

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:40 p.m. on March 15, 2011, in Room 144-S of the Capitol.

All members were present except:

Representative Lane – excused

Representative Otto - excused

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department

Eunice Peters, Office of the Revisor of Statutes

Florence Deeter, Committee Assistant

Conferees appearing before the Committee:

Senator Pat Apple, District 12, Louisburg, Kansas

J. Darcy Domoney, Attorney, Winkler, Domoney and Schultz Law Offices, Paola, Kansas

Others attending:

See attached list.

The Chairman opened the hearing on **SB 114 - Uniform common interest owners bill of rights act; changes.**

Staff Eunice Peters referenced the three changes to the Kansas Uniform Common Interest Owners Bill of Rights Act, saying that the bill as amended would:

1. permit a common interest community's association to suspend an owner's right to vote when delinquency of payment of assessments and fees has been determined;
2. amend an association's bylaws requirements; and
3. allow an association to deliver any required notice by posting on their website, on a public bulletin board, by hand delivery, and by postal or electronic means.

Senator Pat Apple, District 12, Louisburg, Kansas, spoke as a proponent of **SB 114**. He distributed a large map to committee members depicting the development of Linn Valley Lakes. He noted that the land was developed prior to county zoning regulations and, at present, less than ten percent of the lots are occupied as a residence (**Attachment 1**). Senator Apple reported that two groups are claiming developer status but are not paying dues and assessments. He said that **SB 114** as amended makes changes that provide protection for home owners and direction for home owner associations; he requested the committee find the bill favorable for passage.

Responding to members' questions, Senator Apple said that:

- At the present time, notices are sent by mail or hand-delivered, and
- The home owners association was not thorough in their original business dealings.

Senator Apple recognized David Freer, a member of the Linn Valley Lakes Home Owners Association, who acknowledged the membership did not vote to change the bylaws in January 2011. He also reported that the association has language in the bylaws establishing open records.

Senator Apple said that J. Darcy Domoney is counsel for several home owners in the area. J. Darcy Domoney, Attorney, Winkler, Domoney and Schultz Law Offices, Paola, Kansas, whose law firm represents Linn Valley Lakes Property Owners Association, provided written testimony in support of **SB 114** (**Attachment 2**).

Staff Martha Dorsey provided clarification of the effective date for incorporating bylaws, saying that the section of **HB 2472** from 2010, took effect on January 1, 2011, but bylaws do not have to be in place by that date.

The hearing on **SB 114** was closed.

The Chairman acknowledged the listing of **SB 101** on the daily agenda; there being no one present to

CONTINUATION SHEET

Minutes of the House Elections Committee at 3:30 p.m. on March 15, 2011, in Room 144-S of the Capitol.
speak to the bill, the hearing for it was not initiated.

The Chairman requested the committee consider **HB 2314 - Finney county drainage district No 2; election of directors**. Representative Seiwert moved to amend **HB 2314** with the technical amendments presented in Attachment 3. Representative Mah seconded. During discussion, Representative Sloan requested staff to provide clear language in lines 13-17 on page 2. The balloon amendment passed (Attachment 3).

Representative Billinger moved to pass **HB 2314** favorably as amended. Representative Hineman seconded. The motion passed.

Representative Seiwert moved to amend substitute **SB 101**, substituting the original contents with the contents of **HB 2088**. Representative Grosserode seconded the motion. (Attachment 4). During discussion, Representative Sloan requested a technical change in section (2), line (b), to read "July 1, 2011." Representative Seiwert moved to pass substitute **SB 101** as amended. Representative Grosserode seconded the motion. The motion passed with two dissenting votes—Representative Carlin and Representative Worley.

The Chairman requested consideration of **SB 150**. Representative Mah motioned to amend **SB 150** by adding the contents of **HB 2294** (Attachment 5). Representative Grosserode seconded the motion. The motion to amend was passed.

Representative Mah moved to pass **SB 150** as amended. Representative Hildabrand seconded the motion. The motion passed.

The meeting was adjourned at 4:45 pm. The next meeting is scheduled for March 17, 2011.

HOUSE LOCAL GOVERNMENT

GUEST LIST

DATE: March 15, 2011

[illegible]

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TOPEKA

SENATE CHAMBER

COUNTIES
 ANDERSON, FRANKLIN,
 LINN & MIAMI

COMMITTEE ASSIGNMENTS

CHAIRMAN: UTILITIES
 VICECHAIR: ASSESSMENT AND TAXATION
 MEMBER: ETHICS AND ELECTIONS

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Testimony in Support of Senate Bill 114 March 15, 2011

Chairman Huebert and members of the House Local Government Committee,

Thank you for the opportunity to testify in favor of Senate Bill 114. My senate district includes Linn County where several recreational lake developments are located. The largest, Linn Valley Lakes, brought to my attention several concerns with the Uniform Common Interest Bill of Rights that passed the legislature last session. This measure contains many good provisions that protect home owners and give direction to home owner associations across our state but has a few provisions that create undue hardships on this class of development.


First let me describe Linn Valley Lakes. Linn Valley Lakes was developed prior to county zoning regulations and contains approximately 5000 lots, a golf course, several lakes, swimming pool and club house. Less than 10% of the lots are occupied by a residence. Some lots are camping lots and some members do not own property and are members by paying annual dues. There are at least two groups that are claiming developer status and are not paying annual dues.

As amended SB 114 makes the following changes:

- SB 114 would allow an association to deliver any required notice by posting the notice on the association's website or by posting a notice on a bulletin board in the association's office or at other public locations to which owners have access at all times; in addition to giving the association an electronic address, or by any other method reasonably calculated to provide notice to the unit owner.
- SB 114 clarifies that an association has the ability to suspend an owner's right to vote on all issues if the owner is declaring developer status and not paying assessment or fees.
- SB 114 creates a definition of a recreational lake development where a development has over 500 lots and less than half of the lots have a residence.
- A recreational lake development would not be required to rewrite their bylaws as required in sec 2 on page 2 of the bill.
- A recreational lake development may restrict members from voting on all matters if their dues are not paid.

Thank you for your consideration of this important matter.

Very truly yours,


 Pat Apple
 Kansas Senate, District 12

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 Date 3-15-11
 Attachment 1

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WINKLER, DOMONEY & SCHULTZ

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SHEILA M. SCHULTZ
JOHN L. DOMONEY

Testimony Presented To The
House Committee on Local Government
by J. Darcy Domoney
March 15, 2011
concerning Senate Bill 114

Good morning. Thank you for the opportunity to come before the House Committee on Local Government in support of Senate Bill 114. The language in Senate Bill 114 would make several changes to the Uniform Common Interest Owners Bill of Rights Act that became Kansas Law effective January 1, 2011. My law firm represents Linn Valley Lakes Property Owners Association, Sugar Valley Lake Homes Association and Tanglewood Lakes Owners Association. All three Associations are located in Linn County, Kansas.

Under the new law, if a member of an association is delinquent in the payment of their dues/assessments, they still have the right to vote in elections regarding the Board of Directors of the Association. A primary function of a Board of Directors of an Association is to determine how to spend the dues/assessments that it collects. To allow delinquent members to vote in Board elections is not logical. In addition, part of the leverage to encourage members to pay their dues/assessments is the right to vote in Board elections.

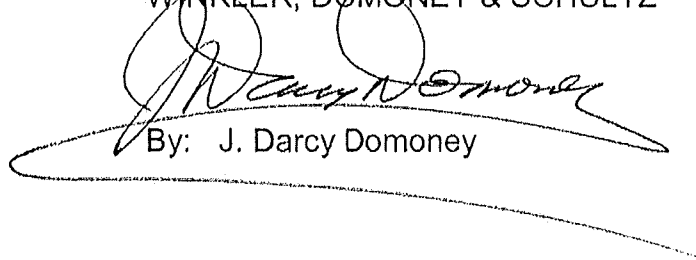
Under the new law, it is required that the Bylaws of the Association be amended to contain certain provisions. These required provisions already are set forth in other areas of the new law and they override any provisions that are contained in the Association documents. In most cases, it takes a vote of the Association membership to amend the Bylaws. A possible result is that the membership fails to vote to amend the Bylaws to come into compliance with the Kansas Law. The requirement to amend the Bylaws is an unnecessary provision and therefore it should be totally repealed.

In certain sections of the new law, notice is required to be given to lot owners by either hand delivery, mail or email. This is cost prohibitive for my clients. For instance, Linn Valley Lakes Property Owners Association has approximately 5,000 lots and therefore potentially 5,000 members. It is impossible for Linn Valley Lakes Property Owners Association to obtain current email addresses for all lot owners and it is equally

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Attachment 2

impossible to hand deliver notice to each lot owner. Therefore, under the new law, the only alternative available is the mail. The approximate cost of a mailing to each current lot owner by Linn Valley Lakes Property Owners Association is \$2,000.00. Senate Bill 114 allows for the required notices to be given by posting on the Association's website or posting on a bulletin board in the Association's office or other public locations that owners have access to at all times. This is a much more reasonable approach.

WINKLER, DOMONEY & SCHULTZ



By: J. Darcy Domoney

Session of 2011

HOUSE BILL No. 2314

By Committee on Taxation

2-11

1 AN ACT concerning drainage district No. 2 of Finney county, Kansas;
 2 pertaining to the election of directors; amending K.S.A. 24-412 and
 3 K.S.A. 2010 Supp. 24-139a and 24-409 and repealing the existing
 4 sections.

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

7 Section 1. K.S.A. 2010 Supp. 24-139a is hereby amended to read as
 8 follows: 24-139a. ~~The board of directors of drainage district No. 2 of~~
 9 ~~Finney county shall provide by the passage of a resolution for the~~
 10 ~~staggering of terms of the board. At the next election of directors, one~~
 11 ~~director shall be elected for a two year term and two directors shall be~~
 12 ~~elected for three year terms. Election of directors thereafter shall be for~~
 13 ~~three year terms. Notwithstanding the provisions of K.S.A. 24-409 and 24-~~
 14 ~~412, and amendments thereto, prior to the election of the board of~~
 15 ~~directors of drainage district No. 2 of Finney county, Kansas, such board~~
 16 ~~of directors shall determine which board position shall have a term of~~
 17 ~~two years and shall notify the county election officer. At the election~~
 18 ~~proceedings in 2013, a director shall be elected for a term of four years~~
 19 ~~for each of board positions one and two and one director shall be elected~~
 20 ~~for a term of two years for board position three. Thereafter, all directors~~
 21 ~~shall be elected for a term of four years as provided in K.S.A. 24-409 and~~
 22 ~~24-412, and amendments thereto.~~

"2013"

"director"

23 Sec. 2. K.S.A. 2010 Supp. 24-409 is hereby amended to read as
 24 follows: 24-409. (a) All powers granted to drainage districts incorporated
 25 under the provisions of this act shall be exercised by a board of directors
 26 consisting of three persons. Except as provided in K.S.A. 24-412 and
 27 K.S.A. 2010 Supp. 24-139a, and amendments thereto, the directors shall
 28 hold their offices for four years and until their successors are elected or
 29 appointed, as the case may be, and qualified, and shall be chosen at the
 30 time and in the manner provided by law.

31 (b) Members of the board of directors shall be owners of land
 32 located in the drainage district and shall reside in the county in which the
 33 district is located or, if the district is located in more than one county, a
 county in which any portion of the district is located, except:

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 Attachment 3

1 (1) If there are no residents within the drainage district who are
2 owners of land within the district, any owner of land located within the
3 district shall be a qualified voter and shall be eligible to hold the office of
4 director; and

5 (2) a director shall be either an owner of or a tenant on land located
6 within the drainage district whenever: (A) The drainage district is located
7 within one county and the population of the county does not exceed
8 10,000; or (B) the drainage district is located in more than one county and
9 the population of any such county does not exceed 10,000.

10 Sec. 3. K.S.A. 24-412 is hereby amended to read as follows: 24-412.

11 (a) *Subject to the provisions of subsection (b), except as otherwise*
12 *provided in this section, an election to choose three directors in each*
13 *district as their successors, shall be held on the first Tuesday in April,*
14 *1983, and an election shall be held each four years thereafter, on the first*
15 *Tuesday in April, to choose directors. Directors elected in any district in*
16 *1980 or 1981 shall hold their office until successors are elected and*
17 *qualified at the election in April, 1983.*

18 (b) *On and after January 1, 2012, the board of directors of drainage*
19 *district No. 2 of Finney county, Kansas, shall be elected for a term of four*
20 *years.*

21 Sec. 4. K.S.A. 24-412 and K.S.A. 2010 Supp. 24-139a and 24-409
22 are hereby repealed.

23 Sec. 5. This act shall take effect and be in force from and after its
24 publication in the statute book.
25

“as provided in K.S.A. 24-139a, and amendments thereto.”

SENATE BILL No. 101

By Committee on Ethics and Elections

2-4

HOUSE SUBSTITUTE
FOR

Local Government

12-16,219

Proposed House Substitute for to SB 101

March 15, 2011

For Committee on Local Government

Prepared by Eunice Peters

Office of Revisor of Statutes

Material in strikethrough is stricken language;
material underlined is new

House Local Government

Date 3-15-11

Attachment 4

1 AN ACT concerning homeowners associations; amending K.S.A.
2 2010 Supp. 58-4605 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. ~~K.S.A. 2010 Supp. 58-4605 is hereby amended to read as~~
6 ~~follows: 58-4605. (a) This act, and amendments thereto, apply to all~~
7 ~~common interest communities that contain 12 or more units that may be~~
8 ~~used for residential purposes and are created within this state after the~~
9 ~~effective date of this act.~~

10 ~~(b) This act shall not apply to any common interest community~~
11 ~~which does not own any real property held in common for the benefit of~~
12 ~~such community.~~

13 ~~(c) This section shall take effect on and after January 1, 2011.~~

14 Sec. 2. K.S.A. 2010 Supp. 58-4605 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.
17

Section 1. K.S.A. 2010 Supp. 12-16,219 is hereby amended to read as follows:
12-16,219. (a) As used in this section:

(1) "Municipality" means any city or county.

(2) "Residential structure" means any improvement to real property to be used or
occupied as a single-family dwelling or multi-family dwelling of two attached living
units or less or any manufactured home.

(b) On and after July 1, 2010, no municipality shall adopt or enforce any
ordinance, order, code, standard or rule requiring the installation of a multi-purpose
residential fire protection sprinkler system or any other fire sprinkler protection
system in any residential structure. Nothing in this section shall prohibit any person
from voluntarily installing a multi-purpose residential fire protection sprinkler system
or any other fire sprinkler protection system in a residential structure.

(c) ~~The provisions of this section shall expire on July 1, 2011. No municipality~~
shall require the installation of a multi-purpose residential fire protection sprinkler
system in any residential structure as a condition for consideration or approval of any
building permit or plat.

12-16,219

Kansas register

*As Amended by Senate Committee**Session of 2011***SENATE BILL No. 150**

By Committee on Ways and Means

2-8

boundaries

AN ACT concerning cities; relating to **incorporation**; amending K.S.A. 15-116, 15-117 and 15-124, and repealing the existing sections.

12-519, 12-520b, 12-521, 12-531, 12-532,

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

Section 1. K.S.A. 15-116 is hereby amended to read as follows: 15-116. (a) When a petition for the incorporation of a city, signed by 50 or more electors of the territory described therein, and containing the information hereafter required, is filed with the county clerk if all the territory is within one county, or the county clerk of the county in which the greater or greatest area lies if the territory lies in two or more counties, the requirements and proceedings shall be as hereinafter stated.

,

and 60-2301 and K.S.A. 2010 Supp. 25-432

The petition shall: (1) Be addressed to the board of county commissioners, or where the territory lies in two or more counties, to the board of commissioners of the county having the greater or greatest area; (2) describe the territory by metes and bounds; and (3) request the incorporation of the territory as a city by the name of "the city of _____" (giving name).

Each page of signatures shall bear the following heading:

"I, whose name appears as one of the signers below, state that I reside in and am an elector of the territory petitioned to become the city of _____; that I signed my name in my own handwriting; that I read the description of the metes and bounds of said territory or saw the map of the territory attached as an exhibit to the petition.

*Signatures**Addresses"*

~~If registration for voting purposes is required in all or any part of the area, signers in the registration area must sign their names the same as they are shown on the registration books. The signatures of signers in registration areas shall be checked against the voter registration books by the county election officer in charge of registration. Where all or a part of the territory is not in a registration area, an elector who signs the petition shall make an affidavit that to the best of the elector's knowledge and belief, the persons who signed the petition and who are not in a registration area are electors of the territory. The affidavit shall be attached to the petition before the petition is filed. Any person desiring to~~

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1 withdraw their name from the petition may do so by filing in person with
2 the county clerk of the county where the petition will be filed, and before
3 the petition is filed, a statement substantially as follows: "I the
4 undersigned, hereby withdraw my name as a signer of the petition for the
5 incorporation of the territory proposed to be called the city of
6 _____." The county clerk shall sign and endorse on the face of
7 the statement the month, day, year and hour of the filing and, if and when
8 the petition is filed, shall attach such withdrawal statement thereto.

9 The sufficiency of the number of petitioners shall be determined as of
10 the day of the filing of the petition by registration books, if any, and as of
11 the date of the affidavit as to persons in nonregistration area.

12 (b) No territory shall be incorporated as a city except as provided in
13 subsection (d)(2) unless it has ~~300~~ 250 or more inhabitants or has ~~300~~
14 250 or more platted lots each of which is served by water and sewer lines
15 owned by a nonprofit corporation. The number of inhabitants shall be
16 determined by an enumeration by a qualified signer of the petition who
17 shall make an affidavit that an enumeration has been made of the
18 inhabitants of the territory after the beginning of the circulation of the
19 petition, and stating the number of inhabitants found, and specifying the
20 dates when it was begun and when completed. The number of platted lots
21 served by water and sewer lines owned by a nonprofit corporation shall
22 be determined by the county engineer, who shall state the findings by
23 affidavit. ~~Such~~ The affidavits shall be attached to the petition before it is
24 filed. The board of county commissioners may cause another enumeration
25 to be made if it believes the number of inhabitants may be less than ~~300~~
26 250.

27 (c) The petition shall have attached thereto a statement containing
28 the following information regarding the proposed city: (1) Quantity of
29 land embraced, platted and unplatted; (2) a brief description of existing
30 facilities and services currently received by the area, including water
31 supply, sewage disposal, fire and police protection; and (3) reasons for
32 desiring city government and services.

33 There shall also be attached to the petition a map of the territory
34 showing the location of the proposed city within the county or counties
35 and the more densely built-up area or areas and designating in general the
36 platted and unplatted areas.

37 There shall also be attached a statement of the assessed valuation of
38 the platted real property and improvements and unplatted real property
39 and improvements and the assessed valuation or an estimate thereof of
40 the tangible personal property for each county in which any area lies,
41 certified by the county clerk or county assessor.

42 (d) No territory shall be incorporated as a city unless:

43 (1) The inhabitants of the territory number ~~300~~ 250 or more ~~or~~ and 50

5-2

1 *or more electors of the territory have signed a petition;*

2 (2) the territory contains 300 250 or more platted lots each served by
3 water and sewer lines owned by a nonprofit corporation, and 50 or more
4 electors of the territory have signed a petition; or

5 ~~(2)~~ (3) the territory has been designated a national landmark by the
6 congress of the United States.

7 Sec. 2. K.S.A. 15-117 is hereby amended to read as follows: 15-117.

8 The county clerk shall examine the petition, if such a petition is required,
9 signatures and attached matter as prescribed by K.S.A. 15-116, as
10 amended, and if it appears the petition is in proper form, that the
11 inhabitants of the territory number 300 250 or more ~~or~~ *and 50 or more*
12 *electors of the territory have signed a petition*, that the territory contains
13 300 250 or more platted lots each served by water and sewer lines owned
14 by a nonprofit corporation; and that 50 or more electors of the territory
15 have signed the petition, or that the territory has been designated as a
16 national landmark, the county clerk shall so report to the board of county
17 commissioners at its next regular meeting and it shall designate a time
18 and place for a hearing on the petition, such time to be not less than 30
19 nor more than 90 days from the date the petition was filed. The place of
20 the hearing shall be at a place convenient for most of the inhabitants of
21 the territory.

22 Sec. 3. K.S.A. 15-124 is hereby amended to read as follows: 15-124.

23 The city, regardless of the number of inhabitants ~~(three hundred (300) or~~
24 ~~more), 250 or more,~~ at the time of incorporation, shall operate as a
25 mayor-council city of the third class and the statutes relating thereto and
26 home rule powers under the constitution until such time as by proper
27 proceedings the class is changed or form of government changed.

28 Sec. 4. K.S.A. 15-116, 15-117 ~~and~~ 15-124 are hereby repealed.

29 Sec. 5. This act shall take effect and be in force from and after its
30 publication in the ~~statute book~~.
31
32

See Insert

13.

12-519, 12-520b, 12-521, 12-531, 12-532,

and 60-2301 and K.S.A. 2010 Supp. 25-432

14.

Kansas register

1 INSERT:

2 New Sec. 4. When land located outside a city is annexed by such
3 city under K.S.A. 12-521 and 12-521a, and amendments thereto, any
4 homestead rights attributable to such land prior to such annexation shall
5 continue after annexation until such land is sold after annexation.

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

16 Sec. 6. K.S.A. 12-519 is hereby amended to read as follows: 12-519.
17 As used in this act: (a) "Tract" means a single unit of real property under
18 one ownership, outside the corporate limits of a city, which may be
19 platted or unplatted, title to which is publicly or privately held by an
20 owner as defined by subsection (c).

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

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

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

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

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

41 (f) "Land devoted to agricultural use" means land which is devoted
42 to the production of plants, animals or horticultural products, including
43 but not limited to: Forages; grains and feed crops; dairy animals and dairy

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

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

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

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

20 Sec. 7. K.S.A. 12-520b is hereby amended to read as follows: 12-
21 520b. (a) The governing body of any city proposing to annex land under
22 the provisions of K.S.A. 12-520, and amendments thereto, shall make
23 plans for the extension of services to the area proposed to be annexed and
24 shall, prior to the adoption of the resolution provided for in K.S.A. 12-
25 520a, and amendments thereto, prepare a report setting forth such plans.
26 The report shall include:

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

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

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

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

34 (2) A statement setting forth a plan of sufficient detail to provide a
35 reasonable person with a full and complete understanding of the
36 intentions of the city for extending to the area to be annexed each major
37 municipal service provided to persons and property located within the
38 city and the area proposed to be annexed at the time of annexation and the
39 estimated cost of providing such services. The plan shall state the
40 estimated cost impact of providing such services to the residents of the
41 city and the residents of the area proposed to be annexed. The plan shall
42 state the method by which the city plans to finance the extension of such
services to such area. Such plan shall include a timetable of the plans for

1 extending each major municipal service to the area annexed. The plan
2 shall state the means by which the services currently provided by a
3 township or special district in the area to be annexed shall be maintained
4 by the city at a level which is equal to or better than the level of services
5 provided prior to annexation. The plan shall state those services which
6 shall be provided immediately upon annexation and those services which
7 may be provided upon petition of the landowners to create a benefit
8 district.

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

13 (b)(c) The preparation of a plan for the extension of services
14 required by subsection (a) shall not be required for or as a prerequisite to
15 the annexation of land of which all of the owners petition for or consent
16 to such annexation in writing.

17 Sec. 8. K.S.A. 12-521 is hereby amended to read as follows: 12-521.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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community. The board shall make specific written findings of fact and conclusions determining whether such annexation or the annexation of a lesser amount of such area causes manifest injury to the owners of any land proposed to be annexed, or to the owners of land in areas near or adjacent to the land proposed to be annexed or to the city if the annexation is disapproved. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether manifest injury would result from the annexation, the board's considerations shall include, but not be limited to, the extent to which the following criteria may affect the city, the area to be annexed, the residents of the city and the area to be annexed, other governmental units providing services to the area to be annexed, the utilities providing services to the area to be annexed, and any other public or private person, firm or corporation which may be affected thereby:

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

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

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

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

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

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

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

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

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

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

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

(12) existing petitions for incorporation of the area as a new city or

1 for the creation of a special district;

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

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

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

21 (f) Within 10 days following the rendering of the judgment of the
22 board of county commissioners granting all or a part thereof of any
23 annexation as provided in subsection (e), the city clerk shall certify to the
24 county election officer a legal description and a map of the area outside
25 the corporate limits of the city proposed to be annexed and the street
26 addresses of all real estate located therein. If there are qualified voters
27 residing in the area proposed to be annexed, then the county election
28 officer shall conduct a mail ballot election under the provisions of K.S.A.
29 25-431 et seq., and amendments thereto, in the area proposed to be
30 annexed within 60 days of such certification. If a majority of the qualified
31 electors residing in the area proposed to be annexed and voting thereon
32 approve the annexation, the city may annex the land by passage of an
33 ordinance. If a majority of the qualified electors residing in the area
34 proposed to be annexed and voting thereon reject the annexation, the
35 lands shall not be annexed and the city may not propose the annexation of
36 any such lands in the proposed area for at least four years from the date of
37 the election, unless the proposed annexation is authorized by paragraphs
38 (2), (3) or (7) of subsection (a) of K.S.A. 12-520, and amendments
39 thereto.

40 (e)(g) (1) Any owner of land annexed pursuant to this section or the
41 city aggrieved by the decision of the board of county commissioners may
42 appeal the decision of the board to the district court of the same county in
the manner and method set forth in K.S.A. 19-223, and amendments

thereto. Nothing in this subsection shall be construed as granting the owner of land in areas near or adjacent to land annexed pursuant to this section the right to appeal the decision of the board of county commissioners. Any city so appealing shall not be required to execute the bond prescribed therein.

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

Sec. 9. K.S.A. 12-531 is hereby amended to read as follows: 12-531.

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

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

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

Sec. 10. K.S.A. 12-532 is hereby amended to read as follows: 12-532. (a) If, within ~~2~~ ~~1 1/2~~ years following the conclusion of the hearing required by K.S.A. 12-531, ~~and amendments thereto~~, or, where there has been litigation relating to the hearing, ~~2~~ ~~1 1/2~~ years following the conclusion of such litigation, the city has not provided the municipal services as provided in the timetable set forth in the plan prepared in accordance with K.S.A. 12-520b or 12-521, and amendments thereto, the owner of such land may petition the board of county commissioners to

1 exclude such land from the boundaries of the city. Within 10 days after
2 receipt of the petition, the board shall schedule the matter for public
3 hearing and shall give notice of the date, hour and place of the hearing to:
4 (1) The owner; (2) the city; (3) the township into which the property, if
5 deannexed, would be placed; and (4) the governing body of any fire
6 district, sewer district, water district or other special district governments
7 which have jurisdiction over territory adjacent to the area sought to be
8 deannexed. The notice shall be sent by certified mail no less than 21 days
9 before the date of the hearing.

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

21 (c) The county clerk shall certify a copy of the order to the register
22 of deeds of the county. The register of deeds shall record the order in the
23 deed records of the county, and, at the expense of the **owner city**, the
24 register of deeds also shall record the order of exclusion on the margin of
25 the recorded plat of such land, giving reference thereon to the page and
26 book of records where the order is recorded in the register's office.

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

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

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

42 (2) since the annexation, the governing body of the city initiated the
43 creation of an improvement or benefit district affecting such land to levy

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1 special assessments thereon to pay a portion of the costs of certain
2 municipal improvements, and the formation of the district was blocked by
3 the filing of a sufficient protest petition by some or all of the owners of
4 any land in the proposed district;

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

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

10 (f) Any owner or the city aggrieved by the decision of the board may
11 appeal the decision to the district court in the manner provided in K.S.A.
12 19-223, and amendments thereto. Any city so appealing shall not be
13 required to execute the bond prescribed therein.

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

19 Sec. 11. K.S.A. 2010 Supp. 25-432 is hereby amended to read as
20 follows: 25-432. An election shall not be conducted under this act unless:

21 (a) Conducted on a date, mutually agreed upon by the governing
22 body of the political or taxing subdivision and the county election officer,
23 not later than 120 days following the date the request is submitted by the
24 political or taxing subdivision; and

25 (b) the secretary of state approves a written plan for conduct of the
26 election, which shall include a written timetable for the conduct of the
27 election, submitted by the county election officer; and

28 (c) the election is nonpartisan; and

29 (d) the election is not one at which any candidate is elected, retained
30 or recalled; and

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

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

37 (1) Counties;

38 (2) cities;

39 (3) school districts, except in an election held pursuant to K.S.A. 72-
40 7302 et seq., and amendments thereto;

41 (4) townships;

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

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

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

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

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

9 (10) hospital districts;

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

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

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

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

18 (15) transportation development districts created pursuant to K.S.A.
19 2010 Supp. 12-17,140 *et seq.*, and amendments thereto; **or**

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

22 Sec. 12. K.S.A. 60-2301 is hereby amended to read as follows: 60-
23 2301. **Except as provided in section 1, and amendments thereto, a**
24 homestead to the extent of 160 acres of farming land, or of one acre
25 within the limits of an incorporated town or city, or a manufactured home
26 or mobile home, occupied as a residence by the owner or by the family of
27 the owner, or by both the owner and family thereof, together with all the
28 improvements on the same, shall be exempted from forced sale under any
29 process of law, and shall not be alienated without the joint consent of
30 husband and wife, when that relation exists; but no property shall be
31 exempt from sale for taxes, or for the payment of obligations contracted
32 for the purchase of **said such** premises, or for the erection of
33 improvements thereon. The provisions of this section shall not apply to
34 any process of law obtained by virtue of a lien given by the consent of
35 both husband and wife, when that relation exists.