

**Cherokee County, Kansas
County Courthouse
110 W. Maple
Columbus, Kansas 66725**

January 20, 2015

Testimony of Richard Hilderbrand
Chairman of the Board of County Commissioners
County of Cherokee, Kansas
In support of HB 2003, addressing the annexation of non-adjoining land
Before the House Committee on Local Government

Greetings Chairman Rep. Huebert and members of the Committee.

I am Richard Hilderbrand, Chairman of the Board of County Commissioners of Cherokee County, Kansas. I come before the Committee to speak in support of HB 2003 and its protection of the legislative intent behind statutes safeguarding review and approval of non-adjoining land by boards of county commissioners.

The statutes at issue, K.S.A. 12-250 and 12-250c, address the authority of boards of county commissioners to review the annexation of lands that do not adjoin the city boundary. This so-called island annexation involves the annexation of territory distant from and not adjoining the boundaries of a city.

In 1993, the Kansas Supreme Court described in the case of *City of Topeka v. Shawnee Cnty. Bd. of Cnty. Comm'rs*, [252 Kan. 432, 845 P.2d 663 (1993)] the legislative intent behind these statutes. In that case, the City of Topeka was challenging the decision of the Board of County Commissioners in Shawnee County to deny the annexation of the area around Sherwood Lake southwest of Topeka into the City. County Commissions are allowed by statute, and in fact are required, to consider the advisability of the island annexation and determine whether the impacts of the proposed annexation amount to manifest injury. In making that determination, the law provides specific criteria, found in K.S.A. 12-521, to be reviewed. Further, the Supreme Court found the legislative intent was not to consider only the 14 criteria, but that the board is to consider the impact of the annexation on the entire community involved, including the city and surrounding area.

Approval of an island annexation by a board of county commissioners must be unanimous. Not surprisingly, a city may look for a means to avoid such a review by the county commissioners. One method, the so-called “strip,” “flag-pole” or “snake” annexation, was addressed by the legislature. A city circumvented a review by the county commission by annexing a strip of land, comprised a series of parcels 100-foot-wide for five miles to the parcel of land that was the purpose of the annexation. In response, the legislature passed what became 2010 session law 130, which prohibited to the annexation of a narrow corridor of land to gain access to noncontiguous tracts of land.

HB 2003 addresses a similar situation by which a city may circumvent review of an island annexation by the county commission. This exception exists when a non-adjoining parcel of land is owned by, or held in trust for, a city. The circumvention arises when the land is gifted to the city, or sold for a nominal amount, then leased back to the grantor for development or use. In Cherokee County, this was attempted to create a new landfill.

I stand before the Committee today to ask that the Legislature do what it did in 2010 when confronted with attempts to circumvent its intent—to make clear that any island annexation requires a review for manifest injury and impacts on the affected area without regard to whether the subject land is owned by the city.

My thanks to the Committee and Representative Houser for the opportunity to address this matter.