

Approved Robert D. Miller 2/12/85
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson

1:30 xxx
a.m./p.m. on FEBRUARY 7, 1985 in room 521-S of the Capitol.

All members were present except: ALL PRESENT

Committee staff present: Mike Heim, Legislative Research Department
Gloria M. Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Representative Ginger Barr -- HB 2117
Representative Marvin Smith -- HB 2117
Representative Nancy Brown -- HB 2117
Ms. Hazel Ball, Stanley citizen -- HB 2117
Ms. Lillian Dale, Stanley citizen -- HB 2117
Mr. George W. Meyer, Olathe citizen -- HB 2117
Mr. Eugene T. Hackler, Olathe attorney -- HB 2117
Mr. John Setter, DeSoto, Rik-Mar Estates -- HB 2117
Representative Marvin Littlejohn -- HB 2117
Mr. Duane Brummet, Plainville citizen -- HB 2117
Mr. Dennis Schwartz, Rural Water District -- HB 2117
Mr. Larry Campbell, Mission Township Trustee -- HB 2117
Ms. Beverly Bradley, Kansas Assn. of Counties -- HB 2117
Mr. Ernest Mosher, League of Kansas Municipalities -- HB 2117
Mr. Ed Johnson, Topeka City Attorney -- HB 2117
Mr. Warren Porter, City of Emporia -- HB 2117
Mr. Bob Hogue, Topeka Homebuilders Assn. -- HB 2117
Mr. Hannes Zacharias, City of Lawrence -- HB 2117
Mr. Carl W. Quarnstrom, Sherwood representative -- HB 2117
Ms. Judy Anderson, City of Wichita -- HB 2117
Mr. Scott Lambers, City of Overland Park -- HB 2117

Mr. Fred Logan, Attorney, Johnson County Library -- HB 2112
Rep. Arthur Douville -- HB 2112

Chairman Sand called for hearing on House Bill 2117.

An overview statement of the bill was furnished by Staff. (See Attachment I.)

Rep. Ginger Barr gave background and intent of the bill. Rep. Barr pointed out the bill does not prohibit annexation but attempts to curtail taxation without representation. (See Attachment II-A.) Rep. Barr presented a proposed amendment for clarification. (See Attachment II-B.)

Rep. Marvin Smith appeared in support of the bill. (See Attachment III.)

Rep. Nancy Brown appeared in support of the bill. (See Attachment IV.)
Rep. Brown stressed the need for "right to protest."

Ms. Hazel Ball presented a letter by Norman Ledgin. (See Attachment V.)

Ms. Lillian Dale read a letter from a person whose property had been annexed but then deannexed and described the awkward situation which resulted. (See Attachment VI.)

Mr. George W. Meyer testified that a city had gone to the county in order to annex an unplatted tract of 135 acres.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
 room 521-S, Statehouse, at 1:30 ~~a.m.~~ p.m. on FEBRUARY 7, 1985

Mr. Eugene T. Hackler, Attorney, Olathe, Kansas, pointed out that when farms are annexed, the city control of animal law goes into effect. Mr. Hackler appeared in support of the bill.

Mr. John Setter, representing Rik-Mar Estates, DeSoto, Kansas, testified as a proponent of the bill. (See Attachment VII.)

Rep. Marvin Littlejohn, a co-sponsor of the bill, stated he wholeheartedly supports the bill; that Plainville, Kansas is experiencing a need for such legislation at this time.

Mr. Duane Brummet, Plainville, Kansas, introduced two "concerned citizens" from Plainville and described the problem facing Plainville. Mr. Brummet urged the Committee to approve the bill.

Rep. Ivan Sand noted a phone call he had received from Ms. Sherrie Houser of Plainville regarding her personal annexation story.

Mr. Dennis Schwartz, President, Kansas Rural Water Assn., appeared as a proponent of the bill. (See Attachment VIII.)

Mr. Larry Campbell, Mission Township Trustee, stated his constituents and Board strongly support the bill.

Ms. Beverly Bradley, representing the Kansas Association of Counties, indicated the Association's support of the bill. (See Attachment IX.)

Mr. Ernest Mosher, League of Kansas Municipalities, appeared in opposition to the bill. (See Attachment X.)

A committee member noted an example from Wichita, Kansas, of a parcel of land on the outskirts of the city being annexed; that the homeowners were provided no sewer or water services nor paved streets, but were taxed at a higher rate; that city improvements should be afforded in a reasonable time.

Mr. Ed Johnson, Topeka City Attorney, appeared in opposition to the bill. Mr. Johnson stated he was authorized by the Mayor and City Commission to endorse the League's position on the bill.

Mr. Warren Porter, representing the City of Emporia, stated he represents the Mayor in support of the League's position. (See Attachment XI.)

Mr. Bob Hogue, President of the Topeka Homebuilders Association, appeared in opposition to the bill and stated that Association endorses the League's position.

Mr. Hannes Zacharias, representing the City of Lawrence, appeared as an opponent to the bill. (See Attachment XII.)

Rep. Ginger Barr introduced Mr. Carl W. Quarnstrom, representing the Sherwood area, who appeared as a proponent of the bill and stated he opposes an irregular, irrational approach to city growth.

Ms. Judy Anderson, representing the City of Wichita, appeared in opposition to the bill and stated the city supports the present statutes.

Mr. Scott Lambers, City of Overland Park, appeared as an opponent to the bill, but noted he supports the "planning" aspect for cities.

The hearing on HB 2117 was closed.

Chairman Sand called for hearing on HB 2112.

An overview of the proposed legislation was provided by Staff. (See Attachment XIII.)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 521-S, Statehouse, at 1:30 ~~xxx~~ p.m. on FEBRUARY 7, 1985

Mr. Fred Logan, attorney for the Johnson County Library, appeared in support of the bill and noted that the bill is endorsed by the Johnson County Board of County Commissioners.

Rep. Arthur Douville made a motion to amend Section 3 of the bill to replace "statute book" by "Kansas Register." Rep. Samuel Sifers seconded the motion. The motion carried.

Rep. Phil Kline made a motion that the bill be passed and placed on the Consent Calendar. Rep. Dorothy Nichols seconded the motion. The motion carried.

Mr. Mike Heim, Staff, explained request for new legislation to the Committee for group homes for eight or fewer handicapped and staff residents. When questioned, Mr. Heim noted that funding is not addressed in the proposal which was submitted by Rep. Mike Hayden and Rep. Marvin Barkis. (See Attachment XIV.)

Rep. Don Rezac made a motion to introduce the request as new legislation. Rep. Arthur Douville seconded the motion. The motion carried.

The minutes of the meetings of January 30, 1985, and January 31, 1985, were approved as presented.

The meeting was adjourned.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE February 7, 1985

NAME ADDRESS REPRESENTING

BOB BRADLEY	Lawrence, KS	KS Assoc Counties
Elmer Ronnebaum	Baileyville, KS	Ks. Rural Water Assoc.
Dennis Schwartz	Tecumseh, KS	KS Rural Water Assn
Jim Blackburn	Topeka, KS	Shadywood Subdivision
Leann Massey	Topeka, KS	Shenwood - John Shenwood
Don Watson	Topeka, KS	Baldwin Estates
Bob Hoque	Topeka, KS	Self
Hazel W. Ball	Stanley, KS	Self + Mrs. Norman Hedger ^{net}
Richard Harma	Topeka, KS	KS Librarian Assn.
Lillian G. Dale	Stanley, KS	Rep / Central Township
Merill K. Shively	Stanley, KS	
GEORGE W MEYER	14575 W 151 ST OLATHE KS	SELF
Eugene T Hackler	Olathe, KS	ATTORNEY for George + Meyer
Frank Brumitt	Plainville, KS	Plainville Citizens Against Annexation
Thomas R. Albert	PLAINVILLE, KS	" " " "
Kenneth Bruma	Plainville, KS	" " " "
Earl Kemmerly	Suffolk Rd	" " " "
John Poffenbarger	Topeka, KS	Shadywood Subdivision
Donna L. Hoffmann	Topeka, KS	"
FRED LOGAN	D.V., KS	Jr. Co. Library
Dorise F. Johnson	Topeka	SMTE LIBRARY
Myrtle Larson	Topeka	sheltered Living, Inc.
Gerry Ray	Olathe	Jr Co Board of Comm.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE Feb 7, 1985

NAME

ADDRESS

REPRESENTING

NAME	ADDRESS	REPRESENTING
Ed Parker	Asst. League of Ks. Municipalities	
Ed Johnson	Topeka	City Attorney
O.D. McPherson	Topeka	Home owner
Maurice Martin	✓	✓ ✓
Frank Bizz	✓	✓ ✓
Carl W. Quamstrom	✓	✓ ✓
Carl Peterson	✓	✓ ✓
Margaret Skowrod	✓	✓ ✓
Hennessy Federico	Lawrence City Hall	City of Lawrence
Judy Anderson	Wichita	City of Lawrence
Larry Campbell	Mission ^{SHAWNEE} TURNER _{CO}	
Quinn L. Lemmon	Mission Turn	Topeka Kans.
John M. Setter	ROUTE 1 BOYSIDE DESOTO KS.	RIK-MARK STATES
Marsha Marshall	8560 At-Mandato KS	" " "
Carol Setter	R#1 BOYSIDE	Desoto K.S.
Jan Wahajun	Topeka	
WARREN PORTER	EMPOREN	CITY OF EMPORA
W.A. Ramsey	Olathe	City of Olathe
Chris McKenzie	Topeka	League of Ks. Mun.
SCOTT LAMBERS	OVERLAND PARK	OVERLAND PARK
Jimmy Bussan	St. Mary, Kan	City of St. Marys

MEMORANDUM

ATTACHMENT I

3/7/85

February 4, 1985

TO: House Local Government Committee
Chairman

FROM: Kansas Legislative Research Department

RE: HB 2117

HB 2117 amends the city annexation law to permit 5 percent of the qualified voters residing in an area proposed to be annexed to file a protest petition requiring an election on the issue of annexation within this area. The election shall be held at the next school district or county primary or general election if one is scheduled within 60 days after the petition is filed, otherwise, the question shall be submitted by mail ballot. A 51 percent majority vote shall be required to defeat the proposal.

The bill provides that any judicial or administrative proceeding pending prior to the effective date of this act shall be subject to its provisions. The bill also clarifies what appears to have been legislative policy regarding annexation of agricultural land to provide that a city may not annex any portion of agricultural land which is unplotted and of 55 acres or more without the written consent of the owner.

STATE OF KANSAS

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402



TOPEKA

HOUSE OF
REPRESENTATIVES

Am 183 -W
Rep Land

ATTACHMENT II -A
COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

2/7/85

Testimony by Rep. Ginger Barr on House Bill 2117 before the
House Local Government Committee

Thank you Mr. Chairman and Members of the Committee.

I stand before you concerning House Bill 2117, which is important proposed legislation for many Kansas citizens. This bill addresses and the sponsors believe solves some of the problems in our annexation law. That major problem being, if annexed you have taxation without representation. You will hear testimony today from citizens who live in various areas of the state that share a common interest in the unfairness of existing unilateral annexation law by cities.

I want to make myself perfectly clear: this bill does not, prohibit annexation. I repeat, does not prohibit annexation, nor was it the intent of the sponsors to do so. All this bill does is give rights to taxpayers. That they may have an opportunity to vote on their destiny: to be, or not to be annexed. On page 2 of the bill beginning in live 50, you will read new language, "in order to prevent piece-meal annexation, no city shall annex any portion of such agricultural land without the written consent of the owner thereof". The reasons why this new language was presented was to keep cities, through a loop-hole in the law, taking 10, 15 acres at a time of a landowners acreage to achieve boundary justification for a particular area that they wanted to annex to increase their tax base. The present law read that if a city wants to annex a particular area that is contiguous to it that the people being annexed really don't have any voice in the matter.

The citizens can come before the City government and state that they don't want to be annexed, but it's just a formality.

Therefore, the sponsors of this bill have incorporated into sub-section B that if 5% of the qualified voters within that particular area to be annexed would protest by petition, then they would be allowed to have an election within 60 days after the petition has been filed. The burden is on those who don't want to be annexed, not the cities. To keep the cost of the election down, we have incorporated into the bill that the election could be held at the next school district or county primary or general election. If no election is being held, then the question could be submitted by a mail ballot so that it would not prohibit progress. If 51% of the people within the area are against the proposal of annexation voted no, then these people would not be annexed by the city. Line 95 on page 3 states that if there is a suit or annexation process going on prior to the effective date, that it would be subject to the provisions to this act. Line 99 is very important. It again shows the intent of the authors not to prohibit expansion of the city or annexation. The language provides that in the event there is land which adjoins the city, and the owner consents to the annexation, (such as a homebuilder) that land could be annexed into the city. The intent of this wording is so that it doesn't prohibit development. The main reason why this bill is introduced is because some city governments are motivated to annex to solely increase the tax base.

Let me ask you: who in this room would vote to increase their constituents taxes by 37.16 mills? I doubt if there is one legislator that would do that. But yet, the cities have the capability of increasing in my particular area the mill levee by approximately by 37.16 mills. These people would have no

representation with any of their elected officials stating that this should or should not be done. My constituents feel that this is taxation without representation!

If a developer or a group of citizens go out to an area to create their own development, and they like being out in the country or they like having larger home lots, and they are willing to put in streets, to put in sewers or septic tanks, and then the city happens to grow out that way...is it the right for the city to go and to look at this area of development that these people have had and may have had for 20 years and say, it's time you raise your taxes by 37.16 mills and I'm not going to provide you any additional benefits that you don't already have. The people in Mission Township, which is in my area, want to know what kind of benefits they are receiving for those increased taxes? Another statement I have heard is "I don't want to lose the snow removal that I have now with my township". I've also heard people state that they feel like they are in Afghanistan or others say maybe we should have a metro government.

If you all believe in local control, if you believe the people should have some control over their destiny, then there would be no reason not to vote for this bill. Again, it does not preclude annexation. The League of Municipalities should not be afraid of this bill. If the cities have benefits to give to these people, then people are usually willing to pay for a benefit. What the cities and League are concerned about is that they're going to have to prove their worthiness to annex a particular area. They're going to have to go and market their services and benefits to these people. As some of you know, I am a cemeterian. Now I can tell you

factually that I know of no one who gets elated over purchasing cemetery property, as well as being annexed. So I have to go out and market my philosophy and products. It takes some work, but it is good both for me, as a planner and a developer and it is good for the consumer. The cities should do the same.

Perhaps if annexation is not such an easy process, the cities would look at the benefits that they provide within their boundaries and look to positive thoughts and work to maintain taking care of what they already have. Remember thinking that bigger is always better is not always true.

City annexation has been arbitrary in my county. I doubt if the City of Topeka would ever annex Goodyear, because Goodyear would perhaps shut down and those jobs are important to the City of Topeka and the County of Shawnee. City fathers and the people who represent the League of Municipalities can say we won't annex some industry because they may pull out. Therefore, business has some type of leverage, but homeowners don't have this type of leverage. Thus, cities don't have to show their worth to homeowners. There needs to be a law that shows reasonable basis for annexation and perhaps open up communication between City fathers, counties and townships.

I have empathy for city and county planners, as well as developers on the necessity to plan for future development. But something needs to be done to force parties to communicate about their needs, wants, and future plans. Let's know the rules before we start to play the game.

I'm sure that you will hear arguments from the League of Municipalities talking about that it would be difficult for fire and police protection, but as one of my constituents stated. I

knew what the fire and police protection was when I moved out to the country, I don't expect anything more now.

I hear arguments that if you build a new development close to the city, you should know that you will be annexed at some time in the near future. But what happens if you live in "urban sprawl" for 10-15-20 years, and the city happens to grow towards you. There is no guarantee that a city will or won't grow or in what direction. No one would purchase a home with the idea the city would come to them in 15 years. What if the city didn't? It is necessary for these people to be self-sufficient either through septic tanks, township government and rural water districts. Then I guess they wait to see if the city wants them or not.

Again, I reiterate, this bill does not prohibit annexation or growth and was not the intention of the sponsors. It only places worthiness on the municipality. They have to justify to the people the need for its services. Cities should be a better job of future planning, not only on paper but with the citizens as well. I urge your favorable consideration of these positive changes in the annexation statutes. They provide protection to those to be annexed, but they still permit flexible annexation by developers who desire city support. The cost of this protection is minimal. The benefit to the citizens of this state are significant.

STATE OF KANSAS

ATTACHMENT II-B

COMMITTEE ASSIGNMENTS

VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402



TOPEKA

HOUSE OF
REPRESENTATIVES

Proposed amendment for clarification on House Bill 2117:

line 89: If there is no school district or county primary or general election within 60 days after the petition is filed, then the question shall be submitted by a ~~mail ballot election~~ at a special election which may be conducted in the manner provided by K.S.A. 25-431 et seq., and amendments thereto.

MARVIN E. SMITH
 REPRESENTATIVE, FIFTIETH DISTRICT
 SHAWNEE AND JACKSON COUNTIES
 123 N E 32ND STREET
 TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
 MEMBER EDUCATION
 FEDERAL AND STATE AFFAIRS

2/7/85

February 7, 1985

Mr. Chairman and Members of the Committee:

I appear before you today to encourage you to support the merit of HB 2117.

Surely the time has arrived when the resident owners, as qualified electors, of an area proposed for annexation might have an opportunity to be a part of decision making process.

If annexation will provide services and or benefits that are needed by the proposed area to be annexed - surely a majority of the voters will support annexation. On the other hand, if all the municipality wants is to increase the area in the city and more importantly grab tax base, then I believe the resident owners of property affected should have a veto procedure.

A typical example of a tax base grab happened in the northwest part of Topeka more than 10 years ago in the area from Good-year to the Kansas river. Most of that was devoted to agriculture, vegetable farming, growing of nursery stock, as well as corn, wheat, and alfalfa. Records will show very, very few building permits have been issued in the area annexed.

Attached is Exhibit I which is an article on page 9 in the January 1, 1985, issue of the Grass and Grain publication. The article indicates the dilemma which Robert and Barbara McDowell here in Shawnee County have become victimized.

May I suggest to you, surely before our great state celebrates its 125th anniversary of Statehood next January 29, 1986, that we can unashamedly say to the citizens who might be subject to annexation efforts - you have the ability to determine by election process annexation proposals.

Decision On Annexation Of Land To Be Landmark Case For Farmers

By Frank J. Buchman

Cities can gobble up farmland at their desire if a court decision upholds land annexation proceedings now in Topeka.

But one land owner and his attorney are appealing the action and the outcome will be a landmark decision for other farmers living at the edge of large cities.

Robert and Barbara McDowell own a 60-acre tract on the west side of Wanamaker, south of the old city limit that was where 31st Street would be if a street were there.

The owners are seeking a court order to nullify the city's recent annexation of the property.

If the challenge is upheld by the court, it would nullify a total annexation by the city of 125 acres on the west side of Wanamaker as far south as 37th Street.

The property to the south of the McDowell land is a new development called Shadywood West Subdivision. The owners of that development had consented to being annexed to the city.

Because Shadywood West was not immediately adjacent to the former city limit, the city marked off a 20-acre piece of the McDowell property for annexation as a corridor to connect the old city limit with Shadywood West.

In a third annexation, the city took in another 24 acres of

the McDowell property.

Previous laws, according to McDowell, had permitted "jumping pieces of land" to include additional property within the city, but changes have been made so now city property must be continuous.

No action has been taken for the remainder of the McDowell acreage which includes their home. McDowell has used the property for boarding horses, grazing and hay land.

The McDowell's are contending the city violated state law in drawing the arbitrary line across their land, where no other division line exists, and annexing the 20 acres that is the maximum the city could annex under state law with-

out the consent of the owner.

John Hamilton, Topeka attorney representing the McDowells, said he did not believe that is what the Legislature had in mind when it said a city can annex up to 20 acres without the owner's consent.

He said if that was the intent, a city could annex a 1,000-acre farm, 20 acres a month. In a period of 50 months, the city would have annexed the whole farm.

McDowell said it was his understanding that the Legislature set the limit of 20 acres specifically to prevent cities from annexing undeveloped property without the consent of the owner.

"I think the city's position is ridiculous. But if it is upheld,

in theory, Topeka could gobble up all the land from here to Manhattan," Hamilton said.

"That's the reason the law was written, to prevent takeover of a farm unit under one ownership. Land annexation is a simple procedure, but a question of the law on which we'll present legal arguments and the judge will have to make a decision," he added.

It is believed that Topeka's growth to the south and west intends to include Lake Sherwood which attaches to the first annexation.

Topeka Mayor Doug Wright limited comment to: "We will try our case in court."

McDowell is optimistic for

his side, but desires to talk to others who have had similar cases or those who can provide assistance.

Car Prices Up 2 Percent

Detroit said 1985 price increases averaged \$125 to \$292, or 1.2 percent to 2.3 percent. An analysis show the prices went up \$240 to \$723, or 2.6 to 8.2 percent.

The base price of a 1985 domestic car is \$10,278, up from \$9,809 in 1984, a \$478, or 4.8 percent, bump.

Grass & Grain 9
JANUARY 1, 1985

MANHATTAN
COMMISSION CO. INC.
LIVESTOCK AUCTION

TESTIMONY BEFORE LOCAL GOVERNMENT - February 7, 1985 re: HB 2117

By: Representative Nancy Brown

My name is Nancy Brown and I am here testifying on behalf of residents in my district as well as President of the Kansas Association of Townships in support of HB 2117. This bill slightly alters KSA 12-520 by adding a section to allow for a petition by the qualified voters residing within the area proposed to be annexed.

Annexation - it is a word that brings fear and concern to the hearts and minds of the League of Municipalities, Association of Counties, city and county officials. But, most importantly, it brings fear to the people. . . fear that their way of life will be altered, fear that they will not be able to afford the increase in taxes, fear of the unknown. This should not be!

Why does this word, annexation, bring such an emotional reaction? Because the word is misunderstood, and the practice of annexation is so often abused. Webster's Dictionary definition of the word "annex" says it means "to attach to something larger," "to incorporate into." Frankly, I had not thought about the word "incorporate" as being part of the meaning of the word annexation, but I have thought about incorporation as a way of protection from annexation in my community. In this instance, however the word "incorporate" means "to combine; include; embody", or "to bring together in a single whole". Unfortunately this is not the connotation of the word annexation we perceive when we hear it.

If annexation meant to "embody" or "to bring together", we would simply not be here requesting a bill about annexation. We would not need it because the cities would be doing such a good job of "embodying" and "bringing together" the unincorporated areas and their cities that the residents would welcome the opportunity to be part of the "single whole." I can see the cities now with their dog and pony show presentations welcoming the proposed residents with open arms, doing a sales job with a public relations effort to share the benefits of city life with the residents to be annexed. I don't say this facetiously, but very sincerely. I do believe that the burden of proof is on the cities to share their merits with the residents before annexation.

I have here some letters that were written in 1981 to me, as Chairperson of a Citizens organization, and to Representatives Webb, Cloud, Moore, and Senators Bogins and Burke, from then BOCC John Franke, Jr. Mr. Franke was responding to some citizens' concerns about annexation. A study was made and numerous cities were involved. Some of the conclusions were that "dialogue" was needed to be established between all cities bordering on unincorporated areas and the county, residents must be allowed due process, cities should be prepared to point out the benefits of being a part of a municipality, and adequate representation must be assured to the residents of the area in question. Four years later, we are here advocating the same thing. . . no one has paid any attention to the process and people! This bill does, and I urge your support.

I have been involved in annexation issues for more than ten years, first as a city official, then as a township official, now as a State Representative. In all instances, I cannot recall a time when the cities made a presentation to the unincorporated areas to tell them about the mutual benefits to having them become a "single whole." In fact, too often, the residents read about the annexation in the local newspaper, or are told about it by their neighbor or they may have gotten a letter to attend a public hearing. However, I know of some cases where they never knew they were in the city until after the fact. This is not cooperation, coordination, communication. . . this, in my opinion, is a taking of the rights of the people.

I believe this bill is about rights - it is not about halting annexation. I simply do not believe it when statements are made that this bill will halt annexation. I represent cities as well as rural areas and I believe that cities need to have the opportunity to expand and progress at a meaningful, orderly pace. But, at the same time, residents and landowners in the path of growth must be allowed due process. This bill is about due process.

Let me just leave you with some thoughts about the annexation process and what happens, not only to the people involved, but to the governmental units involved. City and county government is not all that is affected. Little consideration is given to another small, but important unit of government, township government.

What happens to the tax base of this governmental unit which already has limited funds and resources, with little opportunity to increase taxes? What happens to the township fire departments when part of the township land is annexed? What happens to the roads and bridges in the unincorporated areas? What about the rural water districts? The other infrastructure involved?

In these uncertain financial times when we are hearing about drastic cuts, possibly the elimination of Federal Revenue Sharing townships are going to face an even heavier burden to scarce resources. Cities and counties must consider the effect of annexation on all units of government, yet the townships are never even notified of the annexation which may or does take place.

While HB 2117 will not insure that the cities and counties will consider the people and the townships, it does insure dialogue. It does not take away the rights of the city to annex - it simply insures the rights of the people, the rights they already have under the Constitution, the right to protest, the right to protect and the right to be respected and heard. These are principles we hold dear in a Democracy.

HB 2117 does nothing more but reinforce the existing right the people should already have, which are often ignored in the process. It is time we, as Representatives of all the people, insure their rights!

2/7/85

February 5, 1985

Statement of support for proposed House Bill 2117 by Norman Ledgin, citizen
and elected clerk of Oxford Township in Johnson County, Kansas

If features of annexation statutes previously enacted by the Kansas
Legislature have been worrisome to rural residents, none has piqued them
more than apparent violation of their understood rights.

To explain, peculiarly "American" is traditional acceptance of the
right of free association politically.

The principle is embodied in, and the basis for, the Declaration of
Independence.

With less drama it is, nevertheless, repeated in the United States
Constitution.

With greater clarity, however, the principle is repeated in the
Kansas Constitution.

Article 2 of the Kansas Bill of Rights states, "All political power
is inherent in the people, and all free governments are founded on their
authority, and are instituted for their equal protection and benefit."

Article 2 stands as one of the highest forms of reference for such
Declaration language as "governments are instituted among men, deriving
their just powers from the consent of the governed" and U.S. Constitution
statements that "we the people...do ordain and establish," etc.

When annexation is accomplished without consent by citizens whose
property and presence are being annexed by a city, those citizens are
denied opportunity for declaring themselves part of the new and superimposing

Ledgin - page 2 - February 5, 1985

entity. That is an apparent circumvention of the Kansas Bill of Rights which may now be corrected by the Legislature.

Furthermore, when annexation is carried out with no effort by the annexing city to gain public support among those being annexed, the act of annexing is bankrupt of positive reason according to perceptions of the people annexed. No city should wish to hold any of its citizens, new or old, captive. Yet that is the effect of annexation without self-determination.

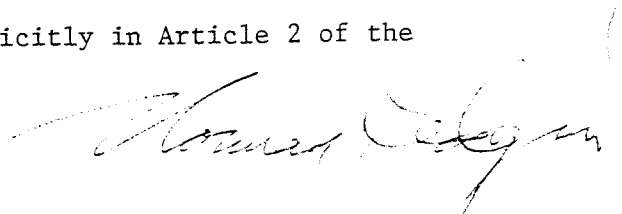
Still further to be considered, given unstatesmanlike motivations by some involved in an annexation process without self-determination, there is opportunity for political abuse.

As a case in point, one opponent of annexation in Oxford Township had her acreage included in a move by the City of Overland Park in conspicuous violation of the straight-line boundary principle.

When asked by friends and associates to undo the injustice, the top elected official of Overland Park at the time refused, as though enjoying the statutorily-protected triumph of his punitive power.

Since then, the same annexed citizen has had an unreasonable degree of difficulty attempting to obtain promised service from Overland Park, because officials there seem uncertain where the correct boundaries are to be found...

All I ask the Kansas Legislature to do is recognize principles contained in both the U.S. and Kansas Constitutions, particularly in the latter, for fairly enfranchising rural citizens on matters of free governmental "founding," as provided explicitly in Article 2 of the Kansas Bill of Rights.



Tor
Nancy
and
Hazel

When Overland Park tried to take the Stanley area in - on account of sickness we were unable to attend the meeting in Topeka. However we were never notified by Overland Park that they took my property into their city. But about 9 years ago (before my husband passed away) the city of Overland Park sent a policeman to our house to inquire where we lived. My husband answered his questions to where we lived - My husband said we live here. Next question - where do you get your mail? answer on # 3 out of Stanley - as told by Postal authorities - after some more conversation - My husband said to the policeman - If you lived here - where would you say you lived? His answer was - If I lived here - I would say I live in Stanley - and I think you live in Stanley -
Later I wrote the City Council about

2

Their reply - all of this was done in Topeka and they had nothing to do with it and could not do anything - Later I wrote Jack Walker who at that time was Mayor of Overland Park - telling him my troubles - and ask that he read my letter at the next Council Meeting - which ~~he~~ he did and it was voted on - 4 to 3 - not to remove me - He then wrote me what had been done even saying who had voted for me - However later I found out that - all of these papers they had filled out was made in Overland Park and not in Topeka. This came from good authority so some one lied to me - I cant vote for anything in this area - as my voting precinct is at 10-5 - and no one near me - will go to vote there - I feel I have been done a very unfair justice -

ATTACHMENT VI

2/7/85

Attachment 6

2/7/85

Testimony before the House committee on Local Government

February 7, 1985

HB 2117, concerning annexation

presented by John M. Setter; resident of Rik-Mar subdivision,
Johnson County, Kansas; speaking on behalf of all resident property owners therein

We want to begin by stating that we can certainly understand the reluctance of parties who have a vested interest in the growth of towns and cities to support this bill. They fear that their growth might be jeopardized if private citizens were allowed any collective voice in whether their government, taxes, and services can be changed against their will.

However, we have found ourselves in a position to understand some shortcomings of the existing law and abuses that may take place under it. To be specific, we are a neighborhood of 24 homes in unincorporated Johnson County. All of us bought our homes with a complete understanding of the jurisdiction along with the property tax schedule and the property use covenants adopted by that neighborhood.

In November of last year, we were served with papers advising us that, by simple resolution, the city of DeSoto had decided that our neighborhood should become a part of that city.

Our research soon turned up the fact that we, as property owners and citizens, had absolutely no rights nor recourse in the matter. We found that the city was complying with a technicality of the law which states that we are contiguous to their city limits by virtue of three sections of land that touch only at their corners over a distance of a mile.

We found that our mill levy for property taxes would increase by 18.3%. We have absolutely no voice in this tax increase. We would be remiss if we did not note that the Declaration of Independence specifically states that an American cause for confrontation with the British Empire was "For imposing Taxes on us without our Consent."

We found that the so-called "Service Extension Plan" that is mandated by existing law says virtually nothing. The city's only commitment to financial expenditure in the entire three page document was \$100 annually to repair and maintain approximately one mile of road in the area. In the so-called "hearing" that we attended, we questioned whether such an expenditure was adequate in comparison to the \$2200 per year that Johnson County is presently spending according to our research. The response from the city indicated that they were not sure what that amount would be.

We question whether the existing law requires adequate accountability and fiscal responsibility on the part of a city in their annexation proceedings. Apparently, the mayor of DeSoto has met the requirements of the law when he said, in the February 3, 1985 edition of the Lawrence Journal-World, "One reason I want (Rik-Mar) annexed, is that I don't want Shawnee (Ks.) in our back door." It would seem that a good law would not support a "lets-get-the-land-before-they-do" mentality that shows absolutely no regard for the welfare of the citizens to be annexed nor for any ability of the city to support the extension of services to which they vaguely allude.

The law, in our case, blatantly condones the right of a city to unilaterally change our government, to cause a substantial increase in our taxes without representation, and to offer no improvement in some public services and a reduction in others. We have been left with nothing other than \$500.00 in legal costs spent to find that we have virtually no hope in stopping this regrettable action.

We strongly urge your support of this legislation and its grant of moral, civil, and political rights to Kansas citizens and property owners.

2/7/85

KRWA

TO: HOUSE LOCAL GOVERNMENT COMMITTEE

STATEMENT OF SUPPORT FOR HOUSE BILL 2117

Mr. Chairman and members of the committee,

On behalf of the membership of the Kansas Rural Water Association, I wish to express to you our strong support of House Bill 2117.

Some of our member districts have had significant portions of their income bases taken from them through annexation. Some others are faced with that same threat. These income bases are generally pledged as security for the Farmers Home Administration loans to the district. When a number of users is taken from them, it can create a real hardship on remaining patrons by increasing the amount of money per patron required to meet the debt service.

It would certainly seem to be equitable, that the affected persons and the utilities which serve them, should have some voice in their destiny. Favorable action on this bill would be greatly appreciated by all patrons of rural water in the State of Kansas.

Dennis F. Schwartz



President,
Kansas Rural Water Association
February 7, 1985

Attachment 8

Kansas Rural Water Association
320½ Main Street
Seneca, Kansas 66538
(913) 336-3760

Kansas Association of Counties

Serving Kansas Counties

ATTACHMENT IX

2/7/85

Suite D, 112 West Seventh Street, Topeka, Kansas 66603

Phone 913 233-2271

February 7, 1985

Mr. Chairman
Members of the Local Government Committee

I am Bev Bradley, Legislative Coordinator for the Kansas Association of Counties.

I appear before you today in support of HB 2117. Although the wording is not exactly as the KAC platform states, since annexation does not require approval of the Board of County Commissioners this bill does address the concerns of county boards by allowing for an opportunity for citizens to be heard by the election process if a petition is filed within 60 days.



League of Kansas Municipalities

ATTACHMENT X

2/7/85

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

Statement on Annexation--HB 2117

By E.A. Mosher, Executive Director, League of Kansas Municipalities
To the House Committee on Local Government
February 7, 1985

Let me begin my remarks by noting the official position of the League on annexation. Our convention-adopted Statement of Municipal Policy provides that: "State laws should favor annexation to functioning cities as the preferred avenue of providing municipal services to unincorporated areas now urbanized or which will become urbanized in the foreseeable future. The legislature should provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs."

Over the years the League, on behalf of its member cities, has consistently opposed bills to further restrict the annexation authority of cities. Indeed, our long-term objective is to strengthen the already limited annexation power of cities, such as by increasing the size of tracts that are subject to unilateral annexation.

One of the major provisions of HB 2117 would provide for referendums limited to voters residing in the area proposed for annexation. Our policy position on this approach is as follows:

"The owners or residents of land adjoining the city should not be granted a statutory right to vote on or consent to annexation. It is essential that the long-term public interest of the whole community be given priority in municipal growth, in the same manner that other, over-all community needs in an urban society occasionally require the sacrifice of some private goals and interests in order to achieve the greatest social utility of the area and benefits to the many. It is untenable that the owners of land within the fringe area, whose location has benefits primarily in relation to the existence of the city, should be given veto power over the geographic, economic and governmental destiny of the city."

In simple terms, this means that we oppose referendums on annexations. While we might agree that a two-thirds veto vote would be better than the 51 percent vote required by the bill, we oppose in principle the concept of referendums.

It is important to note in this discussion that we are dealing with a concern which will affect all the cities in Kansas which experience any growth in the future. We have good city government in Kansas, and responsible locally elected officials, notwithstanding all the criticism you occasionally hear about local government. Sometime in the past, most all of our cities had to annex. If they didn't, most of our cities would be populated with a few hundred people. Assuming the average city had 300 residents at the time of incorporation, and never annexed, we would need over 6,000 cities in Kansas to serve the 1.8 million people now living in our cities. But they do annex. And while annexation is rarely popular, we have somehow reached the situation where over 78 percent of all Kansans live within cities. The real issue here, however, is not annexations which have successfully worked in the past to

President: Peggy Blackman, Mayor, Marion • Vice President: Ed Eilert, Mayor, Overland Park • Past President: Jack Alexander, Commissioner, Topeka • Directors: Robert C. Brown, Commissioner, Wichita • John L. Carder, Mayor, Topeka • Richard B. Chesney, City Manager, El Dorado • Constance M. Conyac, Commissioner, Stockton • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • John E. Reardon, Mayor, Kansas City • David Retter, City Attorney, Concordia • Melly K. Schmidt, Mayor, Hays • Deane P. Wiley, City Manager, Garden City • Executive Director: E.A. Mosher

allow cities, and their citizens, to grow and prosper. The real issue under discussion are those Kansans who have chosen to live adjacent to cities, and who apparently want the economic and social advantages of being near a city, but who often don't want to be a contributing partner.

As I am sure all of you know, we have two basic annexation procedures available to Kansas cities. One procedure is known as unilateral annexation -- the subject of this bill -- where property meeting certain statutory conditions, and limited in size unless platted, may be annexed directly by the city. The other procedure, to be used where unilateral annexation is not possible because of these statutory conditions and limits, is annexation through the actions of boards of county commissioners.

I suggest to you that there are also two basic forms of annexation. One form is where the city, in effect, buys it. This is the kind of annexation you seldom hear about, which the land speculators, the home builders and subdividers, the commercial developers and homeowners, don't complain much about. They want city-provided water or sewerage treatment. They want storm sewers or sanitary sewers or streets, preferably paid for by the city-at-large so they can get a free ride. They may want better police protection or better fire protection. They may want land use and development controls. They want certain services offered by the city, and often agree to voluntary annexation--or don't complain much about it -- since there is a clear and direct economic pay-off to them--the value of their property is increased.

The other basic form is the kind you hear complaints about, where the property owner involves want to be a part of the community city, with its attendant benefits, but doesn't want to be a part of the legal city with its possible costs, including paying city taxes. They want the advantages of both worlds, but want to pay the price of only one. It is a matter of enlightened self-interest, and you don't buy a cow if you can get free or even cheap milk.

It is one of the harsh realities of life that private and personal interests sometimes must yield to the long-term and broader public interest. Annexation is like taxes, or zoning, or building regulations, or a host of other governmental actions, undertaken where the paramount concern in a democratic society must be the long-term public interest. If one has chosen to live in an urban or urbanizing area, and in an area that has future growth potential, one lives there at the risk of being subject to future annexation.

While annexation may not be popular for those who want the best of both worlds, it is essential for the planned and orderly development of a city and for the standardization of services and facilities necessary to meet the needs of the larger area. A city concerned about the future of its urban area must develop drainage systems to accommodate storm water from outside the city, a sewerage system to meet future needs, and a street system to serve an area larger than that within the city. It probably has a library and a swimming pool and a park and recreation system--and maybe a municipal university--to serve a community bigger than the legal city. Should only those now within the city pay all the costs for programs and service which benefit the whole community? And who should pay the costs of reconstructing inadequate public facilities which were built at minimum standards before extensive growth occurred and before annexation?

The ultimate dilemma is this: How do you preserve the annexation authority in cities--an authority essential to maintain viable communities with a future, and still protect the immediate interests of those in the path of community development? In short, how do we reconcile private interests and the public interest? We have not discovered a solution which will not effectively destroy annexation as a tool for securing the public interest of the entire community. As a result, we must oppose HB 2117.



THE CITY OF
EMPORIA

Civic Center / 522 Mechanic / P.O. Box 928 / Emporia, KS 66801 / 316-342-5105

ATTACHMENT XI

2/7/85

Clark Allemang, MAYOR
Leonore H. Rowe, VICE-MAYOR
Donald D. Blaylock, COMMISSIONER
W.L. Jenks, COMMISSIONER
J. Warren Brinkman, COMMISSIONER
J. Brent McFall, CITY MANAGER

February 5, 1985

House Committee on Local Government
Representative Ivan Sand, Chairman
House of Representatives
State Capitol
Topeka, KS 66612

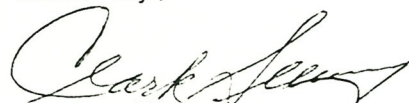
Chairman Sand and Committee Members:

Annexation is one of the principal tools available to cities for achieving orderly community growth. Through the thoughtful exercise of its annexation powers, a city can promote planned and harmonious development of the entire area. As introduced, House Bill 2117 threatens the ability of Kansas municipalities to provide a systematic method in guiding the development and growth of areas adjacent to communities.

Presently, Kansas municipalities are permitted to annex property without the consent of the landowner only when certain statutory conditions are satisfied. These conditions were designed to allow controlled growth and also to permit the equitable provision and payment of municipal services. These standards provide protection to adjacent property owners from wholesale annexation of both residential and agricultural property.

It is the desire of the Emporia City Commission to retain the authority of Kansas municipalities to annex property adjacent to city boundaries as currently provided. The Emporia City Commission urges you to protect the home rule powers of Kansas Municipalities and we encourage the House Committee on Local Government to report unfavorably on House Bill 2117.

Sincerely,


Clark Allemang
Mayor

CA:le

cc: Representative Lowther
Representative Freeman
Senator Karr

Attachment 11



City of Lawrence KANSAS

ATTACHMENT XII

2/7/85

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044 913-841-7722

CITY COMMISSION

MAYOR

ERNEST E. ANGINO

COMMISSIONERS

MIKE AMYX

HOWARD HILL

DAVID P.J. LONGHURST

NANCY SHONTZ

Statement by Hannes Zacharias
Management Analyst, Lawrence, Kansas

Presented to the House Committee on
Local Government February 7, 1985.

RE: Opposition to H.B. 2117 - Restricting Kansas Annexation laws.

Mr. Chairman, members of the Committee, I am Hannes Zacharias, Management Analyst with the City of Lawrence, representing the Lawrence City Commission in their opposition to H.B. 2117. We appreciate the opportunity to present a few comments on this bill.

The Lawrence City Commission in its 1985 Legislative Program Policy Statement opposes the erosion of Municipal authority in Kansas Annexation laws stating that "owners or residents of land considered for unilateral annexation should not be given the exclusive right to vote or consent to annexation". House Bill 2117 does exactly this. If passed, this bill would give the owners of land within the fringe area of cities, whose location has benefits primarily in relation to the existence of the City, the veto power over the geographic, economic, and governmental destiny of cities. The portion of the bill requiring written consent in annexation procedures of agricultural land of any size, not only those in excess of 55 acres, in our view locks

in "piece meal" development of cities, not prevent such growth. Many landowners do not want to be annexed into cities because they do not preceive the benefits and services derived by their location to cities; benefits and services paid for by the taxpayers of such cities. Such resistance creates islands within the City which probably will be without many city servies: i.e. "piece meal" development. We need only to look at St. Louis and the effects restrictive annexation imposes. Around the turn of the century, St Louis was prevented from developing beyond the existing established boundaries. Today, St. Louis County has 96 separate cities within the metropolitan area.

Kansas annexation laws were designed to address the problems of developing cities. The present laws establish an appropriate balance between land owners in the fringe areas and developing cities. This bill destroys this balance. We believe that when an area is urbanized, it should be considered part of the coroporate city. State laws should favor annexation for developing cities. As a means to provide Municipal services to unincorporated areas now urbanized or which will become urbanized in the future. It is essential that the long term public interest of the whole community be given priority in Municipal growth.

H.B. 2117 allows for "piece meal" development where a single individual can veto the orderly growth of Kansas cities.

We strongly urge you to reject H.B. 2117.

MEMORANDUM

Rep Saul; Office
Room # 183-W

February 4, 1985

TO: House Local Government Committee
Chairman

FROM: Kansas Legislative Research Department

RE: HB 2112

ATTACHMENT XIII

2/7/85

HB 2112 amends a statute relating to the appointment of library boards by cities, counties and townships. The bill provides that the library board in Johnson County shall consist of seven members. Other county library boards would continue to have five-member boards.

The Legislature in 1984 revised the act of which this statute is a part to make a number of changes for the library system in Johnson County to require more oversight by the Johnson County Commission. The act provides for the creation of library boards by cities, counties and townships as separate legal entities if voters approve.

2/7/85

HOUSE BILL NO. _____

By

AN ACT concerning zoning; relating to group homes.

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

Section 1. (a) It is hereby declared to be the policy of the state of Kansas that physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons shall not be excluded from the benefits of single family residential surroundings by any municipal zoning ordinance, regulation or restrictive covenant. It is also declared to be the policy of the state of Kansas to encourage the dispersion of group homes within a municipality.

(b) For the purpose of this act:

(1) "Group home" means any dwelling occupied by eight or fewer physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons who need not be related by blood or marriage and also may include two staff residents who need not be related by blood or marriage to each other or to the physically handicapped, mentally ill, mentally retarded or other developmentally disabled residents of the home;

(2) "municipality" means any city or county located in Kansas; and

(3) "developmental disability" means a severe chronic disability of a person which:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii)

learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living and (vii) economic self-sufficiency; and

(5) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(c) Group homes are hereby authorized to exist in any area zoned for single family dwellings and shall be exempt from any zoning ordinance or regulation or restrictive covenant to the contrary concerning single family dwellings. In order to avoid excessive concentration of group homes, no such group home may be located within 1,000 feet of another such group home, unless the governing body of the municipality approves a closer location by at least a 3/4 majority vote thereof.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.