THE LEAGUE OF KANSAS MUNICIPALITIES

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To: Senate Local Government
From: John Goodyear, General Counsel
Date: March 18, 2025
RE: Testimony in Opposition to SB 124

I want to thank Chairwoman Bowers and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide information and assert our position on SB 124.

The League supports the ability of local jurisdictions to make their own decisions regarding orderly growth through annexation. SB 124 as written appears to prevent all unilateral annexation of unplatted agricultural land. It also would prohibit the unilateral annexation of any other tract of land that is less than 20 acres. I am not sure if this was the intent, but the effect of these prohibitions is the elimination of all unilateral annexations. As such, the cities of the state of Kansas would stand firmly opposed.

Unilateral annexation is already limited in meaningful ways. Cities cannot annex portions of agricultural land when the tract is 21 acres or more. The practice can only be used on certain types of land these include platted land which adjoins the city, city owned land, land that lies within the city and that has a common perimeter of more than 50%, and land not to exceed 21 acres which will make a city's boundary line straight or harmonious. Other types of land such as improvement districts, highway right-of-way land and narrow corridors of land to gain access to noncontiguous corridors of land are specifically excluded from being unilaterally annexed.

A city must show it can extend services to the area proposed to be annexed. Following the preparation of the service extension plan, the city must determine the advisability of the annexation at a public hearing held at a time convenient for the greatest number of interested persons. Individualized notice must be mailed to each of the property owners to be affected by the annexation. In considering the advisability of the annexation, the city must consider 16 separate factors including (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. It is only after consideration of all 16 factors that a city can proceed with the annexation.

Unilateral annexation is most often used by cites that have grown in a way that leaves a pocket between land inside the city limits on three sides. Without unilateral annexation, these pockets would remain surrounded by the city limits but without any of the obligations of living in the city. The residents will benefit from city services while avoiding most of the cost of providing those services. These necessary services include the roads surrounding the property and emergency service costs for fire, police and EMS. Without unilateral annexation, a single property owner, completely surrounded by city on all sides, could refuse to be annexed "just because." This creates an unsustainable system. Officers will have to know which random houses are not inside the city where they have no jurisdiction to respond to calls. When selling houses, real estate agents will have to make clear to their clients if a neighbor's house is "outside the city" so buyers can take that into account when evaluating homes. Buyers should know that their neighbor is under no obligation to follow noise ordinances, animal ordinances, or even the same rules for fireworks--or that the neighbor pays no city property tax but takes advantage of all the city services paid for by his fellow neighbors.

Notable for our member cities, unilateral annexation helps prevent the purposely planned new development of major subdivisions immediately attached to the city limits made up of individuals who want all the benefits of living in the city but do not want to contribute towards the services by paying property taxes.

Unilateral annexation is being responsibly used as cities expand. It is a complicated process that is not entered lightly. Even if this power is eliminated, growth will continue to naturally occur in the areas adjoining cities. This will result in confusion and duplication of services between the city and the county.

Additionally, the limitation proposed in new subsection (h) is, at best, unclear. Would this limitation still apply if the land owned by the other governmental entity was part of the city? If so, why wouldn't this land be considered contiguous. It seems unreasonable to limit the growth of a city just because another entity may own land within the city near the territorial limits of the city.

The League is grateful for the opportunity to provide comment on SB 124. It is our belief that current law provides the appropriate framework to address the competing interests of property owners seeking to avoid urban sprawl and local governments seeking to provide for orderly growth. We would ask that no further action be taken on this bill.