

HOUSE BILL No. 2654

By Representatives Toelkes, DeCastro, Huy, Rehorn and Thimesch

1-29

AN ACT concerning cities; relating to annexation; amending K.S.A. 12-520, 12-531 and 12-532 and repealing the existing sections.

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

New Section 1. No land shall be annexed pursuant to K.S.A. 12-520, and amendments thereto, unless the question of such annexation has been submitted to and approved by at least 60% of the qualified electors of the area proposed to be annexed voting at an election called and held thereon. Such election shall be called and held in the manner provided for question submitted elections.

Sec. 2. K.S.A. 12-520 is hereby amended to read as follows: 12-520.

(a) *Subject to the provisions of section 1, and amendments thereto, and* 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.

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

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

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

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

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

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

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

35 Sec. 3. K.S.A. 12-531 is hereby amended to read as follows: 12-531.
36 (a) ~~Five years~~ *One year* following the annexation of any land pursuant to
37 K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has
38 been litigation relating to the annexation, ~~five years~~ *one year* following
39 the conclusion of such litigation, the board of county commissioners shall
40 call a hearing to consider whether the city has provided the municipal
41 services as provided in the timetable set forth in the plan in accordance
42 with K.S.A. 12-520b or 12-521, and amendments thereto. The board of
43 county commissioners shall schedule the matter for public hearing and

1 shall give notice of the date, hour and place of the hearing to: (1) The
2 city; and (2) any landowner in the area subject to the service extension
3 plan.

4 (b) At the hearing, the board shall hear testimony as to the city's
5 extension of municipal services, or lack thereof, from the city and the
6 landowner. After the hearing, the board shall make a finding as to whether
7 or not the city has provided services in accordance with its service exten-
8 sion plan. If the board finds that the city has not provided services as
9 provided in its service extension plan, the board shall notify the city and
10 the landowner that such property may be deannexed, as provided in
11 K.S.A. 12-532, if the services are not provided within ~~2 1/2 years~~ *one year*
12 of the date of the board's findings.

13 Sec. 4. K.S.A. 12-532 is hereby amended to read as follows: 12-532.

14 (a) If, within ~~2 1/2 years~~ *one year* following the conclusion of the hearing
15 required by K.S.A. 12-531, or, where there has been litigation relating to
16 the hearing, ~~2 1/2 years~~ *one year* following the conclusion of such litiga-
17 tion, the city has not provided the municipal services as provided in the
18 timetable set forth in the plan prepared in accordance with K.S.A. 12-
19 520b or 12-521, and amendments thereto, the owner of such land may
20 petition the board of county commissioners to exclude such land from
21 the boundaries of the city. Within 10 days after receipt of the petition,
22 the board shall schedule the matter for public hearing and shall give
23 notice of the date, hour and place of the hearing to: (1) The owner; (2)
24 the city; (3) the township into which the property, if deannexed, would
25 be placed; and (4) the governing body of any fire district, sewer district,
26 water district or other special district governments which have jurisdiction
27 over territory adjacent to the area sought to be deannexed. The notice
28 shall be sent by certified mail no less than 21 days before the date of the
29 hearing.

30 (b) At the hearing, the board shall hear testimony as to the city's
31 extension of municipal services, or lack thereof, from both the owner and
32 representatives of the city. Except as provided by subsection (e), if the
33 board finds after the hearing that the city has failed to provide the mu-
34 nicipal services in accordance with the plan and consistent with the time-
35 table therein, the board may enter an order excluding the land from the
36 boundaries of the city. Any such order shall take effect in the same man-
37 ner as provided in K.S.A. 12-523, and amendments thereto, for the ef-
38 fective date of annexation ordinances. Such land shall not be annexed
39 again for one year from the effective date of the order without the written
40 consent of the owner of the land.

41 (c) The county clerk shall certify a copy of the order to the register
42 of deeds of the county. The register of deeds shall record the order in
43 the deed records of the county, and, at the expense of the owner, the

1 register of deeds also shall record the order of exclusion on the margin
2 of the recorded plat of such land, giving reference thereon to the page
3 and book of records where the order is recorded in the register's office.

4 (d) Except as provided by this subsection, after the effective date of
5 the order to exclude the land from the city, such land shall not be liable
6 for any general taxes imposed by the city. Such land shall remain liable,
7 however, for any taxes or special assessments levied by the city as are
8 necessary to pay its proportionate share of the interest on and principal
9 of such bonds or other indebtedness incurred by the city for improve-
10 ments to the land which were approved by the city before the date on
11 which the owner or owners filed a petition for the exclusion of the land
12 from the city.

13 (e) The board shall not order exclusion of any land if:

14 (1) The service extension plan conditions the extension of certain im-
15 provements or services on the filing of a legally sufficient petition by the
16 owners of the land for the creation of an improvement district and to levy
17 special assessments therein to pay a portion of the costs of such improve-
18 ments, and a sufficient petition has not been filed;

19 (2) since the annexation, the governing body of the city initiated the
20 creation of an improvement or benefit district affecting such land to levy
21 special assessments thereon to pay a portion of the costs of certain mu-
22 nicipal improvements, and the formation of the district was blocked by
23 the filing of a sufficient protest petition by some or all of the owners of
24 any land in the proposed district;

25 (3) the exclusion would result in the land being completely sur-
26 rounded by other tracts of land located within the city's boundaries; or

27 (4) the board finds the exclusion of the land would have an adverse
28 impact on the health, safety and welfare of the residents of the city or
29 such land.

30 (f) Any owner or the city aggrieved by the decision of the board may
31 appeal the decision to the district court in the manner provided in K.S.A.
32 19-223, and amendments thereto. Any city so appealing shall not be re-
33 quired to execute the bond prescribed therein.

34 Sec. 5. K.S.A. 12-520, 12-531 and 12-532 are hereby repealed.

35 Sec. 6. This act shall take effect and be in force from and after its
36 publication in the statute book.

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