

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on February 17, 2011, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department  
Eunice Peters, Office of Revisor of Statutes  
Florence Deeter, Committee Assistant

Conferees appearing before the Committee:

Marvin Nisly, President, Nisly Brothers, Inc.  
Julie Ketchum, Director of Government Affairs for Waste Management in Kansas  
Larry Smith, President, L. & K. Services, Inc., Louisburg, Kansas  
Melissa Wangemann, General Counsel & Director of Legislative Services, Kansas Association of Counties  
Sandy Jacquot, League of Kansas Municipalities

Others attending:

See attached list.

**Hearing On: HB 2195 – Municipalities; organized solid waste and recycling collection service act.**

The Chairman opened the hearing on **HB 2195**. Staff Eunice Peters, Office of Revisor of Statutes, briefed the committee, stating that the bill creates both a new law and new act, The Organized Collection Services Act. The bill defines terms used, the areas of authority to be used to establish and organize service, the number of days required for resolution of intent, the time period for the municipality to develop a plan of collection service, and pronouncement of when the act comes into effect.

Marvin Nisly, President, Nisly Brothers, Inc., spoke to committee members, saying that he knows firsthand the effect of lack of notification regarding changes made by city councils (Attachment 1). He said he supports the intent of this bill, which outlines standard procedures for municipalities to give notification to the public regarding any change in solid waste collection.

Julie Ketchum, Director of Government Affairs for Waste Management in Kansas, spoke in support of **HB 2195**, saying that it outlines a process allowing input from both business and the public regarding the franchise plan of waste collection (Attachment 2). Ms. Ketchum indicated that changing from an open system to a government managed, franchise system can have a tremendous impact on consumers. She noted that passage of this bill moves toward maintaining consumer rights.

Larry Smith, President, L. & K. Services, Inc., Louisburg, Kansas, speaking as an owner of a disposal company, requested the committee consider favorable passage of **HB 2195** (Attachment 3).

Melissa Wangemann, General Counsel & Director of Legislative Services, Kansas Association of Counties (KAC), said that KAC supports the intent of **HB 2195**. She requested that consideration of two amendments: an 18-month waiting period rather than two years, and reference to the official newspaper instead of the newspaper having the greatest circulation in the municipality. She said these changes would constitute a fair compromise in the wording of the bill (Attachment 4).

Sandy Jacquot, League of Kansas Municipalities (LKM), speaking in opposition to **HB 2195**, said that meetings conducted with LKM and KAC, which included solid waste providers and their associations, resulted in some compromise (Attachment 5). Ms. Jacquot acknowledged that a two-year waiting period is not in the best interest of implementation of service plans; a zero time period would be more than adequate. She further noted that cities need to have the ability to allocate franchise fees to provide for the needs in the municipality rather than restricting the use of fees solely for administrative costs. Ms. Jacquot recommended not reporting **HB 2195** favorable for passage.

The Chairman closed the hearing on **HB 2195**.

## CONTINUATION SHEET

Minutes of the House Elections Committee at 3:30 p.m. on February 17, 2011, in Room 144-S of the Capitol.

The Chairman called for consideration and discussion of **HB 2066 – Licensure qualifications; pawnbrokers and precious metals dealers.**

Representative Lane made a motion to pass HB 2066 favorably; Representative Otto seconded. The motion passed.

The Chairman called for consideration and discussion of **HB 2119 – Emergency medical services, relating to accident response service fees.**

Staff Euncie Peters distributed a proposed amendment to **HB 2119**, striking language alluding to townships and fire districts providing emergency medical and rescue services (Attachment 6). The amendment defines “municipality” and “accident response service fee.”

Representative Seiwert made a motion to pass the proposed amendment to HB 2119. Representative Lane seconded the motion. The motion passed.

Representative Otto moved to include a substitute amendment adding the words, “except for actual justified Hazardous Material (HAZMAT) or other extraordinary costs.” Seconded by Representative Seiwert. The substitute motion passed.

Representative Sloan moved to include a substitute amendment defining emergency services, stating that “emergency services include police, fire and emergency service personel and equipment deemed appropriate by the municipality to address recently anticipated needs, including, but not limited to, an unknown number of injured persons and possible environmental threats.” Seconded by Representative Seiwert. The substitute motion passed.

Representative Seiwert moved to recommend HB 2119 as amended as favorable for passage. Seconded by Representative Grosserode. The motion passed.

The Chairman called for consideration and discussion of **HB 2294 - Annexation procedures; deannexation; board of county commissioners duties; election required, when; homestead exemption; appeal process.**

Representative Otto moved to amend HB 2294. Representaive Lane seconded the amendment. Staff Eunice Peters commented on the proposed changes (Attachment 7). Following discussion, the motion passed.

Representative Mah moved to amend HB 2294 to include the contents of HB 2065 (Attachment 8). Representative Lane seconded the motion. Following discussion, the motion passed. Representative Mah moved to pass HB 2294 as amended as favorable for passage. Representative Otto seconded the motion. The motion passed.

The meeting was adjourned at 4:50 p.m. The next meeting is scheduled for Monday, February 21, at 1:00 p.m. The meeting room number will be announced in House Chambers.

# HOUSE LOCAL GOVERNMENT

## GUEST LIST

DATE: 2-17-2011

NAME	REPRESENTING
MARVIN NISLY	NISLY BROTHERS
LARRY SMITH	LK Services Inc
Jim Spencer	Waste Connections
JULIE KETCHUM	WASTE MANAGEMENT
Melissa Wangemann	KAC
Sandy Jayne	CKM
Bill Brady	C.S.
Paje Routhier	Hein Law Firm
Max Murray	Waste Corporation
Ken PETERSON	KS Petroleum Council
Whitney Dameron	City of Topeka
Dan Maye	" " Olathe
Lee Wright	Farmers INS
Kathy Sachs	Sec. of State
Spencer Duncan	KS org. of Recyclers
ERIK SARTORIUS	City of Overland Park

# NISLY BROTHERS, INC.

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5212 SOUTH HERREN ROAD      www.nislybrothers.com      HUTCHINSON, KS 67501



***We Keep You Looking Good!***

February 16, 2011

Re: HB 2195 support

I encourage you to support HB 2195. It provides a standard procedure for municipalities to insure an informed public and to provide assurance that all interested parties are aware of proposed solid waste collection changes.

Currently it is perfectly legal for a municipality to take trash collection business from private companies without giving any notice whatsoever.

Nisly Brothers, Inc. is a private, family owned and operated corporation based in rural Hutchinson. We provide waste and recycling services in Reno County, the western edge of Sedgwick and Sumner, Kingman, Pratt, Barber, Kiowa and Stafford counties.

Over 50 years ago my father began a small trash hauling company in Hutchinson that he named Nisly Brothers Trash Service. In the following years the company has been continuously family owned and operated. My father has now retired and currently the company is owned by my two brothers, Harold and Arnold, and me.

The issue of being forced out of a municipality with no notice is very real to me.

For many years our company competed for residential trash and recyclables collection in South Hutchinson, Kansas, less than ten miles from our office. In December of 2009 I was made aware by a third party that a competitor had made a bid for exclusive rights to collect residential trash in South Hutchinson.

After making an appeal to the South Hutchinson city council in December of 2009, I was assured by several members of the council that their intention was to not move forward with this plan and force our company out of business in the City.

Imagine my shock when I received a call from *one of our customers*, on March 30, 2010 telling me that an agreement had already been signed nearly a month earlier, with the City of South Hutchinson and our competitor. No one from the City of South Hutchinson had ever let us know that any action was being reconsidered or that the agreement was signed. I had to personally call the city office to get confirmation that the action was indeed final.



**We recycle**

House Local Government

Date 2-17-11

Attachment 1



Also, many of our customers were disappointed that they were not notified that action was being considered.

Just 62 days after my first unofficial notice, on May 31, 2010, our carts were removed and we were no longer allowed to compete for residential trash collection in the City of South Hutchinson.

This action is currently completely legal. Is it right or fair?

We base our budgets and projections on existing conditions. If a competitor offers better value for products or services, the customer can choose to switch to another company because of the value he perceives. We can develop strategies to increase the value of a particular product or service to not only regain lost customers and prevent additional customers from leaving, but to attract new customers.

However, there is no way to plan for potential losses due to being forced out of a municipality. Having reasonable prices, quality equipment and complying with required licenses does not protect against this form of lost revenue. We cannot buy insurance for or predict this type of loss.

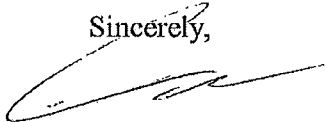
When a municipality decides to organize, they frequently have taken little time to look at all the consequences of their actions. Providing the best value does not guarantee not being forced out. Also, companies may have little or no time to plan and adjust.

Trash hauling companies provide a very necessary service, and have built value by the customers they serve. Probably few municipalities realize how organized collection may affect private businesses that have previously provided this service. When a municipality forces private business out of their jurisdiction it can feel like a slap across the face.

HB 2195 forces municipalities to provide fair notice to all concerned parties and allows everyone to provide input and plan for changes.

HB 2195 deserves your support.

Sincerely,



J Marvin Nisly  
President



**We recycle**

Madame/Mister Chair, members of the Committee:

My name is Julie Ketchum, I am the Director of Government Affairs for WM in Kansas.

I am here today, testifying in support of House Bill 2195, which ensures that all affected parties have the opportunity to voice their opinion about local government decisions regarding waste hauling.

This bill sets up a process that requires public input and input from businesses like Waste Management, that are affected by a city's decision to franchise. Cities must declare their interest in franchising through action at the City Council or other local government body. They must seek public input into the process and develop a plan with goals for what they are trying to accomplish through franchising. Prior to voting on whether to proceed with franchising, the city must provide the solid waste plan, identify how franchising will help achieve the goals in the plan, and most importantly, show how franchising will minimize the impact on our waste hauling businesses.

Finally, a second action by the local government must be taken 30 days after the plan is publicly noticed, giving all parties time to review and provide input on whether franchising is the best decision.

Without this legislation, our customers will not have a voice in the process. In fact, here in Kansas, the City of Derby moved ahead and instituted a franchise system, which took away people's right to choose their hauler. During the process, one city councilmember noted that 75 people called him in opposition to franchising and only 4 people called to support the City franchising waste hauling. The City of Derby moved ahead with franchising and to this day, Waste Management is still hearing from past customers who opposed franchising---customers who lost their right to hire their garbage hauler and frankly, fire their garbage hauler if they weren't providing the level of service they expected. That is the American way. As consumers we get to buy goods and services that we, as individuals prefer. This legislation will protect consumer's right to make that choice by allowing them a voice in the process and making government more accountable for their decisions.

This legislation also provides protection for waste hauling businesses that are operating in a free market. Generally, the waste hauling business prefers a free and open market system where all hauling businesses are required to compete at a very high level---this results in better service and better rates---all benefiting the customer. Our businesses grow gradually, by adding one account after another, and for those of us that are competitive---we can gradually make investments in more and better equipment. This is the foundation of the open market system that has allowed businesses in America to thrive.

When a city moves from an open system to a government managed, franchise system, the impact of this type of change can be tremendous---whether you are a large company or small, the change is not gradual, but rather abrupt. An account is not simply an account--

House Local Government  
Date 2-17-11  
Attachment 2

-each account is different. Cities who promise to give each hauler their same market share, same number of accounts, but not the same accounts do not understand our business. Each of us have fought to get each and every account and there are those accounts and areas of the city that are preferred and there are those that are not preferred. Someone---one of us---one of our companies-- will not be treated fairly in the franchising process. And, what seems like a minor difference, a minor change by the city, can often result in a competitive edge for one or two companies in the market.

In some cases, the change can be so significant that it narrows the market, effectively putting some haulers out of business. Other times, only a few survive, reducing the competition in the market, which can affect the service level.

And, yes, WM and other haulers are bidding on cities that go to one contract, one hauler. We have to! While we don't like the fact that some cities are automatically going to one hauler, with no process or public input at all, we still have to bid and compete for these contracts in order to stay in business. We lost that contract. And now, they have one hauler and no competition in the market.

Lastly, cities usually promise that rates will be kept low; however, the city is taking on the administration of this new government managed system. With these new city services, funding will be required to carry out these added responsibilities. So, the question then becomes, where does the money come from? In increased rates for trash collection or in some hidden tax? More importantly, with a guaranteed market share, what incentive do the remaining haulers in the market have to compete, provide a high level of service if there is nothing to compete for?

We support the current open market system for waste hauling; however, we realize that some cities may have an interest in franchising. We support HB 2195 as legislation that would at least provide the opportunity for public input and discussion on an issue that is surprisingly important to people: Choice. Residents want to choose their hauler. Let residents voice their opinion in the process by passing HB 2195.

Thank you for the opportunity to testify in support of this legislation and please vote in support of maintaining consumer rights by voting for this bill. Thank you.

## L & K SERVICES, INC.



510 S. FIRST STREET  
LOUISBURG, KANSAS 66053  
(913) 837-4637  
TOLL FREE (888) 837-4640  
FAX (913) 837-5214

My name is Larry Smith and I, along with my wife, Kim, own a disposal company known as L. & K. Services, Inc. that is based in Louisburg. It is a small, family owned business where we provide trash, recycling and yard waste disposal services to Miami, Linn and Johnson counties, as well as portions of Bourbon, Anderson, Franklin and Wyandotte counties. We recently were able to bring our oldest son, Bryce into our company so that we could continue to grow and provide jobs and services to areas of Eastern Kansas.

We purchased this company over 36 years ago from a couple that were considering retirement. At that time they had between 300 to 400 customers. When I say that we purchased their company, not only did that purchase include their trucks and containers, but also their client base, one of the most valuable elements. A large portion of their client base included the City of Louisburg. Since that time, with hard work and a great deal of luck, we have been fortunate enough to grow our company to nearly 20,000 customers. We are proud to say that we are the second largest employer in Louisburg.

I come to you today to ask for your support of House Bill 2701. While I have been so lucky to have been able to watch our company grow, it has come with a great deal of hard work and financial risk. An overwhelming percentage of our business is located within different cities throughout Eastern Kansas. These include not only Louisburg but several cities where a variety of choices are available, Overland Park, Gardner and Leawood. Without the support of this bill, that business could be taken away at any time, leaving us with hundreds of thousands of dollars worth of equipment and many employees without jobs. The implications of this reach far beyond the ownership of this company. We ask that you consider the people that we employ, the tax revenue that we generate and the many businesses and services that we help to sustain. The loss to all has the potential to be devastating. There is much concern with the banks that give us financial support with the volatility of our customers within those municipalities where there are no contracts that would cover debt.

Many haulers across the state rely on municipalities to keep their small, privately owned companies going. We believe that small businesses and free enterprise are the back bone of our great country. The competition among us creates an environment for fair pricing and value to our customers. We are made up of hard working individuals that work together to provide Kansans with a much needed service.

On behalf of our employees, managers and owners as well as the customers that we service, I thank you for your time and consideration.

Sincerely,

Larry W. Smith, President  
L. & K. Services, Inc.

House Local Government  
Date 2-17-11  
Attachment 3

## L & K SERVICES, INC.



510 S. FIRST STREET  
LOUISBURG, KANSAS 66053  
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TOLL FREE (888) 837-4640  
FAX (913) 837-5214

### AREAS FOR CONSIDERATION CONCERNING THE IMPACT OF FRANCHISING FOR L. & K. SERVICES, INC.

#### COST OF THE EQUIPMENT TO INVEST IN A COMMUNITY

- Cost of trucks - \$150,000 to \$200,000
- Cost of karts or toters - \$50 per unit
- In areas that have recycling, the cost of a 2<sup>nd</sup> truck and recycling bins - \$7 to \$12 per bin
- In areas where commercial service is provided, the cost of containers, starting at \$400 and up

#### ADDITIONAL EMPLOYEES REQUIRED

- The hiring of additional employees - minimum of 2. If recycling is available, possibly 3 -4.
- If the accounts are taken away, the necessity to terminate these employees and the cost of their unemployment

#### LANDFILL PRICING

- The majority of our landfill pricing is based on volume. When accounts are taken away and the volume of trash drops, we lose the better rate at the landfill
- Smaller haulers are the reason some of the area transfer stations are able to operate. If we lose business, so do they. At some point, we stand to lose some of our options for transfer stations.

#### FUEL PRICING

- Fuel pricing is much like that of landfills. At this time, we contract our fuel. The amount that we contract is based on the number of routes and trucks that we operate. If routes are lost, then we have probably over-contracted our fuel for the year. If we have contracted it, we pay for it...whether we use it or not.

#### MISCELLANEOUS COSTS

- Advertising and support given to a community
- Time involved in opening accounts, setting up the routes and the cost of a variety of communication with these customers: ie: letters, phone calls, etc. If those accounts are lost, then the additional costs of closing accounts and notifying those customers.
- For those customers using our toters, karts, recycling bins or commercial containers, the cost to coordinate and bring all of those types of containers in

ONE ADDITIONAL COMMENT...If a municipality expands or incorporates and that area is being serviced by rural water, do they receive just compensation when those customers are taken away?

On behalf of our employees, managers and owners, I thank you for your time and consideration.

Larry W. Smith, President  
L. & K. Services, Inc.





TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES  
TO THE HOUSE LOCAL GOVERNMENT COMMITTEE  
FEBRUARY 17, 2011  
HB 2195

Chairman Huebert and Members of the Committee:

Thank you for the opportunity to support HB 2195.

Last session we opposed HB 2701, which was heard in this committee. The bill created an extraordinary system of protections for solid waste service providers and resulted in cities and counties losing control of this local issue. The biggest concern to us was the bill's requirement that a municipality institute condemnation proceedings against a person who is displaced from operating a solid waste collection service.

Chairman Schwartz asked the parties to work on a compromise during the interim. The Kansas Association of Counties, along with the League of Kansas Municipalities, sat down with the proponents of the legislation and discussed the concerns that gave rise to the legislation. We focused our efforts on creating a system that ensure notice and participation by those service providers who would be affected if a city or county created its own solid waste management system.

KAC supports HB 2195; however, we would prefer an 18-month waiting period instead of 2 years as stated on page 2, section (f). This provision prohibits a municipality from beginning its collection services for two years from the adoption of the resolution. We understand that the solid waste service providers need to wind down their business, and they have suggested a time line of 2 years in order to accomplish the wind-down. Once the decision has been made to operate a county-run solid waste service, counties would like to start that system sooner. We suggest 18 months as a fair compromise.

KAC would also suggest amending page 1, section (b) to reference the "official newspaper" instead of the "newspaper of greatest circulation in the municipality." K.S.A. 64-101 requires counties to adopt an official newspaper for advertisement of legal notices, and we believe this is the correct reference to use. I have attached the statute for your review.

We appreciate the committee considering these issues and ask that you support the bill.

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

Respectfully Submitted,

  
Melissa A. Wangemai  
General Counsel & Director  
House Local Government  
Date 2-17-11  
Attachment 4



West's Kansas Statutes Annotated Currentness  
Chapter 64. Publications, Bibliography and Calendar  
Article 1. Legal Publications

→ **64-101. Newspapers in which legal publications may be made**

(a) The governing body of each city of the first class shall designate by resolution a newspaper to be the official city newspaper. Once designated, the newspaper shall be the official city newspaper until such time as the governing body designates a different newspaper.

No legal notice, advertisement or publication of any kind required or provided by any of the laws of the state of Kansas, to be published in a newspaper shall have any force or effect unless the same is published in a newspaper which:

- (1) Is published at least weekly 50 times a year and has been so published for at least one year prior to the publication of any official city publication;
- (2) is entered at the post office as periodical class mail matter;
- (3) has general paid circulation on a daily, weekly, monthly or yearly basis in the county in which the city is located and is not a trade, religious or fraternal publication; and
- (4) is published in the county in which the city publishing the official publication is located. If there is no newspaper published in the county, the newspaper shall be published in Kansas and shall have general paid circulation in the county.

(b) The board of county commissioners of each county shall designate by resolution a newspaper to be the official county newspaper. Once designated the newspaper shall be the official county newspaper until such time as the board designates a different newspaper. The newspaper selected for the official publications of a county shall be a newspaper which:

- (1) Is published at least weekly 50 times each year and has been so published for at least one year prior to the publication of any official county publication;
- (2) is entered at the post office in the county of publication as periodical class mail matter, which county shall be located in Kansas;
- (3) has general paid circulation on a daily, weekly, monthly or yearly basis in the county and is not a trade, religious or fraternal publication; and
- (4) is published in the county publishing the official publication. If there is no newspaper published in the county, the newspaper shall be printed in Kansas and have general paid circulation in the county.

(c) Whenever the board of education of a school district is required to publish a legal notice, advertisement or other publication in a newspaper having general circulation in the school district, such newspaper shall be one

which:

- (1) Is published at least weekly 50 times each year and has been so published for at least one year prior to the publication of any school district publication;
  - (2) is entered at the post office in the school district of publication as periodical class mail matter;
  - (3) has general paid circulation on a daily, weekly, monthly or yearly basis in the school district and is not a trade, religious or fraternal publication; and
  - (4) is published in the school district publishing the official publication. If there is no newspaper published in the school district, the newspaper shall be published in Kansas and shall have general paid circulation in the school district.
- (d) Nothing contained in this section shall invalidate the publication in a newspaper which has resumed publication after having suspended publication all or part of the time that the United States has been engaged in war with any foreign nation and six months next following the cessation of hostilities if such newspaper resumes publication in good faith under the same ownership as it had when it suspended publication. Nothing in this section shall invalidate the publication in a newspaper which has simply changed its name or moved its place of publication from one part of the county to another part, or suspended publication on account of fire, flood, strikes, shortages of materials or other unavoidable accidents for not to exceed 10 weeks within the year last preceding the first publication of the legal notice, advertisement or publication. All legal publications heretofore made which otherwise would be valid, that have been made in a newspaper which, on account of flood, fire, strikes, shortages of materials or other unavoidable accident, has suspended publication for a period of not exceeding 10 weeks, are hereby legalized.

#### CREDIT(S)

Laws 1891, ch. 156, § 1; Laws 1901, ch. 239, § 1; Laws 1913, ch. 223, § 1; Laws 1935, ch. 236, § 1; Laws 1943, ch. 228, § 1; Laws 1947, ch. 325, § 1; Laws 1959, ch. 250, § 1; Laws 1963, ch. 312, § 1; Laws 1986, ch. 75, § 2; Laws 1988, ch. 224, § 1; Laws 1994, ch. 68, § 1; Laws 1998, ch. 135, § 1.

**Codifications:** R.S. 1923, 64-101.

#### HISTORICAL AND STATUTORY NOTES

##### **Prior Laws:**

Laws 1862, ch. 100, § 2.

K. S. A. 64-101, KS ST 64-101

Current through 2010 regular session

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TO: House Local Government Committee  
FROM: Sandy Jacquot, Director of Law/ General Counsel  
DATE: February 16, 2011  
RE: Opposition to HB 2195

On behalf of the League of Kansas Municipalities, I want to thank the Committee for allowing us to testify in opposition to HB 2195. This bill proposes to establish the organized solid waste collection service act. When a similar bill came before this committee during the last legislative session, the committee requested that LKM and the Kansas Association of Counties discuss this issue with solid waste providers and their association and see if there was some common ground between the parties. After two meetings, it was apparent that we could not agree on all of the provisions, but LKM indicated a willingness to support a procedure for cities to go through in the franchising process. The process found in Section 3 involves about 6 months to get to the point of adopting a plan. For the most part, LKM could agree to that portion of the bill. However, a later provision of the bill that requires a two year period before franchising could be implemented brings the process to almost three years, which LKM believes is way too long.

The bill further restricts the use of the franchise fees to be collected to the “expense of administering the proposed organized collection program,” although one of the biggest impacts is the degradation of city streets as the result of the large heavy trash trucks driving on city streets. The franchise statutes, K.S.A. 12-2001 *et seq.*, specifically give cities the authority to grant franchise agreements and provide that no privilege to use the public rights of way shall be granted without the municipality being paid “adequate compensation or consideration.” Cities may permit any entity to “use the streets in the carrying on of any business which is not prohibited by law,” thus contemplating the franchising of businesses such as solid waste companies. To restrict the use of the franchise fee is contrary to the intent of the franchise laws which have been in place for up to 70 years.

In summary, while LKM believes the current ability of cities to franchise services is where the authority should lie, in good faith we are willing to support some additional procedures. As stated before, however, we believe a two year waiting period is too long before allowing the implementation of the plan. In addition, cities currently have, and continue to need, the ability allocate franchise fees in a manner appropriate to each city. Just implementing a franchise is not where the cost is incurred and is not the purpose of a franchise fee.

For all of the above-stated reasons, LKM urges this committee to not report HB 2195 favorably for passage.

House Local Government  
Date 2-17-11  
Attachment 5



## PROPOSED AMENDMENT TO HOUSE BILL No. 2119

By Committee on Local Government

1-27

[Material in blue is new; Material in red is stricken.]

1 AN ACT concerning ~~emergency medical services; relating to accident~~  
2 ~~response service fees; amending K.S.A. 80-1557 and repealing the~~  
3 ~~existing section.~~  
4

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

6 Section 1. (a) As used in this section:

7 (1) "Municipality" means a city, county, township, fire district or any  
8 other political and taxing subdivisions in this state.

9 (2) "Accident response service fee" means any fee imposed on the  
10 driver or owner of a motor vehicle, an insurance company or any other  
11 person, for the response to or investigation of a motor vehicle accident,  
12 but does not include the usual and customary charges for providing  
13 ambulance and emergency services when immediate action is required to  
14 save life, prevent suffering or disability or to protect and save property.

15 (b) No municipality shall charge an accident response fee to persons  
16 receiving rescue service inside or outside of such municipality.

17 ~~K.S.A. 80-1557 is hereby amended to read as follows: 80-1557. (a) As~~  
18 ~~used in this section:~~

19 ~~(1) "Rescue service" means a service which provides emergency~~  
20 ~~care by qualified personnel through a township or fire district fire~~  
21 ~~department.~~

22 ~~(2) "Emergency care" means the services provided after the onset of~~  
23 ~~a medical condition manifesting itself by acute symptoms of sufficient~~  
24 ~~severity such that the absence of immediate medical attention could~~  
25 ~~reasonably be expected to: (A) Place the patient's health in serious~~  
26 ~~jeopardy; (B) seriously impair bodily functions; or (C) result in serious~~  
27 ~~dysfunction of any bodily organ or part.~~

28 ~~(3) "Qualified personnel" means any individual who holds a~~  
29 ~~certificate as an attendant as defined in K.S.A. 65-6112, and amendments~~  
30 ~~thereto.~~

31 ~~(4) "Township" means any township which has established a fire~~  
32 ~~department pursuant to K.S.A. 80-1901 et seq., and amendments thereto.~~

33 ~~(5) "Fire district" means any fire district which has established a fire~~  
34 ~~department pursuant to K.S.A. 80-1540 et seq., and amendments thereto.~~

35 ~~(b) The township board or governing body of the fire district may~~

House Local Government

Date 2-17-11

Attachment 6

1 ~~authorize the township or fire district fire department to provide rescue~~  
2 ~~service as a township or fire district function, within or without the~~  
3 ~~township or fire district, or may contract with any person or~~  
4 ~~governmental entity for the furnishing of rescue service and upon such~~  
5 ~~terms and conditions, and for such compensation as may be agreed upon~~  
6 ~~which shall be payable from the township general fund or the fire fund or~~  
7 ~~the fire district fund.~~

8 ~~(e) The township board or governing body of the fire district may~~  
9 ~~establish charges to persons receiving rescue service inside or outside of~~  
10 ~~such township or fire district. Rescue service shall not include an~~  
11 ~~accident response service fee. As used in this subsection, the term~~  
12 ~~"accident response service fee" means any fee imposed on the driver or~~  
13 ~~owner of a motor vehicle, an insurance company or any other person, for~~  
14 ~~the response to or investigation of a motor vehicle accident, but does not~~  
15 ~~include the usual and customary charges for providing ambulance and~~  
16 ~~emergency services when immediate action is required to save life,~~  
17 ~~prevent suffering or disability or to protect and save property. The~~  
18 ~~charges so made and received shall be deposited in the general funds of~~  
19 ~~the township or fire district, and the same may be used in addition to~~  
20 ~~funds received under the tax levies authorized by K.S.A. 80-1546 and 80-~~  
21 ~~1903, and amendments thereto.~~

22 ~~(d) Qualified personnel providing rescue service shall be~~  
23 ~~compensated in the same manner as other fire department employees and~~  
24 ~~volunteers as provided by K.S.A. 80-1544 and 80-1904, and amendments~~  
25 ~~thereto.~~

26 ~~Sec. 2. K.S.A. 80-1557 is hereby repealed.~~

27 ~~Sec. 3 2.~~ This act shall take effect and be in force from and after its  
28 publication in the statute book.  
29



**Representative Otto's**

**PROPOSED AMENDMENT TO HOUSE BILL No. 2294**

By Committee on Local Government

2-10

[Material in blue is new; Material in red is stricken;  
Line numbers on proposed amendment are not consistent with original bill]

1 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-  
2 519, 12-520b, 12-521, 12-531, 12-532 and 60-2301 and K.S.A. 2010  
3 Supp. 25-432 and repealing the existing sections.  
4

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

6 New Section 1. When land located outside a city is annexed by such  
7 city under K.S.A. 12-521 and 12-521a, and amendments thereto, any  
8 homestead rights attributable to such land prior to such annexation shall  
9 continue after annexation until such land is sold after annexation. ~~The~~  
10 ~~provisions of this section shall be applicable on or after January 1, 2011.~~

11 Sec. 2. K.S.A. 12-519 is hereby amended to read as follows: 12-519.  
12 As used in this act: (a) "Tract" means a single unit of real property under  
13 one ownership, outside the corporate limits of a city, which may be  
14 platted or unplatted, title to which is publicly or privately held by an  
15 owner as defined by subsection (c).

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

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

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

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

House Local Government

Date 2-17-11

Attachment 7

1 (e) "Platted" means a tract or tracts mapped or drawn to scale,  
2 showing a division or divisions thereof, which map or drawing is filed in  
3 the office of the register of deeds by the owner of such tract.

4 (f) "Land devoted to agricultural use" means land which is devoted  
5 to the production of plants, animals or horticultural products, including  
6 but not limited to: Forages; grains and feed crops; dairy animals and  
7 dairy products; poultry and poultry products; beef cattle, sheep, swine  
8 and horses; bees and apiary products; trees and forest products; fruits,  
9 nuts and berries; vegetables; or nursery, floral, ornamental and  
10 greenhouse products. Land devoted to agricultural use shall not include  
11 those lands which are used for recreational purposes, suburban residential  
12 acreages, rural home sites or farm home sites and yard plots whose  
13 primary function is for residential or recreational purposes even though  
14 such properties may produce or maintain some of those plants or animals  
15 listed in the foregoing definition.

16 (g) "*Qualified elector*" means any person registered to vote who  
17 resides within the area proposed to be annexed under the provisions of  
18 K.S.A. 12-521, and amendments thereto.

19 (h) "*Area proposed to be annexed*" means the area approved for  
20 annexation by the board of county commissioners under provisions of  
21 K.S.A. 12-521, and amendments thereto.

22 (g)(i) "Watercourse" means a natural or manmade course where  
23 water may flow on a regular or intermittent basis; a watercourse shall not  
24 include a natural or manmade lake, pond or other impoundment of five or  
25 more acres of surface area.

26 Sec. 3. K.S.A. 12-520b is hereby amended to read as follows: 12-  
27 520b. (a) The governing body of any city proposing to annex land under  
28 the provisions of K.S.A. 12-520, and amendments thereto, shall make  
29 plans for the extension of services to the area proposed to be annexed and  
30 shall, prior to the adoption of the resolution provided for in K.S.A. 12-  
31 520a, and amendments thereto, prepare a report setting forth such plans.  
32 The report shall include:

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

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

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

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

40 (2) A statement setting forth a plan of sufficient detail to provide a  
41 reasonable person with a full and complete understanding of the  
42 intentions of the city for extending to the area to be annexed each major  
43 municipal service provided to persons and property located within the

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

15 *(b) A copy of the plan for extension of services shall be sent by*  
16 *certified mail not less than 10 days prior to the public hearing as*  
17 *provided in K.S.A. 12-520a, and amendments thereto, to the board of*  
18 *county commissioners.*

19 ~~(b)~~(c) The preparation of a plan for the extension of services  
20 required by subsection (a) shall not be required for or as a prerequisite to  
21 the annexation of land of which all of the owners petition for or consent  
22 to such annexation in writing.

23 Sec. 4. K.S.A. 12-521 is hereby amended to read as follows: 12-521.

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

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

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

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

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

2 (2) A statement setting forth a plan of sufficient detail to provide a  
3 reasonable person with a full and complete understanding of the  
4 intentions of the city for extending to the area to be annexed each major  
5 municipal service provided to persons and property located within the  
6 city and area proposed to be annexed at the time of annexation and the  
7 estimated cost of providing such services. The plan shall state the  
8 estimated cost impact of providing such services to the residents of the  
9 city and the residents of the area proposed to be annexed. The plan shall  
10 state the method by which the city plans to finance the extension of such  
11 services to such area. The plan shall include a timetable for the extension  
12 of major municipal services to the area proposed to be annexed. The plan  
13 shall state the means by which the services currently provided by a  
14 township or special district in the area to be annexed shall be maintained  
15 by the city at a level which is equal to or better than the level of services  
16 provided prior to annexation. The plan shall state those services which  
17 shall be provided immediately upon annexation and those services which  
18 may be provided upon petition of the landowners to create a benefit  
19 district.

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

23 ~~(b)~~(c) The date fixed for the public hearing shall be not less than 60  
24 nor more than 70 days following the date of the presentation of the  
25 petition requesting such hearing. Notice of the time and place of the  
26 hearing, together with a legal description of the land sought to be annexed  
27 and the names of the owners thereof, shall be published in a newspaper of  
28 general circulation in the city not less than one week and not more than  
29 two weeks preceding the date fixed for such hearing.

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

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

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

40 ~~(e)~~(d) On the day set for hearing, the board of county commissioners  
41 shall hear testimony as to the advisability of such annexation, and a  
42 representative of the city shall present the city's proposal for annexation,  
43 including the plan of the city for the extension of services to the area

1 proposed to be annexed.

2 The action of the board of county commissioners shall be quasi-  
3 judicial in nature. The board of county commissioners shall consider the  
4 impact of approving or disapproving the annexation on the entire  
5 community involved, including the city and the land proposed to be  
6 annexed, in order to insure the orderly growth and development of the  
7 community. The board shall make specific written findings of fact and  
8 conclusions determining whether such annexation or the annexation of a  
9 lesser amount of such area causes manifest injury to the owners of any  
10 land proposed to be annexed, or to the owners of land in areas near or  
11 adjacent to the land proposed to be annexed or to the city if the  
12 annexation is disapproved. The findings and conclusions shall be based  
13 upon the preponderance of evidence presented to the board. In  
14 determining whether manifest injury would result from the annexation,  
15 the board's considerations shall include, but not be limited to, the extent  
16 to which the following criteria may affect the city, the area to be annexed,  
17 the residents of the city and the area to be annexed, other governmental  
18 units providing services to the area to be annexed, the utilities providing  
19 services to the area to be annexed, and any other public or private person,  
20 firm or corporation which may be affected thereby:

21 (1) Extent to which any of the area is land devoted to agricultural  
22 use;

23 (2) area of platted land relative to unplatted land;

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

28 (4) extent and age of residential development in the area to be  
29 annexed and adjacent land within the city's boundaries;

30 (5) present population in the area to be annexed and the projected  
31 population growth during the next five years in the area proposed to be  
32 annexed;

33 (6) the extent of business, commercial and industrial development in  
34 the area;

35 (7) the present cost, methods and adequacy of governmental services  
36 and regulatory controls in the area;

37 (8) the proposed cost, extent and the necessity of governmental  
38 services to be provided by the city proposing annexation and the plan and  
39 schedule to extend such services;

40 (9) tax impact upon property in the city and the area;

41 (10) extent to which the residents of the area are directly or  
42 indirectly dependent upon the city for governmental services and for  
43 social, economic, employment, cultural and recreational opportunities and

1 resources;

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

6 (12) existing petitions for incorporation of the area as a new city or  
7 for the creation of a special district;

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

10 (14) effect of annexation upon the utilities providing services to the  
11 area and the ability of those utilities to provide those services shown in  
12 the detailed plan.

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

27 (f) *Within 10 days following the rendering of the judgment of the*  
28 *board of county commissioners granting all or a part thereof of any*  
29 *annexation as provided in subsection (e), the city clerk shall certify to the*  
30 *county election officer a legal description and a map of the area outside*  
31 *the corporate limits of the city proposed to be annexed and the street*  
32 *addresses of all real estate located therein. If there are qualified voters*  
33 *residing in the area proposed to be annexed, then the county election*  
34 *officer shall conduct a mail ballot election under the provisions of K.S.A.*  
35 *25-431 et seq., and amendments thereto, in the area proposed to be*  
36 *annexed within 60 days of such certification. If a majority of the qualified*  
37 *electors residing in the area proposed to be annexed and voting thereon*  
38 *approve the annexation, the city may annex the land by passage of an*  
39 *ordinance. If a majority of the qualified electors residing in the area*  
40 *proposed to be annexed and voting thereon reject the annexation, the*  
41 *lands shall not be annexed and the city may not propose the annexation*  
42 *of any such lands in the proposed area for at least four years from the*  
43 *date of the election, unless the proposed annexation is authorized by*



1 *paragraphs (2), (3) or (7) of subsection (a) of K.S.A. 2010 Supp. 12-520.*

2 ~~(e)~~(g) ~~(f)~~ Any owner of land annexed pursuant to this section or  
3 the city aggrieved by the decision of the board of county commissioners  
4 may appeal the decision of the board to the district court of the same  
5 county in the manner and method set forth in K.S.A. 19-223, and  
6 amendments thereto. Nothing in this subsection shall be construed as  
7 granting the owner of land in areas near or adjacent to land annexed  
8 pursuant to this section the right to appeal the decision of the board of  
9 county commissioners. Any city so appealing shall not be required to  
10 execute the bond prescribed therein.

11 ~~(2) In the event that a landowner prevails in the appeal under this~~  
12 ~~subsection, the successful landowner shall be awarded reasonable~~  
13 ~~attorney fees and costs.~~

14 Sec. 5. K.S.A. 12-531 is hereby amended to read as follows: 12-531.

15 (a) ~~Five~~ *Three* years following the annexation of any land pursuant to  
16 K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has  
17 been litigation relating to the annexation, ~~five~~ *three* years following the  
18 conclusion of such litigation, the board of county commissioners shall  
19 call a hearing to consider whether the city has provided the municipal  
20 services as provided in the timetable set forth in the plan in accordance  
21 with K.S.A. 12-520b or 12-521, and amendments thereto. The board of  
22 county commissioners shall schedule the matter for public hearing and  
23 shall give notice of the date, hour and place of the hearing to: (1) The  
24 city; and (2) any landowner in the area subject to the service extension  
25 plan.

26 (b) At the hearing, the board shall hear testimony as to the city's  
27 extension of municipal services, or lack thereof, from the city and the  
28 landowner. After the hearing, the board shall make a finding as to  
29 whether or not the city has provided services in accordance with its  
30 service extension plan. If the board finds that the city has not provided  
31 services as provided in its service extension plan, the board shall notify  
32 the city and the landowner that such property may be deannexed, as  
33 provided in K.S.A. 12-532, ~~and amendments thereto~~, if the services are  
34 not provided within  $\pm 1\frac{1}{2}$  years of the date of the board's findings.

35 (c) *If the board of county commissioners refuses to hold the hearing*  
36 *as required, any owner of land living in such area annexed may bring an*  
37 *action under provisions of K.S.A. 60-1201 et seq., and amendments*  
38 *thereto, to compel the board to hold the hearing. The court, upon finding*  
39 *the hearing is required, shall award reasonable attorney fees and costs to*  
40 *the landowner.*

41 Sec. 6. K.S.A. 12-532 is hereby amended to read as follows: 12-532.

42 (a) If, within  $\pm 1\frac{1}{2}$  years following the conclusion of the hearing  
43 required by K.S.A. 12-531, ~~and amendments thereto~~, or, where there has

1 been litigation relating to the hearing, ~~2~~ 1½ years following the  
2 conclusion of such litigation, the city has not provided the municipal  
3 services as provided in the timetable set forth in the plan prepared in  
4 accordance with K.S.A. 12-520b or 12-521, and amendments thereto, the  
5 owner of such land may petition the board of county commissioners to  
6 exclude such land from the boundaries of the city. Within 10 days after  
7 receipt of the petition, the board shall schedule the matter for public  
8 hearing and shall give notice of the date, hour and place of the hearing to:  
9 (1) The owner; (2) the city; (3) the township into which the property, if  
10 deannexed, would be placed; and (4) the governing body of any fire  
11 district, sewer district, water district or other special district governments  
12 which have jurisdiction over territory adjacent to the area sought to be  
13 deannexed. The notice shall be sent by certified mail no less than 21 days  
14 before the date of the hearing.

15 (b) At the hearing, the board shall hear testimony as to the city's  
16 extension of municipal services, or lack thereof, from both the owner and  
17 representatives of the city. Except as provided by subsection (e), if the  
18 board finds after the hearing that the city has failed to provide the  
19 municipal services in accordance with the plan and consistent with the  
20 timetable therein, the board may enter an order excluding the land from  
21 the boundaries of the city. Any such order shall take effect in the same  
22 manner as provided in K.S.A. 12-523, and amendments thereto, for the  
23 effective date of annexation ordinances. Such land shall not be annexed  
24 again for ~~one three year~~ years from the effective date of the order without  
25 the written consent of the owner of the land.

26 (c) The county clerk shall certify a copy of the order to the register  
27 of deeds of the county. The register of deeds shall record the order in the  
28 deed records of the county, and, at the expense of the ~~owner~~ city, the  
29 register of deeds also shall record the order of exclusion on the margin of  
30 the recorded plat of such land, giving reference thereon to the page and  
31 book of records where the order is recorded in the register's office.

32 (d) Except as provided by this subsection, after the effective date of  
33 the order to exclude the land from the city, such land shall not be liable  
34 for any general taxes imposed by the city. Such land shall remain liable,  
35 however, for any taxes or special assessments levied by the city as are  
36 necessary to pay its proportionate share of the interest on and principal of  
37 such bonds or other indebtedness incurred by the city for improvements  
38 to the land which were approved by the city before the date on which the  
39 owner or owners filed a petition for the exclusion of the land from the  
40 city.

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

42 (1) The service extension plan conditions the extension of certain  
43 improvements or services on the filing of a legally sufficient petition by

1 the owners of the land for the creation of an improvement district and to  
2 levy special assessments therein to pay a portion of the costs of such  
3 improvements, and a sufficient petition has not been filed;

4 (2) since the annexation, the governing body of the city initiated the  
5 creation of an improvement or benefit district affecting such land to levy  
6 special assessments thereon to pay a portion of the costs of certain  
7 municipal improvements, and the formation of the district was blocked by  
8 the filing of a sufficient protest petition by some or all of the owners of  
9 any land in the proposed district;

10 (3) the exclusion would result in the land being completely  
11 surrounded by other tracts of land located within the city's boundaries; or

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

15 (f) Any owner or the city aggrieved by the decision of the board may  
16 appeal the decision to the district court in the manner provided in K.S.A.  
17 19-223, and amendments thereto. Any city so appealing shall not be  
18 required to execute the bond prescribed therein.

19 (g) *If the board of county commissioners refuses to hold the hearing*  
20 *as required, any owner of land may bring an action under provisions of*  
21 *K.S.A. 60-1201 et seq., and amendments thereto, to compel the board to*  
22 *hold the hearing. The court, upon finding the hearing is required, shall*  
23 *award reasonable attorney fees and costs to the landowner.*

24 Sec. 7. K.S.A. 2010 Supp. 25-432 is hereby amended to read as  
25 follows: 25-432. An election shall not be conducted under this act unless:

26 (a) Conducted on a date, mutually agreed upon by the governing  
27 body of the political or taxing subdivision and the county election officer,  
28 not later than 120 days following the date the request is submitted by the  
29 political or taxing subdivision; ~~and~~

30 (b) the secretary of state approves a written plan for conduct of the  
31 election, which shall include a written timetable for the conduct of the  
32 election, submitted by the county election officer; ~~and~~

33 (c) the election is nonpartisan; ~~and~~

34 (d) the election is not one at which any candidate is elected, retained  
35 or recalled; ~~and~~

36 (e) the election is not held on the same date as another election in  
37 which the qualified electors of that subdivision of government are eligible  
38 to cast ballots; and

39 (f) the election is a question submitted election at which all of the  
40 qualified electors of one of the following subdivisions of government are  
41 the only electors eligible to vote:

42 (1) Counties;

43 (2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto;

(4) townships;

(5) benefit districts organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

(7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;

(8) community college districts organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;

(9) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

(10) hospital districts;

(11) improvement districts organized under K.S.A. 19-2753, and amendments thereto;

(12) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;

(13) sewage disposal districts organized under K.S.A. 19-27,140, and amendments thereto;

(14) water districts organized under K.S.A. 19-3501 *et seq.*, and amendments thereto; or

(15) transportation development districts created pursuant to K.S.A. 2010 Supp. 12-17,140 *et seq.*, and amendments thereto; or

(16) any tract of land annexed pursuant to section 4, and amendments thereto.

Sec. 8. K.S.A. 60-2301 is hereby amended to read as follows: 60-2301. *Except as provided in section 1, and amendments thereto, a homestead to the extent of 160 acres of farming land, or of one acre within the limits of an incorporated town or city, or a manufactured home or mobile home, occupied as a residence by the owner or by the family of the owner, or by both the owner and family thereof, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife, when that relation exists. ~~The provisions of this section shall be applicable on or after January 1, 2011.~~*

Sec. 9. K.S.A. 12-519, 12-520b, 12-521, 12-531, 12-532 and 60-2301 and K.S.A. 2010 Supp. 25-432 are hereby repealed.

1       Sec. 10. This act shall take effect and be in force from and after its  
2       publication in the Kansas register.



**Representative Mah's**

**PROPOSED AMENDMENT TO HOUSE BILL No. 2294**

By Committee on Local Government

2-10

[Material in blue is new; Material in red is stricken;  
Line numbers on proposed amendment are not consistent with original bill]

1 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-  
2 519; 12-520b, 12-521, 12-531, 12-532 and 60-2301 and K.S.A. 2010  
3 Supp. 25-432 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. When land located outside a city is annexed by such  
7 city under K.S.A. 12-521 and 12-521a, and amendments thereto, any  
8 homestead rights attributable to such land prior to such annexation shall  
9 continue after annexation until such land is sold after annexation. ~~The~~  
10 ~~provisions of this section shall be applicable on or after January 1, 2011.~~

11 New Sec. 2. Except as provided in this section, no land shall be  
12 annexed pursuant to paragraphs (1), (4), (5) and (6) of subsection (a) of  
13 K.S.A. 12-520, and amendments thereto, if the board of county  
14 commissioners determines by resolution adopted within 30 days  
15 following the conclusion of the hearing on the proposed annexation that  
16 the proposed annexation will have an adverse effect on such county. The  
17 board of county commissioners shall deliver a copy of such resolution to  
18 the city. If the board of county commissioners fails to adopt such a  
19 resolution within the 30-day period, the annexation shall be deemed to  
20 have been approved by the board of county commissioners.

21 Sec. ~~2~~ 3. K.S.A. 12-519 is hereby amended to read as follows: 12-  
22 519. As used in this act: (a) "Tract" means a single unit of real property  
23 under one ownership, outside the corporate limits of a city, which may be  
24 platted or unplatted, title to which is publicly or privately held by an  
25 owner as defined by subsection (c).

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

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

30 (1) If joint tenants, "owner" means a majority of the number of joint  
31 tenants; (2) if tenants in common, "owner" means both a majority of the  
32 number of tenants in common and the holders of a majority of the

House Local Government

Date 2-17-11

Attachment 8



undivided interests in the tract; (3) if the tract is held by a life tenant and a remainderman, "owner" means the life tenant; (4) if the tract is held by a tenant under a recorded lease providing for a lease term of 10 years or longer and a remainderman, "owner" means both such tenant and remainderman; (5) if one holds title to the surface and another holds title to the minerals, "owner" means the surface title holder.

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

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

(f) "Land devoted to agricultural use" means land which is devoted to the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

(g) *"Qualified elector" means any person registered to vote who resides within the area proposed to be annexed under the provisions of K.S.A. 12-521, and amendments thereto.*

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

~~(g)~~(i) "Watercourse" means a natural or manmade course where water may flow on a regular or intermittent basis; a watercourse shall not include a natural or manmade lake, pond or other impoundment of five or more acres of surface area.

Sec. ~~3~~ 4. K.S.A. 12-520b is hereby amended to read as follows: 12-520b. (a) The governing body of any city proposing to annex land under the provisions of K.S.A. 12-520, and amendments thereto, shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the adoption of the resolution provided for in K.S.A. 12-520a, and amendments thereto, prepare a report setting forth such plans. The report shall include:

(1) A sketch clearly delineating the land proposed to be annexed and

1 the area of the city adjacent thereto to show the following information:

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

4 (B) the present streets, water mains, sewers and other city utility  
5 lines, and the proposed extension thereof; *and*

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

7 (2) A statement setting forth a plan of sufficient detail to provide a  
8 reasonable person with a full and complete understanding of the  
9 intentions of the city for extending to the area to be annexed each major  
10 municipal service provided to persons and property located within the  
11 city and the area proposed to be annexed at the time of annexation and the  
12 estimated cost of providing such services. The plan shall state the  
13 estimated cost impact of providing such services to the residents of the  
14 city and the residents of the area proposed to be annexed. The plan shall  
15 state the method by which the city plans to finance the extension of such  
16 services to such area. Such plan shall include a timetable of the plans for  
17 extending each major municipal service to the area annexed. The plan  
18 shall state the means by which the services currently provided by a  
19 township or special district in the area to be annexed shall be maintained  
20 by the city at a level which is equal to or better than the level of services  
21 provided prior to annexation. The plan shall state those services which  
22 shall be provided immediately upon annexation and those services which  
23 may be provided upon petition of the landowners to create a benefit  
24 district.

25 (b) *A copy of the plan for extension of services shall be sent by*  
26 *certified mail not less than 10 days prior to the public hearing as*  
27 *provided in K.S.A. 12-520a, and amendments thereto, to the board of*  
28 *county commissioners.*

29 ~~(b)~~(c) The preparation of a plan for the extension of services  
30 required by subsection (a) shall not be required for or as a prerequisite to  
31 the annexation of land of which all of the owners petition for or consent  
32 to such annexation in writing.

33 Sec. 4 5. K.S.A. 12-521 is hereby amended to read as follows: 12-  
34 521. (a) Whenever the governing body of any city deems it advisable to  
35 annex land which such city is not permitted to annex under K.S.A. 12-  
36 520, and amendments thereto, or if the governing body of any city is  
37 permitted to annex land under K.S.A. 12-520, and amendments thereto,  
38 but deems it advisable not to annex thereunder, the governing body may  
39 annex such land as provided by this section. The governing body, in the  
40 name of the city, may present a petition to the board of county  
41 commissioners of the county in which the land sought to be annexed is  
42 located. The petition shall set forth a legal description of the land sought  
43 to be annexed and request a public hearing on the advisability of such

1 annexation. The governing body of such city shall make plans for the  
2 extension of services to the tract of land proposed to be annexed and shall  
3 file a copy thereof with the board of county commissioners at the time of  
4 presentation of the petition. Such report shall include:

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

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

9 (B) the present streets, water mains, sewers and other city utility  
10 lines, and the proposed extension thereto; *and*

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

12 (2) A statement setting forth a plan of sufficient detail to provide a  
13 reasonable person with a full and complete understanding of the  
14 intentions of the city for extending to the area to be annexed each major  
15 municipal service provided to persons and property located within the  
16 city and area proposed to be annexed at the time of annexation and the  
17 estimated cost of providing such services. The plan shall state the  
18 estimated cost impact of providing such services to the residents of the  
19 city and the residents of the area proposed to be annexed. The plan shall  
20 state the method by which the city plans to finance the extension of such  
21 services to such area. The plan shall include a timetable for the extension  
22 of major municipal services to the area proposed to be annexed. The plan  
23 shall state the means by which the services currently provided by a  
24 township or special district in the area to be annexed shall be maintained  
25 by the city at a level which is equal to or better than the level of services  
26 provided prior to annexation. The plan shall state those services which  
27 shall be provided immediately upon annexation and those services which  
28 may be provided upon petition of the landowners to create a benefit  
29 district.

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

33 ~~(b)~~(c) The date fixed for the public hearing shall be not less than 60  
34 nor more than 70 days following the date of the presentation of the  
35 petition requesting such hearing. Notice of the time and place of the  
36 hearing, together with a legal description of the land sought to be annexed  
37 and the names of the owners thereof, shall be published in a newspaper of  
38 general circulation in the city not less than one week and not more than  
39 two weeks preceding the date fixed for such hearing.

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

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

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

7 ~~(e)~~(d) On the day set for hearing, the board of county commissioners  
8 shall hear testimony as to the advisability of such annexation, and a  
9 representative of the city shall present the city's proposal for annexation,  
10 including the plan of the city for the extension of services to the area  
11 proposed to be annexed.

12 The action of the board of county commissioners shall be quasi-  
13 judicial in nature. The board of county commissioners shall consider the  
14 impact of approving or disapproving the annexation on the entire  
15 community involved, including the city and the land proposed to be  
16 annexed, in order to insure the orderly growth and development of the  
17 community. The board shall make specific written findings of fact and  
18 conclusions determining whether such annexation or the annexation of a  
19 lesser amount of such area causes manifest injury to the owners of any  
20 land proposed to be annexed, or to the owners of land in areas near or  
21 adjacent to the land proposed to be annexed or to the city if the  
22 annexation is disapproved. The findings and conclusions shall be based  
23 upon the preponderance of evidence presented to the board. In  
24 determining whether manifest injury would result from the annexation,  
25 the board's considerations shall include, but not be limited to, the extent  
26 to which the following criteria may affect the city, the area to be annexed,  
27 the residents of the city and the area to be annexed, other governmental  
28 units providing services to the area to be annexed, the utilities providing  
29 services to the area to be annexed, and any other public or private person,  
30 firm or corporation which may be affected thereby:

31 (1) Extent to which any of the area is land devoted to agricultural  
32 use;

33 (2) area of platted land relative to unplatted land;

34 (3) topography, natural boundaries, storm and sanitary sewers,  
35 drainage basins, transportation links or any other physical characteristics  
36 which may be an indication of the existence or absence of common  
37 interest of the city and the area proposed to be annexed;

38 (4) extent and age of residential development in the area to be  
39 annexed and adjacent land within the city's boundaries;

40 (5) present population in the area to be annexed and the projected  
41 population growth during the next five years in the area proposed to be  
42 annexed;

43 (6) the extent of business, commercial and industrial development in

1 the area;

2 (7) the present cost, methods and adequacy of governmental services  
3 and regulatory controls in the area;

4 (8) the proposed cost, extent and the necessity of governmental  
5 services to be provided by the city proposing annexation and the plan and  
6 schedule to extend such services;

7 (9) tax impact upon property in the city and the area;

8 (10) extent to which the residents of the area are directly or  
9 indirectly dependent upon the city for governmental services and for  
10 social, economic, employment, cultural and recreational opportunities and  
11 resources;

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

16 (12) existing petitions for incorporation of the area as a new city or  
17 for the creation of a special district;

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

20 (14) effect of annexation upon the utilities providing services to the  
21 area and the ability of those utilities to provide those services shown in  
22 the detailed plan.

23 ~~(d)~~(e) The board of county commissioners shall render a judgment  
24 within seven days after the hearing has been adjourned sine die. If a  
25 majority of the board of county commissioners concludes that the  
26 annexation or any part thereof should be allowed, the board shall so find  
27 and grant the annexation by order; and thereupon the city may annex the  
28 land by ordinance. Orders of the board of county commissioners denying  
29 the petition or a part thereof for annexation shall require a majority vote  
30 of the members of the board. When an order denying a petition or part  
31 thereof is issued, it shall be by resolution, which shall be sent by certified  
32 mail to the city proposing the annexation. All orders of the board of  
33 county commissioners granting or denying petitions for annexation shall  
34 be spread at length upon the journal of proceedings of the board. The  
35 failure of such board to spread an order granting annexation upon the  
36 journal shall not invalidate such order.

37 (f) *Within 10 days following the rendering of the judgment of the*  
38 *board of county commissioners granting all or a part thereof of any*  
39 *annexation as provided in subsection (e), the city clerk shall certify to the*  
40 *county election officer a legal description and a map of the area outside*  
41 *the corporate limits of the city proposed to be annexed and the street*  
42 *addresses of all real estate located therein. If there are qualified voters*  
43 *residing in the area proposed to be annexed, then the county election*



1 officer shall conduct a mail ballot election under the provisions of K.S.A.  
2 25-431 et seq., and amendments thereto, in the area proposed to be  
3 annexed within 60 days of such certification. If a majority of the qualified  
4 electors residing in the area proposed to be annexed and voting thereon  
5 approve the annexation, the city may annex the land by passage of an  
6 ordinance. If a majority of the qualified electors residing in the area  
7 proposed to be annexed and voting thereon reject the annexation, the  
8 lands shall not be annexed and the city may not propose the annexation  
9 of any such lands in the proposed area for at least four years from the  
10 date of the election, *unless the proposed annexation is authorized by*  
11 *paragraphs (2), (3) or (7) of subsection (a) of K.S.A. 2010 Supp. 12-520.*

12 ~~(e)~~(g) ~~(4)~~ Any owner of land annexed pursuant to this section or  
13 the city aggrieved by the decision of the board of county commissioners  
14 may appeal the decision of the board to the district court of the same  
15 county in the manner and method set forth in K.S.A. 19-223, and  
16 amendments thereto. Nothing in this subsection shall be construed as  
17 granting the owner of land in areas near or adjacent to land annexed  
18 pursuant to this section the right to appeal the decision of the board of  
19 county commissioners. Any city so appealing shall not be required to  
20 execute the bond prescribed therein.

21 ~~(2) In the event that a landowner prevails in the appeal under this~~  
22 ~~subsection, the successful landowner shall be awarded reasonable~~  
23 ~~attorney fees and costs.~~

24 Sec. ~~5~~ 6. K.S.A. 12-531 is hereby amended to read as follows: 12-  
25 531. (a) ~~Five~~ Three years following the annexation of any land pursuant  
26 to K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has  
27 been litigation relating to the annexation, ~~five~~ three years following the  
28 conclusion of such litigation, the board of county commissioners shall  
29 call a hearing to consider whether the city has provided the municipal  
30 services as provided in the timetable set forth in the plan in accordance  
31 with K.S.A. 12-520b or 12-521, and amendments thereto. The board of  
32 county commissioners shall schedule the matter for public hearing and  
33 shall give notice of the date, hour and place of the hearing to: (1) The  
34 city; and (2) any landowner in the area subject to the service extension  
35 plan.

36 (b) At the hearing, the board shall hear testimony as to the city's  
37 extension of municipal services, or lack thereof, from the city and the  
38 landowner. After the hearing, the board shall make a finding as to  
39 whether or not the city has provided services in accordance with its  
40 service extension plan. If the board finds that the city has not provided  
41 services as provided in its service extension plan, the board shall notify  
42 the city and the landowner that such property may be deannexed, as  
43 provided in K.S.A. 12-532, and amendments thereto, if the services are



1 not provided within  $\pm 1\frac{1}{2}$  years of the date of the board's findings.

2 (c) *If the board of county commissioners refuses to hold the hearing*  
3 *as required, any owner of land living in such area annexed may bring an*  
4 *action under provisions of K.S.A. 60-1201 et seq., and amendments*  
5 *thereto, to compel the board to hold the hearing. The court, upon finding*  
6 *the hearing is required, shall award reasonable attorney fees and costs to*  
7 *the landowner.*

8 Sec. ~~6~~-7. K.S.A. 12-532 is hereby amended to read as follows: 12-  
9 532. (a) If, within  $\pm 1\frac{1}{2}$  years following the conclusion of the hearing  
10 required by K.S.A. 12-531, *and amendments thereto*, or, where there has  
11 been litigation relating to the hearing,  $\pm 1\frac{1}{2}$  years following the  
12 conclusion of such litigation, the city has not provided the municipal  
13 services as provided in the timetable set forth in the plan prepared in  
14 accordance with K.S.A. 12-520b or 12-521, and amendments thereto, the  
15 owner of such land may petition the board of county commissioners to  
16 exclude such land from the boundaries of the city. Within 10 days after  
17 receipt of the petition, the board shall schedule the matter for public  
18 hearing and shall give notice of the date, hour and place of the hearing to:  
19 (1) The owner; (2) the city; (3) the township into which the property, if  
20 deannexed, would be placed; and (4) the governing body of any fire  
21 district, sewer district, water district or other special district governments  
22 which have jurisdiction over territory adjacent to the area sought to be  
23 deannexed. The notice shall be sent by certified mail no less than 21 days  
24 before the date of the hearing.

25 (b) At the hearing, the board shall hear testimony as to the city's  
26 extension of municipal services, or lack thereof, from both the owner and  
27 representatives of the city. Except as provided by subsection (e), if the  
28 board finds after the hearing that the city has failed to provide the  
29 municipal services in accordance with the plan and consistent with the  
30 timetable therein, the board may enter an order excluding the land from  
31 the boundaries of the city. Any such order shall take effect in the same  
32 manner as provided in K.S.A. 12-523, and amendments thereto, for the  
33 effective date of annexation ordinances. Such land shall not be annexed  
34 again for ~~one three year~~ years from the effective date of the order without  
35 the written consent of the owner of the land.

36 (c) The county clerk shall certify a copy of the order to the register  
37 of deeds of the county. The register of deeds shall record the order in the  
38 deed records of the county, and, at the expense of the ~~owner~~ city, the  
39 register of deeds also shall record the order of exclusion on the margin of  
40 the recorded plat of such land, giving reference thereon to the page and  
41 book of records where the order is recorded in the register's office.

42 (d) Except as provided by this subsection, after the effective date of  
43 the order to exclude the land from the city, such land shall not be liable

1 for any general taxes imposed by the city. Such land shall remain liable,  
2 however, for any taxes or special assessments levied by the city as are  
3 necessary to pay its proportionate share of the interest on and principal of  
4 such bonds or other indebtedness incurred by the city for improvements  
5 to the land which were approved by the city before the date on which the  
6 owner or owners filed a petition for the exclusion of the land from the  
7 city.

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

9 (1) The service extension plan conditions the extension of certain  
10 improvements or services on the filing of a legally sufficient petition by  
11 the owners of the land for the creation of an improvement district and to  
12 levy special assessments therein to pay a portion of the costs of such  
13 improvements, and a sufficient petition has not been filed;

14 (2) since the annexation, the governing body of the city initiated the  
15 creation of an improvement or benefit district affecting such land to levy  
16 special assessments thereon to pay a portion of the costs of certain  
17 municipal improvements, and the formation of the district was blocked by  
18 the filing of a sufficient protest petition by some or all of the owners of  
19 any land in the proposed district;

20 (3) the exclusion would result in the land being completely  
21 surrounded by other tracts of land located within the city's boundaries; or

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

25 (f) Any owner or the city aggrieved by the decision of the board may  
26 appeal the decision to the district court in the manner provided in K.S.A.  
27 19-223, and amendments thereto. Any city so appealing shall not be  
28 required to execute the bond prescribed therein.

29 (g) *If the board of county commissioners refuses to hold the hearing*  
30 *as required, any owner of land may bring an action under provisions of*  
31 *K.S.A. 60-1201 et seq., and amendments thereto, to compel the board to*  
32 *hold the hearing. The court, upon finding the hearing is required, shall*  
33 *award reasonable attorney fees and costs to the landowner.*

34 Sec. 7 8. K.S.A. 2010 Supp. 25-432 is hereby amended to read as  
35 follows: 25-432. An election shall not be conducted under this act unless:

36 (a) Conducted on a date, mutually agreed upon by the governing  
37 body of the political or taxing subdivision and the county election officer,  
38 not later than 120 days following the date the request is submitted by the  
39 political or taxing subdivision; ~~and~~

40 (b) the secretary of state approves a written plan for conduct of the  
41 election, which shall include a written timetable for the conduct of the  
42 election, submitted by the county election officer; ~~and~~

43 (c) the election is nonpartisan; ~~and~~

1 (d) the election is not one at which any candidate is elected, retained  
2 or recalled; ~~and~~

3 (e) the election is not held on the same date as another election in  
4 which the qualified electors of that subdivision of government are eligible  
5 to cast ballots; and

6 (f) the election is a question submitted election at which all of the  
7 qualified electors of one of the following subdivisions of government are  
8 the only electors eligible to vote:

9 (1) Counties;

10 (2) cities;

11 (3) school districts, except in an election held pursuant to K.S.A. 72-  
12 7302 *et seq.*, and amendments thereto;

13 (4) townships;

14 (5) benefit districts organized under K.S.A. 31-301, and  
15 amendments thereto;

16 (6) cemetery districts organized under K.S.A. 15-1013 or 17-1330,  
17 and amendments thereto;

18 (7) combined sewer districts organized under K.S.A. 19-27,169, and  
19 amendments thereto;

20 (8) community college districts organized under K.S.A. 71-1101 *et*  
21 *seq.*, and amendments thereto;

22 (9) fire districts organized under K.S.A. 19-3601 or 80-1512, and  
23 amendments thereto;

24 (10) hospital districts;

25 (11) improvement districts organized under K.S.A. 19-2753, and  
26 amendments thereto;

27 (12) Johnson county park and recreation district organized under  
28 K.S.A. 19-2859, and amendments thereto;

29 (13) sewage disposal districts organized under K.S.A. 19-27,140,  
30 and amendments thereto;

31 (14) water districts organized under K.S.A. 19-3501 *et seq.*, and  
32 amendments thereto; ~~or~~

33 (15) transportation development districts created pursuant to K.S.A.  
34 2010 Supp. 12-17,140 *et seq.*, and amendments thereto; *or*

35 (16) *any tract of land annexed pursuant to section 4, and*  
36 *amendments thereto.*

37 Sec. ~~8~~ 9. K.S.A. 60-2301 is hereby amended to read as follows: 60-  
38 2301. *Except as provided in section 1, and amendments thereto, a*  
39 *homestead to the extent of 160 acres of farming land, or of one acre*  
40 *within the limits of an incorporated town or city, or a manufactured home*  
41 *or mobile home, occupied as a residence by the owner or by the family of*  
42 *the owner, or by both the owner and family thereof, together with all the*  
43 *improvements on the same, shall be exempted from forced sale under any*



1 process of law, and shall not be alienated without the joint consent of  
2 husband and wife, when that relation exists; but no property shall be  
3 exempt from sale for taxes, or for the payment of obligations contracted  
4 for the purchase of said premises, or for the erection of improvements  
5 thereon. The provisions of this section shall not apply to any process of  
6 law obtained by virtue of a lien given by the consent of both husband and  
7 wife, when that relation exists. ~~The provisions of this section shall be~~  
8 ~~applicable on or after January 1, 2011.~~

9 Sec. ~~9~~ 10. K.S.A. 12-519, 12-520b, 12-521, 12-531, 12-532 and 60-  
10 2301 and K.S.A. 2010 Supp. 25-432 are hereby repealed.

11 Sec. ~~10~~ 11. This act shall take effect and be in force from and after  
12 its publication in the Kansas register.