

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Vickrey at 3:30 p.m. on February 18, 2003 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department
Kathie Sparks, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Marilyn Chapman	Sedgwick County
Karen Hartenbower	Lyon County
Rep. Toelkes	
Sen. Jackson	
Sen. Hensley	
Vic Miller	
Dennis Schwartz	Rural Water District No. 8
Ed Peck	Tecumseh Township
Mike Goodwin	Shawnee County Resident
Whitney Damron	City of Topeka
Don Moler	League of Kansas Municipalities
Mike Taylor	City of Wichita
Don Seifert	City of Olathe
Bart Budetti	City of Overland Park

Others attending: See attached list

Chairman Vickrey opened the hearing on:

HB 2212 cities; relating to annexation; time of publication before election

Marilyn Chapman, Election Commissioner, Sedgwick County, appeared as a proponent of the bill (Attachment 1). She stated that election commissioners under KSA 19-3426 are required to publish wards and precincts once at least 30 days before any election, whereas KSA 12-523 allows cities to annex properties and have these properties included within the city up to 30 days before an election. She explained these two statutes are not compatible since city annexation can affect election wards and precinct boundaries.

Karen Hartenbower, County Clerk & Election Official, Lyon County, testified in support of the bill. She provided no written testimony. Ms. Hartenbower serves as Chair of the Kansas County Clerks and Election Officials and as Chair of the Election Committee. She informed the committee that the proposed legislation is a priority item for the county clerks and election officials.

There were no opponents to the bill.

The Chairman closed the hearing on **HB 2212**.

HB 2086 County roads; opening; minimum road bed and drainage standards

Rep. Yonally made a motion for the favorable passage of HB 2086. Rep. Reitz seconded the motion. Rep. Peterson made a substitute motion to amend the bill on page 1, in line 16, by striking "state and"; in line 28, by striking "state and." Rep. Gilbert seconded the substitute motion to amend the bill. The substitute motion to amend the bill carried. Rep. Yonally made a motion for the favorable passage of HB 2086 as amended. Rep. Reitz seconded the motion. The motion carried.

HB 2112 Enforcement of county codes and resolutions

Rep. Campbell made a motion for the favorable passage of HB 2112. Rep. Thull seconded the motion. The

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 18, 2003 in Room 519-S of the Capitol.

motion carried.

HB 2201 **Fire and fire protection; investigations of fires and explosions**

Rep. Storm made a motion to amend the bill as proposed in the balloon amendment (Attachment 14). Rep. Reitz seconded the motion. The motion to amend the bill carried.

Rep. Gilbert made a motion for favorable passage of the bill as amended. Rep. Peterson seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

HB 2043 **annexation of territory by cities; requiring approval of the board of county commissioners**

Rep. Toelkes appeared as a proponent of the bill (Attachment 2). He stated that the proposed legislation does not change any of the laws and procedures of cities annexing property outside the city limits. He explained that the proposed legislation addresses unilateral annexation without the consent of the county commissioners who are duly elected by the voters of the area subject to be annexed. Rep. Toelkes testified that the proposed legislation makes a change in the annexation laws to allow the residents in the area to be annexed a voice in the process through their elected officials, the county commissioners.

Sen. Jackson testified before the committee as a proponent of the bill (Attachment 3). He said that as unilateral annexation works now, city council members have the power to choose a government without a choice by those being annexed. He stated that taxation without representation is what results and our ancestors found the Revolutionary War over this very issue. He testified that with the passage of this bill, unfettered economic development can and will occur and citizens can select their own form of government. He asked for the committee for their support of the bill.

Vic Miller, Chairman of the Shawnee County Commission, appeared on his own, not on behalf of the county commission. He testified in support of the bill (Attachment 4). He explained that last fall, a group of Topeka and Shawnee County community leaders visited Springfield, Missouri, to review that community's blueprint for economic growth and prosperity. Commissioner Miller noted that in Missouri, unilateral annexation is not even an option available to cities and that the conclusion of their group was that "unilateral annexation is not necessary for the economic growth of a community." He said the proposed legislation offers a happy medium between unfettered unilateral annexation that cities currently enjoy and the Missouri circumstance where it is not even allowed.

Dennis Schwartz, General Manager of Rural Water District No. 8, testified in support of the bill (Attachment 5). He noted that under present law, the action of a city may be totally unilateral and made by members of a governing body not representing those property owners who are proposed to be annexed. He stated that this method is totally contrary to any resemblance of representative governing. He testified that he has seen the frustration of citizens standing before a governing body, feeling powerless as the fate of their property rests in the hands of political leaders for whom they never had the ability to vote upon. He requested restoring the democratic process to the method by which land may be attached to a city and asked the committee to approve **HB 2043**.

Sen. Hensley appeared as a proponent of the bill (Attachment 6). He noted unified efforts showing city/county cooperation in past years:

- In the early 1990's county and city voters agreed on a quarter-cent sales tax for a new combined law enforcement center in downtown Topeka and for county bridge repair.
- In 1996, county and city voters agreed on the extension of this tax for the local share of the Oakland Expressway and Kansas Turnpike construction project and for county bridge repair.
- In 2000, county and city voters agreed to extend this tax again for the financing of economic development and bridge repair in Shawnee County.
- Recent expansion of the Goodyear Plant and the Construction of the new Target Distribution Center. The Goodyear Plant expansion was a combined effort of city, county and state.

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 18, 2003 in Room 519-S of the Capitol.

He stated that concerned citizens appearing today before the committee believe that unilateral annexation is unfair, inequitable, unjust and unreasonable and that as their state senator, he agrees with them. He expressed dismay that residents of Shawnee County felt they had no other choice but to ask the Kansas Legislature to repeal the Kansas Law that allows cities the powers of unilateral annexation.

Edgar Peck, Treasurer of the Tecumseh Township and member of the Topeka Tecumseh Fire Department Board, testified in support of the bill (Attachment 7). He stated that in being involved in recent opposition to proposed annexation, he saw and felt first hand the right to have a voice or to have representation in the outcome was in essence nonexistent. He testified that objections voiced about higher taxation and fewer services didn't seem to be of interest to most of the city council members. He informed that neither the township nor the fire district was consulted on what effect annexation would have on these local units of government. He strongly encouraged the committee to consider the proposed legislation which would give all persons representation through their county commissioner.

Mike Goodwin, resident of southeast Shawnee county, testified in support of the bill (Attachment 8). He testified that upon analysis of the City's Annexation Service Plan, it became obvious that the cost of providing services to the proposed annexation area would exceed the tax revenues generated and that the city's taxpayers would pay higher taxes if the county neighborhoods were annexed. He informed that residents of neighborhoods in the proposed annexation would experience a tax increase of 20 percent, offset only partially by decreased utility. He explained that according to the level of expenditures in the Annexation Service Plan that the city could not provide services to the neighborhoods proposed to be annexed at a level "equal to or better" than residents now enjoy as required by KSA 12-520b(2). He urged support of the bill.

Whitney Damron, lobbyist for the City of Topeka, appeared as an opponent of the bill (Attachment 9). He testified that the proposed legislation would be an impediment to the orderly growth of the cities of Kansas and eliminate the long-standing right of a city to control its own growth through annexation. He stated that the city council and the city's administration are opposed to the change put forth in the proposed legislation.

Don Moler, Executive Director, League of Kansas Municipalities, testified in opposition to the bill (Attachment 10). He stated that the change proposed in the bill is a massive change in public policy and one which should not be undertaken lightly. He said that to adopt the language found in the bill would effectively obliterate all of the unilateral annexation statutes and completely reverse many years of public policy in this state and that no longer would cities be able to annex property, even property they own, without the consent of the county commission. He strongly urged the committee to reject the bill.

Mike Taylor, Government Relations Director, City of Wichita, testified in opposition to the bill (Attachment 11). He stated that the bill is about the Legislature once again being asked to inject itself into the politics and affairs of a local community. He urged the committee to decline the invitation.

Don Seifert, Policy Development Leader, City of Olathe, appeared as an opponent of the bill (Attachment 12). He stated that the City of Olathe, opposes legislation that would further restrict the ability of cities to annex and urged the committee to oppose the bill.

Bart Budetti, City of Overland Park, testified in opposition to the bill (Attachment 13). He stated that given the dramatic changes the bill makes to longstanding Kansas law, the City of Overland Park requests the committee oppose the bill.

The Chairman closed the hearing on **HB 2043**.

Rep. Gilbert made a motion to approve the Minutes of January 23, 2003. Rep. Yonally seconded the motion. The motion carried.

The meeting was adjourned.

Next meeting is scheduled for February 20, 2003.



SEDGWICK COUNTY, KANSAS

Commissioner of Elections

Marilyn K. Chapman

Historic Courthouse • 510 North Main • Wichita, Kansas • Telephone (316) 660-7100 • Fax (316) 383-7388 • sedgwickcounty.org/elections

TO: Committee on Local Government
FROM: Marilyn K. Chapman
DATE: February 18, 2003
SUBJECT: HB 2212

Pursuant to KSA 19-3426, the election commissioners in the four largest Kansas counties are required to publish changes to wards and/or precincts once at least 30 days before any election. 12-523 allows cities to annex properties up to 30 days before an election. These two deadlines are not compatible.

Every election can be affected by the annexations. In city elections in odd numbered years the people become eligible to vote for city candidates. In township elections in even numbered years the people are no longer eligible to vote for township candidates.

Over the past few years many cities have pursued aggressive annexation programs that have made it virtually impossible for us to meet our statutory publication deadlines. Some of the areas annexed include dozens of parcels. Information provided by the cities is often not helpful and exact locations and addresses have to be researched and determined. Then databases must be changed and the people notified. This often takes many days, or even weeks, to complete.

Cities are also notorious in failing to notify us in a timely fashion of annexation ordinances. In a primary election a couple of years ago, our first indication of a sizable annexation was on Election Day when a voter called inquiring why his usual place was not open for voting. The voter filed an objection to the primary and several hundred voters were subsequently allowed to vote in a special election, changing the results of the primary. The annexation had occurred two months before, but we had no notification from the city on that ordinance, or on two others passed at the same time.

We have tried to prevent any further such occurrences by sending a letter to each city with a list of all annexation ordinances that have been received from each of them since the last election.

House Local Government
Date: 2-18-2003
Attachment # 1

ROGER E. TOELKES
 REPRESENTATIVE, 53RD DISTRICT
 SHAWNEE COUNTY
 3811 SE 33 TERR
 TOPEKA, KANSAS 66605
 (785) 267-7105



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

ETHICS AND ELECTION
 LOCAL GOVERNMENT
 TRANSPORTATION
 UTILITIES

CHAIRMAN: SHAWNEE COUNTY DELEGATION

STATE CAPITOL BUILDING—ROOM 281-W
 TOPEKA, KANSAS 66612-1504
 (785) 296-7687

Mr Chairman, and members of the Local Government Committee. I come before you today to support House Bill 2043. This is an act concerning annexation relating to powers and duties of cities and counties. This bill does not change any of the laws and procedures of cities annexing property outside the city limits.

What it does change is the unilateral annexation without the consent of the county commissioners who are duly elected by the voters of the area subject to be annexed.

There are many examples in Shawnee County and many other counties of City-County consolidation and votes of cooperation.

As an example: Shawnee County residents paying a sales tax for Washburn University which is a municipal University. The combining of the Topeka Shawnee County Library a joint tax effort, the Topeka Shawnee County law enforcement headquarters, and the joint Topeka Shawnee County Health Department. These are only a few examples of city county cooperation.

Again this change is the annexation laws would only give the residents in the area to be annexed a voice in the process through their elected officials, the County Commissioners.

Thank you for allowing me to speak to you today and I will stand for questions at your convenience.

House Local Government
 Date: 2-18-2003
 Attachment # 2

DAVID D. JACKSON
 STATE SENATOR, 18TH DISTRICT
 NORTH SHAWNEE COUNTY
 HOME ADDRESS: 2815 NE ROCKAWAY TRAIL
 TOPEKA, KANSAS 66617-2305
 (785) 357-6538
 OFFICE: STATE CAPITOL BUILDING, ROOM 458-E
 TOPEKA, KANSAS 66612-1504
 785 296-7365
 email: Jackson@Senate.state.ks.us



COMMITTEE ASSIGNMENTS
 WAYS AND MEANS
 ELECTIONS AND LOCAL GOVERNMENT
 TRANSPORTATION
 JOINT COMMITTEE ON SPECIAL CLAIMS
 AGAINST THE STATE
 TOPEKA STATE HOSPITAL CEMETERY
 MEMORIAL ADVISORY COMMITTEE
 JOINT COMMITTEE ON CHILDREN'S ISSUES
 SPECIAL COMMITTEE ON KANSAS SECURITY

SENATE CHAMBER

Testimony on House Bill 2043
 Before the House Local Government Committee
 Jene Vickrey, Chairman

Good afternoon Mr. Chairman and Committee members. I am here in support of HB 2043 as proposed by Representative Toelkes because this bill is an important improvement in a public policy area which has long been a divisive issue among local government and citizens.

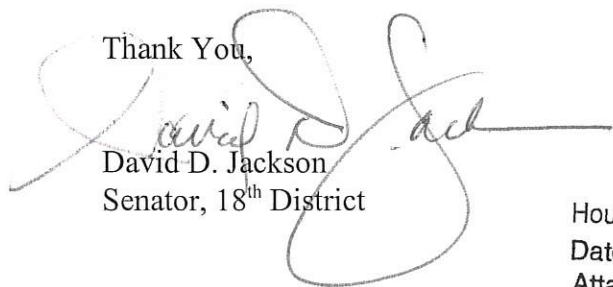
Simply put, this bill will cause city and counties to work together to accomplish better government. As unilateral annexation works now, city council members have the power to choose a government without a choice by those being annexed. Taxation without representation is what results and our ancestors fought the Revolutionary War over this very issue.

You will undoubtedly hear the wails of anguish from the opponents of this bill and they will infer that this provides for the orderly development of populated areas. This is nonsense. What has actually occurred is the flight of good people beyond the county lines for protection from the reaches of a municipality.

A study was performed in 2001 by the University of Kansas School of Law's Public Policy Clinic. According to that study there is no evidence to support the contention that economic development or any other benefit has been derived from the current annexation laws.

It's time for a change. With the passage of this bill unfettered economic development can and will occur and citizens can select their own form of government. I ask for your support of this bill and would stand for questions.

Thank You,


 David D. Jackson
 Senator, 18th District

House Local Government
 Date: 2-18-2003
 Attachment # 3



Shawnee County Board of Commissioners

Rm. B-11, Courthouse Topeka, Kansas 66603-3933

Marice Kane, 1st district

Vic Miller, 2nd district

Theodore D. Ensley, 3rd district

(785) 233-8200 ext. 4040, Fax: 785-291-4914

E-Mail: Commission@co.shawnee,ks.us

Network Address: www.co.shawnee,ks.us

Mr. Chairman and Members of the Committee:

My name is Vic Miller, and I am Chairman of the Shawnee County Commission. My remarks today are my own, not on behalf of the Commission. Prior to serving on the Commission, I served eight years as a member of the Topeka City Council. I am a Topeka City resident, as are the other two county commissioners. Each of the three commissioners serves a constituency of approximately 2/3 Topeka dwellers and 1/3 otherwise.

I share these demographics with you to underscore the point that there is no reason to believe that the City of Topeka would not receive a fair hearing in presenting its case for unilateral annexation to the Shawnee County Commission.

It is very difficult, however, to convince the township, the water district, the fire district, or the residents to be annexed that they currently receive a fair shake from a body that they have no say in selecting. This is particularly frustrating when many of the councilmembers that are to sit in judgment have a pre-ordained position supporting the annexation.

Last fall a group of Topeka and Shawnee County community leaders visited Springfield, Missouri, to review that community's blueprint for economic growth and prosperity. It was particularly interesting to me to note that, in Missouri, unilateral annexation is not even an option available to cities. The conclusion of our group was that "unilateral annexation is not necessary for the economic growth of a community."

HB 2043 offers a happy medium between unfettered unilateral annexation that cities currently enjoy and the Missouri circumstance where it is not even allowed. I support the bill's passage. A city should be able to make its case to an impartial tribunal before affecting this kind of change on people, townships, fire districts and water districts.

House Local Government

Date: 2-18-2003

Attachment # 4

Dennis Schwartz

P.O. Box 95, Tecumseh, Ks 66542
ph. 785/379-5553

**Comments on House Bill 2043
before the House Committee on Local Government.
February 18, 2003**

Mr. Chairman and Members of the Committee:

I am Dennis Schwartz, General Manager of Rural Water District No. 8, and a thirty-five year resident of Shawnee County Kansas.

I appear here today in support of House Bill No. 2043. This bill would give those who would be affected by a city's intentions to annex some voice in the proceedings by requiring approval of the annexation by the Board of County Commissioners. Under present law, the action of a city may be totally unilateral and made by members of a governing body not representing those property owners who are proposed to be annexed. This method is totally contrary to any resemblance of representative governing.

If a valid case exists for the annexation of certain territories into a city, and if it is truly in the overall best interests of both those who are proposed to be annexed as well as the rest of the community and any other local units of government, it should be assumed that the Board of County Commissioners will act appropriately.

I have watched numerous times as a city has proposed a unilateral annexation. I have seen the frustration of citizens standing before a governing body, feeling powerless as the fate of their property rests in the hands of political leaders for whom they never had the ability to vote upon.

Please consider restoring the democratic process to the method by which land may be attached to a city. Please consider approving House Bill 2043.

Sincerely,



House Local Government
Date: 2-18-2003
Attachment # 5

Senator Anthony Hensley's testimony on 2003 House Bill 2043

Mr. Chairman and committee members:

There's an adage in politics which originated in New York City when the Brooklyn-to-Queens Expressway was being constructed.

The affluent and influential residents of Brooklyn Heights convinced city hall to divert the expressway away from their neighborhood.

The poorer, immigrant Red Hook residents did not have such influence, and their neighborhood was bisected by the expressway.

"What can you do?" asked a Red Hook business owner. "We are mostly immigrants here who are afraid we might get deported if we protest. You can't fight city hall."

Today, that adage certainly applies.

In your hands rest the fate of the individuals who are here to voice their concerns because state law bestows upon cities the power of unilateral annexation.

While they would rather not have to "fight city hall," at the same time they have no choice. They have brought their fight to the Legislature because the balance of power is not equal. Cities hold all of the power and they are at their mercy.

They do not want to "fight city hall." And - they do not want city hall fighting them. They want city hall to listen and learn about their concerns.

They are here today to voice those concerns – concerns that will be based on the facts. And, it should come as no surprise to any of us, that their concerns will also be based on emotion.

I don't believe they should be faulted for that. They believe that there is very much at stake in this process. They believe that unilateral annexation is unfair, inequitable, unjust, and unreasonable. And, as their state senator, I agree with them.

House Local Government
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Attachment # 6

I have been a resident of Topeka all of my life and, in fact, live in the house I grew up in at 2226 SE Virginia in the Highland Park neighborhood.

After a long and contentious process, Highland Park was annexed into the city of Topeka on September 5, 1957. Promises were made at the time that to this very day have not been kept. Services were promised at the time that to this very day have not been delivered.

There are some in our community who have the misguided notion that Shawnee County residents who live outside of Topeka are a bunch of freeloaders. The notion is these people enjoy city services but don't have to pay for them.

I will admit that as a city resident, I always thought it was unfair that I had to pay taxes to support the Topeka Public Library while the county residents outside of Topeka didn't.

That has changed. By an act of the Kansas Legislature, 1992 House Bill 2849, an election was authorized and the voters of Shawnee County created a countywide mill levy for the library and the name was changed to the Topeka and Shawnee County Public Library.

The bill created a ten-member board of trustees, seven members are residents of the city and three are residents of the county outside of the city.

Actually, the election required a "dual majority" of voters both in the city and outside of the city. The county voters listened to the facts and voted a mill levy on themselves.

As a city resident, I always thought it was unfair that I had to pay local property taxes to support Washburn University and the county residents outside of Topeka didn't.

That also has changed. By an act of the Kansas Legislature, 1999 House Bill 2565, the Washburn Board of Regents was authorized to impose a countywide sales tax subject to a protest petition.

This bill also abolished the general mill levy paid by city residents. There was no protest and the Washburn sales tax is in place today.

These two issues are compelling examples of how city and county residents were brought together to change an inequitable situation that adversely affected those of us who live in the city.

In the early 1990s, county and city voters agreed on a quarter-cent sales tax for a new, combined law enforcement center in downtown Topeka and for county bridge repair.

In 1996, county and city voters agreed on the extension of this tax for the local share of the Oakland Expressway and Kansas Turnpike construction project and for county bridge repair.

In 2000, county and city voters agreed to extend this tax again for the financing of economic development and bridge repair in Shawnee County.

More recently, we've seen other examples of city/county cooperation. The Target and Goodyear expansions, and in the case of Goodyear, it was the combined effort of city, county and state.

So much for the progress, so much for the unified efforts of the past.

How unfortunate it is that we are here today asking you to repeal Kansas law that allows cities the power of unilateral annexation.

How unfortunate it is that our fellow Shawnee Countians are here to fight city hall against the destructive, divisive, unfair, and unreasonable effort to annex them into the city.

Thank you.

A handwritten signature in black ink, appearing to read "Anthony Hendley". The signature is written in a cursive, flowing style.

Comments on House Bill No. 2043
Before the House committee of Local Government
February 18, 2003

Mr. Chairman and members of the Committee:

My name is Edgar B. Peck, Treasurer of the Tecumseh Township and a member of the Topeka Tecumseh Fire Department Board. I am asking you to support H.B. No. 2043.

Unilateral annexation as currently allowed under KSA 12-520, grants governing bodies far too much authority and power. There are ambiguities that can be twisted and interpreted by municipalities in ways that gives more latitude than what I believe was intended by it's authors and sponsors when using this method to annex developed areas.

Having been involved recently in opposing annexation of an established community just east of Topeka, I saw and felt first hand the rights to have a voice or to have representation in the outcome was in essence non-existent. Our destiny was in the hands of nine city council members who had no accountability to residents of the area. Objections voiced about higher taxation and less services didn't seem to be of interest to most of the council members. Neither the township nor the fire district was consulted on what affect annexation would have on these local units of government. Because the statue as currently written calls for public notices and hearings, residents were given the opportunity to express their opinions in open meetings but the reality was we had no elected representative to represent our interest in this matter. We were completely at the mercy of people who were looking for ways to expand the boundaries and tax base of their city at our expense.

The issue of not having an elected representative to voice the opinion of what is fair and equitable for those people whose lives are affected by annexation goes against the principal of our democratic society. I would strongly encourage you to consider Representative Toelkes' proposed House Bill No. 2043 which would give all persons representation through their county commissioner.

Thank you for your time and your consideration of this bill.

House Local Government
Date: 2-18-2003
Attachment # 7

Testimony Supporting House Bill 2043

February 18, 2003

Michael W. Goodwin

3819 SE 31st Street, Topeka, KS 66605 (785-266-6218)

I am here today to encourage you to support House Bill 2043, which repeals KSA 12-520 and related unilateral annexation statutes.

By way of background, I have a degree in Economics from the University of Kansas. I have lived in or near the City of Topeka since 1970 and I presently live in Shawnee County outside the City. At various times over the years, I have worked in the City, owned property in the City, owned businesses in the City, shopped in the City, supported charities in the City, paid taxes in the City and voted in City elections.

I now live in a neighborhood that has recently been targeted for annexation by the City of Topeka. While my neighbors and I cannot participate in the election of City officials, those officials have the power to annex our neighborhood under KSA 12-520. House Bill 2043 addresses this lack of elected representation by repealing KSA 12-520 and the related unilateral annexation Statutes.

In order to demonstrate the basic unfairness of unilateral annexation, I would like to provide you with some insights into a recent effort by the City of Topeka to annex our neighborhood under KSA 12-520. While KSA 12-520 et seq requires the City to prepare and publish an Annexation Service Plan and to conduct public hearings, the City has the authority and the power to annex regardless of the desires of the majority of landowners in the proposed annexation area and regardless of the economic merits of the proposed annexation.

In 2002, the City of Topeka proposed to annex a neighborhood near SE 29th and Croco Road, near Lake Shawnee. At that time, the City also announced its intention to annex various adjacent neighborhoods including my own.

The City's Annexation Service Plan dated August 6, 2002 contained many unreasonable assumptions and material errors. Upon analysis of the Plan, it became obvious that the cost of providing services to the proposed annexation area would exceed the tax revenues generated. In other words, the City's taxpayers would pay higher taxes if our neighborhoods were annexed. And homeowners in our neighborhood would experience a tax increase of 20%, offset only partially by decreased utility bills.

As we analyzed the Annexation Service Plan it became clear, at the level of expenditures projected by the City, that it could not provide services to our neighborhood at a level "equal to or better" than we now enjoy as required by KSA 12-520b(2). If the City unilaterally annexed our neighborhood and provided the lower level of services shown in its Annexation Service Plan, our neighborhood would have only one recourse – wait 7 ½ years. Five years after annexation the County Commission must convene a hearing as provided by KSA 12-531 to determine whether the City has provided municipal services at a level equal to or better than enjoyed prior to annexation. If the County Commission finds, at that time, that the City has not provided the required level of services, then the City has 2 ½ additional years to provide the services or the area may be deannexed. In other words, the reduced level of services included in the City's budget for our

House Local Government
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Attachment # 8

neighborhood could be permitted for a period of 7 ½ years before we would have any recourse.

Ultimately, the City's unilateral annexation plan for our neighborhood was withdrawn in October 2002. It was withdrawn because four courageous City Council members left the public hearing after learning that the residents who were being annexed had been provided a different Annexation Service Plan than had been approved by the City Council. Those Council members recognized that the City could not legally proceed with the annexation because it had not met the requirements of KSA 12-520 to provide residents with the same Annexation Service Plan it had approved. Since the public hearing could not be rescheduled within the required statutory timeframe, the City was forced to withdraw the annexation ordinance.

The purpose of providing the details of this annexation experience to you is not to berate Topeka's elected officials or their staff. I have related this experience to you, not to argue for or against a particular annexation, but to argue against the unfair manner in which unilateral annexation is accomplished.

The reason our recent experience is important to your consideration of HB 2043 is that it illustrates the fact that, under KSA 12-520, a city can annex an area simply because it wants to do so, regardless of the merits of doing so. One reason a city can do this is that KSA 12-520 lacks the requirement found in KSA 12-521(2)(c) to consider "...the impact of approving or disapproving the annexation on the entire community involved..." (emphasis added). The City of Topeka provides an example of this unfettered power under KSA 12-520, because it pursued unilateral annexation of our neighborhoods even though it was demonstrably not in the best interest of either the City's taxpayers or the more than 3,000 County residents who would have been affected.

It is important to note, however, that HB 2043 does not limit a city's ability to annex. A city desiring to annex a surrounding area may still do so, but under HB 2043 the annexation proposal would be submitted to the County Commission for approval under KSA 12-521 et seq. Cities would be required to prepare the same analysis they now prepare under KSA 12-520. To argue otherwise, that more analysis and preparation might be required when annexation proposals are aired in proceedings before the County Commission than when implementing a unilateral annexation proves the very necessity of enacting HB 2043. If more analysis and preparation are indeed necessary to justify an annexation, then it is in the best interest of the "entire" community to do such analysis and preparation and have a third party review it.

HB 2043 provides for basic fairness in the annexation process while permitting cities to annex areas when justified by the facts. Although HB 2043 does little to restrict cities, it does much for affected taxpayers by allowing them to appear before their elected officials to make their opinions and wishes known.

If a city's proposed annexation is justified, then it should be able to withstand the light of day in a public forum where all parties are represented by elected officials who are accountable to their constituency. House Bill 2043 does nothing more and nothing less than that.

For the above reasons, I respectfully urge you to support House Bill 2043.



CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 S.E. 7th Street, Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

February 18, 2003

Testimony presented to House Local Government Committee

Re: H.B. 2043

Dear Committee:

H.B. 2043 as presented would be an impediment to the orderly growth of the cities of Kansas. By requiring county commission approval of virtually all city annexation proposals, the bill would eliminate the long-standing right of a City to control it's own growth through annexation. Without some control over their borders, City's become blighted by urban sprawl. County commissioners, who often view non-city residents as their primary constituents, will be reluctant to allow the natural growth of City borders. Allowing the county commissioners to control city growth is contrary to the home rule rights of cities. This is a fundamental change in state policy. The current system works and does not need to be tampered with.

The majority of the City council and the administration are opposed to this change. We support the position of the League of Kansas Municipalities which is also in opposition.

Thank you for your time and consideration.

Sincerely,

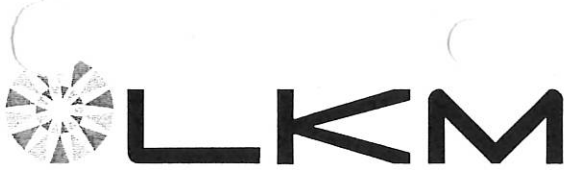
A handwritten signature in cursive script that reads "Butch Felker".

Harry "Butch" Felker
Mayor of Topeka

Cc: City Council Members

House Local Government
Date: 2-18-2003
Attachment # 9

WHITNEY B. DAMRON, P.A.
800 SW JACKSON STREET, SUITE 1100
TOPEKA, KANSAS 66612-2205
(785) 354-1354 • 354-8092 (FAX)
E-MAIL: <WBDAMRON@aol.com>



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Local Government Committee
From: Don Moler, Executive Director
Re: Opposition to HB 2043
Date: February 18, 2003

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2043. The history of the Kansas annexation statutes is long and storied. I will not bore the Committee with all of the details and nuances of its development today. Suffice it to say, the annexation laws, as they are currently structured, are the result of a major conflict and compromise which occurred in the mid-1980's. The League was a major player in this struggle and worked with many interested parties to reach the eventual compromise which led to the current statutes we see today. As far as the League knows, the annexation statutes have worked well over the past 15 years and we believe they continue to work well.

The Committee should be aware that what is suggested by HB 2043 is a massive change in public policy and one which should not be undertaken lightly. There is always a natural tension involved between landowners and cities when cities are growing as a result of economic development, population changes, and the need for public services. We understand that landowners feel the need to be protected and that is why there are so many protections currently found in the Kansas annexation statutes. The simple reality is that to adopt the language found in HB 2043 would effectively obliterate all of the unilateral annexation statutes and completely reverse many years of public policy in this state. No longer would cities be able to annex property, even property they own, without the consent of the county commission. Furthermore, even landowners who wish to be annexed, and can be annexed unilaterally under current law, would be precluded from doing so without the blessing of the county commission.

As you know, county commissions currently have the ability to review annexations which do not fit under the unilateral annexation statutes and that is one of the key compromises which was reached back in the 1980's. Essentially the compromise allowed that certain, limited annexations could be undertaken unilaterally, without the consent of the county commission, while larger more inclusive annexations, would run through the county commission approval process. As a result, we would suggest that this bill is unwarranted and unnecessary. To undertake this type of massive change to an existing statute which is working well is not appropriate and we would strongly urge the Committee to reject this bill out of hand. I will be happy to answer any questions the Committee may have on this subject.

House Local Government
Date: 2-18-2003
Attachment # 10



CITY OF
WICHITA

TESTIMONY

City of Wichita

Mike Taylor, Government Relations Director

455 N Main, Wichita, KS. 67202

Wichita Phone: 316.268.4351

Topeka Phone: 316.648.6236

mtaylor@wichita.gov

House Bill 2043 Annexation Approvals and Requirements

**Delivered February 18, 2003
House Local Government Committee**

The City of Wichita opposes House Bill 2043. The support behind this bill is driven primarily by an isolated situation here in Shawnee County which local elected officials have apparently been unable to resolve. It is not uncommon for the Legislature to be recruited as referees in local political disputes. In rare cases, that may be appropriate and necessary. In most cases, however, it burdens the legislative system with political disagreements which should stay local and results in the development of public policy which far exceeds the scope of the original problem.

HB 2043 proposes to change well developed, long standing annexation policy to benefit a small group of citizens here in Shawnee County. But it impacts every city in Kansas. That is unfortunate, unnecessary and poor public policy.

Cities which can't grow, decay and die. In the history of every city, the time comes for growth and orderly expansion. That means farmland, vacant land and even neighborhoods built on the edge of the city limits must be annexed. Bringing property inside the city limits allows for better planning and development and makes it easier to provide services in an efficient, affordable manner. Allowing County Commissions to veto the long term growth of a city because of a political spat of the moment is irresponsible.

Most of the properties annexed into the City of Wichita are done so at the request of the developer or property owners in the neighborhood in exchange for water and sewer service. In those cases, the paperwork for annexation was signed when the neighborhood developed. Allowing County Commissions to overrule that contract and veto the annexation at a later date is irresponsible and dishonest.

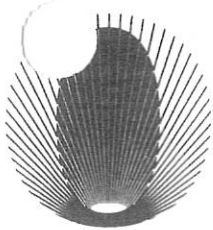
The State Legislature understands Cities need to grow, which is why it passed state laws allowing cities to annex homes and properties sitting in their growth path. Those laws spell out very specific and detailed steps the City must follow. Those steps, such as coming up with a plan for providing City services are in place for the protection of the annexed residents. The law explains which properties can and which properties can't be annexed. The law also gives citizens a legal right to speak to City Council members about the annexation plan during an official public hearing. This policy works well.

HB 2043 is poor public policy. But most of all, HB 2043 is about the Legislature once again being asked to inject itself into the politics and affairs of a local community. I urge you to decline the invitation.

House Local Government

Date: 2-18-2003

Attachment # 11



City of Olathe

MEMORANDUM

TO: Members of the House Committee on Local Government
FROM: Don Seifert, Policy Development Leader *DS*
SUBJECT: HB 2043; Repealing Unilateral Annexation
DATE: February 18, 2003

On behalf of the city of Olathe, thank you for the opportunity to appear today in opposition to HB 2043. This bill would repeal the unilateral city annexation procedure found at K.S.A. 12-520, and require that all annexations, even those initiated by a landowner petition, be considered by the board of county commissioners.

K.S.A. 12-520 outlines very narrow conditions for unilateral annexations by a city. In the world of annexation, nothing is ever "routine," but annexations handled under this statute are generally non-controversial and initiated by a property owner petition. For example, since 1997 the city of Olathe has considered 38 annexation cases, which annexed 3684 acres to the city. Only one of these cases was not initiated by a landowner request. Repeal of K.S.A. 12-520 would add unnecessary time and unwarranted expense to the annexation process for both cities and counties.

Annexation is a fundamental local government tool that encourages sound land use planning and the rational and orderly development of urban areas. The 1987 Legislature made a number of changes to existing law which had the effect of reducing a city's ability to unilaterally annex and requiring much more detailed service plans to justify annexation. We believe the 1987 law works well, reflecting a proper balance between the interests of cities and property owners. As a core legislative position, the city of Olathe opposes legislation that would further restrict the ability of cities to annex.

It is our understanding this bill is the result of a local concern about handling a particular annexation situation. Let me share with the committee how Olathe and Johnson County cooperate on these matters. On any planning request (rezoning, special use, plan review, or annexation) within one mile of our border, both entities informally share information and provide an opportunity to comment on the case before it goes to the respective planning commission. We believe this is a much more professional approach than repeal of a statute that has served the state well for many years.

Thank you again for the opportunity to be here today. We urge the committee to oppose this bill.

House Local Government
Date: 2-18-2003
Attachment # 12



Law Department

Robert J. Watson, City Attorney

City Hall•8500 Santa Fe Drive
Overland Park, Kansas 66212-2899
TEL 913.895.6080/6083•FAX 913.895.5095
E-MAIL watson@opkansas.org

TESTIMONY IN OPPOSITION TO HOUSE BILL 2043

TO: The Honorable Jene Vickrey, Chair
Members of the House Committee on Local Government
Room 519-S

Date: February 18, 2003

RE: House Bill 2043 – Proposed legislation that would repeal the unilateral annexation powers of cities.

Ladies and Gentlemen:

The City of Overland Park strongly opposes HB 2043 because it repeals cities' unilateral annexation powers contained in K.S.A. 12-520 *et seq.*

The City of Overland Park has used the unilateral annexation powers contained in K.S.A.12-520 *et seq.* on many occasions since the City's incorporation in 1960. These powers allow the City to annex land that adjoins the City, that likely already is urban in its character and use, and that likely already enjoys services provided by the City. The land also may already be platted, may be owned by the City or some other governmental unit, may already lie within or mainly within the city, or may have a common perimeter with the city boundary line of more than 50%. Most importantly for the cities, the owners of the land may have consented to or petitioned for its annexation, thereby rendering the land properly subject to annexation by unilateral act of the city. See the attached map entitled "Annexations by Decade" which depicts in color the many annexations by Overland Park by decade since 1960, and the various annexation ordinance numbers. Most of the annexations were unilateral annexations.

The unilateral annexation powers of cities have existed in the laws of Kansas in one form or another for nearly 100 years and have served the State and its municipalities well over those years. The City of Overland Park has responsibly used those powers over the years to achieve the long-term public interest of the entire community in which it exists.

Given the dramatic changes this bill makes to longstanding Kansas law, the City of Overland Park requests that you oppose House Bill 2043.

Thank you for your consideration.

A handwritten signature in black ink that reads "Robert J. Watson".

Robert J. Watson
City Attorney

RJW/rjw

House Local Government

Date: 2-18-2003

Attachment # 13

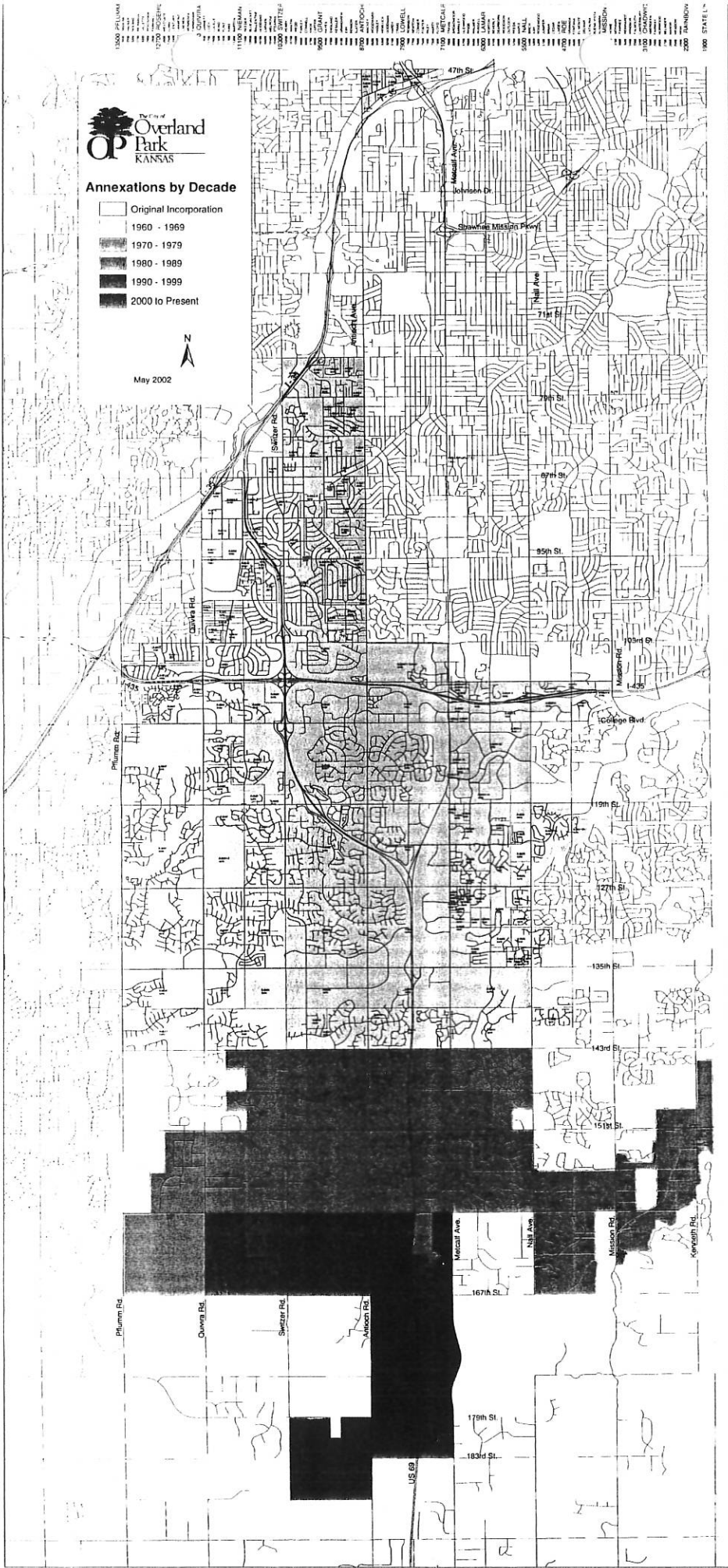


Annexations by Decade

- Original Incorporation
- 1960 - 1969
- 1970 - 1979
- 1980 - 1989
- 1990 - 1999
- 2000 to Present



May 2002



House Local Government
Date: _____
Attachment # _____

13-2

HOUSE BILL No. 2201

By Committee on Local Government

2-5

AN ACT concerning fire and fire protection; relating to investigations of fires and explosions; amending K.S.A. 31-137 and repealing the existing section.

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

Section 1. K.S.A. 31-137 is hereby amended to read as follows: 31-137. The state fire marshal, his deputies of the fire marshal, the chief of any organized fire department of any municipality, whether such fire department is regular or volunteer, or any member of any such fire department who has been duly authorized by the chief thereof, shall enforce the provisions of this act and any rules and regulations adopted pursuant thereto. Said Such persons are authorized to make any investigations deemed necessary of any fire or explosion occurring within this state, and they. Such persons shall make an investigation of any fire or explosion occurring within this state, or an attempt to cause any fire or explosion within this state, if there is reason to believe that the fire was of an incendiary origin or was an attempt to defraud an insurance company. In addition, the chief of any organized fire department of any municipality may designate other qualified persons to conduct such investigations in such municipality. In order to carry out such investigations, the state fire marshal and those persons herein designated by or authorized to be designated by this section shall have the right and authority at all times of day or night to enter upon or examine, in accordance with existing laws and regulations, any building or premise premises where any fire or explosion or attempt to cause a fire or explosion shall have has occurred. Every person designated herein Such persons shall make a written report of the findings of any investigation conducted by him pursuant to this section which shall be filed in the office of the state fire marshal.

Sec. 2. K.S.A. 31-137 is hereby repealed.

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

Sec. 2. "Qualified persons" means former members of a fire department who were certified as a fire investigator by the State Fire Marshal under K.S.A. 31-157 and regulations adopted pursuant to authority granted by said statute, at the time of their retirement.

State Fire Marshal
Office
Jim Clark

Passed as amended.

House Local Government
Date: 2-18-2003
Attachment # 14