

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on February 10, 2011, in Room 144-S of the Capitol.

All members were present except:

Representative Sloan - excused

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department

Eunice Peters, Office of Revisor of Statutes

Florence Deeter, Committee Assiatant

Conferees appearing before the Committee:

Representative Ann Mah, 53rd District

Kelly Parks, West Valley, Kansas

Arlyn Briggs, Olathe, Kansas

Forrest Walter, Mission Township, Topeka, Kansas

Don Moler, Executive Director, League of Kansas Municipalities

Whitney Damron, City of Topeka

Erik Sartorius, City of Overland Park

Marilyn Nichols, President, Kansas County Officials Association

Paul Degener, Topeka, Kansas

Marvin Smith, Topeka, Kansas

Kenneth Daniel, Chairman, Board of Midway Wholesale, Topeka, Kansas

Greg Dye, Wichita, Kansas

Others attending:

See attached list.

Hearing On: HB 2065 – Concerning cities relating to annexation.

The Chairman opened the hearing on **HB 2065**. Staff Eunice Peters, Office of Revisor of Statutes, briefed the committee, stating that the bill would amend the existing law concerning the annexation of land. She noted that current law grants a five-year period in which to determine validity of municipal services; this bill would change that time period to three years for review, and four years if litigation is involved. Ms. Peters said that if there is non-compliance, a provision is included allowing two years for review. She noted that if the board of county commissioners chooses not to hold a hearing for review, the landowner may bring action to compel the board to hold a hearing; the court then may award attorney fees and costs to the landowner.

Representative Ann Mah, 53rd District, spoke as a proponent of **HB 2065**, stating that the bill changes the law so that a proposed unilateral annexation may be reviewed by the county commission; thirty days is allowed to approve or disapprove the annexation. She noted that the bill also delineates the amount of time for holding hearings following litigation, which would facilitate providing municipal services in a timely manner. Representative Mah commented on the issue of unilateral annexation, directing attention to the map included in her testimony (Attachment 1). She requested the committee support the concepts of **HB 2065**.

Kelly Parks, West Valley, Kansas, speaking in support of **HB 2065**, indicated that living outside a city is an individual's right to choose and unilateral annexation infringes on those rights (Attachment 2).

Arlyn Briggs, Olathe, Kansas, provided additional information to clarify his testimony given on February 8, 2011, stating that the county commission issued bonds without holding an election after property was annexed into the city. He said a committee was formed to facilitate negotiation for services; however, the city seemed only interested in controlling provision of services through the township. Mr. Briggs provided only verbal testimony.

Forrest Walter, Mission Township, Topeka, Kansas, expressed concern for citizens within an annexation district who have limited provision of municipal services, such as fire, emergency medical or snow removal. He said **HB 2065** would provide land owners more representation in the annexation process (Attachment 3).

CONTINUATION SHEET

Minutes of the House Elections Committee at 3:30 p.m. on February 10, 2011, in Room 144-S of the Capitol.

Written testimony as a proponent of the bill was submitted by:

Edgar Peck, Treasurer, Tecumseh Township ([Attachment 4](#)).

Onis Lemon, Treasurer, Mission Township ([Attachment 5](#)).

Senator Anthony Hensley, District 19, Shawnee, Douglas and Osage Counties ([Attachment 6](#)).

Don Moler, Executive Director, League of Kansas Municipalities, spoke in opposition to **HB 2065**, stating that, if the language of this bill is adopted, it would obliterate the unilateral annexation statutes and reverse public policy ([Attachment 7](#)). He said that the bill moves the making of decisions away from elected officials of the city to the discretion of county commissioners. Mr. Moler recommended the committee reject the intent of this bill.

Whitney Damron, City of Topeka, said that most annexations occur with consensual agreement between cities and property owners ([Attachment 8](#)). He noted that during the last twenty-five years the City of Topeka has not used unilateral procedures in the annexation process.

Erik Sartorius, City of Overland Park, speaking as an opponent to the bill, provided background on the procedures used by a city for annexation, stating that a resolution of intent to annex, notification to adjoining property owners, scheduling of public hearings, involvement of various government entities and the application of sixteen criteria are all in place to determine what land is proposed for annexation ([Attachment 9](#)). He noted that if a city utilizes these procedural requirements and land is annexed, any landowner may challenge the annexation in a court of appeal. Mr. Sartorius concluded his remarks by stating that the first section of the bill is not needed.

Written testimony in opposition to the bill was submitted by:

Dave Unruh, Chairman Commissioner, Sedgwick County, Kansas ([Attachment 10](#)).

Ron Fehr, City Manager, City of Manhattan, Kansas ([Attachment 11](#)).

The Chairman closed the hearing on **HB 2065**.

Hearing On: HB 2084 – Consolidation of cities and counties by majority vote.

The Chairman opened the hearing of **HB 2084**, stating that a technical amendment to clarify the term “dual majority vote” might need to be in place before the committee makes a decision on the bill.

Staff Eunice Peters, briefed the committee on the bill, saying that on page three, sub-section (d), the bill needs a technical amendment in order to clearly reveal the intent of dual majority; page four, lines 18-25 has been included to explicitly delineate the intent regarding dual majority vote. She said the bill provides an alternative process for cities and counties to agree by vote before consolidation can occur. She referred to page seven, section eight noting current law indicates that when two offices are performing the same function, they can consolidate, but cannot merge as one entity.

Marilyn Nichols, President, Kansas County Officials Association (KCOA), said the bill contains language which KCOA supports and hopefully includes all cities ([Attachment 12](#)). She noted that dual majority voting is the right of electors to have equal powers to pass or defeat a consolidation plan. She noted support for requiring a separate ballot should consolidation plans pass by dual majority vote and call for the elimination of elected officials. Ms. Nichols questioned whether the bill includes giving subpoena power to the commission on consolidation.

Written testimony in support of the bill was submitted by the following:

Don Moler, Executive Director, League of Kansas Municipalities ([Attachment 13](#)).

Melissa Wangemann, General Counsel & Director of Legislative Services, Kansas Association of Counties ([Attachment 14](#)).

Terry D. Holdren, Kansas Farm Bureau ([Attachment 15](#)).

Ed and Eileen Klumpp, Tecumseh, Kansas ([Attachment 16](#)).

Paul Degener, Topeka, Kansas, speaking in opposition to **HB 2084**, said the tax base would be increased and eventually spent indiscriminately on city projects. He indicated there would be no savings to the taxpayer ([Attachment 17](#)).

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Marvin Smith, Topeka, Kansas, brought recommendations for amendments, which are highlighted in his testimony (Attachment 18). He said that townships provide effective services and equal consideration should be given to citizens in unincorporated areas for consolidation proposals.

Kenneth Daniel, Chairman, Board of Midway Wholesale, Topeka, Kansas, spoke in opposition to **HB 2084**. He explained his objections, saying that he is concerned the bill is designed to eliminate dual majority voting consolidation issues. Mr. Daniel said there is no evidence that consolidation has resulted in overall efficiency savings; there is considerable evidence to the contrary (Attachment 19).

Greg Dye, Wichita, Kansas, explained “home rule power” in his testimony, stating that it is unconstitutional according to U. S. Supreme Court rulings (Attachment 20). He noted that an amendment to the Kansas Constitution in 1961 creating “home rule power” needs to be reviewed for constitutionality.

Following discussion among committee members, the Chairman closed the hearing on **HB 2084**.

The meeting was closed at 5:05 p.m. The next meeting is scheduled for February 15, 2011.