

## SENATE BILL No. 332

By Committee on Ways and Means

4-29

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9 AN ACT concerning annexation; relating to lands located within the ter-  
10 ritory of a rural water district; repealing K.S.A. 12-527.

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

13 Section 1. Not less than 30 days before the effective date of any  
14 ordinance annexing land into the boundaries of any city:

15 (a) The city shall give written notice to any rural water district organ-  
16 ized pursuant to K.S.A. 82a-612 et seq., and amendments thereto, in  
17 whose territory the land or any portion thereof is located of the city's  
18 intent to annex such land; and

19 (b) the notice shall contain the description of the land to be annexed  
20 and the city's plan for the provision of water service to the land being  
21 annexed.

22 Sec. 2. Following annexation of rural water district territory by a city,  
23 the city and the district may contract for the district to provide water  
24 service to all or certain portions of the annexed area. If the agreement  
25 includes a provision for the payment of a franchise fee to the city, such  
26 agreement shall be subject to the provisions of K.S.A. 12-2001 et seq.,  
27 and amendments thereto.

28 Sec. 3. (a) Following annexation, the rural water district shall remain  
29 the water service provider to the annexed area unless the city gives written  
30 notice designating a different supplier. If the city designates a different  
31 supplier, the city shall purchase the property, facilities and improvements  
32 of the district located within the territory annexed by the city. If an agree-  
33 ment for the purchase of such property, facilities and improvements of  
34 the district annexed by the city is not executed within 90 days after de-  
35 livery of the notice designating a different supplier, the city and the rural  
36 water district in good faith shall engage in mediation. Unless an agree-  
37 ment is executed, no change in water service provider shall occur and no  
38 appraisers shall be appointed until more than 120 days after delivery of  
39 the notice of intent to change the water supplier and the mediation has  
40 been terminated.

41 (b) If the district and the city are unable to reach agreement on the  
42 reasonable value for such property, facilities and improvements, then the  
43 reasonable value shall be determined in the following manner:

- 1 (1) The district and the city shall each select one qualified appraiser  
2 and the two appraisers so selected shall then select a third appraiser for  
3 the purpose of conducting an appraisal to determine reasonable value of  
4 the property, facilities and improvements of the district annexed by the  
5 city. The appraisers shall consider all elements of value, employing any  
6 method of valuation the appraisers deem appropriate and shall specifically  
7 consider the following factors in determining reasonable value:
- 8 (A) Whether any property of the district is rendered useless or val-  
9 ueless to the district;
  - 10 (B) the amount of damage to property remaining in the ownership  
11 of the district following annexation;
  - 12 (C) impact on the existing indebtedness of the district and such dis-  
13 trict's ability to repay that debt;
  - 14 (D) the value of the service facilities of the district located within the  
15 area in question;
  - 16 (E) the amount of any expenditures for planning, design or construc-  
17 tion of service facilities outside the incorporated or annexed area that are  
18 allocable to service to the area in question;
  - 19 (F) the amount of the district's contractual obligations allocable to  
20 the area in question;
  - 21 (G) any demonstrated impairment of service or increase of cost to  
22 consumers of the district remaining after the annexation and the impact  
23 on future revenues lost from existing customers;
  - 24 (H) any necessary and reasonable legal expenses and professional  
25 fees;
  - 26 (I) any factors relevant to maintaining the current financial integrity  
27 of the district; and
  - 28 (J) any other relevant factors.
- 29 (2) The appraisers shall hear such evidence as the appraisers deem  
30 appropriate and shall make a written summary of findings and conclu-  
31 sions. The agreement or decision of at least two of the three appraisers  
32 shall be the fair market value presented to the city for payment and the  
33 district for acceptance.
- 34 (3) If either the district or the city is dissatisfied with the decision of  
35 the appraisers, then the district or the city may appeal within 30 days such  
36 award to the district court. Such appeal shall be heard de novo by the  
37 court without a jury.
- 38 (c) The compensation required by this section shall be paid to the  
39 district whether or not the city actually utilizes the facilities of the district  
40 for the delivery of water to property within the city and shall be paid at  
41 a time not later than 120 days following the date upon which the fair  
42 market value of the facilities are certified to the city and to the district,  
43 or at such later date as may be mutually agreed upon by the city and the

1 district or as may be determined by the district court.

2 (d) In any event, the district may elect to retain facilities located  
3 within the city used for transmission of water to be used for providing  
4 water service outside the city.

5 (e) Except as otherwise provided, nothing in this section shall be con-  
6 strued as limiting the authority of a city to select water service suppliers  
7 to areas within the city limits, or to limit the authority of a city to adopt  
8 and enforce regulations for the operation of a water service supplier,  
9 including, but not limited to, standards of water quality, classification of  
10 water customers, capacity of water system, water system connections to  
11 sanitary sewer systems, rates and billing practices and other regulations  
12 for protection of the public health, safety and welfare.

13 (f) In the event that a district will no longer be the water supplier to  
14 land as a result of annexation and notice pursuant to subsection (a), the  
15 district shall continue to provide such service until the city gives notice  
16 of its assumption of responsibility for service, designating the date that  
17 the service shall transfer to the supplier designated by the city. The dis-  
18 trict and the city shall cooperate as necessary to minimize the inconven-  
19 ience to water customers as a result of the transfer. The city shall give  
20 written notice to each customer of the district for whom water service is  
21 being transferred specifying the name and address of the new supplier,  
22 the effective date of the transfer, the reason for the transfer and a sched-  
23 ule of applicable rates. Except for violation of district by-laws or rules and  
24 regulations, the district shall not discontinue or limit service to customers  
25 who were supplied water by the district at the time of annexation during  
26 the period of negotiations conducted pursuant to this section.

27 (g) Following the transfer of water service from the district to the  
28 city, the annexed land, or amount of such land for which water service  
29 has been transferred to the city, shall be deleted from the territory of the  
30 district and all benefit units attached to land located therein shall be  
31 canceled without compensation. Notice of such deletion of territory shall  
32 be provided to the county clerk and the chief engineer of the division of  
33 water resources of the department of agriculture.

34 Sec. 4. K.S.A. 12-527 is hereby repealed.

35 Sec. 5. This act shall take effect and be in force from and after its  
36 publication in the statute book.