

To: Senate Local Government

From: Amanda L. Stanley, General Counsel

Date: February 2, 2021

RE: Testimony in Support of SB 88

I want to thank Chairwoman McGinn and the Committee members for allowing the League of Kansas Municipalities the opportunity to provide testimony in support of SB 88.

This was a bill that was first introduced last year as HB 2583. Unfortunately, after being passed out of the Senate Local Government Committee, the Session abruptly ended due to COVID-19. The goal of SB 88 is not to change the procedure used when a city vacates a street. The goal of this legislation is simple. It is to clean up the statutory language to make it easy for local elected officials and citizens alike to understand the process of street vacation.

The procedures used by cities to vacate streets have been largely unchanged, and worked well, for more than 100 years. Each class of city has its own procedure to follow. These can be found in K.S.A. 13-443, K.S.A. 14-423, and K.S.A. 15-427. In addition to the procedures used when a governing body would like to vacate a street, the legislature also established a separate procedure when a citizen requests a street be vacated. That procedure is what is contained in K.S.A. 12-504.

From the legislative history we can find, prior to 1967, K.S.A. 12-504 was designed solely for when a citizen wanted to request a street be vacated. For some reason in 1967, the Legislature added the language to K.S.A. 12-504 seeming to imply a governing body could also use this statute if the governing body wanted to vacate a street. The governing body would file a petition with the city clerk only to have the city clerk submit the same petition back to the governing body asking itself to vacate the street. This change has never made sense and the intent of the addition cannot be found. Under the rules of statutory construction, when a more specific statute exists, it controls over a general statute. The Legislature did not attempt to repeal the more specific statutes regarding street vacating that cities have continued to use since 1967. The Legislature has even on occasion amended those more specific statutes.

In 1984, the Legislature added additional confusion by modifying the statute so that K.S.A. 12-504 is the vehicle a city governing body uses when it would like to initiate a de-annexation.

After 53 years of confusion, the League thought it was time to ask this body to clean up the law and make it clear K.S.A. 12-504 is to be used when a landowner would like to initiate the process to vacate a street and when a city would like to initiate a de-annexation in clear easy to understand language. This is not a change in law, but rather, an attempt to make current law more easily understood. Additionally, it was brought to our attention that there is no statute of limitations on when an individual allegedly aggrieved by a street vacation can challenge the process. When land reverts to its original landowner, that landowner deserves certainty a city will not have to reopen the street many years in the future if the city is challenged. SB 88 adds a statute of limitations for all street vacations to provide better certainty for affected landowners.

For these reasons, the League asks this Committee recommend SB 88 favorably for passage.