

MINUTES OF THE Senate COMMITTEE ON Local GovernmentThe meeting was called to order by Senator Don Montgomery at
Chairperson9:07 a.m./~~pm~~ on Friday, March 29, 1985 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Theresa Kiernan, Lila McClaflin

Conferees appearing before the committee: Bev Bradley, Kansas Assn. of Counties, Lawrence
Gerry Ray, Johnson County Commissioners, Olathe
Karen McClain, Kansas Assn. of Realtors, Topeka
Chris McKenzie, League of Kansas Municipalities,
Lawrence
Ernie Mosher, League of Kansas Municipalities,
Topeka

The chairman called the meeting to order and announced that the hearing on H.B. 2117 would continue.

Bev Bradley, Kansas Assn. of Counties, appeared in support of the bill. Her written testimony is apart of these minutes (attachment 1).

Gerry Ray, Johnson County Commissioners, spoke in opposition to the bill. She stated Johnson County Cities have been very responsible in their annexation plans. The language in the bill is confusing and county commissioners would have some problems determining the extent the residents of the area are dependent, or indirectly dependent, on the city for governmental services, social, economic, employment, cultural and recreational services.

Karen McClain, Kansas Assn. of Realtors, spoke in opposition to the bill, her written testimony is apart of these minutes (attachment 2).

Chris McKenzie, League of Kansas Municipalities, presented written testimony (attachment 3), he also, went over the bill and pointed out flaws in it, these are stated in his written testimony.

Ernie Mosher, League of Kansas Municipalities, presented a letter that he had written to the chairman. This letter is (attachment 4) of these minutes. His letter outlined a proposal by the league to (1) study alternatives to the existing statutory procedure for the unilateral annexation of land by cities, (2) to enter into negotiations with other parties interested in changing the existing laws, and (3) to make a good faith effort to attempt to resolve differences between the proponents and opponents of annexation. The letter, also, suggested a task force of not to exceed nine members be formed. The task force would included the Chairman from the Senate Local Government Committee and one other member, and the same from the House Committee, two city officials appointed by the league, one appointed by the association of counties, the executive director of the league or his designated representative and the executive secretary of the association of counties. By mid-December they would expect to submit a report and draft a bill to the Senate Committee on Local Government.

Senator Montgomery stated he had requested of President Talkington that a task force be formed to work on the annexation concerns. Several senators expressed concern that they would like to have the annexation question settled, that it comes up yearly. It was suggested that each side may have to do some compromising.

CONTINUATION SHEET

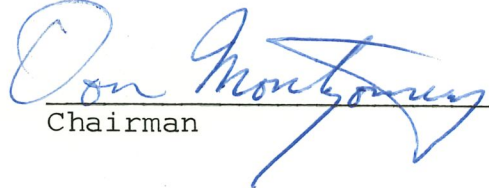
MINUTES OF THE Senate COMMITTEE ON Local Government,
room 531-N, Statehouse, at 9:07 a.m./~~p.m.~~^{XX} on Friday, March 29, 1985

It was suggested by Representative Nancy Brown, that one member of the task force be from the township organization.

Discussion followed. The committee agreed to hold the bill in committee and assign a task force to work on it over the summer. The task force will be named at a later date.

Senator Langworthy moved to accept the minutes of the March 27 and March 28 meetings. Senator Daniels seconded the motion. The motion carried.

The meeting adjourned until, Monday, April 1, 1985.


Chairman

Kansas Association of Counties

Serving Kansas Counties

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

Phone 913 233-2271

March 26, 1985

Chairman Don Montgomery
Members Senate Local Government Committee:

I am Bev Bradley, from the Kansas Association of Counties.

I appear today in support of HB-2117.

The Counties' platform adopted in November at our annual meeting of over 600 county officials held each year in Wichita says:

- 7(a) We request that all annexations be approved by the County Commissioners as well as the City Governing Board, unless written request is made for annexation by land owner or owners.

Line 068-072 of HB-2117 says: No city shall be authorized to 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.

Our platform conversely requests that cities be required to annex road ways when adjacent property on both sides has (already) been annexed.

Counties feel that when land on both sides of the road is annexed, the road should then also be maintained by the city. I believe such a case exists in Sedgwick County.

Counties do not oppose growth, progress, or even annexation, but feel there should be some mechanism for protest by property owners and some involvement by board of commissioners.

I urge your support of HB-2117.

(attachment 1)

3/29/85



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

TESTIMONY BEFORE
THE SENATE LOCAL GOVERNMENT COMMITTEE

March 27, 1985

BY

KAREN MCCLAIN

MR. CHAIRMAN AND MEMBERS OF THE LOCAL GOVERNMENT COMMITTEE, I AM KAREN MCCLAIN, DIRECTOR OF GOVERNMENTAL AFFAIRS FOR THE KANSAS ASSOCIATION OF REALTORS®.

I APPEAR TODAY IN OPPOSITION TO HB 2117. WHILE, ON ITS FACE, IT APPEARS THAT THIS BILL PROTECTS AND BENEFITS THE CITIZENS OF KANSAS, WE BELIEVE THAT IN THE LONG RUN, THIS BILL ACTUALLY DOES DAMAGE TO THE STATE OF KANSAS AND ITS CITIZENS.

THIS IS A TIME WHEN KANSAS IS MAKING STRIDES IN IMPROVING ITS IMAGE AND ENCOURAGING ECONOMIC GROWTH. IT IS OFTEN THE URBAN AREAS WHICH LEAD THE WAY IN THIS GROWTH. JOHNSON COUNTY IS A PRIME EXAMPLE. I SUGGEST TO YOU THAT THIS BILL, IF PASSED, WILL DO NOTHING BUT STUNT THE SPREAD AND GROWTH OF CITIES, THE KIND OF SPREAD AND GROWTH WHICH PROSPECTIVE BUSINESSES TAKE NOTE OF, AND THE KIND WHICH BRING REVENUES OF ALL SORTS TO THE COFFERS OF KANSAS.

IF CITIES ARE REQUIRED TO GO THROUGH THE PROCESS WHICH IS BEING PROPOSED IN THIS BILL, VALUABLE TIME AND MONEY WILL BE WASTED. MORE IMPORTANT, THESE ARTIFICIAL CONSTRAINTS ON THE VERY MEANS BY WHICH CITIES CAN EXPAND TO THEIR FULL CAPACITIES, CAN ONLY MEAN LOST OPPORTUNITIES FOR GROWTH IN BUSINESS, HOUSING, AND THE QUALITY OF LIFE IN KANSAS.

WE APPRECIATE THAT PERSONS MAY NOT WANT TO BECOME "CITY DWELLERS". HOWEVER, THE LOCAL, PRE-ANNEXATION HEARING PROCESS PROVIDES SUFFICIENT OPPORTUNITY FOR THESE PEOPLE TO BE HEARD, YET STILL NOT RISK THE DANGER IN STUNTING GROWTH THROUGHOUT THE STATE BY A STATEWIDE POLICY, SUCH AS THE ONE PROPOSED HERE.

UNDER CURRENT LAW, IF A LOCALITY, AS A WHOLE, DOES NOT WANT TO GROW AND EXPAND THEY CAN MAKE THAT DECISION. HOWEVER, THE POLICY PROPOSED HERE MAKES THE DECISION FOR ALL LOCALITIES, THAT, IN ORDER TO EXPAND THEY MUST GO THROUGH THIS EXTRAORDINARY PROCESS, AS DEMANDED BY STATE LAW.

IN LOOKING AT THE BIG PICTURE, RATHER THAN JUST A FEW PAROCHIAL ISSUES, THE EFFECTS OF THIS BILL DO MORE DAMAGE THAN GOOD TO THE STATE OF KANSAS AND ITS FUTURE.

WE ASK THAT YOU DO NOT PASS THIS BILL OUT FAVORABLY. THANK YOU.

(attachment 2) 3/29/85



League of Kansas Municipalities

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

TO: The Senate Committee on Local Government
FROM: Chris McKenzie, Attorney/Director of Research
DATE: March 26, 1985
SUBJECT: House Bill 2117, As Amended

As indicated in Mayor Doug Wright's statement, the League of Kansas Municipalities is strongly opposed to HB 2117, as amended. In addition to the basic philosophical objections the League has to the bill which are outlined by Mayor Wright, HB 2117, as amended, is significantly flawed in a number of respects. Some of these include:

(1) The bill would significantly delay the annexation process. Under current law (K.S.A. 12-520b), the first step a city must take in exercising its unilateral annexation powers is to prepare a plan specifying its intentions concerning the extension of municipal services. Only when such a plan is completed (and this may take two to three months in some cities) may a city adopt a resolution authorized by K.S.A. 12-520a initiating the formal annexation procedure. After the adoption of such a resolution, there is a 60-70 day waiting period, a public hearing held between the 60th and 70th day, the resolution itself is published in the newspaper and mailed by certified mail to each owner of the land proposed to be annexed, and a public hearing is required to be held on the proposed annexation between 60-70 days after the adoption of the resolution. HB 2117, as amended, would extend this process by roughly three to four months. It would add a 60-day waiting period during which a petition may be filed, an unspecified period during which the county clerk reviews and certifies the adequacy of the petition, a 30-day waiting period after the date of certification during which the county commission is required to arrange and notify parties of the public hearing, the public hearing itself, and an additional seven days during which the county commission may deliberate on the issue and render its decision.

(2) Boards of county commissioners, instead of city governing bodies, would be making city annexation decisions. Most county commissioners are very sensitive to the complaints of the residents of unincorporated areas, notwithstanding those individuals' obvious dependence upon cities for services and other benefits. HB 2117, as amended, would put county commissioners in a "no-win" political situation and increase city-county friction.

(3) The bill sets out 12 factors for the county commissioners to consider in making a decision on the advisability of the proposed annexation, but the commission is in no way bound to support its final decision based on its findings with regard to each of the factors. This would allow the board to make a decision which under certain circumstances would be totally political

(attachment 3) 3/29/85
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, Iola • 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

in nature. While the amendment adopted by the House Committee of the Whole in lines 202-209 providing for appeal of the decision would allow the city as well as a landowner to appeal a decision by the board, any court of law would most likely view such decisions by boards of county commissioners as purely legislative in nature and not reviewable upon the merits but only in terms of whether or not the statutory procedure was followed.

(4) The bill is retroactive in nature. Lines 210-213 provide that the bill would apply to "any suit, action or other proceeding, judicial or administrative, relating to the power and authority of cities to annex unincorporated territory which is pending prior to the effective date of this act. . ." The Kansas legislature rarely passes legislation which is retroactive in nature, and no compelling argument has been made to date about the need for this provision. In some cases, if enacted, this language would make this act apply to cases which have been litigated for a number of years in our state courts. The League finds this provision highly objectionable.

Thank you for your consideration of these concerns.



League of Kansas Municipalities

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

March 28, 1985

Senator Don Montgomery, Chairman
Senate Committee on Local Government
Statehouse, Room 503-N
Topeka, Kansas 66612

SUBJECT: Study of City Annexation Law Options

Dear Chairman Montgomery:

The purpose of this letter is to outline a proposal by the League to (1) study alternatives to the existing statutory procedure for the unilateral annexation of land by cities, (2) to enter into negotiations with other parties interested in changing the existing laws, and (3) to make a good faith effort to attempt to resolve differences between the proponents and opponents of annexation. At a recent meeting of the Governing Body of the League, the staff was authorized to proceed with such a proposal and process, with the intent to attempt to resolve some of the criticisms of the existing statutory procedure and yet preserve a workable annexation law.

The following outlines what the League proposes:

1. During the months of June and July of this year, the League staff will conduct a study of the annexation laws of other states, with a particular emphasis on those states that have used the concept of a "boundary commission" to resolve local differences concerning annexation and procedures for deannexation for failure to deliver promised municipal services. Boundary commissions have been used in a number of states as a vehicle for analyzing the merits of municipal boundary adjustment proposals, including the formation and boundary changes of special districts. The particular emphasis of the League's summer study, however, will be on the possible use in Kansas of a jointly-appointed (i.e., city-county) boundary commission to consider appeals of city annexation decisions.

During this study we will also explore the feasibility of modifying the extraterritorial regulatory jurisdiction of cities to reduce the need for the annexation of land prior to its urban development.

2. By the end of July, the League staff will draft one or more bills, with the advice of a special committee of city officials. Beginning in August, a Task Force (discussed below) would periodically meet to consider the draft bill(s) as well as

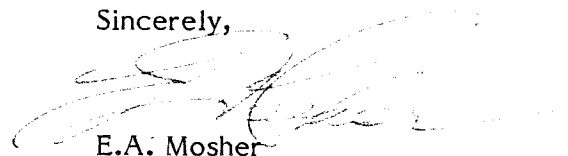
(attachment 4)

other legislative options submitted by members of the Task Force. The Task Force would meet on a mutually agreed schedule to consider various policy options and attempt to resolve differences.

3. We suggest that the Task Force not exceed nine in number, with the following composition: (a) Four legislators, including the chairmen of the House and Senate Committees on Local Government and an appointee of each; (b) two elected or appointed city officials appointed by the League; (c) one elected or appointed county official appointed by the Kansas Association of Counties; (d) the executive director of the League of Kansas Municipalities or his designated representative; and (e) the executive secretary of the Kansas Association of Counties or his designated representative.
4. We propose the Task Force work on informal basis, in the nature of negotiation sessions.
5. The League will commit its resources in terms of professional and support staff, materials and equipment to this process. We also suggest that Mike Heim of the Legislative Research Department be asked to serve as an ex-officio non-voting member of the Task Force.
6. At the annual meeting of the League of Kansas Municipalities, on September 29 - - October 1, proposed changes in the League's annexation policy positions will be presented and considered by our city voting delegates.
7. By mid-December, we would expect to submit a report and draft bill to the Senate Committee on Local Government. It will reflect the best consensus possible. Minority reports may be necessary.

The above outlines our general proposal for studying alternatives to the existing annexation procedures and for good faith negotiations with parties interested in securing changes to the existing law. I want to emphasize the resolve of the League to work in good faith with other participants. I would be remiss, however, if I did not point out that our resolve, and that of other parties to this process, does not guarantee an agreement will be reached. We know that some people really want to stop all involuntary annexations, and consider any annexation not petitioned-for to be unfair. We also know that cities concerned about the long-term development of their area want to be able to annex those areas that are becoming a part of the urban community, and that any changes in the present laws may well reduce the present annexation powers of cities. Despite all this, we are willing to try.

Sincerely,



E.A. Mosher
Executive Director