

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2230

By Committee on Governmental Organization and Elections

1-31

12 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
13 520 [**and 12-520a**] and repealing the existing ~~section~~ **[sections]**.
14

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

16 New Section 1. (a) No land located in a township shall be annexed
17 pursuant to subsection (a) (1) of K.S.A. 12-520, and amendments thereto,
18 unless the city adopts a resolution stating its intent to annex such land.
19 Such resolution shall be published at least once in a newspaper of general
20 circulation within the city and in the area sought to be annexed. If within
21 30 days after the publication of such resolution, a petition requesting the
22 appointment of a boundary commission and signed by at least 50% of the
23 landowners in the area sought to be annexed is filed with the city clerk,
24 no land shall be annexed unless such annexation, or portion thereof, is
25 approved by a boundary commission as provided by this section. The
26 petition shall include the names of the landowners who will serve as those
27 members of the boundary commission representing the owners of land
28 in the area proposed to be annexed.

29 (b) The mayor shall convene a boundary commission composed of
30 seven members as follows:

31 (1) Three members appointed by the governing body of the city de-
32 siring to annex such land;

33 ~~(2) one member appointed by the board of county commissioners;~~
34 ~~and~~

35 ~~(2)~~ **(2)** three members selected by the ~~landowners~~ **board of county**
36 **commissioners** in the area proposed to be annexed as specified in the
37 petition; **and**

38 **(3) one member selected by the six members appointed and**
39 **selected pursuant to paragraphs (1) and (2). [Such member shall**
40 **be selected within 14 days of the selection of the members selected**
41 **pursuant to paragraphs (1) and (2).]**

42 (c) The boundary commission shall determine whether the proposed
43 annexation is in the public interest and in the best interest of the city,

1 county and other political subdivisions in the area sought to be annexed.
2 The governing bodies of the city, county and other political subdivisions
3 in the area sought to be annexed shall assist the board in making its
4 decision. Such governing bodies shall provide all relevant information and
5 records requested by the boundary commission. In making its determi-
6 nation, the boundary commission shall consider the following:

- 7 (1) The immediate and prospective populations of the area to be
8 annexed;
- 9 (2) the assessed valuation of the area to be annexed, and its relation-
10 ship to population;
- 11 (3) the history of and prospects for construction of improvements in
12 the area to be annexed;
- 13 (4) the needs and possibilities for geographical expansion of the city;
- 14 (5) the present and anticipated need for governmental services in the
15 area proposed to be annexed including, but not limited to, water supply,
16 sewage and garbage disposal, zoning, streets and alleys, curbs, sidewalks,
17 police and fire protection, playgrounds, parks and other municipal serv-
18 ices, and transportation and drainage;
- 19 (6) the relative capabilities of the city, county and other political sub-
20 divisions in the area sought to be annexed to provide or obtain govern-
21 mental services when needed;
- 22 (7) the existence of benefit districts within the area proposed to be
23 annexed, and the impact of annexation upon such districts;
- 24 (8) the elimination of isolated unincorporated areas existing without
25 adequate economical governmental services;
- 26 (9) the immediate and potential revenues that would be derived by
27 the city as a result of annexation, and their relation to the cost of providing
28 service to the area;
- 29 (10) the adequacy of the service extension plan; and
- 30 (11) any other factor deemed necessary by the commission.

31 (d) The boundary commission shall review the service extension plan
32 of the city to determine if it provides, in a timely manner, for the adequate
33 extension of city services to the area proposed to be annexed. The com-
34 mission shall review the services currently provided to the area proposed
35 to be annexed and the cost of providing such services. The commission
36 shall adopt a deannexation plan if services are not provided as proposed
37 under the service extension plan.

38 (e) The boundary commission shall make its determination either ap-
39 proving or disapproving the annexation, or a portion thereof, within 90
40 days of the appointment of the first member of the boundary commission.
41 The commission specifically shall state its reasons and findings for its
42 determination. Such findings need not include specific data on every find-
43 ing made, but shall indicate that all factors listed in subsection (c) were

1 considered. A copy of the commission's determination shall be filed with
2 the mayor of the city seeking to make such annexation and with the board
3 of county commissioners.

4 (f) The city may annex the land sought to be annexed to the extent
5 approved by the boundary commission under subsection (d).

6 (g) All costs incurred pursuant to this section shall be paid by the city
7 if the annexation is not approved. If the annexation of a part, but not all,
8 of the land sought to be annexed is approved by the boundary commis-
9 sion, the city shall pay costs in an amount which is proportionate to the
10 amount approved to be annexed. All costs incurred pursuant to this sec-
11 tion shall be paid by the landowners whose land is annexed pursuant to
12 the approval of the boundary commission.

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

14 (a) ~~Except as hereinafter provided,~~ *Subject to the provisions of section 1,*
15 *and amendments thereto,* the governing body of any city, by ordinance,
16 may annex land to such city if any one or more of the following conditions
17 exist:

18 (1) The land is platted, and some part of the land adjoins the city.

19 (2) The land is owned by or held in trust for the city or any agency
20 thereof.

21 (3) The land adjoins the city and is owned by or held in trust for any
22 governmental unit other than another city, except that no city may annex
23 land owned by a county which has primary use as a county-owned and
24 operated airport, or other aviation related activity or which has primary
25 use as a county owned and operated zoological facility, recreation park or
26 exhibition and sports facility without the express permission of the board
27 of county commissioners of the county.

28 (4) The land lies within or mainly within the city and has a common
29 perimeter with the city boundary line of more than 50%.

30 (5) The land if annexed will make the city boundary line straight or
31 harmonious and some part thereof adjoins the city, except no land in
32 excess of 21 acres shall be annexed for this purpose.

33 (6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins the
34 city, except no tract in excess of 21 acres shall be annexed under this
35 condition.

36 (7) The land adjoins the city and a written petition for or consent to
37 annexation is filed with the city by the owner.

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

41 (c) No city may annex, pursuant to this section, any improvement
42 district incorporated and organized pursuant to K.S.A 19-2753 *et seq.*,
43 and amendments thereto, or any land within such improvement district.

1 The provisions of this subsection shall apply to such improvement districts
2 for which the petition for incorporation and organization was presented
3 on or before January 1, 1987.

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

7 (e) Whenever any city annexes any land under the authority of par-
8 agraph 2 of subsection (a) which does not adjoin the city, tracts of land
9 adjoining the land so annexed shall not be deemed to be adjoining the
10 city for the purpose of annexation under the authority of this section until
11 the adjoining land or the land so annexed adjoins the remainder of the
12 city by reason of the annexation of the intervening territory.

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

17 (g) The governing body of any city by one ordinance may annex one
18 or more separate tracts or lands each of which conforms to any one or
19 more of the foregoing conditions. The invalidity of the annexation of any
20 tract or land in one ordinance shall not affect the validity of the remaining
21 tracts or lands which are annexed by the ordinance and which conform
22 to any one or more of the foregoing conditions.

23 ~~(h) Any owner of land annexed by a city under the authority of this~~
24 ~~section, within 30 days next following the publication of the ordinance~~
25 ~~annexing the land, may maintain an action in the district court of the~~
26 ~~county in which the land is located challenging the authority of the city~~
27 ~~to annex the land *whether the annexation was reasonable* and the regu-~~
28 ~~larity of the proceedings had in connection therewith.~~

29 **[New Sec. 3. For the first five years following the annexation**
30 **of land under the authority of K.S.A. 12-520, and amendments**
31 **thereto, any revenue attributable to the increase in the tax liability**
32 **of owners of land within the area annexed as a result of taxes im-**
33 **posed by the city shall be expended solely for the purpose of pro-**
34 **viding services and improvements in the annexed area.]**

35 ~~—Sec. 3.—K.S.A. 12-520 is hereby repealed.~~

36 **[Sec. 4. K.S.A. 12-520a is hereby amended to read as follows:**
37 **12-520a. (a) The governing body of any city desiring to annex land**
38 **under the authority of K.S.A. 12-520, and amendments thereto,**
39 **shall adopt a resolution stating that the city is considering the an-**
40 **nexation of the land. The resolution shall:**

41 **[(1) Give notice that a public hearing will be held to consider**
42 **the annexation of the land and fix the date, hour and place of the**
43 **public hearing. Unless the governing body of the city determines**

1 adequate facilities are not available, the public hearing shall be
2 held at a site located in or as near as possible to the area proposed
3 to be annexed. The hearing shall be held at the time determined
4 by the governing body to be the most convenient for the greatest
5 number of interested persons;

6 [(2) describe the boundaries of the land proposed to be an-
7 nexed; and

8 [(3) state that the plan of the city for the extension of services
9 to the area proposed to be annexed, which is required under the
10 provisions of K.S.A. 12-520b, and amendments thereto, is available
11 for inspection during regular office hours in the office of the city
12 clerk.

13 [(b) The date fixed for the public hearing shall be not less than
14 60 nor more than 70 days following the date of the adoption of the
15 resolution fixing the date of the hearing.

16 [(c) A copy of the resolution providing for the public hearing
17 shall be mailed by certified mail to each owner of land proposed
18 to be annexed not more than 10 days following the date of the
19 adoption of the resolution. The resolution shall be published in the
20 official newspaper of the city not less than one week and not more
21 than two weeks preceding the date fixed for the public hearing. A
22 sketch clearly delineating the area in such detail as may be nec-
23 essary to advise the reader of the particular land proposed to be
24 annexed shall be published with the resolution. A copy of such
25 sketch also shall be mailed to the owner of the property with the
26 resolution.

27 [(d) A copy of the resolution providing for the public hearing
28 shall be sent by certified mail not more than 10 days following the
29 date of the adoption of the resolution to:

30 [(1) The board of county commissioners;

31 [(2) the governing body of the township where the land to be
32 annexed is located;

33 [(3) any special assessment district or governmental unit pro-
34 viding municipal services to the area proposed to be annexed in-
35 cluding, but not limited to, sewer districts, rural water districts,
36 fire districts or improvement districts;

37 [(4) any utilities having facilities within the area proposed to
38 be annexed;

39 [(5) the governing body of any school district in the area pro-
40 posed to be annexed;

41 [(6) any city, county, township or joint planning commission
42 having jurisdiction over the area proposed to be annexed; and

43 [(7) any other political or taxing subdivision located within the

1 **area proposed to be annexed.**

2 [(e) At the public hearing, a representative of the city shall
3 present the city's proposal for annexation, including the plan of
4 the city for the extension of services to the area proposed to be
5 annexed. Following the explanation, all interested persons shall be
6 given an opportunity to be heard. The governing body may recess,
7 for good cause shown, the hearing to a time and date certain,
8 which shall be fixed in the presence of persons in attendance at
9 the hearing.

10 [At such hearing or at any continuation of such hearing, the city
11 shall determine the advisability of the annexation of land in a fire
12 district. As a guide in determining the advisability of such annexa-
13 tion, the city's considerations shall include, but not be limited to, the:

14 ~~[(1) Response time of the city and the fire district to the area pro-~~
15 ~~posed to be annexed;~~

16 ~~[(2) impact on the fire district from the decrease in its tax base if the~~
17 ~~annexation is approved;~~

18 ~~[(3) impact on the city's provision of fire service if the annexation is~~
19 ~~disapproved;~~

20 ~~[(4) impact on the residents of the area if the annexation is approved;~~
21 ~~and~~

22 ~~[(5) impact on the remainder of the fire district if the annexation is~~
23 ~~approved. **city shall consider the:**~~

24 [(1) *Extent to which any of the area is land devoted to agricultural*
25 *use;*

26 [(2) *area of platted land relative to unplatted land;*

27 [(3) *topography, natural boundaries, storm and sanitary sewers,*
28 *drainage basins, transportation links or any other physical characteristics*
29 *which may be an indication of the existence or absence of common interest*
30 *of the city and the area proposed to be annexed;*

31 [(4) *extent and age of residential development in the area to be an-*
32 *nexed and adjacent land within the city's boundaries;*

33 [(5) *present population in the area to be annexed and the projected*
34 *population growth during the next five years in the area proposed to be*
35 *annexed;*

36 [(6) *extent of business, commercial and industrial development in the*
37 *area;*

38 [(7) *present cost, methods and adequacy of governmental services and*
39 *regulatory controls in the area;*

40 [(8) *proposed cost, extent and the necessity of governmental services*
41 *to be provided by the city proposing annexation and the plan and schedule*
42 *to extend such services;*

43 [(9) *tax impact upon property in the city and the area;*

1 [(10) extent to which the residents of the area are directly or indirectly
2 dependent upon the city for governmental services and for social, eco-
3 nomic, employment, cultural and recreational opportunities and
4 resources;

5 [(11) effect of the proposed annexation on the city and other adjacent
6 areas, including, but not limited to, other cities, sewer and water districts,
7 improvement districts, townships or industrial districts and, subject to the
8 provisions of K.S.A. 12-521a, and amendments thereto, fire districts;

9 [(12) existing petitions for incorporation of the area as a new city or
10 for the creation of a special district;

11 [(13) likelihood of significant growth in the area and in adjacent areas
12 during the next five years;

13 [(14) effect of annexation upon the utilities providing services to the
14 area and the ability of those utilities to provide those services shown in
15 the detailed plan;

16 [(15) economic impact on the area; and

17 [(16) wasteful duplication of services.

18 **[(f) No resolution, notice and public hearing required under**
19 **the provisions of this section shall be required as a prerequisite to**
20 **the annexation of land owned by or held in trust for the city or any**
21 **agency thereof or land all of the owners of which petition for or**
22 **consent thereto in writing.**

23 **[(g) Any resolution, adopted pursuant to this section, which in-**
24 **cludes territory subsequently incorporated pursuant to K.S.A. 15-**
25 **115 et seq., and amendments thereto, shall be invalid.**

26 **[New Sec. 5. Any owner of land annexed by a city under the**
27 **authority of K.S.A. 12-520, and amendments thereto, and any city**
28 **whose nearest boundary line is located within ½ mile of the land**
29 **being so annexed, within 30 days next following the publication of**
30 **the ordinance annexing the land, may maintain an action in district**
31 **court of the county in which the land is located challenging the**
32 **authority of the city to annex the land, whether the annexation was**
33 **reasonable and the regularity of the proceeding had in connection**
34 **therewith. When determining the reasonableness of an annexation**
35 **in the case of a city challenging the annexation, the court shall**
36 **include in its considerations the effect the annexation has on the**
37 **future growth of the city challenging the annexation.**

38 **[Sec. 6. K.S.A. 12-520 and 12-520a are hereby repealed.]**

39 **Sec. 4 [7]. This act shall take effect and be in force from and after**
40 **its publication in the statute book.**