

Approved March 12, 1992  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE M. J. JOHNSON at  
Chairperson

1:38 ~~am~~/p.m. on MARCH 4, 1992 in room 521-S of the Capitol.

All members were present except:

Representative Walker Hendrix, excused  
Representative Gwen Welshimer, excused

Committee staff present:

Mike Heim, Legislative Research Dept.  
Theresa Kiernan, Revisor of Statutes  
Connie Smith, Committee Secretary

Conferees appearing before the committee: None

Doug Bach, KCK  
Representative Marvin Smith  
Representative Joan Hamilton  
Onis Lemon, Treasurer of Mission Township  
John R. Hamilton, Citizens for Mission Township  
Clyne Foust, Sherwood Improvement District  
E. A. Mosher, League of Kansas Municipalities  
Ron Thornberg, Assistant Secretary of State  
Representative Carl Holmes  
Norm Wilks, Kansas Association of School Boards

Laura Kelly, Kansas Recreation and Park Association

Doug Bach, KCK, testified in support of HB 2860 and said this bill creates no hardship for anyone, but rather cleans up the design of existing state statutes to encourage government consolidation activities rather than deter them. He explained this would require the Division of Budget to use existing Census Bureau data for the annexed area, until an updated census estimate or count reflecting the new population of the city can be released. (Attachment 1)

Representative Brown said she was a strong opponent of the existing state annexation laws and feels many annexations occur without the rule of the people and is opposed to what they are asking for. She asked if there was a way that the county would agree to give the money right now without having the state get involved. In other words, if there is a protest, the county could agree to transfer a portion of that share back to you without having to have a state law.

Doug Bach said he was trying to do an analysis with their Budget Information and Research as to how a breakdown could be made, and said it could be designed to address this. He said it wouldn't probably be as accurate or as efficient as could be done by the state designating this is what the population is of this city and you will get this money.

There were no opponents and the Chair closed the hearing on HB 2860.

HB 2954 - Incorporation of cities; territory located near other cities.

Representative Marvin Smith, primary sponsor, appeared as a proponent to HB 2954 and said the bill proposes to forego the unanimous vote of the County Commission Board when the territory is within five miles of an existing city. (Attachment 2)

Representative Joan Hamilton, sponsor of HB 2954, said she is in support of the bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S, Statehouse, at 1:38 XX a.m./p.m. on MARCH 4, 1992

Onis Lemon, Treasurer of Mission Township, spoke in support of HB 2954, and said due to the aggressiveness of the city of Topeka regarding annexation, this bill would allow their area a possible opportunity to incorporate based on majority rule, rather than minority rule. (Attachment 3)

John R. Hamilton, representing Citizens for Mission Township, testified in support of HB 2954. (Attachment 4)

Clyne Foust, Sherwood Improvement District, testified in support of HB 2954 and said Lake Sherwood has been involved in a dispute over annexation since 1985 and this battle continues to this day even after the Shawnee Co. Commissioners turned down Topeka's latest bid to annex this area. He said a majority vote of the county commissioners was required to either approve or disapprove this request. (Attachment 5)

The Chair asked staff how long this has been law and if they knew of any history of why a unanimous vote was instituted. Staff explained it was part of the recodification of the city annexation law back in the middle 1960's. It was intended to make it harder to incorporate a city if there was another city within 5 miles.

E. A. Mosher, League, appeared as an opponent to HB 2954 and presented the committee with a copy of "Research/Information Bulletin" and a copy of the statute 15-121. (Attachment 6) "Research/Information Bulletin" shows the growth of cities in Kansas and there have been no changes since 1986. He said it is difficult to create any kind of district anymore.

Mr. Mosher responded to questions from the committee.

The Chair closed the hearing on HB 2954.

HB 3129 - Boards of county commissioners; procedure to increase number filling vacancies created.

Ron Thornberg, Assistant Secretary of State, testified in support of HB 3129. He said they support it because it clarifies a situation that has occurred the last year and a half and that has no statutory guideline at the current time. This bill gives some guidelines and gives some structure to an extension of a county commissioner or a board of county commissioners. It only provides guidelines in a case when the board has expanded by citizen petition, it does not address when a board expands itself. This is not addressed in current law. He urged the committee to pass this bill.

Representative Holmes said if a petition is put on the ballot initiated by the voters to increase the number of county commissioners and that petition is successful, this would require the current county commission before January 1 to draw a map so the commissioners could be increased by two members. If county commissioners don't approve a map, than it is up to the district court to draw that map within 30 days and following the approval of a map by county commissioners or the district court then the governor has 30 days to make these appointment thereafter. Representative Holmes did an indepth review of HB 3129.

Representative Holmes responded to questions from the committee.

The committee expressed concern if 30 days was long enough to appoint. Representative Holmes felt it was a fair time.

Chair said she would like the committee to read through the bill tonight as she is going to take action on this bill tomorrow and any others we have had in committee. She said Vice-Chair Gomez, Representative Brown, and Representative Holmes had gone through the bill before introduction and it sets forth a good procedure and one that is workable.

The hearing was closed on HB 3129.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,  
room 521-S Statehouse, at 1:38 aXX/p.m. on MARCH 4, 1992

HB 3091 - Joint recreation commissions; tax levies.

Norm Wilks, KASB, supports the concept of HB 3091 and said if the sponsoring entity wishes to change the sponsoring government entity with a recreation commission, it should be allowed without loss of a taxing authority. Also, any expansion of the tax base by changes of the sponsoring governmental entity should be subject to a protest petition and election in the enlarged taxing entity. (Attachment 7) He said on page 1, line 40 the original wording "current" (resolution) needs to be reinstated. He said there is no election at all proposed in the bill.

Mr. Wilks responded to questions from the committee.

Representative Harder had three comments. 1) The area is already being served; 2) He is not sure they want a joint system. The school district wants out of it and they want the city to take it over; and 3) He agrees it should be a 5% protest petition.

Laura Kelly, Kansas Recreation & Park Association said she did not have a lot to add with what Mr. Wilks had already said. She said this comes out of Hutchinson and is real unique. They support the intent of the bill but the wording of the bill does not do what Hutchinson wants it to do. They would like to see the wording "current" be reinstated. (Attachment 8)

Staff asked if the city of Hutchinson was willing to get the 5% petition and then have this go to a citywide vote for this new city recreation commission created. She said as far as she knew. Staff said what is in the bill you apparently do not want, and asked what do you want? She said they would like to give them the opportunity to transfer the taxing authority from the school district to the city without mandating an election, but allowing the protest petition. Most of the citizens of Hutchinson participate in the recreation commission activities; but at this point, they have to pay out of district fees.

The Chair closed the hearing on HB 3091.

The meeting was adjourned at 2:50 p.m.





# CITY OF KANSAS CITY, KANSAS

## INTERGOVERNMENTAL & PUBLIC AFFAIRS



EXECUTIVE CHAMBER  
ONE MCDOWELL PLAZA

KANSAS CITY, KANSAS 66101  
PHONE (913) 573-5038

February 4, 1992

The Honorable Mary Jane Johnson  
Members of the House Local Government Committee  
State Capitol, Room 521-S  
Topeka, KS 66612

Madam Chairwoman and Members of the House Local Government Committee:

### HOUSE BILL 2860

H.B. 2860 was drafted to assist local units of government in their consolidation efforts. The bill specifically addresses the notification process of the State Division of Budget by the Secretary of State to inform this division that an annexation has occurred within the state, therefore allowing the Division of Budget to use the most recent census information of the annexed area when determining the population of a municipality.

Under the current structure of the state statute, if a city annexed a new area on January 1, 1992 the population of this area will not be included with the population of the City for state allocation purposes until July, 1994. During the two interim years before this time, the annexing municipality will be providing full services to the new area without their share of state reimbursements.

In Kansas City, Kansas, the annexation which we recently completed was a response to the County Commissioners request that 17 square miles of the county which was not incorporated be annexed by the city or become an incorporated city. Their decision was based on the fact that under the present situation residents of the cities of Wyandotte County were subsidizing the services provided in the small unincorporated part of the county, while the city residents paid city taxes for their services. Due to economies of scale and the current growth trends of Kansas City, Kansas, the unincorporated area was annexed as part of the city on January 1, 1992, and is now receiving city services.

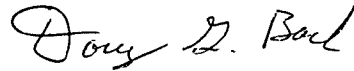
H.B. 2860 creates no hardship for anyone, but rather cleans up the design of existing state statutes to encourage government consolidation activities rather than deter them. This bill will require the Division of Budget to use existing Census Bureau data for the annexed area, until an updated census estimate or count reflecting the new population of the city can be released.

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*3-4-92*  
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The Division of Budget uses city/county population figures for the distribution of several state allocations, including: county sales tax, special city street and highway revenue sharing, state-city-county revenue sharing, and local ad-valorem tax reduction. Currently, a portion of these allocations for the annexed area is sent to Wyandotte County. Rather than transferring this money from the county it would be more efficient and accurate for the state to directly distribute these funds to the city. Additionally, it is only fair that an annexing municipality receive their share of state allocations as designated by the state for the population they serve.

The City of Kansas City, Kansas supports H.B. 2860, and we ask for your support in adopting this legislation which will assist our local government and state-wide local government consolidation activity.

Sincerely,

A handwritten signature in cursive script that reads "Douglas G. Bach".

Douglas G. Bach,  
Intergovernmental Coordinator

MARVIN E. SMITH  
REPRESENTATIVE, FIFTIETH DISTRICT  
JACKSON AND SHAWNEE COUNTIES  
123 N.E. 82ND STREET  
TOPEKA, KANSAS 66617-2209  
(913) 484-3417  
CAPITOL-ROOM 155E  
TOPEKA, KS 66612  
(913) 296-7646



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

March 4, 1992

HOUSE LOCAL GOVERNMENT COMMITTEE

HB 2954

Madam Chair and Members of the Committee:

I want to thank you for the hearing today on HB 2954.

Citizens of unincorporated areas of Kansas from time to time want to consider creating a city by incorporation petition. Present statute provides for petition to be presented to the Board or Joint Board of County Commissioners to consider. If the Board or Joint Board of County Commissioners determines the territory should be incorporated, it shall prepare an order which requires no less than two commissioners. Also, the order requires a unanimous vote if the territory is within five miles of an existing city.

House Bill 2954 proposes to forgo the unanimous vote of the County Commission Board when the territory is within five miles of an existing city.

Here in Shawnee County and other counties in Kansas, areas of suburbia have some of their own services and would like to incorporate. Their attempts have been thwarted by the unanimous vote.

We bring this proposed change for your review and consideration. I hope your committee will recommend favorably for passage.

I would try to answer questions.

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3-4-92  
Attach. 2

TESTIMONY

ONIS L. LEMON PROPONENT OF  
HOUSE BILL 2954

MY NAME IS ONIS LEMON. I AM TREASURER OF MISSION TOWNSHIP HERE IN SHAWNEE COUNTY, KANSAS.

I AM HERE ON BEHALF OF THE MISSION TOWNSHIP BOARD SPEAKING IN FAVOR OF HOUSE BILL 2954.

THE PASSAGE OF THIS BILL WOULD BRING FAIRNESS BACK TO KANSAS CITIZENS LIVING IN TOWNSHIPS SUCH AS OURS.

DUE TO THE AGGRESSIVENESS OF THE CITY OF TOPEKA REGARDING ANNEXATION, THIS BILL WOULD ALLOW OUR AREA A POSSIBLE OPPORTUNITY TO INCORPORATE BASED ON MAJORITY RULE, RATHER THAN MINORITY RULE.

I DARE SAY, THAT IF YOUR COMMITTEE HERE HAD TO OPERATE ONLY ON UNANIMOUS DECISIONS, YOU PROBABLY WOULD NOT GET MUCH DONE. WE FEEL THAT REQUIRING A UNANIMOUS DECISION OF THE COUNTY COMMISSIONERS TO INCORPORATE IS CONTRARY TO THE FUNDAMENTAL CONCEPT OF DEMOCRATIC GOVERNMENT. AS A TOWNSHIP ELECTED OFFICIAL, I WONDER IF THERE ARE OTHER AREAS WITHIN THE STATE THAT WOULD FIT INTO THE SAME CATEGORY THAT WE FIND OURSELVES IN HERE IN MISSION TOWNSHIP.

IT IS OUR DESIRE TO CONTINUE TO PROVIDE THE TAX PAYERS WITH THE MOST COST EFFICIENT GOVERNMENT POSSIBLE. WE FEEL THAT PASSAGE OF THIS BILL WILL HELP IN OUR EFFORTS TO ACHIEVE THIS.

WE, THEREFORE, ASK THAT YOU ACT FAVORABLY, REGARDING HOUSE BILL 2954.  
THANK YOU.



ONIS L. LEMON

TREASURER

MISSION TOWNSHIP

*LL*  
*3-4-92*  
*Attch. 3*



TESTIMONY OF JOHN R. HAMILTON PROPONENT OF  
HOUSE BILL 2954

My name is John R. Hamilton and I am appearing on behalf of the group, Citizens for Mission Township. Citizens for Mission Township support House Bill 2954.

K.S.A. 15-123 places an unreasonable burden upon residents of a territory seeking to incorporate as a city if the property happens to be located within five miles of an existing city. As now structured, K.S.A. 15-123 requires the unanimous vote of all county commissioners in order to be incorporated. In other words, a minority vote by one commissioner, which may be as small as 20% of the county commissioners, can block the incorporation. The unanimous vote provision is contrary to our basic concept that governmental decisions are to be made by a majority of those entitled to vote. The requirement of a unanimous vote in existing K.S.A. 15-123 is a method of decision which offends the concept of fundamental fairness.

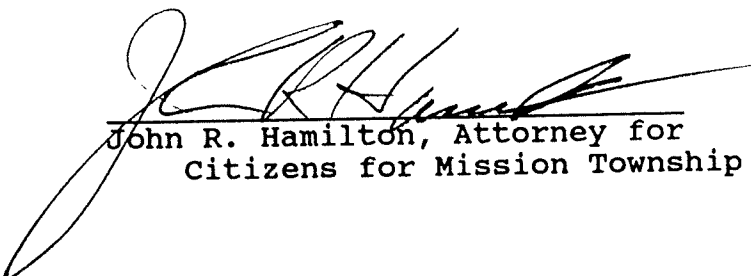
The statutory procedures for the incorporation of cities is found in K.S.A. 15-115 et seq. K.S.A. 15-121 requires the Board of County Commissioners to consider eight specific factors, plus an additional six factors if the area is within five miles of an existing city, to determine whether incorporation should be permitted. A majority of county commissioners should be allowed to determine the advisability of incorporating a city rather than to permit a minority of county commissioners to block the incorporation if the area is within five miles of an existing city.

We are not suggesting that incorporation of numerous

*LJ*  
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*Attack. 4*

small cities is either desirable or will occur if House Bill 2954 is passed into law. However, there are several areas within the State which have an adequate population base, an adequate tax base, and the ability to provide an acceptable level of services at a reasonable cost. Whether to permit such incorporation is a legitimate legislative function of the Board of County Commissioners and should be decided by a majority vote. House Bill 2954 eliminates the inequities that now exist in permitting a minority to determine the fate of a petition to incorporate as a city.

Respectfully submitted:



John R. Hamilton, Attorney for  
Citizens for Mission Township

Testimony of Clyne E. Foust Proponent  
of House Bill 2954

My name is Clyne Foust, I am representing the Sherwood Improvement District located in Shawnee County. This governmental body works in conjunction with Mission Township to provide public service to the Lake Sherwood area and was created by the legislature to that purpose over 20 years ago.

As you may be aware, this area has been involved in a dispute over annexation since 1985 and this battle continues to this day even after the Shawnee County Commissioners turned down Topeka's lastest bid to annex this area. A majority vote of the county commissioners was required to either approve or disapprove this request. If you had been there you would have understood the result as the evidence so clearly supported.

Both the Improvement District and the Township joined over 90% of the residents in 1986 to Incorporate this area only to be turned down because of a single commissioner who favored the "then" Topeka Mayor's aggressive attitude toward annexation. No matter the logic nor the will of the people nor the proven higher costs of annexation nor the majority approval of the county commissioners.

If a majority vote of the county commissioners would have prevailed we would have become the city of Sherwood. Since this statute allows minority rule we are still in court trying to preserve our community at the cost of the residents' time and money. Many Topeka residents don't want to pay their tax dollars to continue this fight, but this has turned into a political grudge match for some city council members. All this because the majority is not allowed to rule. The city has promised to continue to petition the county commissioners for annexation until the majority gets tired. Could this body function under these circumstances?

Lets face it, this unanimous vote requirement in K.S.A. 15-123 was put there to give city government an unrestricted hand in its growth regardless of its efficiency or competence. It was designed to be undemocratic. Did this legislature really intend to deny anyone the basic foundation on which it depends? We hope this was one of those unintended errors that was overlooked in a rarely used statute.

We have land planners that have provided the necessary proof that Sherwood can sustain itself as a city. We have shown that Sherwood can be cost effective for both Topeka and itself. We believe a majority of our county commissioners should be able to examine the facts and vote for what they deem to be in the best "public interest". There are no guarantees with a majority vote, as you well know, but with it we have a fighting chance.

Please do this "housecleaning" and give us and others the same you take for granted.

Sincerely,



LF  
3-4-92  
attask.5

# RESEARCH / INFORMATION

## BULLETIN

published by league of kansas municipalities / 112 west seventh street / topeka, kansas 66603 / 913 354-9565

Vol. VIII, No. 398  
January 30, 1986

### NUMBER OF CITIES IN KANSAS

The trend of new city incorporations in Kansas has declined sharply during the past 20 years. Since January 1, 1966, there have been five newly formed cities. This is the lowest number for any 20-year period during the history of the state.

The number of Kansas cities, now totaling 627, has increased by a net of four since 1966. While five new cities were formed, the city of Wellsford was disincorporated in 1975.

The slow down in the rate of municipal incorporations in recent years may be contrasted with the incorporation of 28 new cities in the 15-year period of 1946 through 1960. Several of the cities formed during this period were located in the rapidly expanding Johnson county area. In 1963, the Kansas legislature adopted a new law governing the incorporation of cities which establishes factors to be considered by the board of county commissioners in determining the advisability of ordering an incorporation on petition of the residents of the area. Under K.S.A. 15-123, a unanimous vote of the board of county commissioners is necessary for incorporation of an area within five miles of an existing city. Since the law took effect in 1963, six new cities have been formed.

Presented later in this report is a table which shows the number of cities incorporated by five-year periods since 1855. The table below shows the date and other information as to cities incorporated since 1930.

### City Incorporations Since 1930

| <u>City</u>  | <u>Co. Where Located</u> | <u>Date Incorporated</u> | <u>Approx. Pop. When Incorp.</u> |
|--------------|--------------------------|--------------------------|----------------------------------|
| Timken       | Rush                     | June 16, 1930            |                                  |
| Radium       | Stafford                 | January 1, 1934          |                                  |
| Leona        | Doniphan                 | April 1934               |                                  |
| Damar        | Rooks                    | February 26, 1935        |                                  |
| Bogue        | Graham                   | March 21, 1935           |                                  |
| Schoenchen   | Ellis                    | September 1935           |                                  |
| Liebenthal   | Rush                     | August 5, 1935           |                                  |
| Eastborough  | Sedgwick                 | June 1, 1937             |                                  |
| Hollenberg   | Washington               | July 14, 1937            |                                  |
| North Newton | Harvey                   | September 20, 1938       |                                  |
| Susank       | Barton                   | May 7, 1940              |                                  |
| Gorham       | Russell                  | April 10, 1941           |                                  |
| Zurich       | Rooks                    | August 20, 1946          |                                  |

*LL*  
*3-4-92*  
*Attach. 6*

| <u>City</u>      | <u>Co. Where Located</u> | <u>Date Incorporated</u>                  | <u>Approx op.<br/>When Incorp.</u> |
|------------------|--------------------------|---|------------------------------------|
| Overbrook        | Osage                    | March 8, 1948                             | 386                                |
| Glade            | Phillips                 | October 7, 1947                           | 127                                |
| Leawood          | Johnson                  | November 30, 1948                         | 900                                |
| Fairway          | Johnson                  | May 21, 1949                              | 1,695                              |
| Westwood Hills   | Johnson                  | June 6, 1949                              | 449                                |
| Westwood         | Johnson                  | June 7, 1949                              | 1,541                              |
| Mission Hills    | Johnson                  | June 10, 1949                             | 544                                |
| Mission Woods    | Johnson                  | July 22, 1949                             | 175                                |
| Park             | Gove                     | February 13, 1950                         | 215                                |
| Merriam          | Johnson                  | October 23, 1950                          | 1,600                              |
| Prairie Village  | Johnson                  | February 19, 1951                         | 1,500                              |
| Countryside      | Johnson                  | July 2, 1951                              | 358                                |
| Mission          | Johnson                  | July 2, 1951                              | 1,852                              |
| Roeland Park     | Johnson                  | July 2, 1951                              | 1,373                              |
| Haysville        | Sedgwick                 | July 3, 1951                              | 102                                |
| Goessel          | Marion                   | March 10, 1952                            | 270                                |
| Willowbrook      | Reno                     | July 10, 1952                             | 50                                 |
| Raymond          | Rice                     | December 6, 1954                          | 213                                |
| Rose Hill        | Butler                   | February 7, 1955                          | 250                                |
| Provence Village | Johnson                  | September 19, 1955<br>to February 1, 1960 |                                    |
| Andover          | Butler                   | February 4, 1957                          | 166                                |
| Kechi            | Sedgwick                 | April 29, 1957                            | 204                                |
| Lansing          | Leavenworth              | June 22, 1959                             | 1,102                              |
| Bentley          | Sedgwick                 | November 12, 1959                         | 225                                |
| Rush Center      | Rush                     | December 7, 1959                          | 265                                |
| Cassoday         | Butler                   | April 4, 1960                             | 125                                |
| Overland Park    | Johnson                  | May 20, 1960                              | 28,085                             |
| Holcomb          | Finney                   | May 1, 1961                               | 280                                |
| Burdett          | Pawnee                   | November 28, 1961                         | 359                                |
| Smolan           | Saline                   | April 30, 1962                            | 284                                |
| Auburn           | Shawnee                  | June 27, 1963                             | 235                                |
| Grandview Plaza  | Geary                    | March 4, 1963                             | 450                                |
| Basehor          | Leavenworth              | June 11, 1965                             | 641                                |
| Ozawkie          | Jefferson                | September 15, 1967                        | 86                                 |
| New Strawn       | Coffey                   | May 18, 1970                              | 164                                |
| Lake Quivira     | Johnson &<br>Wyandotte   | May 11, 1971                              | 959                                |
| Park City        | Sedgwick                 | November 24, 1979                         | 3,700                              |
| Bel Aire         | Sedgwick                 | November 19, 1980                         | 2,166                              |

### City Consolidations

There have been at least 10 consolidations of cities in Kansas since 1867. The following information is from records of the League of Kansas Municipalities.

- 1867--Eugene consolidated with Topeka (April 11)
- 1886--Armourdale consolidated with Kansas City (By state law)
- Wyandotte consolidated with Kansas City (By state law)
- 1887--South Topeka consolidated with Topeka (May 10)
- 1899--Potwin Place consolidated with Topeka (April 13)
- 1907--Empire City consolidated with Galena (July 10)
- 1910--Argentine consolidated with Kansas City (January 1; state law)
- 1922--Rosedale consolidated with Kansas City
- 1926--Oakland consolidated with Topeka (February 28; state law)
- 1960--Provence Village consolidated with Olathe (February 1)

There have been at least four city consolidation proposals which have failed, all in Johnson county. Voters of Mission on September 26, 1953 rejected a proposal to merge with the city of Roeland Park, the vote being 116 yes and 608 no. Voters in Countryside twice turned down merger proposals with the city of Mission. On June 2, 1959 the vote was 57 yes and 140 no. At the August 9, 1960 election the vote was 58 yes and 158 no. At an election held on January 23, 1973, a referendum proposal to consolidate the cities of Westwood and Westwood Hills was defeated.

### City Dissolutions

Accurate information is not available as to the number of Kansas cities which have been disincorporated or dissolved (excludes consolidations). Part of the uncertainty results from lack of information as to whether some communities which called themselves a "city," were ever actually and legally incorporated. For example, the territorial legislatures during territorial days provided for the incorporation of numerous cities, towns and villages, many of which no longer exist and some of which probably never existed as an operating city.

Records of the League of Kansas Municipalities indicate there was at one time an Army City located in Geary county. In 1961 the city of Irving was disincorporated as a result of the area being inundated by the Tuttle Creek dam reservoir. In 1975, the city of Wellsford, located in Kiowa county, was dissolved; Wellsford was incorporated in 1917 and had a population of 17 when disincorporated in 1975.

### Dormant Cities

During the history of Kansas, some cities became dormant and were later reactivated. For example, the city of Hugoton was dormant for a number of years and reorganized in 1911. The city of Wallace in Wallace county was reorganized in 1931 after being dormant for 33 years. In 1957, Richfield (Morton) was reactivated after being dormant for over 60 years. In 1964, Roseland (Cherokee) became an active city.

### The Chanute Area

A century ago, a situation in the Chanute area of Neosho county, while not considered a consolidation, came close to being one. The city of New Chicago was incorporated in 1870 and in the same year the city of Tioga was also incorporated. Voters in New Chicago dissolved the city with the following result: "For a city" one; "against a city" 91. The city of Tioga was also dissolved and this entry appeared in the Revised and Compiled Ordinances of the city of Chanute, 1911, page viii: "The above officers held their position until the 9th day of December 1872, when the town of Tioga was dissolved as a incorporated body by an election held on said date for the purpose of uniting with New Chicago to be incorporated as the city of Chanute." Chanute was incorporated as a city of the third class in January 1873, and encompassed the former cities of Tioga and New Chicago.

### City Incorporations by 5-Year Periods

The list below presents the approximate number of city incorporations in each five-year period, and the cumulative totals, since 1855. The figures are approximate up to 1930 since it is based on the incorporation dates of existing cities. Accurate information as to legally incorporated cities in earlier days is unavailable.

| <u>Period</u> | <u>Number</u> | <u>Cumulative<br/>Total</u> | <u>Period</u> | <u>Number</u> | <u>Cumu. Live<br/>Total</u> |
|---------------|---------------|-----------------------------|---------------|---------------|-----------------------------|
| 1855-61       | 16            | 16                          | 1921-25       | 24            | 550                         |
| 1861-65       | 1             | 17                          | 1926-30       | 28            | 580**                       |
| 1866-70       | 24            | 41                          | 1931-35       | 6             | 586                         |
| 1871-75       | 48            | 89                          | 1936-40       | 4             | 590                         |
| 1876-80       | 43            | 132                         | 1941-45       | 1             | 591                         |
| 1881-85       | 75            | 207                         | 1946-50       | 11            | 601                         |
| 1886-90       | 111           | 318                         | 1951-55       | 10            | 612                         |
| 1891-95       | 11            | 329                         | 1956-60       | 7             | 618*                        |
| 1896-1900     | 18            | 347                         | 1961-65       | 6             | 623*                        |
| 1901-05       | 56            | 403                         | 1966-70       | 2             | 625                         |
| 1906-10       | 64            | 467                         | 1971-75       | 1             | 625*                        |
| 1911-15       | 30            | 497                         | 1976-80       | 0             | 625                         |
| 1916-20       | 29            | 526                         | 1981-85       | 2             | 627                         |

\*\*Net number of active cities at end of 1930

\*Net of consolidations and disincorporations

### Cities Incorporated Since 1930

The list above excludes Piper in Wyandotte county, incorporated by action of the board of county commissioners on October 1, 1971 but ruled invalid by the Kansas Supreme Court on January 26, 1974 (213 Kan. 777). Also excluded are three cities which were reactivated since 1930 (see Dormant Cities, above). The list includes Provence Village, incorporated in 1955, but consolidated with Olathe in 1960.



other reasons which might influence growth toward the territory;

(5) The willingness of the city to annex the territory and its ability to provide city services in case of annexation;

(6) The general effect upon the entire community, should there be additional cities in the area; all of these and other considerations having to do with the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments.

**History:** L. 1963, ch. 509, § 7; June 30.

**Research and Practice Aids:**

Municipal Corporations ⇐ 12(1).

C.J.S. Municipal Corporations §§ 12, 16 et seq.

**CASE ANNOTATIONS**

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 780, 784, 518 P.2d 403.

2. Applied; petition for incorporation of city denied; upheld on appeal. In re Reincorporation of Piper City, 220 K. 6, 13, 551 P.2d 909.

3. Order of board of county commissioners incorporating city upheld; authority of board considered; scope of judicial review. *City of Wichita v. Board of Sedgwick County Comm'rs*, 232 K. 149, 150, 152, 153, 157, 652 P.2d 717 (1982).

4. Denial of petition for incorporation of city upheld; decision not arbitrary or unreasonable. In re Application for Incorporation as City, 241 K. 396, 399, 400, 403, 404, 736 P.2d 875 (1987).

**15-122. Same; consultants; witnesses; records; expense, how paid.** The board or joint board of county commissioners shall have authority to hire expert consultants to provide information and assistance and gather information as required; to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents; and to cause a stenographic or other record made of the proceedings. The expense shall be a proper charge against the county general fund and, when there are two or more counties involved, the expense shall be prorated to the counties in proportion to area.

**History:** L. 1963, ch. 509, § 8; June 30.

**Research and Practice Aids:**

Counties ⇐ 158; Witnesses ⇐ 1, 8.

C.J.S. Counties § 234; Witnesses §§ 2 et seq., 13, 19 et seq.

**CASE ANNOTATIONS**

1. Applied; petition for incorporation of city denied; upheld on appeal. In re Reincorporation of Piper City, 220 K. 6, 13, 551 P.2d 909.

**15-123. Same; consideration of matter after hearing; denial of petition, when; order;**

**unanimous vote for incorporation, when; election of city officers, procedure.** After the hearing has been adjourned *sine die*, the board or joint board of county commissioners shall consider the matter. It may request the director of the division of community development of the department of economic development to make a study of the general area in which the territory is located, information in possession of the county board and other sources, and render an opinion as to the advisability of the proposed incorporation. The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest. If the board or joint board determines that the territory should not be incorporated, it shall make an order so stating. In addition to other requirements, if any of the territory wholly within one county is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners. If the board or joint board determines that the territory should be incorporated, it shall prepare an order or joint order incorporating the territory as a city by the name of "the city of \_\_\_\_\_" as stated in the petition and describing the metes and bounds thereof. When the order has been adopted, the inhabitants within such bounds and such further territory as from time to time may be lawfully added thereto shall be a body politic and corporate by that name, and they and their successors (except such corporation be lawfully dissolved) shall have perpetual succession. The order shall be adopted at the next regular meeting of the board. Where two counties are involved, the board of each county shall adopt the joint order at its next regular meeting and not less than two commissioners of each county shall vote in favor thereof, except that in addition to other requirements, if any of the territory is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners of each county involved. The order or joint order so incorporating the city shall order the first election in the city for city officers. The order or joint order shall be entered at length upon the journal of the proceedings of the board or boards of county commissioners and shall be published once in some newspaper printed or in general circu-



territory lies and the publication shall be not less than fifteen (15) days before the hearing. Notice of the hearing shall also be posted in not less than three (3) public places in the territory not less than fifteen (15) days before the hearing.

History: L. 1963, ch. 509, § 4; June 30.

**Research and Practice Aids:**

Municipal Corporations ⇐ 12(6).  
C.J.S. Municipal Corporations §§ 18, 19.

**CASE ANNOTATIONS**

1. Cited; notice of hearing requirements for incorporation of cities discussed. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 782, 783, 784, 518 P.2d 403.

**15-119. Incorporation of cities; notice of hearing required for certain officials.** The county clerk shall, not less than 15 days before the hearing, send notices of the hearing with a copy of the petition, without the signatures, to the county clerk of any other county in which any part of the territory lies; to the clerk, secretary or chairperson of any duly constituted city, county, regional or metropolitan planning commission exercising planning authority over all or part of the territory; to the director of the division of community development of the department of economic development; and to the city clerk of any city, any portion of whose area is within five miles of the nearest boundary of the territory as described in the petition.

History: L. 1963, ch. 509, § 5; L. 1985, ch. 256, § 4; July 1.

**Research and Practice Aids:**

Municipal Corporations ⇐ 12(6).  
C.J.S. Municipal Corporations §§ 18, 19.

**CASE ANNOTATIONS**

1. Cited; notice of hearing requirements for incorporation of cities discussed. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 778, 780, 782, 783, 784, 786, 518 P.2d 403.

**15-120. Same; conduct of hearing.** The hearing shall be conducted in such manner as the board of county commissioners deems best suited to the occasion. Where the territory is in two or more counties the county commissioners of the counties involved shall sit as a joint board with the chairman of the board of the county having the greater or greatest area presiding; *Provided*, That if he or she be not present, all of the commissioners present shall choose one of their number as presiding officer. All persons residing within the territory, owners of property within the territory whether residing there or not, all persons,

agencies, and representatives of governmental units notified as provided in K.S.A. 15-119, shall be entitled to be heard and to present documentary information and briefs. The hearing may be adjourned from time to time.

History: L. 1963, ch. 509, § 6; June 30.

**Research and Practice Aids:**

Municipal Corporations ⇐ 12(7).  
C.J.S. Municipal Corporations § 22.

**CASE ANNOTATIONS**

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 780, 518 P.2d 403.

**15-121. Same; factors considered in determining advisability of incorporation.** As a guide in determining the advisability of incorporating the territory, the board or joint board of county commissioners shall consider the following factors, among others:

- (1) Population and population density of the area within the boundaries of the territory;
- (2) Land area, topography, natural boundaries, and drainage basin;
- (3) Area of platted land relative to unplatted and assessed value of platted land relative to assessed value of unplatted areas;
- (4) Extent of business, commercial, and industrial development;
- (5) Past expansion in terms of population and construction;
- (6) Likelihood of significant growth in the area, and in adjacent areas, during the next ten (10) years;
- (7) The present cost and adequacy of governmental services and controls in the area and the probable effect of the proposed action and of alternative courses of action on the cost of adequacy of local governmental services and regulation in the area and in adjacent areas;
- (8) Effect of the proposed action, and of alternative actions, on adjacent areas, and on the local governmental structure of the entire urban community.

If the territory or any part thereof is within five (5) miles of an existing city, the board or joint board of county commissioners shall take into consideration [:]

- (1) The size and population of such city;
- (2) Its growth in population, business and industry during the past ten (10) years;
- (3) The extension of its boundaries during the past ten (10) years;
- (4) The probability of its growth toward the territory during the ensuing ten (10) years, taking into consideration natural barriers and



KANSAS  
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Testimony on H.B. 3091  
before the  
House Committee on Local Government

by

Norman D. Wilks, Director of Labor Relations  
Kansas Association of School Boards

March 4, 1992

Madam Chairperson and members of the Committee. On behalf of 294 of the 304 unified school boards of education which are members of the Kansas Association of School Boards we wish to express our general support for the concept of H.B. 3091.

If the sponsoring entity wishes to change the sponsoring governmental entity with a recreation commission, it should be allowed without loss of taxing authority. Also any expansion of the tax base by changes of the sponsoring governmental entity should be subject to a protest petition and election in the enlarged taxing entity.

With the conditions suggested, we support the concept of H.B. 3091. Thank you for your consideration.

*LL*  
*3-4-92*  
*Attach. 7*



# KANSAS RECREATION AND PARK ASSOCIATION

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Laura J. Kelly, Executive Director

TESTIMONY BEFORE  
HOUSE LOCAL GOVERNMENT COMMITTEE  
March 4, 1992

RE: HB 3091

Madame Chair, members of the committee, I am Laura Kelly, Executive Director of the Kansas Recreation and Park Association. I am here today to speak in favor of the intent of HB 3091.

In its current form, HB 3091 says that whenever an existing city-based recreation commission combines with an existing school district-based recreation commission, the resulting joint city/school district commission would not be considered a new recreation commission. This joint commission would be authorized to maintain the levy amount of the previous commission, rather than revert to the one mill cap imposed upon new recreation commissions.

KRPA believes that the intent of HB 3091 is to allow communities to transfer the taxing authority for existing recreation commissions from city-based to school-district based, from school district-based to city-based, or from either city or school district-based to a joint system AND maintain the authorized levy of the old configuration.

This flexibility would allow local communities to make changes they deem necessary and desirable without financial penalty.

KRPA would also recommend that on page 1, line 40, the original wording current (resolution) be reinstated. We do not understand the purpose of requiring a concurrent resolution when only one or the other -the school district or the city- provides the taxing authority for any recreation commission.

In conclusion, the Kansas Recreation and Park Association would welcome the passage of HB 3091 should it be reworded to reflect what we believe to be the original intent.

Thank you.

LY  
3-4-92  
attach. 8