

HOUSE BILL No. 2030

By Special Committee on Eminent Domain in Condemnation of
Water Rights

1-20

10 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
11 521 and repealing the existing section.

12

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

14 Section 1. K.S.A. 12-521 is hereby amended to read as follows: 12-
15 521. (a) Whenever the governing body of any city deems it advisable to
16 annex land which such city is not permitted to annex under K.S.A. 12-
17 520, and amendments thereto, or if the governing body of any city is
18 permitted to annex land under K.S.A. 12-520, and amendments thereto,
19 but deems it advisable not to annex thereunder, the governing body may
20 annex such land as provided by this section. The governing body, in the
21 name of the city, may present a petition to the board of county commis-
22 sioners of the county in which the land sought to be annexed is located.
23 The petition shall set forth a legal description of the land sought to be
24 annexed and request a public hearing on the advisability of such annex-
25 ation. The governing body of such city shall make plans for the extension
26 of services to the tract of land proposed to be annexed and shall file a
27 copy thereof with the board of county commissioners at the time of pres-
28 entation of the petition. Such report shall include:

29 (1) A sketch clearly delineating the land proposed to be annexed and
30 the area of the city adjacent thereto to show the following information:

31 (A) The present and proposed boundaries of the city affected by such
32 proposed annexation;

33 (B) the present streets, water mains, sewers and other city utility
34 lines, and the proposed extension thereto;

35 (C) the general land use pattern in the areas to be annexed.

36 (2) A statement setting forth a plan of sufficient detail to provide a
37 reasonable person with a full and complete understanding of the inten-
38 tions of the city for extending to the area to be annexed each major
39 municipal service provided to persons and property located within the
40 city and area proposed to be annexed at the time of annexation and the
41 estimated cost of providing such services. The plan shall state the esti-
42 mated cost impact of providing such services to the residents of the city
43 and the residents of the area proposed to be annexed. The plan shall state

1 the method by which the city plans to finance the extension of such serv-
2 ices to such area. The plan shall include a timetable for the extension of
3 major municipal services to the area proposed to be annexed. The plan
4 shall state the means by which the services currently provided by a town-
5 ship or special district in the area to be annexed shall be maintained by
6 the city at a level which is equal to or better than the level of services
7 provided prior to annexation. The plan shall state those services which
8 shall be provided immediately upon annexation and those services which
9 may be provided upon petition of the landowners to create a benefit
10 district.

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

14 ~~(b)~~ (c) The date fixed for the public hearing shall be not less than 60
15 nor more than 70 days following the date of the presentation of the pe-
16 tition requesting such hearing. Notice of the time and place of the hear-
17 ing, together with a legal description of the land sought to be annexed
18 and the names of the owners thereof, shall be published in a newspaper
19 of general circulation in the city not less than one week and not more
20 than two weeks preceding the date fixed for such hearing.

21 A copy of the notice providing for the public hearing shall be mailed
22 by certified mail to each owner of the land proposed to be annexed not
23 more than 10 days following the date of the presentation of the petition
24 requesting such hearing.

25 A sketch clearly delineating the area in such detail as may be necessary
26 to advise the reader of the particular land proposed to be annexed shall
27 be published with such notice and a copy thereof mailed to the owner of
28 the property with such notice.

29 The board for good cause shown may continue the hearing beyond the
30 time specified in the notice without further publication.

31 ~~(c)~~ (d) On the day set for hearing, the board of county commissioners
32 shall hear testimony as to the advisability of such annexation, and a rep-
33 resentative of the city shall present the city's proposal for annexation,
34 including the plan of the city for the extension of services to the area
35 proposed to be annexed.

36 The action of the board of county commissioners shall be quasi-judicial
37 in nature. The board of county commissioners shall consider the impact
38 of approving or disapproving the annexation on the entire community
39 involved, including the city and the land proposed to be annexed, in order
40 to insure the orderly growth and development of the community. The
41 board shall make specific written findings of fact and conclusions deter-
42 mining whether such annexation or the annexation of a lesser amount of
43 such area causes manifest injury to the owners of any land proposed to

1 be annexed, or to the owners of land in areas near or adjacent to the land
2 proposed to be annexed or to the city if the annexation is disapproved.
3 The findings and conclusions shall be based upon the preponderance of
4 evidence presented to the board. In determining whether manifest injury
5 would result from the annexation, the board's considerations shall include,
6 but not be limited to, the extent to which the following criteria may affect
7 the city, the area to be annexed, the residents of the city and the area to
8 be annexed, other governmental units providing services to the area to
9 be annexed, the utilities providing services to the area to be annexed, and
10 any other public or private person, firm or corporation which may be
11 affected thereby:

- 12 (1) Extent to which any of the area is land devoted to agricultural
13 use;
- 14 (2) area of platted land relative to unplatted land;
- 15 (3) topography, natural boundaries, storm and sanitary sewers, drain-
16 age basins, transportation links or any other physical characteristics which
17 may be an indication of the existence or absence of common interest of
18 the city and the area proposed to be annexed;
- 19 (4) extent and age of residential development in the area to be an-
20 nexed and adjacent land within the city's boundaries;
- 21 (5) present population in the area to be annexed and the projected
22 population growth during the next five years in the area proposed to be
23 annexed;
- 24 (6) the extent of business, commercial and industrial development in
25 the area;
- 26 (7) the present cost, methods and adequacy of governmental services
27 and regulatory controls in the area;
- 28 (8) the proposed cost, extent and the necessity of governmental serv-
29 ices to be provided by the city proposing annexation and the plan and
30 schedule to extend such services;
- 31 (9) tax impact upon property in the city and the area;
- 32 (10) extent to which the residents of the area are directly or indirectly
33 dependent upon the city for governmental services and for social, eco-
34 nomic, employment, cultural and recreational opportunities and
35 resources;
- 36 (11) effect of the proposed annexation on the city and other adjacent
37 areas, including, but not limited to, other cities, sewer and water districts,
38 improvement districts, townships or industrial districts and, subject to the
39 provisions of K.S.A. 12-521a, fire districts;
- 40 (12) existing petitions for incorporation of the area as a new city or
41 for the creation of a special district;
- 42 (13) likelihood of significant growth in the area and in adjacent areas
43 during the next five years; and

1 (14) effect of annexation upon the utilities providing services to the
2 area and the ability of those utilities to provide those services shown in
3 the detailed plan.

4 ~~(e)~~ (e) The board of county commissioners shall render a judgment
5 within seven days after the hearing has been adjourned sine die. If a
6 majority of the board of county commissioners concludes that the annex-
7 ation or any part thereof should be allowed, the board shall so find and
8 grant the annexation by order; and thereupon the city may annex the land
9 by ordinance. Orders of the board of county commissioners denying the
10 petition or a part thereof for annexation shall require a majority vote of
11 the members of the board. When an order denying a petition or part
12 thereof is issued, it shall be by resolution, which shall be sent by certified
13 mail to the city proposing the annexation. All orders of the board of county
14 commissioners granting or denying petitions for annexation shall be
15 spread at length upon the journal of proceedings of the board. The failure
16 of such board to spread an order granting annexation upon the journal
17 shall not invalidate such order.

18 ~~(f)~~ (f) Any owner of land annexed pursuant to this section or the city
19 aggrieved by the decision of the board of county commissioners may
20 appeal the decision of the board to the district court of the same county
21 in the manner and method set forth in K.S.A. 19-223, and amendments
22 thereto. Nothing in this subsection shall be construed as granting the
23 owner of land in areas near or adjacent to land annexed pursuant to this
24 section the right to appeal the decision of the board of county commis-
25 sioners. Any city so appealing shall not be required to execute the bond
26 prescribed therein.

27 Sec. 2. K.S.A. 12-521 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.