

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 12, 2004 in Room 313-S (Old Supreme Court Room) of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department  
Mike Heim Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Rep. Toelkes, Kansas House  
Rep. Thimesch, Kansas House  
Jane Mosteller, Exit 39 Neighborhood Association  
Dennis Schwartz, Rural Water District No. 8  
Dan Benner, Exit 39 Neighborhood Association  
Rep. Steve Huebert, Kansas House  
Mark Lenz, Sunnydale Community, Valley Center  
Lynanne DeGarmo, Sunnydale Community  
Ed Peck, Tecumseh Township  
Grace Yost, Sunnydale Community  
Jane Kelsey, Shawnee County Farm Bureau  
Cathy Byers, Exit 39 Neighborhood Association  
Jack Perrin, Sunnydale Community  
Lavonna Benner, Exit 39 Neighborhood Association  
Fred Mosteller, Exit 39 Neighborhood Association  
Dale Kuhn, Exit 39 Neighborhood Association  
Joanie Stork, Exit 39 Neighborhood Association  
Debbie Hudson, Exit 39 Neighborhood Association  
Theresa Solano, Exit 39 Neighborhood Association  
Arlene Clayton  
LaVerne Ebney  
Don Moler, League of Kansas Municipalities  
Bob Watson, City of Overland Park  
James McClinton, City of Topeka  
Jeff Bridges, City of Andover  
Bob Martz, City of Wichita  
Lisa Stubbs, City of Topeka

Others attending:

See Attached List.

**HB 2590**      **cemeteries; relating to the abandonment of burial rights**

Rep. Yonally made a motion for the favorable passage of HB 2590. Rep. Toelkes seconded the motion. The motion carried.

**HB 2601**      **open records act; allowance of costs and attorney fees**

Rep. Storm made a motion to amend HB 2601 in line 36 concerning "good faith", deleting the work "and" and inserting the work "or". Rep. Toelkes seconded the motion. The motion to amend the bill carried.

Rep. Yonally made a motion for the favorable passage of HB 2601 as amended. Rep. Lane seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 12, 2004 in Room 313-S of the Capitol.

The Chairman opened the hearing on:

**HB 2654**      **annexation by cities, election, extension of municipal services required; procedure to de-annex**

Rep. Toelkes, Kansas House, testified in support of the bill (Attachment 1). He said the bill would allow land to be unilaterally annexed by a city only after approval by at least 60 percent of the qualified electors in the area to be annexed. He explained that under current law, the residents of the area to be annexed have no voice in the process. Rep. Toelkes said under existing law, municipal services must be provided to the annexed land within 5 years. He said **HB 2654** would reduce the first review to one year with the compliance being in place by the end of the 2<sup>nd</sup> year or the area affected could petition for de-annexation.

Rep. Thimesch, Kansas House, introduced Dale Kuhn. Mr. Kuhn testified in support of the bill. He provided no written testimony.

Rep. Steve Huebert, Kansas House, testified in support of the bill. He provided no written testimony.

Jane Mosteller, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 2). She explained that 30 out of 42 states actively annexing, reported that popular determination is the method most often used for their state. She suggested some amendments to the bill:

- Allowing non-residential landowners to have a vote also;
- Sec. 3 K.S.A. 12-531 De-annexation - Many service plans are written "upon petition/request." Consequently, until the annexees requests the \$133,000 of city services, the yearly clock should not start. If a service plan is written "upon petition/request," or similar language, the clock issue should become void. This would allow the annexees the ability to apply to be de-annexed if the city shows no intent to provide services in return for the increased tax dollars they will be receiving. Provide for de-annexation of any area annexed, if the annexation was in the court system when this bill was introduced. Install the Judicial system as the deciding authority in de-annexations, as is currently practiced in many states.
- Add requirements that the cities must have property listed on Metro Planning Land Use Maps for at least 10 years prior to initiating of an annexation.

Mrs. Mosteller said that Kansas is one of only 8 states that still allows this type of predatory annexations (under the title of "aggressive municipal controller" annexations).

Dennis Schwartz, Rural Water District No. 8, testified in support of the bill (Attachment 3). He said that annexation of lands served by a rural water district can result in a significant loss of customer base that rural water districts have grown to rely upon. He explained that the process of annexation under K.S.A. 12-520 fails to consider the potentially extreme financial hardship that the loss of subscribers will impose on the remaining members of the district.

Dan Benner, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 4). He said that cities are allowed to annex for no reason other than their own revenue increase. He stated that citizens are not allowed a voice in their own future.

Mark Lenz, Sunnydale Community, testified in support of the bill (Attachment 5). He said that Park City extended their city limits northward until they touched Sunnydale; planning to abuse the state's unilateral annexation laws to eventually annex the entire Sunnydale area; to help pay for the extension of their services into the area and to position them for commercial developments around the nearby highway interchanges. Mr. Lenz explained how Park City annexed the easements along I-135 in order to get past large agricultural plots they could not unilaterally annex.

Lynanne DeGarmo, Sunnydale Community, testified in support of the bill (Attachment 6). She said that with current annexation laws, the property owner has no voting rights whatsoever. She stated that the city send a letter telling what date and time to appear for a hearing on the property. She explained that the people who will sit in the judgement seat at the hearing are the people of the annexing city's City Council.

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 12, 2004 in Room 313-S of the Capitol.

Edgar Peck, Tecumseh Township, testified in support of the bill (Attachment 7). He said that under current annexation law, platted and developed subdivisions that are now adjacent to city boundaries will be uncontested target areas for municipalities that are seeking to expand their taxing base. He explained that when an area that was once several miles outside the city limits and is now an established developed community is targeted for annexation, it seems only fair that the citizens be given an opportunity to vote by ballot whether to consent to annexation.

Grace Yost, Sunnydale Community, testified in support of the bill (Attachment 8). She said that current annexation laws don't allow the landowners a voice or a vote. She explained that the area where she resides was recently annexed and that the city doing the annexing did not follow the legal guidelines for the process. She said that residents sought legal help to de-annex and by judge's order were de-annexed. Ms. Yost said that the city immediately started the annexation process again. She informed that fighting annexation is a costly and time consuming task.

Jane Kelsey, Shawnee County Farm Bureau Association, testified in support of the bill (Attachment 9). She said that the annexation of areas adjacent to cities often have a negative impact on local townships and fire districts. She explained that townships and fire districts have expanded services to the residents in the areas and that the loss of geographic area through annexation results in an inadequate funding base for the remaining area. Ms. Kelsey said that to maintain the current level of services, an undue burden would be placed on remaining taxpayers, or as an alternative, services would be reduced.

Cathy Byers, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 10). She said that as homeowners involved in the annexation process, they have no civil rights or laws to protect them.

Jack Perrin, Sunnydale Community, testified in support of the bill (Attachment 11). He said that annexation creates problems for townships. He stated that many times property owners, following annexation, are confused about what unit of government is responsible for their needs. He asked the question, "does a township continue to exist (all or part) when losing territory and tax base to a city due to annexation?"

LaVonna Benner, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 12). She explained that at age 75 she lives on a limited income. She stated that tax increases and/or costs associated with municipal service installation will be a considerable financial burden.

Fred Mosteller, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 13). He said that non-residential landowners should be included in the voting process and suggested such as an amendment to the bill.

Joanie Storck, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 14). She said current law concerning annexation service plans does not assure the service plan commitments are:

- Completed in a timely fashion;
- Estimated costs are within reason;
- Final costs do not exceed estimates

Debbie Hudson, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 15). She said that unilateral annexation amounts to taxation without representation.

Theresa Solana, Exit 39 Neighborhood Association, testified in support of the bill. She provided no written testimony.

Arlene Clayton, testified in support of the bill (Attachment 16).

LaVerne Ebney, testified in support of the bill. She provided no written testimony.

Don Moler, League of Kansas Municipalities, testified in opposition to the bill (Attachment 17). He said that to adopt the language found in the bill would effectively obliterate all of the unilateral annexation

## CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 12, 2004 in Room 313-S of the Capitol.

statutes and completely reverse many years of public policy in this state. He stated that the League is adamantly opposed to any revision in the annexation statutes which would curtail or significantly modify the authority of cities to reasonably expand their boundaries as times and needs change.

Bob Watson, City of Overland Park, testified in opposition to the bill (Attachment 18). He said the most troubling feature of the bill for the City of Overland Park is that it would prohibit the city from annexing land whose owners have asked to be annexed unless a costly election were held among the voters in the annexation area.

James McClinton, City of Topeka, testified in opposition to the bill (Attachment 19). He said that by requiring a one year deadline for the provision of services to newly annexed areas, the bill would make the annexation of territories requiring significant infrastructure improvements virtually impossible.

Jeff Bridges, City of Andover, testified in opposition to the bill (Attachment 20). He said that the bill would alter the entire paradigm of growth and development in the State of Kansas. He stated that if cities do not have the tools readily available to grow their economies; if there is increased segregation of who pays for services delivered; if we create cities that cannot sustain themselves; if no one will take responsibility for these pockets of residents; then we create a whole new system that counties and townships do not have the tools to deal with.

Bob Martz, City of Wichita, testified in opposition to the bill (Attachment 21). He said the bill would take away the rights for a city to grow and expand their boundaries. He explained that growth is necessary to remain vital and viable.

Lisa Stubbs, City of Topeka, testified in opposition to the bill (Attachment 22). She said current law gives a well thought out balance to the needs of urban vs. rural. She advised that there is much wisdom in the current provisions that do not allow for a careless process for cities to annex properties on their borders.

Written testimony in opposition to the bill was submitted by:

- Jack Whitson, City of Park City (Attachment 23)
- Bruce Armstrong, City of Haysville (Attachment 24)

Written neutral testimony on the bill was submitted by:

- Morris Dunlap (Attachment 25)

The Chairman closed the hearing on: **HB 2654**

### Minutes

Rep. Yonally made a motion to approve the minutes of the February 3, 2004 meeting. Rep. Reitz seconded the motion. The motion carried.

The meeting was adjourned at 6:00 p.m.

The next meeting is scheduled for February 17, 2004.

**HOUSE LOCAL GOVERNMENT**

DATE 2-12-04

NAME	REPRESENTING
Styler Ross	KFB
Brenda Lorenz	KFB
<del>Tommy Lewis</del>	KFB
Del. V. Huhn *	Sedgwick Co. Riverside Twp
Jane Kilany	Shawnee Co. Farm Bureau Association
Cathy Byers	Exit 39 Neighborhood Assoc. of <sup>HAYSVILLE</sup> KS
LaVonna Benner	Exit 39 Neighborhood Assoc. Haysville
Daniel Benner	EXIT 39 NEIGHBORHOOD ASSOCIATION HAYSVILLE Ks.
Joe Dittus	KFB
Robert J. Watson	CITY OF OVERLAND PARK
JAMES A. McClinton, Mayor	City of Topeka
Brenda Long	City of Topeka
Rep. Steve Anubert	90th District
Jack Perrin	Great Township - Sedgwick County
Lynanne DeGarmo	Resident - Sunnydale Area
GRACE YOST	5 <sup>th</sup> } Resident - Sunnydale Area
Mark Lenz	Resident - Sunnydale Area
Jeff Bridges	City of Andover
Dennis T. Bush	ANDOVER
Dan Woydzick	City of Base Hill
Will Johnson	Butler County
Loren Walbrecht	Topeka

**HOUSE LOCAL GOVERNMENT**

DATE 2-12-04

NAME	REPRESENTING
Dennis Gruenbacher	Farm Bureau
Neil Mosteller	EXIT 39 Homeowners
FRED MOSTELLER	<del>WICHITA</del> "
Keith Haxton	SEAK
Kennie Leffler	DOB
✓ Jill Banyst	Labette County Farm Bureau Ag. Ambass.
Christa Frazier	Labette County Farm Bureau
Hilary Bosson	Labette County Farm Bureau Ag. Ambass.

STATE OF KANSAS

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



COMMITTEE ASSIGNMENTS  
ETHICS AND ELECTION  
LOCAL GOVERNMENT  
TRANSPORTATION  
UTILITIES  
CHAIRMAN: SHAWNEE COUNTY DELEGATION

STATE CAPITOL BUILDING—ROOM 284-W  
TOPEKA, KANSAS 66612-1504  
(785) 296-7665

TOPEKA  
HOUSE OF  
REPRESENTATIVES

February 9, 2004

Mr. Chairman and Members of the Local Government Committee:

I come before you today in support of HB 2654. This is an act concerning annexation relating to the powers and duties of cities and counties. This bill deals with unilateral annexation by a city.

HB 2654 would allow land to be unilaterally annexed by a city only after approval by at least 60 percent of the qualified electors in the area to be annexed. Under current law, the residents of area to be annexed have no voice in process.

Under existing law, municipal services must be provided to the annexed land within 5 years. HB 2654 would reduce the first review to one year with the compliance being in place by the end of the 2<sup>nd</sup> year or the area affected could petition for de-annexation.

There will be several other proponents for this change and I will defer to them.

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

House Local Government  
Date: 2-12-04  
Attachment # 1

**HB2654**

**Jane Mosteller**

**4563 Cherry**

**Wichita, KS 67217**

**316-522-8585**

**Owner of 6910 So. Broadway Haysville, KS 67060**

- We are not wanting to stop all annexation just give the homeowner a right to vote
- Kansas only one of 8 states still allowing municipal controlled annexation.
- In 1804, A Heated Battle over Annexation started in Boston and the fight continued through 1869 when the dispute was decided by means of "election"
- Prior to the 1960's, the U.S. Supreme Court had a very permissive attitude toward municipal annexations, protect the right to vote.
- Different States and what they have done to control annexation

I will be quoting from Classifying State Approaches to Annexation I produced by Indiana in 2001. Except where otherwise note

Many States have combinations of annexation methods and with different interruptions some numbers may appear varied.

This study has classified the predominate method of annexation into 5 categories,

The n and a number under each heading is the total in the column

House Local Government  
Date: 2-12-04  
Attachment # 2



Action for annexation	number	
Legislative determination	6	Equals legislative control, several of these states actually have no rural land left to annex
municipal determination	8	Aggressive, unilateral, city dominated
popular determination	20	Right to vote, election, petition, referendums
judicial determination	6	Court is one step in the annexation process, using guidelines set by the legislators, however several states also require an election
Quasi legislative determination	10	Involves the creation of a non judicial board. However for most states this is just one step, then the states require an election

That there has been a sharp increase in states to provide for some form of self-determination however this is not reflected because of the limitations

30 out of the 42 states actively annexing, reported that popular determination is the method most often used for their state

These cities continue to grow

Other States protect the people from annexations in addition the election

Detailed itemized fiscal impact statements because research has shown that annexation is not always cost effective to the city.

Complete fiscal impact on the township and the each resident

The annexation be denied if there is no reasonable relationship between the increased taxes and the benefit to the annexed area

The best interest of the area to be annex is considered.

Public informational hearings where questions are ask and answered

Before the public Hearing

Be annexed Must be on the approved growth plan for 3 years

Density requirements up 1 to 3 people per acre

Incentives to encourage rural areas to seek annexation.

Prorated property taxes relief for 10-years or free water supply lines

Moratorium for so many years after an unsuccessful attempt

Annexation settlement agreement of no attempt for 20 years with 75% percent agreement.

**And what about our neighbors**

Oklahoma is also working in the legislative process,

Colorado is already a popular demand state

Missouri is listed as a Judicial state, but on closer examination, the city approaches the court and then there is an election.

Nebraska believes in large cities and allows certain cities to consume the smaller ones.

Thee purpose of the Boston tea part was the Right to Vote Stop Taxation without Representation  
Freedom from Aggression

**Other states have growing cities and good economies with  
annexation elections, so can Kansas**

# HB 2654

The bill includes a proposal requiring approval by 60% of the electors to annex an area.

We appreciate the work of the Representatives and are overwhelmingly in favor of the 60% approval requirement.

**Concerned citizens wanting to protect the right of self-determination for older established rural neighborhoods.**

**Contact: Jane Mosteller at 316-522-8388, please leaves a message or e-mail: [ksdeannex@sbcglobal.net](mailto:ksdeannex@sbcglobal.net)**

## **Cities Currently have the POWER:**

- 1) To annex an area without consideration of 100% opposition expressed in the required public hearings.
- 2) To refuse to issue permits to repair or replace septic systems and/or water wells. The proposed cost in one service plan is approximately \$133,000 per household. This is more that most of the properties appraise for. The property value will not increase accordingly.
- 3) To impose city animal ordinances on the county residents they annex; In most cases this restricts or denies the current land use of the properties.
- 4) To impose city codes regarding: fencing, storage and use of farm equipment - storage and use of expensive recreational vehicles.
- 5) To significantly increase taxes and impose unrequested specials on properties, forcing many senior citizens to sell the family homestead.

**We support HB 2654; however, we would like to suggest some minor amendments:**

1. Allowing non-residential landowners to have a vote, also.
2. Sec. 3 K.S.A. 12-531 **De-annexation**
  - (a) Many service plans are written "**upon petition/request.**"  
Consequently, until the annexee's requests the \$133,000 of city services, the yearly clock should not start. If a service plan is written "upon petition/request," or similar language, the clock issue should become void. This would allow the annexee's the ability to apply to be de-annexated, if the city shows no intent to provide services in return for the increased tax dollars they will be receiving.
  - (b) Provide for De-annexation of any area annexed, if the annexation was in the court system when this bill was introduced.
  - (c) Install the Judicial system as the deciding authority in de-annexations, as is currently practiced in many other states. The current laws use the County Commissions as the hearing board. The county commissions have a conflict of interest in this decision as they have equal responsibility to constituents in both the city and county of their districts. Reference minutes from Multi-Municipal Summit of 1/17/04 in Sedgwick County Kansas.
- 3) Add Requirements that the cities must have property listed on Metro Planning Land Use Maps for at least 10 years prior to initiating of an annexation

**Kansas is one of only 8 states that still allows this type of predatory annexations (under the title of 'aggressive municipal controlled' annexations). The research from which this information was obtained is 10 years old.. many of those 8 states have since curtailed these aggressive practices by rewriting their laws...**








## **IT'S TIME FOR KANSAS TO DO THE SAME.**

What are our neighbors doing, Colorado, Missouri and Oklahoma provides for elections, Nebraska allows consumption of the towns by bigger cities.

**"The Right to Vote" "Stop Taxation without Representation"  
"Freedom from Aggression"**

**WICHITA & SMALL CITY  
GROWTH AREAS  
-- 2003 UPDATE --**

Wichita/Sedgwick County  
Metropolitan Area Planning Department

-  Wichita Incorporated Area
-  Wichita 2030 Service Area
-  Small City
-  Incorporated Areas
-  Small City Growth Areas
-  Airport Overlay District
-  Conflict or Potential Conflict Areas Within the Next 20 Years



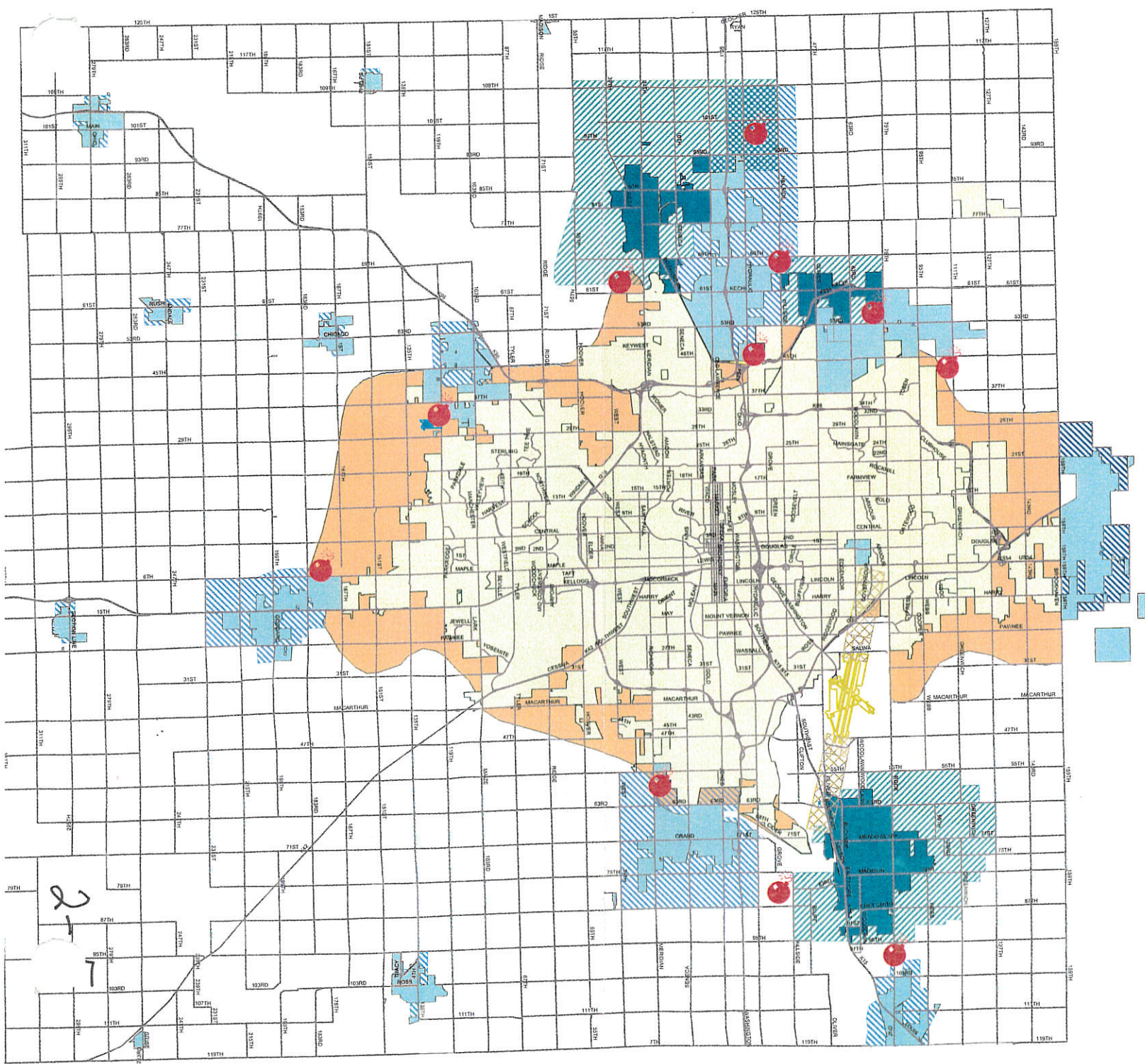
Printed 01/13/04 SMB

Software: ArcView GIS Ver. 3.1  
Hardware: Gateway CP4-600  
Printer: HP 755CM  
Map Data Source:

High School Boundaries  
Provided by: ESDD  
City Limits  
Provided by: Sedgwick County GIS

Coordinate System  
State Plane: Zone 3951  
NAD 83 Sph

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have an indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.  
Note: Public property represented on this map is not intended to be inclusive.



2-7

 SHAWNEE COUNTY  
RURAL WATER DISTRICT NUMBER 8

3260 SE TECUMSEH RD • P.O. BOX 95 • TECUMSEH, KS 66542-0095  
PH 785/379-5553 • FAX 785/379-5592

COMMENTS ON HOUSE BILL 2654  
BEFORE THE HOUSE LOCAL GOVERNMENT Committee  
February 12, 2004

Mr. Chairman and members of the committee:

The Board of Directors of Rural Water District No. 8 appreciates the opportunity to comment on House Bill 2654. The District serves approximately 3,000 residences in Southeastern Shawnee County.

The current provisions of K.S.A. 12-520 make a crude, distorted, and ridiculous representation of what we all learned to be the democratic process of our way of government. Anyone who has ever been in attendance at a so-called public hearing that is required under current unilateral annexation laws can attest to the futility that the affected citizens feel. By the time that public hearing is held, the governing body of the annexing city has already concluded that it will complete the proposed annexation. Were that not the case, the public hearing would have never been scheduled.

Annexation of lands served by a rural water district can result in a significant loss of customer base that district has grown to rely upon. The process of annexation under K.S.A. 12-520 fails to consider the potentially extreme financial hardship that the loss of subscribers will impose on the remaining members of the district.

In many states a city may annex an area only if it is approved by a majority vote of the property owners in the affected area. House Bill 2654 would restore just such a democratic process to the annexation laws of the State of Kansas. If there are compelling reasons that an area should be annexed, and if it can be demonstrated that the annexation would be in the best interest of all concerned, it should be assumed that an informed electorate would make the proper decision. How much better the relationship between the new citizens and the city would be, if those people were convinced that the annexation was in their best interest.

Rural Water District No. 8, along with all of our members would appreciate your favorable consideration of House Bill 2654.



Dennis F. Schwartz,  
General Manager

House Local Government  
Date: 2-12-04  
Attachment # 3

**HB2654**

**Daniel D. Benner**

**6966 South Broadway**

**Haysville, Kansas 67060**

**Ph. (316) 524-8282 e-mail: dnjbenner@aol.com**

- **Examination of portion of K.S.A. 520b; regarding service plan content and submission prior to unilateral annexation**
  
- **Details of a currently pending service plan**
  
- **Observation that this plan attempts to circumvent standing statutes, by negating K.S.A. 12-531 and 12-532, since these statutes are premised upon an annexing city failing to meet a timetable contained in a service plan. Eliminates residents recourse for de-annexation under these statutes, since a city could not be held accountable for failing to meet a timetable that never existed.**
  
- **Emphasis on the necessity for change in current law. Cities are allowed to annex for no reason other than their own revenue increase. Citizens are not allowed a voice in their own future. Final encouragement to pass H.B. 2654.**

House Local Government

Date: 2-12-04

Attachment # 4

**Table 2:** Comparison of Classifications of State Approaches to Annexation

1970s <sup>a</sup>				
Legislative (N = 9)	Municipal (N = 11)	Popular (N = 16)	Judicial (N = 4)	Quasi-legislative (N = 10)
Alabama	Idaho	Arizona	Illinois	Alaska
Delaware	Indiana	Arkansas	Mississippi	California
Connecticut	Kansas	Colorado	Pennsylvania	Iowa
Hawaii	Kentucky	Florida	Virginia	Michigan
Maine	Missouri	Georgia		Minnesota
Massachusetts	Nebraska	Louisiana		New Mexico
New Hampshire	North Carolina	Maryland		Nevada
Rhode Island	Oklahoma	Montana		North Dakota
Vermont	Tennessee	New Jersey		Utah
	Texas	New York		Washington
	Wyoming	Ohio		
		Oregon		
		West Virginia		
		Wisconsin		
		South Carolina		
		South Dakota		
1997 <sup>b</sup>				
Legislative (N = 6)	Municipal (N = 8)	Popular (N = 20)	Judicial (N = 6)	Quasi-legislative (N = 10)
Connecticut	Idaho	Alabama	Arkansas	Alaska
Hawaii	Indiana	Arizona	Illinois	California
Maine	Kansas	Colorado	Mississippi	Iowa
New Hampshire	Nebraska	Delaware	Missouri	Michigan
Rhode Island	North Carolina	Florida	North Dakota	Minnesota
Vermont	Oklahoma	Georgia	Virginia	Nevada
	Tennessee	Kentucky		New Mexico
	Texas	Louisiana		Oregon
		Maryland		Utah
		Massachusetts		Washington
		Montana		
		New Jersey		
		New York		
		Ohio		
		Pennsylvania		
		South Carolina		
		South Dakota		
		West Virginia		
		Wisconsin		
		Wyoming		

Notes: States are classified according to the Sengstock (1960) typology.

<sup>a</sup> Classification is based on Liner (1993).

<sup>b</sup> Classification is based on Lindsey and Palmer (1998). Oklahoma and Texas originally were included in the popular determination category; based on additional information and review, they are included here under municipal determination.

4-2

**Mark Lenz  
HB 2654  
Proponent**

Esteemed Committee Members, Ladies and Gentlemen:

The League of Municipalities and representatives of city councils will tell you that this bill, if passed, would kill most annexation plans. They'd have you believe that cities won't be able to grow. They'll say that residents who live next to city limits use the same streets, parks, libraries and other services that city taxpayers provide, and therefore should become a part of the city and pay their fair share of the taxes to support those services.

They are right about some things, but wrong about others. The reality is that current Kansas statutes support and perhaps even encourage predatory annexation, taxation without representation, and violation of property rights.

I'd like to show you one example to illustrate what's really going on around several Kansas cities. It is not unique. Many similar situations are occurring around other cities, particularly in Sedgwick and Shawnee counties, but in other counties as well.

The attached map shows the area around Park City, Kansas. The light blue area at the bottom of the map is the current urban residential area that area travelers would recognize as Park City. It is surrounded by several miles of mostly agricultural land. North of 77<sup>th</sup> Street is the Wichita Greyhound Park, and further north is the Kansas Coliseum. Notice that there are two additional high-population-density, urban residential areas north of 85<sup>th</sup> Street, colored in green. These are new developments, with houses and streets currently under construction. Now, notice the yellow area mostly north of 93<sup>rd</sup> Street. This is a rural residential area of approximately 140 existing homes on 5 and 10-acre lots, known as Sunnydale. I live in this area.

The developer of the green areas needed water and sewer services, and Park City was willing to provide them. However, common sense would tell anyone that the cost of providing these services more than two miles north of the city would be prohibitive. In fact, that is what the city council of Park City told us just four years ago when we asked them about their growth plans.

Notice now the red lines. These lines are the current Park City city limits. The plan is easy to see. Park City extended their city limits northward until they touched Sunnydale, planning to abuse the state's unilateral annexation laws to eventually annex the entire Sunnydale area, to help pay for the extension of their services into the area and to position them for commercial developments around the nearby highway interchanges. Notice particularly the very narrow strip colored in purple in the middle of the map. In this area, Park City annexed the easements along I-135 in order to get past large agricultural plots they could not unilaterally annex!

The small area colored in red just south of 93<sup>rd</sup> street is an area known as the Bole Addition. Park City annexed the Bole Addition in March, 2003, despite the tearful pleadings and protests of 100% of the area residents. The ink wasn't even dry on this annexation before Park City notified the next block of properties to the north that they were to be annexed as well. With financial support from more than 90% of Sunnydale residents, the Bole Addition successfully overturned their annexation using the only recourse available to them, by suing the city over procedural flaws, only to have Park City annex them again a few days later. Again, their procedure was flawed and another lawsuit is imminent, but we're concerned that eventually they may figure out how to annex "correctly" and we'll have no recourse whatsoever.

If the Sunnydale area were using the services of Park City and gaining benefits from the city, we would agree we should be part of the city. But we are not. We are adequately served by the county and the township. We don't use Park City streets, or parks, or library. We don't shop or dine in Park City. We shop and dine in Valley Center, Newton, or Wichita. We don't need or want Park City water or sewer services. We don't need their police protection, and they don't have a fire department or schools to offer us. Park City offers absolutely nothing we need or want, yet under current Kansas law they have the right to annex us and add us to their tax base, and we have absolutely no say in the matter unless we can prove procedural flaws in court.

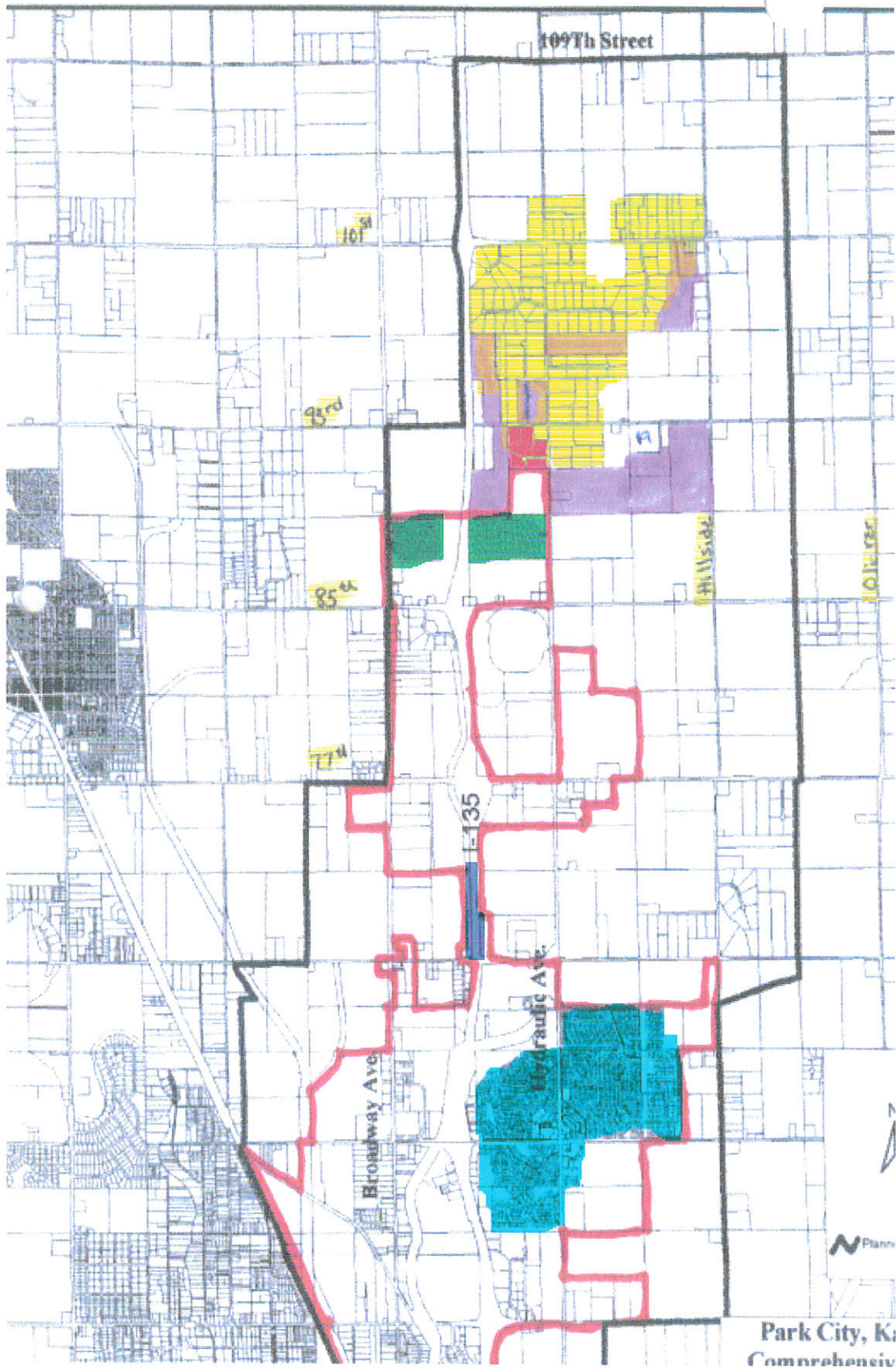
This is taxation without representation. It is a violation of property rights. This type of annexation is predatory and exploitive. A city ought to have to show that the value of services they offer is worth the taxes that will be assessed. Approval of the citizens to be annexed is required in many other states, and it ought to be required in Kansas as well. Cities should not be allowed to annex narrow strips of land and easements to extend their boundaries. Cities should be allowed to grow, but they ought to be held accountable to smart growth -- growth which is welcome and desired. Governments ought to exist to serve the people, not the other way around.

Thank you.

House Local Government  
Date: 2-12-04  
Attachment # 5



5-2



5-2

**LYNANNE DEGARMO**  
**1200 Sunnydale Lakes Circle**  
**Valley Center, KS 67147**  
**(316) 755-0675**

Dear members of the Local Government Committee:

My name is Lynanne DeGarmo. You could say that I am a professional volunteer, some of which is in Valley Center School District, and as Community Leader of the Sunnydale 4-H Club.

**BACKGROUND:**

I have deep concerns about the current laws regarding annexation. I admit that over a year ago I really knew little about annexation laws. The hows, the whys, were unknown to me. All of this changed on January 17, 2003 when we received a letter from Park City to the south of us informing us of a resolution to annex our property. Five days later we received another letter from Park City informing us that our property had been excluded from the proposed annexation - due to this city not fully understanding the laws regarding unilateral annexation.

Our neighbors in the Bole Addition who resided in a development which had been "platted" were not so fortunate. Knowing that it was only a matter of time before we received another annexation letter, our small community known as the "Sunnydale Community" banded together. I now am very adept at understanding the laws regarding annexation. I also now understand how those laws as they currently stand are unfair to property owners. Although I am very glad that House Bill 2654 bill has been entered, I believe that in order for it to pass it needs to be more fully developed with an understanding of all the complexities that occur when an area of the county is annexed by a city.

**CITY GROWTH PATTERN:**

The laws regarding how a city grows need study. These cities themselves feel they need to grow. I understand natural growth of a city. I understand that some properties may go to a city and ask to be annexed in order to receive services from a city. However, annexation of easements in order to grow into an area that has not asked to be annexed it is a concern. I would not call this natural growth. When cities annex properties along an interstate, as Park City has tried, it is obvious that this city is not planning to annex us to become part of their city or out of concern for us, but more for a tax base and a tie up of exits for future large scale residential or commercial development. Let me also state that I have nothing against the residents of Park City, I have many friends that reside within those city limits. Many of them have worked hard within their city, however, many have also expressed to me their dismay in the long range vision of their planning commission and city officials.

**UTILITIES:**

Currently all of the Sunnydale area is on lagoon or septic systems, Rural Water or they have their own wells. We do not need city services, we have not asked for city services. We all know that although a city may say that you do not have to take services, there is also the fine line in their own city laws that states that when you are within so many feet of their sewer and/or water lines, you must hook on. In a cities hurry to get their services to an area for a large development or commercial property, the unlucky homeowner closest to their lines will now be forced to hook on and incur more expenses.....and why? Because we have no homeowners rights when it comes to cities rights. More cost to the property owner that didn't need or want to be annexed in the first place.

**ZONING:**

Currently we are zoned rural residential. Most of the homes in the Sunnydale Community are on at least 5 acres or more. We have a different lifestyle than people whose homes are built in a city on a city sized lot. Cities like to tout their "grandfather clause." They insist that you may maintain the lifestyle, with animals, hobbies, etc. just as you now have them. However, you must look at the fine print. Yes, we may retain our lifestyle, however, when we sell our property, the next homeowner must abide by the city laws - the new homeowner is not grandfathered in. If someone is looking to purchase your property and sees that you have a nice horse barn, what prospective buyer in their right

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mind would pay for a horse barn that you could not put a horse in??? Now, we've lost money on the resale value of our property! With the increase in property taxes something may have to go anyway – do I tell my children that we may need to cut their small animal 4-H projects due to the fact that the feed bill money may need to be used to pay the increase of over \$600 in property taxes that we will incur on top of what we already pay? More cost to the property owner that didn't need or want to be annexed in the first place!

**VOTING RIGHTS:**

This is the concern that deep, down really bothers me. If I am able, I always vote, whether it be for a Presidential election or a special school bond vote. I vote.....I vote because if the President I vote for doesn't make me very happy, I can say to myself...well maybe I should have voted for the other one. If the person I voted into office does great, I can say...I picked the right one.

If a school bond election means that the school buildings will provide a better educational setting, I can say...I know that it means I will pay a little more in taxes, but I can see where it will help our children succeed. Or, I can say "I vote for that school bond," what are you doing with our money?

I have some ownership in the outcome of my voting privilege. In the current annexation laws, the property owner has no voting rights whatsoever. The city sends you a letter telling you what date and time you can appear for a hearing on your property. The people who will sit in the judgement seat at said hearing are the people of that cities City Counsel. These city Council members listen to resident's pleas to not annex, then the vote is called. This is a hoot – you would never have been sent the letter in the first place if the majority of the council members weren't already planning to vote for an annexation.

How unfair!.....you don't get to exercise your voting rights in putting these city council people in office. You don't get to vote for them, you don't get to vote for the other guy to try and keep them out. You are not allowed to vote due to the fact that you aren't part of their city, but they get to vote on what to do with your property!!!

**FRUSTRATION:**


Can you imagine the frustration that our area has been dealing with for over a year. We were just a quiet little community that didn't complain about our roads, our water, our lagoons or septic systems, or our sheriff's department. Now we have had to band together for our own rights as citizens.

So much in fact, that we as the Sunnydale community did the only thing we could do. Although we didn't want or need to be part of a town at this time, we followed process allowed in the current Kansas statues and took over 123 Consents for Annexation to Valley Center. We have identified with this town forever, we shop at the stores, drives on the street (I personally drive on them approximately 6 out of 7 days a week), check out books from their library, use their swimming pool, volunteer in the Valley Center Schools, etc.

They have agreed to our concerns about the townships retaining the maintenance of our roads, they have agreed to leave our zoning as it currently stands with no grandfather clause, they have agreed to treat us like people instead of as pawn in a cities dream growth agenda. This was the only right that we felt we could use. If we must be annexed, if we must bear the burden of increased property taxes, than we should have the right to choose what town we will be part of. Please change the annexation laws, no citizens should have to go through what we have gone through in order to have a voice in the matter of our own properties.

Thank you. Please do not hesitate to contact me with any questions you may have. I can be reached at (316) 755-0675 or e-mail to degacres@swbell.net

Sincerely,



Lynanne DeGarmo

Proponent for Amended House Bill No. 2654  
Before the House Committee of Local Government  
February 12, 2004

Mr. Chairman and Members of the Committee.

My name is Edgar Peck; I am the treasurer of Tecumseh Township and a member of the Topeka-Tecumseh Fire District board. Our Township is located just east of Topeka.

By passing this bill as amended, the inequities of KSA 12-520 that deals with unilateral annexation can be corrected. The inequity is that those citizens in areas being considered for annexation have **NO VOTE** in which to object to becoming a part of the city doing the annexation. Protesting to a city council at a required hearing has no validity, only a way to vent frustration.

If the statute is not corrected, **platted** and **developed** subdivisions that are **now** adjacent to city boundaries will be uncontested target areas for municipalities that are seeking to expand their taxing base.

It is one thing to annex an undeveloped area with consent or at the request of the landowner. People who buy lots in these annexed areas know they will be city residents. That is their **choice**.

However, when an area that was once several miles outside the city limits and is now an **established developed** community is targeted for annexation then it seems only fair that these citizens be given an opportunity to **vote by ballot** their choice.

I encourage you to pass this bill as amended, and allow our democratic process to work.

Thank you for your time and your consideration.

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Date: 2-12-04  
Attachment # 7

# Grace Yost - Bol Addition

My husband and I moved here from the suburbs of Chicago about 7 yrs. ago. We purchased 5 acres in So. Central Kansas and have enjoyed rural living with our children.

A year ago we were notified that the small town to our south had plans to annex us. The 6 homeowners effected by this "forced annexation" went before the city council and begged them to allow us to remain rural. We didn't want or need the services they offered and the price tag attached to this annexation was 25% increase in our taxes. We choose our property because of its rural characteristics and covenants and none of us want to see it become an extension of city living.

The town that annexed us did not follow the legal guidelines for this process so we sought legal help to de-annex. This is the only option available for land owners.

The town in question retains its own lawyer that their tax payers pay for but the process has cost us over \$5000.

We become de-annexed by judge's order and the town immediately started the annexation process again. They were in such a hurry that they called an emergency meeting on Veterans Day.

We've met with our lawyers to try and stop annexation again. This issue is costly and consuming.

We are law-abiding citizens that respect our government but this issue has never given us a vote or a voice in deciding the status of the biggest investment we will ever make.

We acknowledge that annexation can benefit some but the laws don't allow the landowners a voice or a vote.

February 12, 2004

HB 2654

Proponent

Jane Kelsey

Shawnee County Farm Bureau Association

Local Government Committee

Chairman Vickery and members of the committee:

Thank you for the opportunity to address the committee this afternoon. My name is Jane Kelsey and I represent the Shawnee County Farm Bureau Association.

We support HB 2654. The annexation of area adjacent to cities often has a negative impact on local townships and fire districts. Townships and fire districts have expanded services to their residents in most areas. The loss of geographic area through annexation results in an inadequate funding base for the remaining area. To maintain the current level of services would place an undue burden on remaining taxpayers. The other alternative would be to reduce services.

We support the change from 2 ½ years to 1-year for review by the county commission on providing municipal services the area annexed. We support the 60% voter approval by the voters residing in the area being considered for annexation.

We recommend this bill be approved for passage out of your committee.

Thank you.

House Local Government  
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Attachment # 9

**HB2654**

**Cathy Byers**

**6928 So. Broadway**

**Haysville, Kansas 67060**

**316-529-3598 [thebyersbunch@peoplepc.com](mailto:thebyersbunch@peoplepc.com)**

**Exit 39 Neighborhood Association of Haysville, Kansas**

- **My personal story on the annexation**
- **How much it will cost per home**
- **We have NO CIVIL RIGHTS and no laws to protect us the homeowner**
- **Closing**



HOUSE BILL #2654

QUESTIONS FOR POSSIBLE DISCUSSION REGARDING TOWNSHIPS.

WHAT IS A TOWNSHIP?

WHAT ARE THE RESPONSIBILITIES OF A TOWNSHIP?

DOES A TOWNSHIP CONTINUE TO EXIST (ALL OR PART) WHEN LOSING TERRITORY AND TAX BASE TO A CITY DUE TO ANNEXATION?

HAS YOUR TOWNSHIP BEEN AFFECTED IN ANY WAY BY ANNEXATION?

#1. TERRITORY

#2. TAX BASE

#3. CONFUSION BY PROPERTY OWNERS AS TO WHO IS RESPONSIBLE FOR THEIR NEEDS

#4. ANNEXATION OF PROPERTY BUT ATTEMPTED TO LEAVE ROAD AND BRIDGE AND WATER FLOW PROBLEMS TO THE TOWNSHIP AND NO TAX BASE TO HANDLE THESE RESPONSIBILITIES

FACTS:

LIMITED BUDGET MEANS LIMITED SERVICES.

SEDGWICK COUNTY QUOTE – “WE CAN’T GIVE THE SAME SERVICES AS THE TOWNSHIP WITHOUT ADDITIONAL TAX MONEY.”

WE FEEL THAT ANNEXATION SHOULD BE ONLY BY THE MAJORITY OF THE QUALIFIED ELECTORS OF THE PROPOSED AREA OF ANNEXATION. THIS WOULD BE GOVERNMENT BY REPRESENTATION. THAT IS WHAT ARE FOREFATHERS FOUGHT FOR.

JACK PERRIN  
2722 E. 101<sup>st</sup> North  
Valley Center, KS 67147  
J.Perrin70@worldnet.att.net

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Attachment # 11

**HB2654**

**LaVonna M. Benner**

**6962 So. Broadway**

**Haysville, Kansas 67060**

**Ph. (316) 524-5610**

**Exit 39 Neighborhood Association of Haysville, Kansas**

- **Lifelong resident of area; family farmstead going back several generations.**
- **75 years old, self employed, still working, live on limited income with little social security.**
- **Tax increases and/or costs associated with municipal service installation will be considerable financial burden. Consider the impact of forced annexation on the older generation and those living on fixed incomes.**
- **Encouragement to pass H.B. 2654 and restore citizens right to vote and choose their future.**

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Fred Mosteller  
4563 Cherry  
Wichita, KS 67217  
316-522-8585

I also own land at 6910 S Broadway that I do not live on.  
Non-residential landowners, should be included in this voting process.

Map received at Inter-Municipal Planning Summit meeting,  
Printed by Wichita/Sedgwick County Metropolitan Planning Department.

The 11 red dots are bombs representing the areas of conflict between cities.

\* Map attached to group coversheet, first page in set of papers

\$ of tax dollars have been wasted in these turf war.

Metropolitan Area Planning refused to provide the maps for you.

Quoted Bruce Armstrong was quoted in the Wichita Eagle  
"Wichita is going to eat up all the county land"

If the small cities feel eaten up, what chance do the rest of us have?

Please give us a vote in the process

Thank you

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Attachment # 13

**HB2654**

**Joanie Storck**

**401 W. 89th St. S**

**Haysville, KS. 67060**

**316-524-0318 storckranch@yahoo.com**

- **Service Plans - No Checks and Balance**
  
- **Effects of Annexation on Townships**

House Local Government  
Date: 2-12-04  
Attachment # 14

# House Bill 2654

**Speaker Joan F. "Joanie" Storck Salem Township Trustee**

401 W. 89<sup>th</sup> St. So. Haysville, KS 67060 (316) 524-0318 [storckjoanie@salemks.com](mailto:storckjoanie@salemks.com)

Points of presentation

## **Service Plan, check and balance - Township representation**

### **SERVICE PLANS**

KSA 12-520b requires the City to provide the annexee's with "A statement setting forth a plan of sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending to the area to be annexed, each major municipal service provided to persons and property located within the city and the areas proposed to be annexed at the time of the annexation and the estimated cost of providing such services." The law continues with requirements of: method of payment, timetable of when and requires equal or better services.

#### **CHECKS**

**What the law does not cover is a method of policing the city** to assure the service plan commitments are:

- Completed in a timely fashion
- Estimated costs are within reason
- Final costs do not exceed estimates

#### **BALANCES**

**The Cities do not have to define**

- What a successful petition is
- What a petition of 51% means...a street, a block, a square mile?
- What zoning a newly annexed area will be changed to
- How they will deal with the City Code violations in regards to animals, farm equipment, storage, parking, RV's
- How or if they will adjust codes to conform with current land uses
- If a resident will be forced to hook onto services if they are run in front of their home en route to new additions
- If a resident will be issued permits to replace septic systems and/or wells

If these items above are not defined, a person cannot have a full and complete understanding.

**The laws DO NOT provide violated residents with LEGAL RECOURSE.  
THE CITY MUST BE HELD RESPONSIBLE**

### **ELECTED REPRESENTATION (TOWNSHIP OFFICERS)**

Kansas residents that live outside city limits have representation from:

- Kansas** House Members – represent constituents in several cities and counties
- County** Commissioners – represent city and county constituents
- Township** Boards – represent the residents in their townships only

**THE TOWNSHIPS HAVE A HAND ON THE PULSE OF THE NEEDS OF THEIR CONSTITUENTS**

### **TOWNSHIPS SHOULD HAVE A VOTE IN ANNEXATIONS**

Sedgwick County Township Association supports above amendment.

Sedgwick County Commission  
requests amendment to address possession of roads through annexations.

14-2

**HB2654**

**Debbie Hudson**

**6904 S. Broadway**

**Haysville, KS 67060**

**316-524-3911 [mdhuds@aol.com](mailto:mdhuds@aol.com)**

**Exit 39 Neighborhood Association of Haysville, Kansas**

- **Current Deannexation Progress has never been used in Kansas**
- **Who decides who gets annexed?**
- **Taxation without representation**
- **Personal story and concerns about future annexations of this type**

**From:** "Arlene F. Clayton" <swanforest@eudoramail.com>  
**To:** <maureens@house.state.ks.us>  
**Date:** 2/13/04 12:31PM  
**Subject:** Fwd: Bill #HB2654 Annexation by cities, election: extension of municipal services req

--

----- Forwarded Message -----

DATE: Thu, 12 Feb 2004 16:52:52  
From: "Arlene F. Clayton" <swanforest@eudoramail.com>  
To: maureen@house.state.ks.us  
Cc:

The National League of Women Voter's defines public policy positions on Agriculture as follows:

Promote adequate supplies of food and fiber at reasonable prices to consumers and support economically viable farms, environmentally sound farm practices and increased reliance on the free market.

\  
This last part of this sentence is a subject of much discussion because of the agriculture prices and the fact that borders are closed to so called "free trade" such as textile products and steel. There is no trade off for this free agriculture products from the Great Plains.

The 14th President of the United States summarized his speeches with the qualifier of democracy without choice is tranny.

The letter signed by Todd D. Whitney is an explanation of the formulae used to compare the prices of market value of products which are raised in the Central Great Plains of Kansas. At the present time this has disappeared from my file. Todd saved a copy of the letter. I'll ask him, at our next meeting, to send along another copy for use by the committee.

Where ever this is at the present time; the letter doesn't belong there--so at the present time the location of the letter is a weed inhabitant.

Sincerely,

Arlene F. Clayton

Need a new email address that people can remember  
Check out the new EudoraMail at  
<http://www.eudoramail.com>

----- End Forwarded Message -----

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<http://www.eudoramail.com>

House Local Government  
Date: 2-12-04  
Attachment # 16

**From:** "Arlene F. Clayton" <swanforest@eudoramail.com>  
**To:** <maureens@house.state.ks.us>  
**Date:** 2/13/04 1:26PM  
**Subject:** letter 11042003 from todd d. whitney cost and buying comparison base of c.p.

Thank you for providing the "Kansas Wildflowers, Native Grasses & Shrubs" color publications for our Extension office. Enclosed is a copy of the "Economic Evaluation of Alternative Feeds for Dairy" publication from North Dakota State University. Feed ingredients can be compared based on corn or soybeans values used in this chart; using "rules of thumb" such as corn being 40% the value of soybeans or soybeans being 2.5 times higher in price than corn; or comparing based on crude protein values.

For example: Which is the better buy? Alfalfa at \$85 per ton v. soybeans at \$7.50 per bushel? Assuming that the average quality alfalfa has a crude protein value of 19% and the whole soybeans have a crude protein of 42%, then we can calculate the comparison price of each feed based on crude protein cost per pound.

Soybean price: \$7.50 per bushel (60 lbs) = \$.125 per lb. 60 lbs per bushel x 42% = 25.2 lbs crude protein per bushel \$7.50 per bu divided by 25.2 (c.p. per bu.) = \$.294 per pound

v.  
 alfalfa price \$85 per ton (2000 lbs)  
 2000 lbs per ton x 19% = 380 lbs crude protein per ton  
 \$85 per ton divided by 380 (c.p./ton) = \$.224 per pound

When soybeans are \$7.50 per bushel, equivalent alfalfa price would be \$112/ton (Formula: \$.294 per pound x 380 = \$111.72 per ton)

When alfalfa is \$85 per ton, equivalent soybean price would be \$5.64/bushel (formula \$.224 x 25.2 = \$5.64 per bushel)

These calculations do not determine the market value of the product. These calculations merely compare the energy, protein and forage value relative to the feedstuff in question.

Protein supplements are often used to feed out the product. Several sets of calculations are used to factor these products for cost, nutrient value and best buy. Cost per ton is perhaps the most obvious but the intrinsic cost factors must be evaluated as well. Management from one operation to the next can vary tremendously in terms of the amount of home raised supplemental ingredients raised as well as labor and time constraints to the beef operation. Current trends indicate the number of beef operators have a parttime job on the side is increasing with many undoubtedly finding themselves in a time pinch. Unfortunately, supplemental protein is often purchased as a convenience item. Consequently the manager may be unknowingly oversupplementing one nutrient to meet the requirements for another unless the law of nutrition as discussed is applied. Thus, costs may be unreasonable. Regardless of the situation or the need to supplement income or infrastructure, reevaluation of

any program from a cost and use base can be justified by the end use.

Crude protein requirements are not only based on cost per pound and cost per ton; but also on the rumen microbes required to digest the crude protein. Excess NH<sub>3</sub> produced or supplemented beyond the needs of the microbes is of no additional value to the microbes or the host animal.

How does all this pertain to unilateral laws for urbanization of agriculture land. Because of the facts as presented by most urban planners that they need the land for the growth of the city so they can buy mighty fine steaks from Wal Mart which has priced the above technology below the price of the local family owned grocery store which is selling better tasting beef steaks at a modest price above Wal Mart's consumer buying frenzy.



The use of tillable land by cities for infrastructure for tax base relief and voting districts is tyranny. These "economic developers" are the upscale version of the third world slash/burn cultures. These unmet needs of these developers is to buy and annex land into shopping malls, strip malls, strip offices and strip eating places. 90% of these developers will have empty office space or empty facility space sitting around doing nothing --to paraphrase Mr. Henry McClure-of the Shawnee County Economic Development Commission--in five, ten, fifteen, twenty years. Due to this unexplainable trait of economic developers and urban planners, they do the same with other vacant land. Annexation without representation and then more vacant cement emporiums which at one time was home to wildlife and running brooks.

China has used the same rice paddies for generations to plant and harvest the rice year after year after year. Peruvians who raise lamas have used the same agriculture culture for generations to supply their meat and their clothing for eons. Commercial flower growers use the same land in South America year after year to supply the florist with Valentine roses and other floral products.

Unilateral annexation by cities does two or three economic boosts for one social class. The unilateral annexation laws is for the pleasure of those who need to have a wider tax bases for jobs, utilities, police and fire equipment and jobs in these departments and sales of office equipment to these new district fire and law enforcement departments. When these new employees are firing up the grill to grill that fine steak are they willing to pay for meat which has been imported in tins or freeze dried because of the fact the building is sitting on land which at one time fed cattle within the megacity development way. Are their children willing to eat a handful of freeze dried bacteria derived from recycled concrete for their superbowl snacks. These, ladies and gentlemen are the foods of the future.

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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 2654  
**Date:** February 12, 2004

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2654. 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 2654 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 2654 would effectively obliterate all of the unilateral annexation statutes and completely reverse many years of public policy in this state.

HB 2654, would require a 60% vote of those individuals in the area being annexed to agree to the annexation before it could proceed. This would effectively end all unilateral annexations in Kansas and therefore, forever change the ways cities are able to expand and grow as times and growth patterns change. While the election requirement in and of itself, would inevitably lead to the end of unilateral annexation in Kansas, the fact that it must be a super majority vote of the qualified electors of the area proposed to be annexed is certainly intended to make sure that annexations do not proceed under K.S.A. 12-520 *et. seq.*

The second part of the bill modifies the provisions relating to extension of city services to the property which has been annexed. Current law provides that a city has up to five years to provide the services to the area which had been annexed, before the area would be eligible to petition for "deannexation". It then reduces the period for compliance from two and one half years to one year after a hearing by the county commission. The net result of this is to reduce from seven and a half years, to two years, the total amount of time a city would have to provide services to any property

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annexed under K.S.A. 12-520 or K.S.A. 12-521. Given the election requirement for K.S.A. 12-520, coupled with the reduction in the amount of time allowed to provide city services to annexed areas, it is apparent that this bill is expressly intended to end most annexation in Kansas. The League is adamantly opposed to any revision in the annexation statutes which would curtail or significantly modify the authority of cities to reasonably expand their boundaries as times and needs change.

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.

17-2

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

TESTIMONY IN OPPOSITION TO HOUSE BILL 2654

TO: The Honorable Jene Vickrey, Chair  
Members of the House Committee on Local Government  
Room 313-S

Date: February 12, 2004

RE: House Bill 2654 – Proposed legislation that would effectively repeal the unilateral annexation powers of cities.

Ladies and Gentlemen:

The City of Overland Park strongly opposes HB 2654, especially New Section 1 and Section 2, because they would effectively repeal cities' unilateral annexation powers by giving a veto to the persons who live in the area proposed to be unilaterally annexed.

The unilateral annexation powers of cities in Kansas have existed in the laws of Kansas in one form or another for nearly 100 years<sup>1</sup>. More recently, in 1967, the Kansas Legislature enacted a general annexation law in compliance with the mandate of the constitutional Home Rule Amendment and as a result of the findings and recommendations of the Kansas Legislative Council. Like the 1907 law, the 1967 law also contained a strong unilateral annexation component.

The unilateral annexation powers of cities in Kansas are already very narrow. These powers allow a city to unilaterally annex land only in cases where it is undeniable that the area proposed to be annexed already is urban in its character and likely already enjoys the benefits of being in proximity to the city. For example, the land proposed to be unilaterally annexed must adjoin the City. In addition, it must already be platted into lots and blocks, or it must be owned by the City or some other governmental unit, or it must already be surrounded by or lie within or mainly within the city, or it must have a common perimeter with the city

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<sup>1</sup> See, 1907 Session Laws of Kansas, Ch. 114, Sec. 8: "Whenever any land adjoining or touching the limits of any city has been subdivided into blocks and lots, or whenever any unplatted piece of land lies within (or mainly within) any city, or any tract not exceeding twenty acres is so situated that two-thirds of any line or boundary thereof lies upon or touches the boundary-line of such city, said lands, platted or unplatted, may be added to, taken into and made a part of such city by ordinance duly passed...."

The Honorable Jene Vickrey, Chair  
Members of the House Committee on Local Government  
February 12, 2004  
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boundary line of more than 50%. Thus, it appears to the City of Overland Park that there already is enough protection in the existing statutes against cities' pre-mature unilateral annexation of land.

These strong unilateral annexation powers have served the State and its municipalities well. The City of Overland Park has responsibly used those powers many times over the years since its incorporation in 1960 to achieve the long-term public interest of the entire community in which it exists.

The City of Overland Park, along with the National League of Cities, rejects the untenable notion that owners of land or residents on land in fringe areas of cities "should be given a veto power over the geographic, economic and governmental destiny of the city that is the source of the area's economy and whose proximity solely gives affected properties whatever tangible and intangible desirability they have as places of residence or economic activity."<sup>2</sup> Many persons other than residents of the area proposed to be annexed have a substantial interest in the outcome of a unilateral annexation. The orderly development of existing cities is at stake.

As urbanized areas expand, especially in areas of rapid growth, that area of expansion "invariably spills over the originally established municipal boundaries. The question then becomes whether these new areas should be incorporated as new municipalities or should be absorbed into and served by the existing municipality that spawned their growth in the first place."<sup>3</sup> The policy of Kansas for many years has been to favor absorption of urbanizing areas into the existing municipalities. Annexation allows the cost of wider use of basic services, such as fire and police protection to be spread over a greater base. HB 2654 would turn that long-established policy on its head and would favor balkanization over orderly growth.

ALTHOUGH THE ENTIRETY OF HB 2654 IS TROUBLING TO THE CITY OF OVERLAND PARK, THE MOST TROUBLING FEATURE OF THE BILL FOR THE CITY IS THAT IT WOULD PROHIBIT THE CITY FROM ANNEXING LAND WHOSE OWNERS HAVE ASKED TO BE ANNEXED UNLESS A COSTLY ELECTION WERE HELD AMONG THE VOTERS IN THE ANNEXATION AREA. THE CITY OF OVERLAND PARK HAS ANNEXED MUCH LAND OVER THE YEARS AT THE REQUEST OF ITS OWNERS. THE REQUIREMENT THAT AN ELECTION BE HELD UNDER SUCH CIRCUMSTANCES WOULD BE NONSENSICAL. IF THE OWNERS OF THE LAND HAVE CONSENTED TO OR PETITIONED FOR ITS ANNEXATION, THAT

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<sup>2</sup> *Adjusting Municipal Boundaries*, Department of Urban Studies, National League of Cities, (December, 1966), page 64.

<sup>3</sup> *Urban Planning and Land Development Control Law*, Donald G. Hagman and Julian Conrad Juergensmeyer, 2<sup>nd</sup> Edition, West Publishing Co., (1986), p. 679.

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LAND IS PROPERLY SUBJECT TO ANNEXATION BY UNILATERAL ACT OF THE CITY.

The City feels that HB 2654 would be bad public policy. The bill is intended to cure local Topeka and Wichita problems. Why should cities that have used their unilateral annexation powers responsibly over the years be punished because of a couple of local issues? Local problems should be cured locally, not through inadvisable bills such as HB 2654.

Finally, property owners already have a voice in the unilateral annexation process. The current law requires that cities prepare a service extension plan, give notice and hold a public hearing before unilaterally annexing in most cases. This is all the process that is needed under the circumstances of unilateral annexations.

Because of the dramatic changes HB 2654 would make to longstanding Kansas law, the City of Overland Park requests that you oppose House Bill 2654.

Thank you for your consideration.



Robert J. Watson  
City Attorney

RJW/rjw

18-3



# CITY OF TOPEKA

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James A. McClinton, Mayor  
215 S.E. 7th Street, Room 352  
Topeka, Kansas 66603  
Phone 785-368-3895  
Fax Number 785-368-3850

**TESTIMONY TO THE HOUSE LOCAL  
GOVERNMENT COMMITTEE RE: HB 2654  
FEBRUARY 12, 2004**

The annexation laws of Kansas are intended to provide cities with a process that allows them to grow properly; to enable cities to plan and provide public services to their residents, such as streets, water, and sewer; and to ensure that persons living immediately outside the city, who receive the benefit of city services, contribute to the cost of those services.

Annexation takes many forms, but there are two general categories: consensual and non consensual. When a property owner consents to annexation, usually because he or she desires a city service available only from the immediately adjacent city, state law allows a city to annex by the enactment of an appropriate ordinance. There are no hearings held or plans developed. The property owner wants to be part of the city and the city obliges this desire. Annexation pursuant to a "consent to annex" is the fulfillment of a contract between the property owner and the city.

Nonconsensual annexation, on the other hand, generally occurs when a city recognizes the need to plan and build the infrastructure that will allow an urban area to thrive. This gives rise to the natural conflict between many residents who live immediately outside a city who want to continue to receive urban services without the perceived tax burden associated with these services, and a city that proposes to expand its borders in order to provide these services to those who need and should pay for them. To address these competing interests in an equitable manner, the Kansas legislature enacted laws that provide for a number of procedural criteria for a city governing body or county commission to meet when annexation is proposed.

When a City decides that it should consider the expansion of its boundaries to encompass areas for which there is no consent to annex, it is required by statute to prepare a plan for extending its services to its proposed new residents and businesses.

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This plan is subject to review, debate and criticism in a public hearing before either the city governing body or the county commission (depending on what is being considered for annexation). KSA 12-520 allows a city governing body to make the annexation decision under certain circumstances (unilateral annexation). KSA 12-521 requires county commission action when a city is not permitted to act unilaterally. In either case, the decision to annex or not annex is subject to district court review.

The implementation of the service extension plan is subject to review by the county commissioners five years after the annexation is approved. If a city has failed to extend its services as planned, a commission may consider the de-annexation of the area if services aren't provided within the next two and one half years.

House Bill 2654 would significantly change this annexation process and substantially impair the ability of a city to grow by, in effect, eliminating unilateral annexation. If approved and allowed to become law, HB 2654 will have the following negative impact:

- It will require 60% of individuals residing in an area proposed for unilateral annexation by a city to vote in favor of the annexation before the annexation can proceed, despite the fact that these individuals have already been given the opportunity to comment at a public hearing and seek judicial review of the City's decision.
- This voting requirement would apply even when the affected property owners had contractually consented to annexation as a condition for receiving city services, thus nullifying a contract entered into by cities in good faith..
- The voting requirement would restrict or eliminate much development outside city limits in Kansas by reducing the advisability of a city extending water and sewer services to these developments, and
- HB 2654 would also require that a City provide planned services to an annexed area within one year of its annexation, instead of the current five year requirement provided by Kansas law. This despite the reality that planning, design and



construction requirements for infrastructure improvements require significantly more than one year to complete.

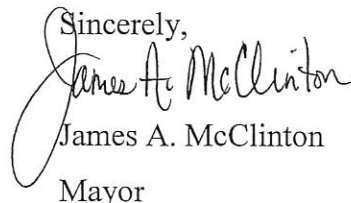
- Finally, by requiring a one year deadline for the provision of services to newly annexed areas, HB 2654 would make the annexation of territories requiring significant infrastructure improvements virtually impossible.

The City of Topeka City Council has expressed its strong opposition to HB 2654 by the enactment of City of Topeka Resolution 7442, which I have distributed along with these comments. HB 2654 is ill-advised legislation intended to end the growth of cities and the orderly and timely extension of city services to those who wish or need to become part of a city. It is yet another of what has recently been an annual effort to “protect” those who receive the benefit of city services without paying for them, who wish to continue to be identified with a city without ever being fully contributing residents of a city. If the State of Kansas is to prosper it must do so through its urban centers. If cities, as urban centers, can’t grow because of impediments such as HB 2654, then it is likely the State of Kansas will not grow either.

In summary, the end result of the passage of HB 2654 would be an end to orderly growth of cities in Kansas because:

- No annexation would occur in undeveloped areas due to the inability of cities to meet the one-year construction deadline, and
- No annexation would occur in already developed fringe areas because of the 60% requirement and the legislative reformation of contracted-for consents.

The City of Topeka asks that you reject HB 2654.

Sincerely,  
  
James A. McClinton  
Mayor

RESOLUTION NO. 7442

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A RESOLUTION introduced by Mayor James A. McClinton expressing the opposition of the City of Topeka to House Bill 2654 concerning the annexation authority of cities in Kansas.

WHEREAS, House Bill (HB) 2654 is under consideration by the State of Kansas House Local Government Committee; and

WHEREAS, HB 2654 would require sixty percent (60%) of individuals residing in an area proposed for unilateral annexation by a city to vote in favor of the annexation before the annexation could proceed; and

WHEREAS, the voting requirement would apply even when the affected property owners had contractually consented to annexation as a condition for receiving city services; and

WHEREAS, the voting requirement of HB 2654 would restrict or eliminate much development outside city limits in Kansas by eliminating the contractual consideration given to a city for extending water and sewer services to these developments; and

WHEREAS, HB 2654 would also require that a city provide planned services and improvements to an annexed area within one (1) year of its annexation, instead of the current five (5) year requirement provided by Kansas law; and

WHEREAS, planning, design and construction requirements for infrastructure improvements for newly annexed areas generally require significantly more than one (1) year to complete; and

WHEREAS, by requiring a one (1) year deadline for the provision of services to newly annexed areas, HB 2654 would make the annexation of territories requiring infrastructure improvements very difficult if not impossible; and

27 WHEREAS, HB 2654 is a transparent effort by its sponsors to end all unilateral  
28 annexations in Kansas.

29 NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Topeka,  
30 Kansas that the City of Topeka strongly opposes HB 2654 as an attempt to end all  
31 unilateral annexations and forever change the ways cities are able to expand and grow.

32 ADOPTED and APPROVED by the City Council FEB 10 2004

CITY OF TOPEKA, KANSAS



*James A. McClinton*  
James A. McClinton, Mayor

ATTEST:

*Iris E. Walker*  
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY  
DATE 2/10/04 BY [Signature]

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**Testimony in Opposition to HB 2654**  
**Presented to the House Local Government Committee**

**Presented by: Jeff Bridges, City Clerk / Administrator.**  
**Appearing on behalf of Mayor Ben Lawrence and the Andover City Council**  
**Thursday, February 12, 2004**

Mayor Lawrence and the Andover City Council would like to express their opposition to HB 2654 on the grounds that prohibits equity in the taxation levels for municipal services, it would inhibit the long range **sustainability** of cities in Kansas, and does not address who will take **responsibility** for those neighborhoods that are surrounded now or will become surrounded by an incorporated city in the future?

**Equity:** For those residents that live close to an incorporated city, for the most part they use the services provided by a City. Paved arterial streets, library services, parks, and in many cases a City police officer may be the closer to an emergency call in an incorporated area and respond first, animal control, and recreation programs. In some instances these areas may also be served with municipal wastewater services and water services. Why would a resident vote to annex into a city and pay a higher mill levy for services they are already getting? This does not provide for equal taxation and is unfair to the resident of the city who is paying more for these services.

**Sustainability:** Annexing existing neighborhoods, contrary to population opinion, is not done solely to increase the assessed valuation of the annexing city. For the most part these areas are annexed to provide necessary services such as clean potable water, sanitary sewer, housing or neighborhood revitalization, road construction, equity in taxation for services delivered, square up boundaries, or facilitate the proper growth and expansion of a city. The increase of assessed value to a city by annexing existing properties is minimal. The real growth takes place when large tracts are brought into a city for development purposes. In many instances these existing properties block the ability of a city to annex large tracts that would provide economic development opportunities for cities. Although this bill would not eliminate the ability of a city to annex, it makes the hurdle extremely difficult to overcome. If a city cannot readily grow, it will face a slow and steady economic decline. Without the ability to generate new economic development opportunities, a city will become less and less capable of sustaining itself except by raising taxes and fees. At some

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point even that becomes self-defeating. Kansas has sustainable cities as compared to many areas of the country because of their ability to grow. By severely restricting that capability, the long-range economy of a city and the State of Kansas will be drastically altered. A city that cannot produce its own resources to sustain itself will have to look toward the State and Federal government for handouts to solve issues that if it had the means it solve on its own.

Finally, who will take **responsibility** for those neighborhoods that do not vote to be annexed to a city and eventually become surrounded by a city? Over a period of time, these areas could become a mile or two fully inside a city. Who is going to take care of the roads? If one or two wells go bad and cannot be re-drilled or it cost prohibitive to the owner to get a new one, how is water provided. Without adequate code enforcement, over time these areas will degrade causing "urban blight" in an un-urbanized area. Will a County Commission spend time and resources on these pockets of residents? What about the townships that face a constant struggle for resources? How often will they send a road grader one to two miles into a city to grade a quarter mile of road and then leave? These areas will degrade and fester over time. Will a County Sheriff routinely patrol a small pocket of homes when they have miles and miles of roads outside of city to look after? Currently, although they will not readily admit it, as these areas decline Counties and Townships look to cities to take on the task of caring for these neighborhoods.

This bill would alter the entire paradigm of growth and development in the State of Kansas. The largest vehicle in Kansas for Federal, State, County, and Local economic development efforts, housing programs, water systems, sewer systems, health related issues, organized recreation, local law and code enforcement are cities. If cities do not have the tools readily available to grow their economies, if there is increased segregation of who pays for services delivered, if we create cities that cannot sustain themselves, if no one will take responsibility for these pockets of residents, then we create a whole new system that counties and townships do not have the tools to deal with.



The Honorable Jene Vickrey, Chairperson  
House Local Government Committee  
State Capitol, Room 519-S  
Topeka, Kansas 66612

2/12/04

**City Council Office**

Dear Representative Vickrey:

**Subject:** *Testimony in opposition to House Bill 2654 - Annexation*

The City of Wichita appears in opposition to HB 2654. This bill would take away the rights for a city to grow and expand their boundaries. This growth is necessary to remain vital and viable.

I am Bob Martz, City Council member and I represent District V in the part of Wichita that has experienced great growth through annexation in the past 8 years. This afternoon I will present information regarding two of the proposed changes in state law, and the concerns and effects it would mean to any community.

*Since 1996 the City of Wichita has approved 177 requested annexations (82%) and 39 unilateral annexations (18%).*

Item: Proposed New Section 1 and Section 2 Amendments

**Proposed Changes:** These amendments would require for any annexation proposed pursuant to Section K.S.A. 12-520 (includes annexations requested or unilateral), that an election be called and held, and that at least 60% of the qualified electors within the area proposed for annexation vote and approve such annexation.

Concerns:

1. *Creates unnecessary time and expense delays in cases where annexation is by request or consent.*  
In cases where an individual property owner requests annexation, the requirement of calling and holding an election would be serve no purpose at all. The act of a property owner filing an annexation request demonstrates 100% consent to the action. The requirement of an election in such cases would create needless municipal expense in calling and holding an election, and also cause extensive time delays in terms of a property owner initiating new land use development or acquiring access to city municipal services.
2. *Creates a serious impediment to the logical and efficient future growth and expansion of cities in those cases where unilateral annexation may be necessary.* Cities need to grow in order to remain financially viable. The physical growth and expansion of cities in Kansas is accomplished in large part through land annexation by consenting property owners. However, there are situations where unilateral annexation on the part of a city, against the wishes of affected property owners, is necessary to further its logical and efficient growth. For some cities, it is simply a matter of equity and fairness in financing the cost of urban services used by those residents living on the fringes of the city.

For most cities in Kansas, it is not uncommon to find small holding properties (under 21 acres), platted lots and even fully serviced (water and sewer) residential subdivisions located in the path of their projected future growth areas, growth and development, while avoiding a costly and logistically confusing checkerboard pattern of jurisdictional identity and municipal service delivery.

The proposed requirement of 60% consent of property owners in the affected unilateral annexation area would effectively eliminate the opportunity for cities in Kansas to grow, expand and provide future services in a logical and cost-efficient manner. This will have negative long-term fiscal implications for the 70% of Kansans who live in urban areas.

3. *The required approval of 60% of the qualified electors in the area to be annexed is unfair in terms of proportional representation of affected land area.* The proposed 60% approval requirement does not reflect the important principle of proportionality of affected land area. The following scenario illustrates this problem. A 100-acre annexation area contains 24 parcels. Four of the parcels contain 20 acres (for a combined total of 80 acres), while the remaining 20 acres is comprised of 20 one-acre parcels. Under the proposed required approval of 60% of the qualified electors in the area to be annexed, the 20 electors of the 20 one-acre parcels could "out vote" the four electors who own 80% of the land area proposed for annexation. This is clearly an unfair and inequitable proposal.

Item: Proposed Section 3 Amendments

**Proposed Changes:** These amendments would effectively reduce the time required for a city to provide municipal services to a unilaterally annexed area, from five years to one year following the date of annexation.

**Concerns:**

1. *Creates an unrealistic time frame for cities to plan, budget, design and provide municipal infrastructure and services to unilaterally annexed areas.* Many cities in Kansas plan and budget for future capital improvements (facilities and infrastructure) using a Capital Improvement Program. This program typically covers a five or ten year time horizon. It is unreasonable to expect cities to plan, budget, design and construct municipal infrastructure such as roads, sewer and water in a unilaterally annexed area, within a one-year time frame following annexation. In many cases, a two or three year time horizon is needed for major infrastructure expansion. Hence, the appropriateness of the current statutory requirement in K.S.A. 12-531 of five years needs to be retained.

**In closing:** Cities, which cannot grow, decay and die. In every City's history, the time comes for growth and orderly expansion.

**Conclusion:**

The City of Wichita would like to reaffirm its opposition to HB2654. We view this bill as a negative impact on any City's ability to grow and provide services in an efficient, affordable manner. We further express our concern for the ability of any Election Commissioners office to adequately meet the need of numerous yearly elections and the unrealistic expectation of a 60% qualified voter participation, in addition to the added expense.

Thank you,

Bob Martz  
Wichita City Council



# CITY OF TOPEKA

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City Council  
215 S.E. 7th St. Room 255  
Topeka, Kansas 66603  
Phone 785-368-3710

TO: Senator Jene Vickrey, Chair  
House Local Government Committee

FROM: Lisa Stubbs  
Topeka City Council

DATE: February 12, 2004

RE: HB 2654

Honorable Mr. Chairman and Members of the House Local Government Committee, thank you for the opportunity to speak with you today. My name is Lisa Stubbs and I am a current member of the Topeka City Council.

Our cities are much of the economic driving force in Kansas -- the engine that drives the train, so to speak. Much of our needed expansion of the tax base in Kansas will come from this engine, giving you the opportunity to reduce the tax burden on our citizens or give additional services. We will grow our tax base by expanding current industry or by bringing in new business to our state. Much of this expansion is made possible by the urbanized infrastructure that is available in our cities or can be available if our cities are able to plan and grow for the future. Now more than ever, Kansas needs to allow these economic drivers the ability to grow and expand as efficiently as possible. Efficiency can only be gained by having the ability to plan for the future growth and infrastructure needs over a significant period of time because of the extremely high price tag associated with it. For cities, millions of tax dollars are spent in order to serve growing areas with water, sewer, utilities, high tech capabilities and roads. Without the expectation that we will also have some degree of certainty that these areas will be part of our tax base, these services simply won't be provided. Therefore, our ability to attract new businesses will be in jeopardy. Growth that is not well planned is inherently less efficient, thereby wasting precious tax dollars. Kansas needs to grow smarter and better than the rest of the country if we hope to be competitive with other states.

The current law gives a well thought out balance to the needs of urban vs. rural. There is much wisdom in the current provisions that do not allow for a careless process for cities to annex properties on their borders. Because of this, I ask you to oppose HB 2654 and to not be part of the process to derail the success of our cities.

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Date: 2-12-04  
Attachment # 22



**Jack Whitson**  
**Director of Economic Development & Planning**  
**City of Park City, Kansas**

**Written Testimony 2-10-04**

Matters Concerning HB 2654

I am writing on behalf of the City of Park City, Kansas. We will be unable to attend your hearing on HB 2654, but request the following information be entered into the record.

The City of Park City is opposed to HB 2654 because such a bill would stop the growth of cities. What we see occurring is groups of 5 Ac. parcels beginning to ring our cities. In order for cities to continue to grow they must be able to break through these housing areas to get to the developable properties beyond. If the state passes HB 2654 it will stop city growth thereby stopping economic development, which we all need.

K.S.A. 12-520 currently makes it very difficult for cities to annex. The residents to be annex are given fair hearings, and if they feel strongly enough about the annexation have the right to appeal to the court. We feel the current law protect the rights of those being considered for annexation while being fair to the cities as well.

To adequately plan for extension of services, a city needs time to prepare to deliver these services. Such services as animal control, police, and fire is generally immediate. However, extension of sewer, and water takes more time to plan, design, and build. Generally it takes a year just to adjust a city's budget to provide the resources needed to prepare for these extensions.

The only problem we have with existing law is the provision for island annexation. Island annexation should be allowed for a city to annex its own property outside its corporate limits. We have seen cases where the Board of County Commissioners have granted island annexation which truly created islands among several cities, thereby trapping residential areas. The problem with this type of island annexation is that the annexing city is unable to provide services without going through another city, or duplication of services. Also we have seen areas proposed to be annexed by one city (adjacent to the area to be annex), running to another city several miles away and requesting to be island annex. If granted by the Board of County Commissioners this would create major costs to the annexing city to provide services. This type of annexation is generally the propose annexing areas way of getting even with the city doing the annexing. We are currently facing such an annexation. The opposing city is looking at tax base and not how to provide services. This puts the Board of County Commissioners in a bad position!

We sincerely hope the committee will kill this bill. This bill would unfairly hurt the thousands of people living within a city to help generally a handful of people. Thank you for your consideration.

Jack Whitson  
Director of Economic Development & Planning  
City of Park City, Kansas

House Local Government

Date: 2-12-04

Attachment # 22

23

# Testimony in opposition of HB 2654

**DATE:** February 12, 2004  
**TO:** House Local Government Committee  
**FROM:** Bruce Armstrong, Mayor; City of Haysville  
**RE:** HB 2654 - Testimony in opposition

Thank you for allowing me to submit testimony today on behalf of the City of Haysville. K.S.A. 12-520 has become an invaluable resource for allowing communities across the state to extend their boundaries to accommodate growth. We submit this letter in opposition of HB 2654.

Haysville is a community that has experienced tremendous growth during the past five years. Due to the unprecedented growth, Haysville has had to extend the boundaries of the city and annex unincorporated areas boarding the city. Annexation is a very difficult process and is one that causes local elected officials to weigh many options before making any decisions. Our belief is that local elected officials are best suited to make decisions that benefit the community and the immediate surrounding area. Haysville recently annexed land adjacent to the City to protect the City's borders and to link "island annexed" areas of the City. The annexation was essential to provide for sound and fundamental growth; therefore cities are justified in unilaterally annexing areas for the reasons stated in K.S.A. 12-520.

HB 2654 would essentially eliminate all unilateral annexation in Kansas and therefore, forever change the ways cities are able to expand and grow as times and growth patterns change. Requiring 60% approval of those individuals in the area being annexed certainly would eliminate annexation under K.S.A. 12-520.

The City of Haysville adamantly opposes any revision in the annexation statutes which would curtail or significantly modify the authority of cities to reasonably expand their boundaries as times and needs change. Again, thank you for the opportunity to offer comment on this legislation. Please contact me or my staff if you have any questions.

Respectfully Submitted,

Bruce Armstrong, Mayor

House Local Government  
Date: 2-12-04  
Attachment # 23

24

To: House Committee on Local Government  
From: Morris Dunlap  
Date: February 12, 2004  
Re: Written Testimony Submitted in regards to HB 2654

Thank you for the opportunity to submit written testimony regarding HB 2654. I am appearing as neither a proponent nor an opponent of this bill, but rather as a concerned citizen who fears the annexation system in Kansas is not working equitably for all citizens. I ask that you consider the following questions and responses as you debate the issue of unilateral annexation. The questions are as follows:

1. **Should the rights of the property owner be considered when a city decides to annex their property?**

The United States was founded on the premise that the majority should be the deciding body in all matters and the current "unilateral" annexation law ignores this basic right that should be afforded to all citizens. Today, Kansas is in a very unique and challengeable position of allowing this method of annexation. The majority of states give recognition to the rights of their citizens. (Often proponents of unilateral annexation make the argument that the citizens do have the right to vote for their City Council representatives. However, this is not true prior to annexation, only after the annexation is the citizens afforded an opportunity to elect the City Council, which is taxation without representation.)

2. **Should a city be granted the absolute right to grow in any direction, for any distance, at any cost?**

Certainly the answer is no, but under the current "unilateral" annexation statute it is not only possible, but is very prevalent even though that is definitely not what was the intended result of the current statutes.

3. **Should an annexing city be required to describe in detail the uses of all taxes that will be collected from the annexed property by the benefiting city?**

The answer is yes, it is reasonable that a city should be required to provide the property owners a detailed description of how their tax dollars will be spent to benefit them. Today every annexation, without exception, puts more tax dollars into the city general fund and is not traceable to determine how it is expended by that city. This creates an atmosphere where the annexation provides instant revenue that is most likely used in the general operation of the city or for retirement of previously created debt. (Again, I argue this is taxation without representation.)

4. **Should any city be given absolute authority to determine which services are wanted, needed, or required by the property owners being annexed?**

The answer is no, if the property meets all existing codes already in place and required by the County or State of Kansas. No city should be in a position to provide services that are not wanted, needed or required simply to generate the taxes that such services will provide to the city. Today, an annexation by a city carries with it the forced reception of "services" which in many cases are neither needed nor wanted and the property owners are given no choice but to pay for all service, connection, and ongoing charges and fees. All which benefit only the annexing city.

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5. **Since most annexations move rural property into a city, should a city be in a position to use annexation to force rural property owners to comply with the codes and restrictions in place inside the city which will now be "unilaterally" be imposed on the annexed property owner?**

The answer is no, the property owner has made the investment in their property to meet standards that in fact may be more demanding than the annexation imposes, and city codes do not fit rural property in most cases. (Some effort by annexing cities to "grandfather" has been made, but it is only valid for the current owner, for a specific time, or until the owner wishes to make improvements that require a building permit and then the entire property must meet all codes which can present the owner with expenses that are unbearable.

6. **Should the premise of "eminent domain" be kept in place?**

Certainly, and no city should be prevented from growing if it is the desire of the majority of the majority of the involved citizens. The question is can the citizens (or more frequently the City Council dominated by one or two staff members) of the annexing city be allowed, without recourse, to impose their will on those who own private property outside of the city.

7. **Is it valid for some cities to rush to annex so that a neighboring city doesn't "get it before we can and they block us"?**

This is not a valid reason for annexation because it certainly does not serve the best interests of the property owners being annexed and likely not even the current needs of the annexing city, and should not be allowed. Some cities have even annexed so much territory that they have outstripped their ability to bond improvements and now have areas that can not be served unless they continue to feed the base by annexing more and more taxable property. This is a cycle that must not be continued or started.

8. **Are there any legitimate arguments for "unilateral" annexation other than to build up a city's tax base?**

In no case that I have seen during my service as a Commissioner of the Metropolitan Area Planning Commission in Sedgwick County, nor in any discussion with any city staff or elected official, has any "unilateral" annexation been supported for any reason except for the purpose of increasing the tax base. It is very clear that the annexing city is benefiting more from the taxes being collected than they are spending on the "required" improvements (which as stated above are probably not wanted needed or required). It is simply a method of collecting more taxes which can and will be used for other city expenses.

9. **Is it fair for some cities to argue that nearby property owners use the facilities of the city and therefore should be annexed to pay for the infrastructure?**

The decision of where and how the property taxes collected by the State of Kansas are applied must remain with the State and not with any eager city administration.

The net result is that the statute as written and as applied by most cities today is simply not in keeping with the principal of private property rights as granted by the Constitution of the United States and reaffirmed many times by the State of Kansas Legislature. We call on you to revise the statutes and correct this inequity.

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24-2

How can it be done without causing damage to a city and without causing damage to any property owner? There exists a simple method which is accepted by all when dealing with needed improvements such as water, sewer, roads and streets, or any improvement that will require expenditures to complete. ***That method is a petition created by a city or by a citizen which details the improvement, the time frame in which it will be implemented, and the costs involved.*** Once this information is available the property owners are asked to sign, (agree with), the petition and if a simple majority of 51% agree the improvement proceeds and all affected property owners are assessed the charges in the form of "specials".

No city is prevented from growing. All they need to do is plan the improvements and present the petition to the property owners. If it is a good deal and agreed to by the majority of the owners the annexation is done.

No area is prevented from requesting annexation. All they need to do is contact the city to determine if the city is agreeable, work with them to plan the improvements and present the petition to the property owners. If it is a good deal for the city council, and the majority vote in favor, and is a good deal for the majority of the property owners the annexation is done.

- ✓ By employing this method all rights of all property owners and all cities are preserved as determined by a majority vote.
- ✓ All arguments cease.
- ✓ All annexation quirks and misuse of statutes go away.
- ✓ The right of "eminent domain" is preserved.
- ✓ The State of Kansas becomes a part of the majority of States that allow their citizens to participate in the future use of their private property.
- ✓ All questions of taxation for services are answered prior to the decision and in open documentation.
- ✓ The issue is solved and the Legislature, Counties, Cities and property owners will not need the expensive continuous legal challenges currently used.

I thank you for accepting my written testimony. A recent surgery has prevented me from attending today. I stand ready to discuss the matter at any time any member of your Committee or any member of the Legislature wishes to contact me. You may contact me at either 316-209-4101 (cell) or 316-755-0162 (home).

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