

Approved: 2-7-95  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:33 p.m. on February 2, 1995 in Room 521-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Kenny Wilk  
Jim Cuer, Leavenworth, Kansas  
Representative Clyde Graeber  
Representative L. Candy Ruff  
B. Winstead, Leavenworth County, Kansas  
Doug Moshier, Senior Attorney for City of Wichita  
Don Moler, General Counsel League of Kansas Municipalities  
Jim Kaup, City of Topeka

Others attending: See attached list

Chairman Kent Glasscock opened the meeting at 1:33 p.m. The minutes of the January 31, 1995 meeting were distributed. Rep. Mays moved and Rep. Welshimer seconded that the minutes be approved. Motion passed.

**HB 2142: An Act concerning cities; relating to annexation; amending K.S.A. 12-523 and repealing the existing section.**

The Chairman announced that the first order of business was the public hearing on **HB 2142**. The first conferee, Representative Wilk, said he had some constituents who would present their position and reasoning for this bill. He pointed out that they think they have crafted some legislation concerning annexation which is very fair for all concerned parties. He brought special attention to the provisions in the protest petition and mentioned the 5 percent must come equally from the proposed area of annexation and the city to be annexed. Also, if a vote were to go before the people, it would take only a simple majority. He thanked the committee for its consideration of the bill.

The Chairman next welcomed Jim Cuer, a proponent, who represented a group of people who live approximately one to three miles south of Lansing, Kansas, an area Lansing is considering annexing in its comprehensive plan. Mr. Cuer and many of his neighbors are opposed to annexation. Mr. Cuer asked that the people be given an opportunity to determine their destiny in regard to annexation, and to let cities who want to annex an area outline the projection costs. No written testimony except a brief outline was provided. (Attachment 1)

Since Representative Graeber needed to be at another meeting, the Chairman asked him to address the committee next. Rep. Graeber apologized that he had no written testimony, but wanted to inform the committee of his involvement with this particular issue since the city of Leavenworth adjoins the city of Lansing. Consequently he has met with the people concerned about this legislation, and the legislation was crafted to try to provide what seems like a very equitable way for an area that is about to be annexed to have the residents of both the area to be annexed and the people who live in the city doing the annexation to bring to a vote with a protest petition of five percent of the voters of both areas. He further stated that if the legislature is really going to return government to the people, this is a step in that direction. He believes it is a good piece of legislation that should have the committee's full consideration.

Representative Ruff spoke briefly without written testimony. She stated that annexation takes a personal toll on those people who are going to be annexed, and that sometimes legislators don't think of all the ramifications to families and what's going to happen to them. She stated that she believes this is one of those situations that really touches people. Since this area is very close to Kansas City, Kansas, people fear that Kansas City is reaching out its tentacles in all directions. She, too, asked the committee for a fair hearing on **HB 2142**.

The Chairman next welcomed B. Winstead, resident of Leavenworth County, Kansas, who wrote the initial draft of **HB 2142**. He informed the committee that the proposed bill does not deny any city the right to

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 2, 1995.

annex, but only requires that before such action is taken, the full rights of the voters whose taxes and way of life will be impacted must be respected. He further stated that their voice must be heard and their economic interests must be considered. (Attachment 2)

The Chairman recognized Don Moler, General Counsel for the League of Kansas Municipalities, who testified in opposition to **HB 2142**. He stressed to the committee how strongly the League of Kansas Municipalities opposed this legislation. He further stated that there are few issues that he personally has dealt with during his almost ten years with the League that their membership feels as strongly about as the ability to make reasonable annexation decisions and to implement those decisions under statutory law. He closed by saying that the unstated part of the election requirement is that somebody has to pay for it. He pointed out that elections are not cheap, and a special election in a mid-sized city such as Lawrence is a ten to fifteen thousand dollar undertaking, a cost not mentioned in the bill. (Attachment 3)

Chairman Glasscock introduced Doug Moshier, Senior Attorney for the City of Wichita, who spoke in opposition of **HB 2142**. He stated that the City of Wichita encourages the committee to oppose this bill because it limits the authority of municipalities. (Attachment 4)

The Chairman introduced Jim Kaup of the City of Topeka who spoke in opposition to **HB 2142**. He reported that the city of Topeka has had 15 annexations since 1989, and of these, 13 were with the consent of the property owners; two were without consent of the property owners. He further stated that from the property owners' perspective, the law is not broken, but from a city's standpoint, he believes the law was broken when it was adopted. However it was a bargained-for deal between municipal interests and the state legislature. He posed the question as to how we accommodate the concerns of property owners in the fairness issue and the political fairness issue and still allow cities to function. He answered this by saying that we've agreed to a lot of restrictions upon the law that have had the result that the opponents of annexation have wanted. He said that it minimized the number of non-consent unilateral annexations by forcing cities to get into consent arrangements with property owners by cities saying they would give a particular service to get annexation, or alternately have forced cities to go the county route where citizens have political representation from the county commissioners.

Chairman Glasscock announced that the hearing on **HB 2142** was closed and that action would be taken at a later time.

The Chairman announced that the next order of business concerned the courtesy introduction of a bill. Rep. Mays made a motion that Rep. Dawson's proposed bill concerning townships and relating to fire departments be introduced. Rep. Sloan seconded. Motion passed.

**HB 2193: An Act concerning cities and counties; relating to certain mandates imposed thereon.**

Chairman Glasscock asked the committee to turn its attention to **HB 2193**. January 31, 1995, Rep. Mays moved to defer action on this bill until this meeting. Rep. Mays passed out a proposed balloon and reported that he had consulted with the League of Kansas Municipalities and the Association of Cities and Counties. He said that it narrows the bill down and makes it more meaningful. It is aimed at those things which become mandates, and mandates are laws that require local governments to take some actions. He further stated that the worst kind of mandates are those in which the state or federal governments require an action be taken by a lower government and then doesn't provide any funds for implementation. He believes these changes preclude those mandates. Rep. Mays moved that **HB 2193** be amended with this balloon and advanced to the House floor. Rep. Feuerborn seconded. Motion passed.

**HB 2087: An Act concerning highways; relating to the costs of relocating certain water lines; amending K.S.A. 68-415 and repealing the existing section.**

The Chairman asked the committee to turn its attention to **HB 2087**. Rep. Sloan moved that the committee recommend this bill favorable for passage and put on the consent calendar. Rep. Toplikar seconded. Motion passed.

Rep. Sloan moved for a courtesy introduction of Rep. Spangler's bill relating to commencement of terms for county treasurers. Rep. Mays seconded. Motion passed.

The meeting adjourned at 2:58 p.m.

The next meeting is scheduled for January 7, 1995.

# LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: THURSDAY, FEBRUARY 2, 1995

NAME	REPRESENTING
BEV BRADLEY	KS Assoc of Counties
Ira Taylor	Soc WK - 55th St
Henry Kenaga	Mr. Wilk con Hient.
James A. Westmoreland	Mr. Wilk con Hient
B. Winstead	Mr. Wilk "
Rep. Landry	
Don Moler	League of KS Mun.
Anne Spiess	KS Assoc of Counties
Chris McKenzie	League of KS. Mun.

## House Bill No. 2142

Jim Cvet. 14264 McIntyre Rd., Leavenworth, KS

### Concerns

1. Annexation
2. Vague Associated Costs

### Suggested Solutions

1. Democratic Vote / Cooperative Agreements
2. Full Disclosures

House Local Government

2-2-95

Attachment 1

GOOD AFTERNOON MR. CHAIRMAN, I AM B. WINSTEAD, I WROTE THE INITIAL DRAFT OF THE PROPOSED BILL WE ARE HERE TO DISCUSS. I AM A RESIDENT OF LEAVENWORTH COUNTY KANSAS.

MR. CHAIRMAN, THE SPIRIT OF THE VOTERS OF KANSAS AS WELL AS THE REST OF THE COUNTRY IS CLEARLY IN FAVOR OF BRINGING THE RESPONSIBILITY FOR THE EXERCISE OF GOVERNMENT BACK TO THE INDIVIDUAL. THE SPIRIT OF LETTING THE GOVERNED GOVERN. IN SOME INSTANCES THIS IS A DIRECT REFLECTION OF PERCEIVED MISSUSE OF PUBLIC TRUST. IN OTHERS IT IS A RETURN TO THE SPIRIT OF INDIVIDUALISM AND INDIVIDUAL RESPONSIBILITY SO VITAL TO THE CONTINUATION OF OUR FREE AND INDEPENDENT DEMOCRACY.

THE BILL YOU HAVE IN FRONT OF YOU IS IN THREE PARTS AS IT ADDRESSES THREE CURRENT SECTIONS OF KANSAS LAW. ~~CERTAINLY AS ITS DRAFTER I WISH TO SEE ALL THREE PARTS ENACTED INTO LAW. REALITY SAYS I WOULD BE PLEASED TO SEE ANY PART ENACTED.~~

THE <sup>SECOND</sup> PART SEEKS TO ACHIEVE THE GOAL I JUST MENTIONED, BRINGING THE GOVERNMENT BACK TO THE INDIVIDUAL. THERE ARE CURRENTLY NO PROVISIONS IN THE STATE ANNEXATION STATUES WHICH PROVIDE FOR THE CONSIDERATION OF THE WISHES OF THE INDIVIDUAL AS EXPRESSED THROUGH THE DIRECT BALLOT. IN THE CIRCUMSTANCE OF WHAT IN THE CORPORATE WORLD WOULD BE CALLED A HOSTILE TAKE OVER, THE INVOLUNTARY ANNEXATION OF PROPERTY, THE PROPERTY OWNER HAS NO DIRECT VOICE IN THE PROCESS. I BELIEVE THIS TO BE IN CONTRAVENTION OF BOTH THE INTENT OF THE CONSTITUTIONAL GUARANTEE OF INDIVIDUAL LIBERTY AND THE PREVAILING SPIRIT OF THE AMERICAN ELECTORATE.

THE <sup>FIRST</sup> PART OF THE BILL SEEKS ONLY TO REQUIRE FULL AND OPEN DISCLOSURE, TO BOTH THE INTENDED ANNEXEE AND THE CITIZENS OF THE MUNICIPALITY PROPOSING ANNEXATION, OF THE METHOD BY WHICH THE MUNICIPALITY PROPOSES TO FUND THE PROVISION OF SERVICES TO THE ANNEXED AREA. THIS IS FAIR IN THAT IT ADVISIES ALL PARTYS AS TO THE PROJECTED FINANCIAL IMPACT, ON EACH TAXPAYER, OF THE ANNEXATION.

THE THIRD PART IS THERE TO PREVENT REPEDITIVE, VEXATIOUS, ATTEMPTS TO ANNEX THROUGH THE SIMPLE TACTIC OF WEARING DOWN THE OPPOSITION. IT IS ROOTED IN THE 5 YEAR PROVISION IN THE LAW WHICH GIVES AN ANNEXING MUNICIPALITY 5 YEARS TO PROVIDE THE SERVICES PROMISED WHEN IT ASSUMES AN AREA INTO ITS BORDERS. IT IS FURTHER SUPPORTED IN THE THOUGHT THAT A 5 YEAR PERIOD MAY WELL PRODUCE CHANGES IN THE ECONOMIC AND SOCIAL STRUCTURE OF BOTH THE MUNICIPALITY AND ITS BORDERING AREA WHICH WOULD INFLUENCE THE ELECTORATE TO RECONSIDER ITS EARLIER DECISION WITH REGARD TO ANNEXATION. AS A MEMBER OF THE ELECTORATE I PERSONALLY OPPOSE THE TACTIC OF VOTING UNTIL YOU GET WHAT YOU WANT. VOTE, PASS OR FAIL LIVE YOUR LIFE AND ONLY WHEN THE CIRCUMSTANCES INFLUENCING THE ELECTORATE HAVE HAD A CHANCE TO CHANGE SHOULD YOU RECONSIDER.

CERTAINLY THE SPIRIT OF THIS BILL IS TO ALLOW THE INDIVIDUAL WHO CHOOSES TO LIVE OUTSIDE THE CONFINES OF A CITY, WHO CHOOSES TO LIVE WITHOUT SOME OF THE SERVICES CITIES PROVIDE, WHO PREFERS THE FREEDOM FROM MANY OF THE MUNICIPAL CODES AND ORDINANCES, WHO, IF IN THE AGRICULTURE BUSINESS MAY NOT BE ABLE TO SURVIVE IF THE ACREAGE REQUIRED TO PRODUCE HIS CROP CANNOT BE SUPPORTED UNDER

THE TAXES AND ORDINANCES OF A MUNICIPALITY, IT IS TO ALLOW THIS INDIVIDUAL TAXPAYER, THIS INDIVIDUAL, THIS VOTER, A VOICE IN THE FORM OF GOVERNMENT UNDER WHICH TO LIVE.

THOSE OF US WHO SUPPORT THIS BILL FULLY UNDERSTAND AND APPRECIATE THAT AN ECONOMICALLY HEALTHY, GROWING MUNICIPALITY SHOULD NOT BE DENIED THE OPPORTUNITY TO EXPAND. CERTAINLY A THOUGHTFUL CITY GOVERNMENT MUST CONCERN ITSELF WITH ENVIRONMENTAL CONDITIONS ON ITS BORDERS. JUST AS CERTAINLY THE RIGHTS OF RESPONSIBLE CITIZENS WHO RESIDE IN THE COUNTIES ON THE BORDERS OF SUCH MUNICIPALITIES MUST BE RESPECTED. THE PROPOSED BILL DOES NOT DENY ANY CITY THE RIGHT TO ANNEX. IT ONLY REQUIRES THAT BEFORE SUCH ACTION IS TAKEN THE FULL RIGHTS OF THE VOTERS WHOSE TAXES AND WHOSE WAY OF LIFE WILL BE IMPACTED MUST BE RESPECTED. THEIR VOICE MUST BE HEARD. THEIR ECONOMIC INTERESTS CONSIDERED. WE ARE ASKING NO MORE THAN THE RIGHT TO BE INFORMED OF THE FISCAL INTENTIONS OF CITIES CONTEMPLATING ANNEXATION. THE RIGHT TO A PERIOD OF RECONSIDERATION BETWEEN ANNEXATION ATTEMPTS AND MOST IMPORTANTLY, THE RIGHT TO VOTE ON OUR DESTINY.



# HOUSE BILL NO. 2142

B. WINSTEAD, 14214 MCINTYRE ROAD  
LEAVENWORTH, KS 66048

## I INTRODUCTION

## II OUTLINE OF THREE ASPECTS OF HOUSE BILL 2142

A. DISCLOSURE OF METHOD OF FUNDING  
FOR SERVICES.

B. PROVISION FOR PROTEST PETITION  
AND VOTE.

C. LIMITATION ON TIME BETWEEN  
ANNEXATION ACTIONS.

## III CLOSING



**League  
of Kansas  
Municipalities**

LEGAL DEPARTMENT · 112 S.W. 7TH TOPEKA, KS 66603 · TELEPHONE (913) 354-9565 · FAX (913) 354-4186

**LEGISLATIVE TESTIMONY**

**TO:** House Local Government Committee  
**FROM:** Don Moler, General Counsel  
**RE:** Opposition to HB 2142  
**DATE:** February 2, 1995

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2142. The annexation laws of Kansas have a long and storied history, which I will not bore you with today. Suffice it to say that the annexation "wars" of the mid-1980's put in place the current statutory scheme for annexation by cities in Kansas. There have been essentially no amendments to these statutes since 1987 and we believe that is in recognition of the fact that the issue was adequately dealt with at that time.

The ability of a city to annex is a very important power which allows it to naturally extend its boundaries when that growth is appropriate. It remains essential to allow cities in Kansas to include the reasonable growth that is inherent to many of the cities in Kansas. It is a decision not to be undertaken lightly and we believe that the current statutory language provides numerous, and very adequate safeguards for members of the public when faced with a potential annexation. We oppose HB 2142 specifically because we believe it disturbs the current balance that has been achieved through years of work by the state legislature, the League and numerous other groups.

Especially onerous is the specter that municipal planning could be overtaken by rhetoric and an effective public relations campaign undertaken by opponents to an annexation which could sway a potential vote of the electorate. Furthermore, and perhaps more onerous than the election requirement, is the five year moratorium after an unsuccessful election that would then be imposed on any city which had attempted to annex an area. I cannot stress to this Committee how strongly the League of Kansas Municipalities opposes this legislation. There are few issues that I have dealt with my almost 10 years with the League that our membership feels as strongly about as the ability to make reasonable annexation decisions and to implement those decisions under statutory law.

House Local Government  
2-2-95  
Attachment 3





DEPARTMENT OF LAW  
OFFICE OF CITY ATTORNEY  
CITY HALL — THIRTEENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202 - 1635  
(316) 268-4681

**TESTIMONY  
HOUSE LOCAL GOVERNMENT COMMITTEE  
FEBRUARY 2, 1995  
HOUSE BILL 2142  
Room 521-S: 1:30 p.m.**

Chairman Glasscock and members of the House Local Government Committee, I am Doug Moshier, Senior Attorney for the City of Wichita. I am here today to speak in opposition of House Bill 2124, a bill relating to cities powers of annexation.

House Bill 2124 would greatly limit the City's powers of unilateral annexation. The bill would set up a process where, after a City approves the annexation, a petition of 5% of the qualified electors residing within the City and 5% of the qualified electors residing within the proposed annexation area forces an election. If the annexation is disapproved in the election, it is voided and the City is precluded from trying to annex this property for five years.

The City believes the current law affords due process to the citizens to address annexation issues. There are already a number of findings and procedures the City must comply with before property can be annexed. Decisions to incorporate property within the City limits are based on the benefit residents receive from City services. The City believes it is the responsibility for residents to pay their fair share of taxes to support those services. Adding the election process would delay managed growth, and would also be an additional cost that must be born by the taxpayers.

The City would also like to take exception to the new subsection (a) which requires that the annexation ordinance include the method of financing the extension of services. The City is now required to prepare a "service plan" when doing unilateral annexations that indicates how the City expects to extend services. Putting this method in the annexation ordinance would appear to lock the City into specific policies that commonly do change over time.

The City of Wichita encourages you to oppose HB 2124 as it limits the authority of municipalities.

House Local Government  
2-2-95  
Attachment 4

