

## HOUSE BILL No. 2031

By Special Committee on Eminent Domain in Condemnation of  
Water Rights

1-20

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10 AN ACT concerning annexation of territory by cities; amending K.S.A.  
11 12-519 and 12-521 and repealing the existing sections.

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

14 Section 1. K.S.A. 12-519 is hereby amended to read as follows: 12-  
15 519. As used in this act: (a) "Tract" means a single unit of real property  
16 under one ownership, outside the corporate limits of a city, which may  
17 be platted or unplatted, title to which is publicly or privately held by an  
18 owner as defined by subsection (c).

19 (b) "Land" means a part of a tract or one or more tracts.

20 (c) "Owner" means the one who has record title to a tract. In the  
21 event two or more persons have record title to a tract, "owner" shall be  
22 defined as follows:

23 (1) If joint tenants, "owner" means a majority of the number of joint  
24 tenants; (2) if tenants in common, "owner" means both a majority of the  
25 number of tenants in common and the holders of a majority of the un-  
26 divided interests in the tract; (3) if the tract is held by a life tenant and a  
27 remainderman, "owner" means the life tenant; (4) if the tract is held by  
28 a tenant under a recorded lease providing for a lease term of 10 years or  
29 longer and a remainderman, "owner" means both such tenant and re-  
30 mainderman; (5) if one holds title to the surface and another holds title  
31 to the minerals, "owner" means the surface title holder.

32 (d) "Adjoins" means to lie upon or touch (1) the city boundary line;  
33 or (2) a highway, railway or watercourse which lies upon the city boundary  
34 line and separates such city and the land sought to be annexed by only  
35 the width of such highway, railway or watercourse.

36 (e) "Platted" means a tract or tracts mapped or drawn to scale, show-  
37 ing a division or divisions thereof, which map or drawing is filed in the  
38 office of the register of deeds by the owner of such tract.

39 (f) "Land devoted to agricultural use" means land which is devoted  
40 to the production of plants, animals or horticultural products, including  
41 but not limited to: Forages; grains and feed crops; dairy animals and dairy  
42 products; poultry and poultry products; beef cattle, sheep, swine and  
43 horses; bees and apiary products; trees and forest products; fruits, nuts

1 and berries; vegetables; or nursery, floral, ornamental and greenhouse  
2 products. Land devoted to agricultural use shall not include those lands  
3 which are used for recreational purposes, suburban residential acreages,  
4 rural home sites or farm home sites and yard plots whose primary function  
5 is for residential or recreational purposes even though such properties  
6 may produce or maintain some of those plants or animals listed in the  
7 foregoing definition.

8 (g) *“Qualified elector” means any person registered to vote who re-*  
9 *sides within the area proposed to be annexed under the provisions of*  
10 *K.S.A. 12-521, and amendments thereto, and any nonresident landowners*  
11 *who would otherwise be a qualified elector.*

12 (h) *“Area proposed to be annexed” means the area approved for an-*  
13 *nexation by the board of county commissioners under provisions of K.S.A.*  
14 *12-521, and amendments thereto.*

15 ~~(g)~~ (i) *“Watercourse” means a natural or manmade course where wa-*  
16 *ter may flow on a regular or intermittent basis; a watercourse shall not*  
17 *include a natural or manmade lake, pond or other impoundment of five*  
18 *or more acres of surface area.*

19 Sec. 2. K.S.A. 12-521 is hereby amended to read as follows: 12-521.

20 (a) Whenever the governing body of any city deems it advisable to annex  
21 land which such city is not permitted to annex under K.S.A. 12-520, and  
22 amendments thereto, or if the governing body of any city is permitted to  
23 annex land under K.S.A. 12-520, and amendments thereto, but deems it  
24 advisable not to annex thereunder, the governing body may annex such  
25 land as provided by this section. The governing body, in the name of the  
26 city, may present a petition to the board of county commissioners of the  
27 county in which the land sought to be annexed is located. The petition  
28 shall set forth a legal description of the land sought to be annexed and  
29 request a public hearing on the advisability of such annexation. The gov-  
30 erning body of such city shall make plans for the extension of services to  
31 the tract of land proposed to be annexed and shall file a copy thereof with  
32 the board of county commissioners at the time of presentation of the  
33 petition. Such report shall include:

34 (1) A sketch clearly delineating the land proposed to be annexed and  
35 the area of the city adjacent thereto to show the following information:

36 (A) The present and proposed boundaries of the city affected by such  
37 proposed annexation;

38 (B) the present streets, water mains, sewers and other city utility  
39 lines, and the proposed extension thereto;

40 (C) the general land use pattern in the areas to be annexed.

41 (2) A statement setting forth a plan of sufficient detail to provide a  
42 reasonable person with a full and complete understanding of the inten-  
43 tions of the city for extending to the area to be annexed each major

1 municipal service provided to persons and property located within the  
2 city and area proposed to be annexed at the time of annexation and the  
3 estimated cost of providing such services. The plan shall state the esti-  
4 mated cost impact of providing such services to the residents of the city  
5 and the residents of the area proposed to be annexed. The plan shall state  
6 the method by which the city plans to finance the extension of such serv-  
7 ices to such area. The plan shall include a timetable for the extension of  
8 major municipal services to the area proposed to be annexed. The plan  
9 shall state the means by which the services currently provided by a town-  
10 ship or special district in the area to be annexed shall be maintained by  
11 the city at a level which is equal to or better than the level of services  
12 provided prior to annexation. The plan shall state those services which  
13 shall be provided immediately upon annexation and those services which  
14 may be provided upon petition of the landowners to create a benefit  
15 district.

16 (b) The date fixed for the public hearing shall be not less than 60 nor  
17 more than 70 days following the date of the presentation of the petition  
18 requesting such hearing. Notice of the time and place of the hearing,  
19 together with a legal description of the land sought to be annexed and  
20 the names of the owners thereof, shall be published in a newspaper of  
21 general circulation in the city not less than one week and not more than  
22 two weeks preceding the date fixed for such hearing.

23 A copy of the notice providing for the public hearing shall be mailed  
24 by certified mail to each owner of the land proposed to be annexed not  
25 more than 10 days following the date of the presentation of the petition  
26 requesting such hearing.

27 A sketch clearly delineating the area in such detail as may be necessary  
28 to advise the reader of the particular land proposed to be annexed shall  
29 be published with such notice and a copy thereof mailed to the owner of  
30 the property with such notice.

31 The board for good cause shown may continue the hearing beyond the  
32 time specified in the notice without further publication.

33 (c) On the day set for hearing, the board of county commissioners  
34 shall hear testimony as to the advisability of such annexation, and a rep-  
35 resentative of the city shall present the city's proposal for annexation,  
36 including the plan of the city for the extension of services to the area  
37 proposed to be annexed.

38 The action of the board of county commissioners shall be quasi-judicial  
39 in nature. The board of county commissioners shall consider the impact  
40 of approving or disapproving the annexation on the entire community  
41 involved, including the city and the land proposed to be annexed, in order  
42 to insure the orderly growth and development of the community. The  
43 board shall make specific written findings of fact and conclusions deter-

1 mining whether such annexation or the annexation of a lesser amount of  
2 such area causes manifest injury to the owners of any land proposed to  
3 be annexed, or to the owners of land in areas near or adjacent to the land  
4 proposed to be annexed or to the city if the annexation is disapproved.  
5 The findings and conclusions shall be based upon the preponderance of  
6 evidence presented to the board. In determining whether manifest injury  
7 would result from the annexation, the board's considerations shall include,  
8 but not be limited to, the extent to which the following criteria may affect  
9 the city, the area to be annexed, the residents of the city and the area to  
10 be annexed, other governmental units providing services to the area to  
11 be annexed, the utilities providing services to the area to be annexed, and  
12 any other public or private person, firm or corporation which may be  
13 affected thereby:

- 14 (1) Extent to which any of the area is land devoted to agricultural  
15 use;
- 16 (2) area of platted land relative to unplatted land;
- 17 (3) topography, natural boundaries, storm and sanitary sewers, drain-  
18 age basins, transportation links or any other physical characteristics which  
19 may be an indication of the existence or absence of common interest of  
20 the city and the area proposed to be annexed;
- 21 (4) extent and age of residential development in the area to be an-  
22 nexed and adjacent land within the city's boundaries;
- 23 (5) present population in the area to be annexed and the projected  
24 population growth during the next five years in the area proposed to be  
25 annexed;
- 26 (6) the extent of business, commercial and industrial development in  
27 the area;
- 28 (7) the present cost, methods and adequacy of governmental services  
29 and regulatory controls in the area;
- 30 (8) the proposed cost, extent and the necessity of governmental serv-  
31 ices to be provided by the city proposing annexation and the plan and  
32 schedule to extend such services;
- 33 (9) tax impact upon property in the city and the area;
- 34 (10) extent to which the residents of the area are directly or indirectly  
35 dependent upon the city for governmental services and for social, eco-  
36 nomic, employment, cultural and recreational opportunities and  
37 resources;
- 38 (11) effect of the proposed annexation on the city and other adjacent  
39 areas, including, but not limited to, other cities, sewer and water districts,  
40 improvement districts, townships or industrial districts and, subject to the  
41 provisions of K.S.A. 12-521a, fire districts;
- 42 (12) existing petitions for incorporation of the area as a new city or  
43 for the creation of a special district;

1 (13) likelihood of significant growth in the area and in adjacent areas  
2 during the next five years; and

3 (14) effect of annexation upon the utilities providing services to the  
4 area and the ability of those utilities to provide those services shown in  
5 the detailed plan.

6 (d) The board of county commissioners shall render a judgment  
7 within seven days after the hearing has been adjourned sine die. If a  
8 majority of the board of county commissioners concludes that the annex-  
9 ation or any part thereof should be allowed, the board shall so find and  
10 grant the annexation by order; and thereupon the city may annex the land  
11 by ordinance. Orders of the board of county commissioners denying the  
12 petition or a part thereof for annexation shall require a majority vote of  
13 the members of the board. When an order denying a petition or part  
14 thereof is issued, it shall be by resolution, which shall be sent by certified  
15 mail to the city proposing the annexation. All orders of the board of county  
16 commissioners granting or denying petitions for annexation shall be  
17 spread at length upon the journal of proceedings of the board. The failure  
18 of such board to spread an order granting annexation upon the journal  
19 shall not invalidate such order.

20 (e) *Within 10 days following the rendering of the judgment of the*  
21 *board of county commissioners as provided in subsection (d), the city clerk*  
22 *shall certify to the county election officer a legal description and a map*  
23 *of the area outside the corporate limits of the city proposed to be annexed*  
24 *and the street addresses of all real estate located therein. The county*  
25 *election officer shall conduct a mail ballot election under the provisions*  
26 *of K.S.A. 25-431, et seq., and amendments thereto, in the area proposed*  
27 *to be annexed within 60 days of such certification. If a majority of the*  
28 *qualified electors residing in the area proposed to be annexed and voting*  
29 *thereon approve the annexation, the city may annex the land by passage*  
30 *of an ordinance. If a majority of the qualified electors residing in the area*  
31 *proposed to be annexed and voting thereon reject the annexation, the*  
32 *lands shall not be annexed and the city may not propose the annexation*  
33 *of any such lands in the proposed area for at least four years from the*  
34 *date of the election.*

35 ~~(e)~~ (f) Any owner of land annexed pursuant to this section or the city  
36 aggrieved by the decision of the board of county commissioners may  
37 appeal the decision of the board to the district court of the same county  
38 in the manner and method set forth in K.S.A. 19-223, and amendments  
39 thereto. Nothing in this subsection shall be construed as granting the  
40 owner of land in areas near or adjacent to land annexed pursuant to this  
41 section the right to appeal the decision of the board of county commis-  
42 sioners. Any city so appealing shall not be required to execute the bond  
43 prescribed therein.

- 1     Sec. 3. K.S.A. 12-519 and 12-521 are hereby repealed.
- 2     Sec. 4. This act shall take effect and be in force from and after its
- 3     publication in the statute book.