

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on February 23, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Holmes (excused)

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Representative Marvin Smith
Jerry Harter, Jackson County Commissioner
Anne Smith, Kansas Association of Counties
Ron Robinson, resident of Topeka
Vernon Jarboe, Topeka City Attorney

Others attending: See Guest List ([Attachment 1](#)).

The Chairman opened the hearing on **HB 2333**, regarding townships and qualifications of officers. Representative Marvin Smith testified in favor of the bill (see [Attachment 2](#)). Committee members raised questions about prohibiting township officers from also holding part-time county employment, such as a road overseer which is authorized by Chapter 68. Representative Wootton also questions its constitutionality. Representative Smith stated that Shawnee County has active township officers that would like to be part-time employees. Mike Heim reminded members of the statutory prohibitions concerning incompatibility of offices.

There being no others present to testify, the hearing on **HB 2333** was closed.

Chairman Brown then opened the hearing on **HB 2334**, concerning counties and eligibility for office of county commissioner. Representative Smith testified in favor of the bill (see [Attachment 3](#)).

Jerry Harter, Jackson County Commissioner, testified in favor of **HB 2334** (see [Attachment 4](#)).

Anne Smith, Kansas Association of Counties, spoke of the Association's concerns on the bill, saying that it is not fair to cause an employee to resign a position in order to run for an office.

There being no others present to testify on the bill; the hearing on **HB 2334** was closed.

The Chairman opened the hearing on **HB 2337**, concerning eligibility for office of county commissioner. Representative Marvin Smith testified in favor of the bill (see [Attachment 5](#)). Mike Heim reported there are some 130 Attorney General Opinions regarding incompatibility of office. Counties, under Home Rule, could prohibit the holding of paid employment and running for an elected office. Committee members expressed concern with the proposition to infringe on the rights of an individual who wishes to run for elected office while employed by the county.

There were no others present to testify on the bill, therefore the hearing on **HB 2337** was closed.

Representative Marvin Smith testified in behalf of **HB 2339** concerning eligibility for office of township trustee, clerk and treasurer (see [Attachment 6](#)).

There were no others present to testify on the bill; the hearing on **HB 2339** was closed.

Representative Packer testified in support of **HB 2468**, concerning annexation; limiting cities' ability to annex land subject to previous annexation attempt. Representative Mays questioned whether the reason for the legislation was the Topeka/Lake Sherwood annexation situation which has been forestalled by court action. Representative Alldritt suggested an unsuccessful annexation bid probably could be undertaken in less than five years by simply redefining the area for annexation. Mike Heim, Legislative Research Department staff member, described the various methods of annexation now provided by the statutes.

Ron Robinson, of Topeka, testified in support of **HB 2468** (see Attachment 7). Written testimony in support of the bill of Bernard St. Louis, Jr., of Topeka, was distributed to committee members (see Attachment 8).

Vernon Jarboe, Topeka City Attorney, testified in opposition to **HB 2468** (see Attachment 9). He stated he believes the bill is a single issue, single area bill for Lake Sherwood citizens near Topeka. The Chairman advised him that the bill is a statewide proposal.

Chris McKenzie, of the League of Kansas Municipalities, then presented the League's policy regarding annexation and stated the League's opposition to **HB 2468** (Attachment 10).

The Chairman then opened the hearing on **HB 2467**, concerning incorporation of a city; approval by board of county commissioners. Chris McKenzie, League of Kansas Municipalities, expressed concerns about the bill (see Attachment 11) and advised caution in considering changes advocated in the bill. He will provide the Committee with a complete copy of the League's bulletin concerning cities and incorporation.

Representative Packer testified that concerns relating to the quality of public services (such as fire and medical services) were manifested by the two previous attempts of Topeka to annex the Lake Sherwood area. Cline Foust of Topeka, presented testimony in opposition to the bill.

Vernon Jarboe, Topeka City Attorney, spoke in opposition to **HB 2467** (see Attachment 9).

Clyne Foust, of Topeka, testified in favor of **HB 2467** (see Attachment 12).

No others were present to testify on the bill; therefore the hearing on **HB 2467** was closed.

The committee then discussed **HB 2419** and its recommended amendments to the bill (see Attachment 13); which corrects an internal cross-reference; struck out language concerning quasi official actions; and required more information to be considered in the process. After discussion, on motion of Representative Tomlinson, seconded by Representative Toplikar, the Committee voted to pass **HB 2419**, as amended.

Chairman Brown brought forth **HB 2226** for discussion and possible action. Suggested amendments made earlier by the Committee were discussed (see proposed amendments, Attachment 14). One amendment strikes language to the effect that budgets will be approved by the elected body, and changed to require that Recreation Departments will send budgets and audits to the County Clerk's Office, who in turn will file them with the State Division of Accounts and Reports. After considerable discussion, on motion of Representative Powers, seconded by Representative Macy, the Committee passed **HB 2226**, as amended.

The meeting was adjourned at 3:30 p.m. The next meeting is scheduled at 1:30 p.m., February 24, 1993, in Room 521-S of the State Capitol.

23,

[illegible]

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617-2209
(913) 484-3417

CAPITOL—ROOM 115-S
TOPEKA, KS 66612-1504
(913) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: GOVERNMENTAL ORGANIZATION
& ELECTIONS
MEMBER: EDUCATION
TRANSPORTATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES & REGULATIONS

February 23, 1993

HOUSE COMMITTEE ON LOCAL GOVERNMENT

HB 2333

Madam Chair and Members of the Committee:

Thank you for having a hearing on HB 2333 today.

This proposed legislation adds qualifications to holding the office of township trustee, clerk, or treasurer. In essence this proposal states on lines 23 through 25 that no employee of any township shall be eligible to hold the office of either trustee, clerk, or treasurer.

Many people believe that an employee has a conflict of interest to serve on the township board that sets policy, salaries, benefits and all other management decisions for the taxpayers of the township.

I would urge your favorable consideration of HB 2333.

ATTACHMENT 2

2-23-93

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617-2209
(913) 484-3417
CAPITOL—ROOM 115-S
TOPEKA, KS 66612-1504
(913) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: GOVERNMENTAL ORGANIZATION
& ELECTIONS
MEMBER: EDUCATION
TRANSPORTATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES & REGULATIONS

February 23, 1993

HOUSE COMMITTEE ON LOCAL GOVERNMENT

HB 2334

Madam Chair and Members of the Committee:

I appreciate and thank you for having a hearing today on HB 2334.

This proposal would amend KSA 19-205 to include another requirement to be eligible for the office of County Commissioner. The proposed change is on line 15 that also NO person that is an employee of such county shall be eligible to the office of County Commissioner.

As recent as the 1992 election, a county road employee was on the ballot for County Commissioner.

Once again, surely an employee of a county would have a conflict of interest on setting policy, salaries, benefits and other decisions that impact taxpayers and good management.

I would urge your favorable consideration of HB 2334.

ATTACHMENT 3
2-23-93

RE: HB 2334

KSA 19-205

My name is Jerry Harter. I am a Jackson County Commissioner.

My opponent during the general election campaign was an employee of Jackson County. I did not feel that this was a good situation in that it made other county employees uneasy in the every day working environment. It also created conflicts between the candidate and his supervisors.

The passage of HB 2334 would eliminate future situations of this type from occurring and would be in the best interest of the general public.

ATTACHMENT 4
2-23-93

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617-2209
(913) 484-3417

CAPITOL—ROOM 115-S
TOPEKA, KS 66612-1504
(913) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: GOVERNMENTAL ORGANIZATION
& ELECTIONS
MEMBER: EDUCATION
TRANSPORTATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES & REGULATIONS

February 23, 1993

HOUSE COMMITTEE ON LOCAL GOVERNMENT

HB 2337

Madam Chair and Members of the Committee:

I do appreciate and thank you for having a hearing today on HB 2337.

This proposal would amend KSA 75-3223 to provide NO member of the board of County Commissioners shall receive compensation from such county for any work or duties performed by such member as any other officer or as an employee of such county.

I believe it is imperative that commissioners that determine policy, salaries, benefits, and county government agenda need to avoid a personal conflict of interest. Also, they should be able to vote on every issue without abstaining because of conflict of interest. The constituents and taxpayers of a county commission district need a vote on every decision!! That also is the reason to have a county commission of either 3 or 5 members to avoid tie votes.

I would urge your favorable consideration of HB 2337.

ATTACHMENT 5
2-23-93

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617-2209
(913) 484-3417

CAPITOL—ROOM 115-S
TOPEKA, KS 66612-1504
(913) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: GOVERNMENTAL ORGANIZATION
& ELECTIONS
MEMBER: EDUCATION
TRANSPORTATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES & REGULATIONS

February 23, 1993

HOUSE COMMITTEE ON LOCAL GOVERNMENT

HB 2339

Madam Chair and Members of the Committee:

I am pleased you scheduled HB 2339 for a hearing today.

This proposal would amend KSA 80-202 to provide NO person holding the office of trustee, clerk or treasurer of any township shall receive compensation from such township for any work or duties performed by such township board member or for any work~~or~~ duties performed as an employee of such township.

Surely a township board member that is an employee of that township has a personal conflict of interest on many of the decisions that the township makes in operation of the township business.

I hope you will give favorable consideration to HB 2339.

ATTACHMENT 6
2-23-93

TESTIMONY BY RON ROBINSON
RESIDING AT
2855 S. W. BINGHAM RD
TOPEKA, KANSAS

I would like to thank the members of this committee for giving me the opportunity to express my viewpoints regarding HB2468.

I strongly support this bill and would like to urge you to do the same. This bill represents a win win situation for all parties concerned. I said all parties concerned and here is why.

As many of you already know, any annexation attempt can get extremely heated on both the cities part and those being annexed. Discussions soon turn to arguments, arguments turn into battles, and the war rages on.

This bill will help both sides by providing a cooling off period. A period where leadership roles may change and opinions may change. This cooling off period could only benefit both sides should another annexation attempt be made.

Secondly, this five year period would help the citizens of both the city and the area to be annexed by reducing the amount of money needed to support an annexation attempt. When a city files for annexation of an area bilaterally they must complete studies demonstrating how they are going to accomplish the annexation and meet the basic criteria as required by law. This process is expensive not only in manpower costs but monetary costs as well. This is money that may be put to better use

ATTACHMENT 7-1
2-23-93

within the city to help fight crime, homeless, and hunger.

Third, the five year waiting period would help those areas being annexed to meet the needs of their residents. For example, when your budget is threatened the local governments of the area to be annexed will not proceed with needed improvements. Two improvements that might be in jeopardy would be fire protection and medical response. No government wants to invest hundreds of thousands of dollars for new equipment and supplies if their source of revenue is in jeopardy. By not investing this money, the citizens are not getting the response and care that they are paying for and deserve. If the local governments know they have five years between attempts, they can then make these purchases and have them paid for before next attempt is made.

This bill in no way prevents annexation. It even enhances the current laws. With this waiting period both sides can make better use of their resources and heaven forbid they may even be able to get together and work out an amicable annexation plan.

Again this bill only enhances the exiting laws and I strongly urge you to lend your support.

ATTACHMENT 7-2
2-23-93

Testimony of Bernard St. Louis, Jr.

February 23, 1993

RE: House Bill No. 2468

My name is Bernie St. Louis and I reside at 3606 SW Blue Inn Court, Topeka, Kansas. I'm here as chairman of Citizens for Mission Township to request your support of House Bill 2468.

I live within the Sherwood Improvement District in Shawnee County which was the target of two annexation attempts by the City of Topeka within a five-year time frame. Although nothing significant about the area proposed for annexation changed, the City's plans for extension of services changed dramatically, with the costs to provide services in their latest plan substantially lower in most categories than in their original plan.

For example, the 1991 plan provided for the acquisition of a site and construction of a fire station at a cost 33% lower than estimated in their 1986 plan. The 1991 plan also provided for 66% less police officers to patrol approximately 40% more area at a cost considerably less than provided for in their 1986 plan.

Current annexation laws do not impose any waiting periods on cities where annexation has been disallowed. The above examples point out that cities can simply revise the plan(s) for annexation to make it appear more attractive, and then reintroduce those plans until they achieve their goals. Annexation opponents get tired of fighting the same battles with the City over poorly reworked plans and, as cities hope, will ultimately give up.

Many of the people that have helped me oppose these annexation attempts have called the City of Topeka's attitude harassment. Even city residents are concerned that their tax dollars are being spent for annexation of areas that the city cannot service adequately, while city residents are not provided the same level of services that are being promised to the proposed areas. Nothing is being done to reduce the tension created

*ATTACHMENT 8-1
2-23-93*

between city and rural neighbors and governments.

House Bill 2468 provides time for cities to re-evaluate their proposals and to correct the shortcomings of their unsuccessful plan(s). It gives the community at large time to find other alternatives, such as sharing in the cost of library services. Also, communities have time to heal from the disharmony created by numerous failed annexation attempts.

On behalf of Citizens for Mission Township, I appreciate your consideration of House Bill 2468 and respectfully request your support.

ATTACHMENT 8-2
2-23-93

TESTIMONY BEFORE HOUSE LOCAL GOVERNMENT COMMITTEE
February 23, 1993

Presented by Vernon L. Jarboe, City Attorney
City of Topeka, Kansas
215 E. 7th St., Suite 353
Topeka, KS 66603
(913) 295-3883

Chairwoman Nancy Brown and members of the House Local Government Committee. My name is Vernon Jarboe, City Attorney for the City of Topeka. I am appearing on behalf of Mayor Butch Felker in opposition to House Bills 2467 and 2468. I will address these Bills together.

Generally these two bills are:

- Unfair to the city which supports the infrastructure and services used by the urbanized, but unincorporated area
- Perpetuates growth of governmental subdivisions, especially in an urban service area
- Further chips away at the annexation powers of cities
- Discourages good planning and sound urban development

We see these bills as directed at the City of Topeka.

Annexation and incorporation issues are complex and far-reaching. If it is the desire of this Committee to open up the annexation process for review, then the entire subject should be looked at rather than piecemeal action. Annexation is important for cities and counties. We suggest you place this issue in an interim committee so we can look at all the relevant issues. Given adequate opportunity, I would request several hours of this committee's time to illustrate for you the breadth of these issues.

House Bill 2467

This Bill creates the potential of islands of small cities along the outskirts of larger cities. The Eastboro situation relative to Wichita illustrates the problems arising from this type of development.

There should be an overriding good reason to allow incorporation of territory within the five mile zone of an existing city. A unanimous vote by the county commission assures that good reasoning, rather than politics or other rationale, is used in consideration of the incorporation request.

There is no good reason to change existing law.

ATTACHMENT 9-1
2-23-93

House Bill 2468

What is magical about five years?

Why should there be an artificial barrier to annexation of a five year waiting period?

Urbanized growth will continue to happen, making the boundary between the city and urbanized area even more artificial.

A cities' ability to annex is already restricted under court decisions and current statute. Annexations are considered under stringent criteria, based on the merits of the proposal, and with the consideration and findings of the county commission under a bi-lateral annexation process.

The most common budgetary suggestion by citizens is consolidation of governmental units. Limits on annexation or piecemeal incorporation perpetuates further an expanded layering of local government. This impedes and blocks whatever efficiencies we can gain by consolidation. These issues are promoted by self-centered protectionists not concerned with the common good.

ATTACHMENT 9-2
2-23-93



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Local Government Committee

FROM: Chris McKenzie, Executive Director

DATE: February 23, 1993

RE: House Bill 2468

Thank you for the opportunity to appear today in opposition to HB 2467. The League's Statement of Municipal Policy addresses the subject of annexation in the following manner:

"Cities are of vital importance to the state and to the general public, both city and non-city residents. Cities are where three-fourths of Kansans live. Cities provide people with a sense of place or community...Cities, through their taxpaying residents, contribute the large bulk of the taxable income and retail sales which support the state general fund. It is contrary to the public interest, to the future economic development of Kansas, and to the long-term interest of the state government itself, to bring about the gradual destruction of cities as viable places to live and work by denying cities adequate power to annex and grow—to make that which is part of the urban community a part of the legal corporate municipality...State laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are becoming urbanized. We believe it is imperative that the legislature retain for cities adequate and workable annexation authority, which will secure the long-term public interest and total community needs. We oppose any legislation that would further restrict the power of cities to annex."

HB 2467 would impose serious restrictions on the ability of cities to petition the board of county commissioners to annex territory not eligible for annexation under KSA 12-520. Five years is an extremely long period of time to prevent a city from addressing the county commission with its proposals to annex areas which are appropriate for annexation. We respectfully submit that county commissions are capable of making informed decisions about such issues.

Thank you.

ATTACHMENT 10
2-23-93



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Local Government Committee

FROM: Chris McKenzie, Executive Director

A handwritten signature in cursive script, reading "Chris McKenzie".

DATE: February 23, 1993

RE: House Bill 2467

Thank you for the opportunity to appear today to express some concerns about HB 2467. As drafted HB 2467 would remove the unanimous vote requirement by the county commission if a city is incorporated within five (5) miles of an existing city. As explained in the attached League Research/Information Bulletin, since 1966 four cities have incorporated--the lowest number for any 25 year period in the state's history. This decline occurred after the enactment of the unanimous vote requirement in 1963 which HB 2467 proposes to repeal.

As we discussed earlier this session, Kansas has one of the highest numbers of local governments in the country. This trend of slowed municipal incorporations is in direct contrast to the trend in Kansas of creating additional local governments.

The basic policy question being raised by this bill is: "Should the legislature relax the procedure for the incorporation of new cities and create an incentive for additional municipal corporations?"

The League's Statement of Municipal Policy addresses this issue as follows:

"State laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are becoming urbanized."

If any new cities are created in Kansas, the League will welcome them into the fold with open arms. We simply advise you to consider the implications of changing a policy which appears to have worked reasonably well since 1963. Caution would appear to be in order.

Encl. RIB No. 567

ATTACHMENT 11-1
2-23-93

RESEARCH / INFORMATION BULLETIN

League of Kansas Municipalities / 112 West Seventh Street / Topeka, Kansas 66603 / 913-354-9565

Vol. XIII, No. 567
June 3, 1991

Incorporation of Cities in Kansas

The trend of new city incorporations in Kansas has declined sharply during the past 25 years. Since January 1, 1966, there have been only five newly formed cities. This is the lowest number for any 25-year period during the history of the state.

The number of Kansas cities, now totaling 627, has increased by a net of four since 1966. While five new cities were formed, the city of Wellsford was disincorporated in 1975.

The slow down in the rate of municipal incorporations in recent years may be contrasted with the incorporation of 28 new cities in the 15-year period of 1946 through 1960. Several of the cities formed during this period were located in the rapidly expanding Johnson county area.

In 1963, the Kansas legislature adopted a new law governing the incorporation of cities which establishes factors to be considered by the board of county commissioners in determining the advisability of ordering an incorporation on petition of the residents of the area. Under K.S.A. 15-123, a unanimous vote of the board of county commissioners is necessary for incorporation of an area within five miles of an existing city. Since the law took effect in 1963, only six new cities have been formed.

The decline in the growth rate in new Kansas cities in recent years has been accompanied by a very slow trend in consolidations or dissolutions. Since 1960, only two cities have been formally disincorporated, with one consolidation. Some legally existing cities are not active public service providers; the 1990 state-certified census reports the existence of 12 cities with a population of less than 50. Following is the list of incorporations since 1930.

Cities Incorporated Since 1930

<u>City</u>	<u>County⁽¹⁾</u>	<u>Date</u>	<u>Population⁽²⁾</u>
Timken	Rush	June 16, 1930	
Radium	Stafford	January 1, 1934	
Leona	Doniphan	April 1934	
Damar	Rooks	February 26, 1935	
Bogue	Graham	March 21, 1935	
Schoenchen	Ellis	September 1935	
Liebenthal	Rush	August 5, 1935	
Eastborough	Sedgwick	June 1, 1935	
Hollenberg	Washington	July 14, 1937	
North Newton	Harvey	September 20, 1938	
Susank	Barton	May 7, 1940	
Gorham	Russell	April 10, 1951	
Zurich	Rooks	August 20, 1946	
Overbrook	Osage	March 8, 1948	

1926--Oakland consolidated with Topeka (February 28; state law)
1960--Provence Village consolidated with Olathe (February 1)

During the past half century, there have been at least four city consolidation proposals which have failed, all in Johnson county. Voters of Mission on September 26, 1953 rejected a proposal to merge with the city of Roeland Park, the vote being 116 yes and 608 no. Voters in Countryside twice turned down merger proposals with the city of Mission. On June 2, 1959 the vote was 57 yes and 140 no. At the August 9, 1960 election the vote was 58 yes and 158 no. At an election held on January 23, 1973, a referendum proposal to consolidate the cities of Westwood and Westwood Hills was defeated.

City Dissolutions

Complete information is not available as to the number of Kansas cities which have been disincorporated or dissolved (excludes consolidations). Part of the uncertainty results from lack of information as to whether some communities which called themselves a "city," were ever actually and legally incorporated. For example, the territorial legislatures before statehood provided for the incorporation of numerous cities, towns and villages, many of which no longer exist and some of which probably never existed as an operating city. While hundreds of so-called "towns" once existed in Kansas, it appears that many of them that disappeared since statehood were probably never legally incorporated as an official governmental unit.

Records of the League of Kansas Municipalities indicate there was at one time an Army City located in Geary county. In 1961 the city of Irving was disincorporated as a result of the area being inundated by the Tuttle Creek dam reservoir. In 1975, the city of Wellsford, located in Kiowa county, was dissolved; Wellsford was incorporated in 1917 and had a population of 17 when disincorporated in 1975.

Dormant Cities

During the history of Kansas, some cities became dormant and were later reactivated. For example, the city of Hugoton was dormant for a number of years and reorganized in 1911. The city of Wallace in Wallace county was reorganized in 1931 after being dormant for 33 years. In 1957, Richfield was reactivated after being dormant for over 60 years. In 1964, Roseland became an active city.

The Chanute Area

A situation in the Chanute area of Neosho county shows some of the dynamics of city formation in earlier days. The city of New Chicago was incorporated in 1870 and in the same year the city of Tioga was also incorporated. Voters in New Chicago dissolved the city with the following result: "For a city"--one; "against a city"--91. The city of Tioga was also dissolved and this entry appears in the 1911 Revised and Compiled Ordinances of the city of Chanute, page viii: "The above officers held their position until the 9th day of December 1872, when the town of Tioga was dissolved as a corporated body by an election held on said date for the purpose of uniting with New Chicago to be incorporated as the city of Chanute." Chanute was incorporated as a city of the third class in January 1873, and encompassed the former cities of Tioga and New Chicago.

City Incorporation by Five-Year Periods

The list below presents the approximate number of city incorporation in each five-year period, and the cumulative totals, since 1855. The figures are approximate up to 1930 since it is based on the incorporation dates of existing cities. Accurate information as to legally incorporated cities in earlier days is unavailable.

ATTACHMENT 11-3
2-23-93

In Favor
H.B. 2467

2/23/93

by: Clyne E Foust

I am Clyne Foust of Topeka speaking in favor of H.B. 2467. I have been involved in an incorporation attempt here in Shawnee County in 1986. It was clear to us that we not only had eight factors that the legislature required our County Commissioners to consider but an additional six factors since we were within a five mile radius of Topeka. That coupled with a requirement of an unanimous vote of the commissioners left us with more than an up-hill battle. Nevertheless, we believed we had a strong case.

As some of you are aware, we received two favorable votes and one against. It was difficult enough meeting the requirements of fourteen factors that the statute set out without the burden of convincing all three commissioners.

The purpose of the statute as it now exists was to require the board of commissioners to decide what was best for the county, to take into consideration the growth, population and expansion of existing cities, and their ability to provide service; to consider the overall orderly and economic development of the county; and to prevent an unreasonable multiplicity of independent municipal governments. The purpose was not to prohibit all incorporations within five miles of a city.

Is the requirement of a unanimous vote rationally related to the objective of the statute? If a majority of the commissioners feel that the incorporation of a new city would not be an unreasonable multiplicity of governments and that fourteen requirements have been

ATTACHMENT 12-1
2-23-93

met, is it rational that one opinion should over-rule the majority? No purpose is served by requiring a unanimous vote after requiring additional factors be met. In fact, a unanimous vote has a retarding effect if the majority of commissioners decide an incorporation would be in the best interests of the community as a whole. How could you function as a committee if bills required your unanimous approval?

The requirement of a unanimous vote is also a method of decision which offends the concept of fundamental fairness. The legislature has set out specific guidelines for the board to consider and then mandates denial under these circumstances by requiring a unanimous vote. This is fundamentally unfair.

The statute as it exists also does not set out the test under which the decision of a single commissioner voting against the majority of the decision of the board can be reviewed on appeal. Although the guideline of "arbitrary, unlawful or capricious" seems to be the test, it should be different if the decision being reviewed was not the decision of the board as a majority. In other words, it seems unfair to have to appeal the decision of one commissioner who may be having a bad day. In our case, the one commissioner's decision did not answer to any of the fourteen requirements we addressed but but simply to her inability to see the future effects of the incorporation. Do you all have a crystal ball?

It is with these questions I ask you to be fair and remember that Cities and Countys where developed to protect the people's well-fair not to self-perpetuate without concern for a better idea. A majority vote requirement is reasonable for our County Commissioners to determine an incorporation request.

ATTACHMENT 12-2
2-23-93

Proposed Amendment
to HB 2419

On page 2, in line 5, by striking "(f)" and inserting "(e)";
in line 7, by striking all after "district"; in line 8, by
striking all before "or";

On page 4, in line 9, by striking all after "district"; by
striking all in line 10; in line 11, by striking all before the
period;

On page 8, in line 6, following "district", by inserting "or
land therein";

HOUSE BILL No. 2226

By Committee on Local Government

2-4

8 AN ACT concerning recreation systems; relating to the governing
9 bodies thereof; relating to the powers and duties thereof; amend-
10 ing K.S.A. 12-1926 and 12-1927 and repealing the existing
11 sections.

and K.S.A. 1992 Supp. 75-1122

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

14 Section 1. K.S.A. 12-1926 is hereby amended to read as follows:
15 12-1926. (a) Except as provided by subsection (b), all recreation
16 commissions shall consist of five members to be appointed as follows:
17 (1) Upon the adoption of the provisions of this act by the city or
18 school district acting independently, the governing body of such city
19 or school district shall appoint four persons who are residents of the
20 taxing district to serve as members of the recreation commission,
21 the first appointee to serve for four years, the second for three years,
22 the third for two years, and the fourth for one year, and the fifth
23 member who also shall serve for four years shall be appointed by
24 the four appointee members of such commission; or (2) upon the
25 adoption of the provisions of this act by the city and school district
26 acting jointly, the governing bodies each shall appoint two persons
27 who are residents of the taxing district to serve as members of the
28 recreation commission, and the persons so selected shall select one
29 additional person, and all of such persons shall constitute the rec-
30 reation commission.

31 Of the members of the commission first selected by the school
32 district, one shall serve for a term of one year, and one for a term
33 of four years; one of those first selected by the governing body of
34 the city shall serve for a term of two years, and one for a term of
35 three years. The additional member shall serve for a term of four
36 years. Thereafter, the members of the commission shall be selected
37 in the same manner as the member such person is succeeding and
38 the term of office of each shall be four years. *Any member of the*
39 *recreation commission may be removed from the commission for any*
40 *cause which would justify removal of an appointive officer of the*
41 *city or school district.* Except for members first appointed to the
42 commission, all commissioners not filling a vacancy shall hold office
43 for a term of four years and until their successors are appointed and

ATTACHMENT 14-1
2-23-93

1 qualified. Whenever a vacancy occurs in the membership of the
2 commission, a successor shall be selected to fill such vacancy in the
3 same manner as and for the unexpired term of the member such
4 person is succeeding. The commission shall elect a chairperson and
5 secretary from their membership. The commissioners are hereby
6 empowered to administer in all respects the business and affairs of
7 the recreation system. The treasurer of the city or school district to
8 which is certified the budget of the recreation commission shall serve
9 as ex officio treasurer of the recreation commission. Such treasurer
10 shall keep an accurate record of all money and property received
11 and disbursed and shall make a report thereof monthly to the com-
12 mission, or as often as the commission requires. Members of the
13 commission and the ex officio treasurer of the commission shall serve
14 without compensation.

15 (b) Any recreation commission established pursuant to K.S.A. 12-
16 1901 *et seq.*, and amendments thereto, prior to the effective date
17 of this act may continue as constituted on the effective date of this
18 act or may, upon a majority vote of the commissioners, reorganize
19 into a five-member commission as provided by subsection (a). If the
20 commission continues as constituted on the effective date of this act,
21 upon the expiration of the term of a member, a person shall be
22 appointed to the commission in the same manner as the member
23 such person is succeeding. The term of office shall be four years.
24 Whenever a vacancy occurs in the membership of the commission,
25 a successor shall be selected to fill such vacancy in the same manner
26 as and for the unexpired term of the member such person is
27 succeeding.

28 Sec. 2. K.S.A. 12-1927 is hereby amended to read as follows:
29 12-1927. (a) The recreation commission shall prepare an annual
30 budget for the operation of the recreation system. Prior to the cer-
31 tification of its budget to the city or school district, the recreation
32 commission shall meet for the purpose of answering and hearing
33 objections of taxpayers relating to the proposed budget and for the
34 purpose of considering amendments to such proposed budget. The
35 recreation commission shall give at least 10 days' notice of the time
36 and place of the meeting by publication in a weekly or daily news-
37 paper having a general circulation in the taxing district. Such notice
38 shall include the proposed budget and shall set out all essential items
39 in the budget except such groupings as designated by the director
40 of accounts and reports on a special publication form prescribed by
41 the director of accounts and reports and furnished with the regular
42 budget form. The public hearing required to be held herein shall
43 be held not less than 10 days prior to the date on which the

ATTACHMENT 14-2
2-23-93

1 recreation commission is required to certify its budget to the
2 city or school district no later than July 1. After such hearing the
3 a proposed budget shall be adopted or amended and adopted by
4 the recreation commission. In order to provide funds to carry out
5 the provisions of this act and to pay a portion of the principal
6 and interest on bonds issued pursuant to K.S.A. 12-1774, and
7 amendments thereto, The recreation commission, not later than
8 July 10 of any year shall submit the proposed budget to the city or
9 school district for review and approval thereof. The city or school
10 district shall approve or disapprove the budget no later than July
11 25. Following such approval, the recreation commission shall submit
12 the budget to the county clerk as provided by K.S.A. 79-2930, and
13 amendments thereto. The recreation commission shall annually, not
14 later than August 1 of any year, shall certify its budget to such city
15 or school district which shall levy a tax sufficient to raise the amount
16 required by such budget and to pay a portion of the principal and
17 interest on bonds issued pursuant to K.S.A. 12-1774, and amend-
18 ments thereto, on all the taxable tangible property within the taxing
19 district. The city or school district shall not be required to levy a
20 tax in excess of the maximum tax levy set by the city or school
21 district by current resolution. In the case of a new recreation com-
22 mission established under the provisions of this act, such levy shall
23 not be required to exceed one mill. Whenever the recreation com-
24 mission determines that the tax currently being levied for the com-
25 mission, as previously established by the city or school district, is
26 insufficient to operate the recreation system and the commission
27 desires to increase the mill levy above the current levy, the com-
28 mission shall request that the city or school district authorize an
29 increase by adopting a resolution declaring it necessary to increase
30 the annual levy. The city or school district may authorize the increase
31 by resolution, but such increase shall not exceed one mill per year.
32 The maximum annual mill levy for the recreation commission general
33 fund shall not exceed a total of four mills.

34 (b) Any resolution adopted under subsection (a) shall state the
35 total amount of the tax to be levied for the recreation system and
36 shall be published once each week for two consecutive weeks in the
37 official newspaper of the taxing district. Whereupon, such annual
38 levy in an amount not to exceed the amount stated in the resolution
39 may be made for the ensuing budget year and each successive budget
40 year unless a petition requesting an election upon the proposition
41 to increase the tax levy in excess of the current tax levy, signed by
42 at least 5% of the qualified voters of the taxing district, is filed with
43 the county election officer within 30 days following the date of the

ATTACHMENT 14-3
2-23-93

1 last publication of the resolution. In the event a valid petition is
2 filed, no such increased levy shall be made without such proposition
3 having been submitted to and having been approved by a majority
4 of the voters of the taxing district voting at an election called and
5 held thereon. All such elections shall be called and held in the
6 manner provided by the general bond law, and the cost of the
7 election shall be borne by the recreation commission. Such taxes
8 shall be levied and collected in like manner as other taxes, which
9 levy the city or school district shall certify, on or before August 25
10 of each year, to the county clerk who is hereby authorized and
11 required to place the same on the tax roll of the county to be
12 collected by the county treasurer and paid over by the county treas-
13 urer to the ex officio treasurer of the recreation commission.

14 (c) The tax levy provided in this section shall not be considered
15 a levy of such city or school district under any of the statutes of
16 this state, but shall be in addition to all other levies authorized by
17 law and, with respect to any such levy made for the first time in
18 1989, shall not be subject to the provisions of K.S.A. 79-5021 *et*
19 *seq.*, and amendments thereto.

20 (d) At any time after the making of the first tax levy pursuant
21 to this act, the amount of such tax levy may be reduced by a majority
22 of the voters of the taxing district voting at an election called pursuant
23 to a petition and conducted in the same manner as that prescribed
24 by subsection (b). The authority of any recreation commission in
25 existence on the effective date of this act or any recreation com-
26 mission established under the provisions of this act to operate and
27 conduct its activities may be revoked in any year following the third
28 year of its operation by a majority of the voters of the taxing district
29 voting at an election called pursuant to a petition and conducted in
30 the same manner as that prescribed by subsection (b). If the petition
31 submitted is for the purpose of reducing the mill levy, it shall state
32 the mill levy reduction desired. Upon revocation, all property and
33 money belonging to the recreation commission shall become the
34 property of the taxing authority levying the tax for the commission,
35 and the recreation commission shall be dissolved.

36 (e) All financial records of the recreation commission shall be
37 audited as provided in K.S.A. 75-1122, and amendments thereto,
38 and a copy of such annual audit report shall be filed with the gov-
39 erning body of the city or school district, or both, in the case of a
40 jointly established recreation system. The cost of each audit shall be
41 borne by the recreation commission.

42 Sec. 2. K.S.A. 12-1926 and 12-1927 are hereby repealed.

See attached

and K.S.A. 1992 Supp 75-1122

ATTACHMENT 14-4
2-23-93

5] ~~1~~ Sec. ~~4.~~ This act shall take effect and be in force from and after
~~2~~ its publication in the statute book.

ATTACHMENT 14-5
2-23-93

Sec. 2. K.S.A. 12-1927 is hereby amended to read as follows: 12-1927. (a) The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. A copy of the budget adopted by the recreation commission shall be filed with the city clerk in the case of a city-operated recreation commission or with the clerk of the school district in the case of a school district-operated recreation commission. The city or school district shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation

commission determines that the tax currently being levied for the commission, as previously established by the city or school district, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city or school district authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city or school district may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

(b) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city or school district shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the

ATTACHMENT 14-7

2-23-93

recreation commission.

(c) The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state, but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 et seq., and amendments thereto.

(d) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved.

(e) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. The cost of each audit shall be borne by the recreation commission.

Sec. 3. K.S.A. 1992 Supp. 75-1122 is hereby amended to read as follows: 75-1122. (a) The governing body of every unified school district, the governing body every recreation commission having aggregate annual gross receipts in excess of \$150,000 and the governing body of all other municipalities either having

ATTACHMENT 14-8

2-23-93

aggregate annual gross receipts in excess of \$275,000 or which has general obligation or revenue bonds outstanding in excess of \$275,000 shall have its accounts examined and audited by a licensed municipal public accountant or accountants or certified public accountant or accountants at least once each year. In the case of school districts, all tax and other funds such as activity funds and accounts shall also be examined and audited.

(b) Any municipality required to have an annual audit for the first time under this section shall be exempt from the requirement if the municipality sends to the division of accounts and reports a written request for assistance in complying with the required accounting procedures of K.S.A. 75-1121, and amendments thereto. The exemption shall continue until the assistance is rendered by the division of accounts and reports.

(c) The governing body of any city of the third class required to have its accounts examined and audited pursuant to the provisions of this section shall annually determine the total cost to be incurred by the city in complying with the requirements of this act and shall identify the same in the budget of the city.

(d) Each year the township board of any township required to have an annual audit may adopt a resolution requesting the director of accounts and reports to exempt the township from the requirements of this section. ~~For-fiscal-year-1983-and-every-year thereafter,~~ The resolution shall be submitted prior to the end of such the fiscal year. ~~For-fiscal-year-1982,-the-resolution--shall be--submitted--within--90-days-of-the-effective-date-of-this-act-~~ Upon receipt of the resolution, the director of accounts and reports shall waive the requirement for an audit for such year.

ATTACHMENT 14-9
2-23-93