

CHAPTER 155

HOUSE Substitute for SENATE BILL No. 24
(Amended by Chapter 186)

AN ACT concerning cities; relating to annexation; amending K.S.A. 12-520 and 12-520a and repealing the existing sections.

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

Section 1. K.S.A. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.
(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 *et seq.*, and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

~~(h) Any owner of land annexed by a city under the authority of this section, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in the district court of the county in which the land is located challenging the authority of the city to annex the land and the regularity of the proceedings had in connection therewith.~~

Sec. 2. K.S.A. 12-520a is hereby amended to read as follows: 12-520a. (a) The governing body of any city desiring to annex land under the

authority of K.S.A. 12-520, and amendments thereto, shall adopt a resolution stating that the city is considering the annexation of the land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the annexation of the land and fix the date, hour and place of the public hearing. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at the time determined by the governing body to be the most convenient for the greatest number of interested persons;

(2) describe the boundaries of the land proposed to be annexed; and

(3) state that the plan of the city for the extension of services to the area proposed to be annexed, which is required under the provisions of K.S.A. 12-520b, and amendments thereto, is available for inspection during regular office hours in the office of the city clerk.

(b) The date fixed for the public hearing shall be not less than 60 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(c) A copy of the resolution providing for the public hearing shall be mailed by certified mail to each owner of land proposed to be annexed not more than 10 days following the date of the adoption of the resolution. The resolution shall be published in the official newspaper of the city not less than one week and not more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with the resolution. A copy of such sketch also shall be mailed to the owner of the property with the resolution.

(d) A copy of the resolution providing for the public hearing shall be sent by certified mail not more than 10 days following the date of the adoption of the resolution to:

(1) The board of county commissioners;

(2) the governing body of the township where the land to be annexed is located;

(3) any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts;

(4) any utilities having facilities within the area proposed to be annexed;

(5) the governing body of any school district in the area proposed to be annexed;

(6) any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed; and

(7) any other political or taxing subdivision located within the area proposed to be annexed.

(e) At the public hearing, a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed. Following the explanation, all interested persons shall be given an opportunity to be heard. The governing body may recess, for good cause shown, the hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

At such hearing or at any continuation of such hearing, the city shall determine the advisability of the annexation of land in a fire district. As a guide in determining the advisability of such annexation, the city's considerations shall include, but not be limited to, the:

~~—(1) Response time of the city and the fire district to the area proposed to be annexed;~~

~~—(2) impact on the fire district from the decrease in its tax base if the annexation is approved;~~

~~—(3) impact on the city's provision of fire service if the annexation is disapproved;~~

~~—(4) impact on the residents of the area if the annexation is approved; and~~

~~—(5) impact on the remainder of the fire district if the annexation is approved. city shall consider the:~~

(1) Extent to which any of the area is land devoted to agricultural use;

- (2) *area of platted land relative to unplatted land;*
- (3) *topography, natural boundaries, storm and sanitary sewers, drainage basins, transportation links or any other physical characteristics which may be an indication of the existence or absence of common interest of the city and the area proposed to be annexed;*
- (4) *extent and age of residential development in the area to be annexed and adjacent land within the city's boundaries;*
- (5) *present population in the area to be annexed and the projected population growth during the next five years in the area proposed to be annexed;*
- (6) *extent of business, commercial and industrial development in the area;*
- (7) *present cost, methods and adequacy of governmental services and regulatory controls in the area;*
- (8) *proposed cost, extent and the necessity of governmental services to be provided by the city proposing annexation and the plan and schedule to extend such services;*
- (9) *tax impact upon property in the city and the area;*
- (10) *extent to which the residents of the area are directly or indirectly dependent upon the city for governmental services and for social, economic, employment, cultural and recreational opportunities and resources;*
- (11) *effect of the proposed annexation on the city and other adjacent areas, including, but not limited to, other cities, sewer and water districts, improvement districts, townships or industrial districts and, subject to the provisions of K.S.A. 12-521a, and amendments thereto, fire districts;*
- (12) *existing petitions for incorporation of the area as a new city or for the creation of a special district;*
- (13) *likelihood of significant growth in the area and in adjacent areas during the next five years;*
- (14) *effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan;*
- (15) *economic impact on the area; and*
- (16) *wasteful duplication of services.*

(f) No resolution, notice and public hearing required under the provisions of this section shall be required as a prerequisite to the annexation of land owned by or held in trust for the city or any agency thereof or land all of the owners of which petition for or consent thereto in writing.

(g) Any resolution, adopted pursuant to this section, which includes territory subsequently incorporated pursuant to K.S.A. 15-115 *et seq.*, and amendments thereto, shall be invalid.

New Sec. 3. Any owner of land annexed by a city under the authority of K.S.A. 12-520(a)(1) through (6), and amendments thereto, and any city whose nearest boundary line is located within ½ mile of the land being so annexed, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in district court of the county in which the land is located challenging the authority of the city to annex the land, whether the annexation was reasonable, whether the service plan was adequate and the regularity of the proceeding had in connection with the annexation procedures. When determining the reasonableness of an annexation in the case of a city challenging the annexation, the court shall include in its considerations the effect the annexation has on the future growth of the city challenging the annexation.

Sec. 4. K.S.A. 12-520 and 12-520a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 18, 2005.
