adopt such a resolution within the 30-day**
24 **period, the annexation shall be deemed to have been approved by**
25 **the board of county commissioners.]**

26 Section ~~±~~ **[2.]** K.S.A. 12-531 is hereby amended to read as follows:
27 12-531. (a) ~~Five~~ *Three* years following the annexation of any land pursuant
28 to K.S.A. 12-520 or 12-521, and amendments thereto, or, where there
29 has been litigation relating to the annexation, ~~five~~ *three* years following
30 the conclusion of such litigation, the board of county commissioners shall
31 call a hearing to consider whether the city has provided the municipal
32 services as provided in the timetable set forth in the plan in accordance
33 with K.S.A. 12-520b or 12-521, and amendments thereto. The board of
34 county commissioners shall schedule the matter for public hearing and
35 shall give notice of the date, hour and place of the hearing to: (1) The
36 city; and (2) any landowner in the area subject to the service extension
37 plan.

38 (b) At the hearing, the board shall hear testimony as to the city's
39 extension of municipal services, or lack thereof, from the city and the
40 landowner. After the hearing, the board shall make a finding as to whether
41 or not the city has provided services in accordance with its service exten-
42 sion plan. If the board finds that the city has not provided services as
43 provided in its service extension plan, the board shall notify the city and

1 the landowner that such property may be deannexed, as provided in
2 K.S.A. 12-532, *and amendments thereto*, if the services are not provided
3 within ~~2½ years~~ *one year* of the date of the board's findings.

4 (c) *If the board of county commissioners refuses to hold the hearing*
5 *as required, any owner of land living in such area annexed, may bring an*
6 *action under provisions of K.S.A. 60-1201 et seq., and amendments*
7 *thereto, to compel the board to hold the hearing. The court, upon finding*
8 *the hearing is required, shall award attorney fees and costs to the land-*
9 *owner.*

10 Sec. ~~2~~. [3.] K.S.A. 12-532 is hereby amended to read as follows: 12-
11 532. (a) If, within ~~2½ years~~ *one year* following the conclusion of the
12 hearing required by K.S.A. 12-531, *and amendments thereto*, or, where
13 there has been litigation relating to the hearing, ~~2½ years~~ *one year* fol-
14 lowing the conclusion of such litigation, the city has not provided the
15 municipal services as provided in the timetable set forth in the plan pre-
16 pared in accordance with K.S.A. 12-520b or 12-521, and amendments
17 thereto, the owner of such land may petition the board of county com-
18 missioners to exclude such land from the boundaries of the city. Within
19 10 days after receipt of the petition, the board shall schedule the matter
20 for public hearing and shall give notice of the date, hour and place of the
21 hearing to: (1) The owner; (2) the city; (3) the township into which the
22 property, if deannexed, would be placed; and (4) the governing body of
23 any fire district, sewer district, water district or other special district gov-
24 ernments which have jurisdiction over territory adjacent to the area
25 sought to be deannexed. The notice shall be sent by certified mail no less
26 than 21 days before the date of the hearing.

27 (b) At the hearing, the board shall hear testimony as to the city's
28 extension of municipal services, or lack thereof, from both the owner and
29 representatives of the city. Except as provided by subsection (e), if the
30 board finds after the hearing that the city has failed to provide the mu-
31 nicipal services in accordance with the plan and consistent with the time-
32 table therein, the board may enter an order excluding the land from the
33 boundaries of the city. Any such order shall take effect in the same man-
34 ner as provided in K.S.A. 12-523, and amendments thereto, for the ef-
35 fective date of annexation ordinances. Such land shall not be annexed
36 again for ~~one year~~ *three years* from the effective date of the order without
37 the written consent of the owner of the land.

38 (c) The county clerk shall certify a copy of the order to the register
39 of deeds of the county. The register of deeds shall record the order in
40 the deed records of the county, and, at the expense of the ~~owner~~ *city*,
41 the register of deeds also shall record the order of exclusion on the margin
42 of the recorded plat of such land, giving reference thereon to the page
43 and book of records where the order is recorded in the register's office.

1 (d) Except as provided by this subsection, after the effective date of
2 the order to exclude the land from the city, such land shall not be liable
3 for any general taxes imposed by the city. Such land shall remain liable,
4 however, for any taxes or special assessments levied by the city as are
5 necessary to pay its proportionate share of the interest on and principal
6 of such bonds or other indebtedness incurred by the city for improve-
7 ments to the land which were approved by the city before the date on
8 which the owner or owners filed a petition for the exclusion of the land
9 from the city.

10 (e) The board shall not order exclusion of any land if:

11 (1) The service extension plan conditions the extension of certain im-
12 provements or services on the filing of a legally sufficient petition by the
13 owners of the land for the creation of an improvement district and to levy
14 special assessments therein to pay a portion of the costs of such improve-
15 ments, and a sufficient petition has not been filed;

16 (2) since the annexation, the governing body of the city initiated the
17 creation of an improvement or benefit district affecting such land to levy
18 special assessments thereon to pay a portion of the costs of certain mu-
19 nicipal improvements, and the formation of the district was blocked by
20 the filing of a sufficient protest petition by some or all of the owners of
21 any land in the proposed district;

22 (3) the exclusion would result in the land being completely sur-
23 rounded by other tracts of land located within the city's boundaries; or

24 (4) the board finds the exclusion of the land would have an adverse
25 impact on the health, safety and welfare of the residents of the city or
26 such land.

27 (f) Any owner or the city aggrieved by the decision of the board may
28 appeal the decision to the district court in the manner provided in K.S.A.
29 19-223, and amendments thereto. Any city so appealing shall not be re-
30 quired to execute the bond prescribed therein.

31 (g) *If the board of county commissioners refuses to hold the hearing*
32 *as required, any owner of land may bring an action under provisions of*
33 *K.S.A. 60-1201 et seq., and amendments thereto, to compel the board to*
34 *hold the hearing. The court, upon finding the hearing is required, shall*
35 *award attorney fees and costs to the landowner.*

36 **[Sec. 3. K.S.A. 2007 Supp. 12-520 is hereby amended to read**
37 **as follows: 12-520. (a) Except as hereinafter provided, the govern-**
38 **ing body of any city, by ordinance, may annex land to such city if**
39 **any one or more of the following conditions exist:**

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

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

- 1 [(3) The land adjoins the city and is owned by or held in trust
2 for any governmental unit other than another city except that no
3 city may annex land owned by a county without the express per-
4 mission of the board of county commissioners of the county other
5 than as provided in subsection (f).
- 6 [(4) The land lies within or mainly within the city and has a
7 common perimeter with the city boundary line of more than 50%.
- 8 [(5) The land if annexed will make the city boundary line
9 straight or harmonious and some part thereof adjoins the city, ex-
10 cept no land in excess of 21 acres shall be annexed for this purpose.
- 11 [(6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins
12 the city, except no tract in excess of 21 acres shall be annexed
13 under this condition.
- 14 [(7) The land adjoins the city and a written petition for or con-
15 sent to annexation is filed with the city by the owner. *This subsection*
16 *from and after January 1, 2008, shall not be utilized by a city to annex a*
17 *portion of an individual's tract of land.*
- 18 [(b) No portion of any unplatted tract of land devoted to agri-
19 cultural use of 21 acres or more shall be annexed by any city under
20 the authority of this section without the written consent of the
21 owner thereof.
- 22 [(c) No city may annex, pursuant to this section, any improve-
23 ment district incorporated and organized pursuant to K.S.A 19-
24 2753 et seq., and amendments thereto, or any land within such
25 improvement district. The provisions of this subsection shall apply
26 to such improvement districts for which the petition for incorpo-
27 ration and organization was presented on or before January 1,
28 1987.
- 29 [(d) Subject to the provisions of this section and subsection (e)
30 of K.S.A. 12-520a, and amendments thereto, a city may annex, pur-
31 suant to this section, any fire district or any land within such fire
32 district.
- 33 [(e) Whenever any city annexes any land under the authority
34 of paragraph 2 of subsection (a) which does not adjoin the city,
35 tracts of land adjoining the land so annexed shall not be deemed
36 to be adjoining the city for the purpose of annexation under the
37 authority of this section until the adjoining land or the land so
38 annexed adjoins the remainder of the city by reason of the annex-
39 ation of the intervening territory.
- 40 [(f) No city may annex the right-of-way of any highway under
41 the authority of this section unless at the time of the annexation
42 the abutting property upon one or both sides thereof is already
43 within the city or is annexed to the city in the same proceeding.

1 **The board of county commissioners may notify the city of the ex-**
2 **istence of any highway which has not become part of the city by**
3 **annexation and which has a common boundary with the city. The**
4 **notification shall include a legal description and a map identifying**
5 **the location of the highway. The governing body of the city shall**
6 **certify by ordinance that the certification is correct and declare**
7 **the highway, or portion of the highway extending to the center**
8 **line where another city boundary line abuts the opposing side of**
9 **the highway, annexed to the city as of the date of the publication**
10 **of the ordinance.**

11 **[(g) The governing body of any city by one ordinance may an-**
12 **nex one or more separate tracts or lands each of which conforms**
13 **to any one or more of the foregoing conditions. The invalidity of**
14 **the annexation of any tract or land in one ordinance shall not affect**
15 **the validity of the remaining tracts or lands which are annexed by**
16 **the ordinance and which conform to any one or more of the fore-**
17 **going conditions.**

18 *[(h) No city may utilize any provision of this section from and after*
19 *January 1, 2008, to annex a narrow corridor of land to gain access to*
20 *noncontiguous tracts of land. The corridor of land must have a tangible*
21 *value and purpose other than for enhancing future annexations of land*
22 *by the city.]*

23 **Sec. ~~3~~ [5.] K.S.A. 12-531 and 12-532 [and K.S.A. 2007 Supp. 12-**
24 **520] are hereby repealed.**

25 **Sec. ~~4~~ [6.] This act shall take effect and be in force from and after**
26 **its publication in the ~~statute book~~ [Kansas register].**