

SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2978

As Amended by House Committee of the Whole

Brief*

HB 2978 would change annexation law as follows:

- Prohibit specific types of annexation unless the board of county commissioners determines by resolution that the proposed annexation will not have an adverse effect on the county. The resolution must be adopted within 30 days following the conclusion of the hearing on the proposed annexation. The types of annexation falling under this requirement (currently allowed to be annexed unilaterally) would be:
 - The land is platted, and some part of the land adjoins the city;
 - The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50 percent;
 - The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres may be annexed for this purpose; and
 - The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres may be annexed under this condition.
- Modify current law dealing with the review process to determine whether municipal services were provided as

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

stated in the relevant annexation plan. Specifically, the bill would:

- Reduce from five to three years the time that must elapse following the annexation of land (or related litigation), under either the unilateral or bilateral statutory provisions, before the board of county commissioners is required to hold a hearing to consider whether the city has provided the services set forth in its annexation plan and timetable. If the board of county commissioners refuses to hold the hearing, a landowner would be permitted to bring a court action. The court would be required to award attorney fees and costs to the landowner.
- Reduce from three years to one year the time that must elapse following this hearing (or following the conclusion of litigation), when the city has not provided the municipal services stated in the plan, before a landowner may petition to the board of county commissioners to de-annex the land in question. If the board of county commissioners refuses to hold the required de-annexation hearing, a landowner would be permitted to bring a court action. The court would be required to award attorney fees and costs to the landowner.
 - Once de-annexed, the land could not be annexed again for three years from the effective date of the de-annexation order without written consent of the landowner. (Current law prohibits annexation for one year.)
 - Recording of the de-annexation order must be made at the expense of the city. (Current law requires the landowner to pay.)
- Retroactive to January 1, 2008, prohibit the following:
 - Annexation of only a portion of an individual's tract of land, which adjoins the city and for which written permission to annex is filed by the owner.

- Annexation of a narrow corridor of land to gain access to noncontiguous tracts of land. The bill further requires that, the corridor of land must have a tangible value and purpose other than for enhancing future annexations of land by the city.

Background

The bill resulted from testimony received and discussions held during the deliberations of the House subcommittee on HB 2747. Testimony indicated that, in at least one recent instance, a board of county commissioners had not scheduled the required hearing to determine whether services had been provided for more than five years following an annexation. The bill was proposed to strengthen the requirement for the hearing and shorten the amount of time that must elapse before the hearing process can begin.

The House Committee of the Whole amended the bill to:

- Prohibit specific types of annexation unless the board of county commissioners determines by resolution that the proposed annexation will not have an adverse effect on the county.
- Prohibit strip annexation, retroactive to January 1, 2008.

According to the fiscal note, passage of the original HB 2978 would have no effect on the state budget. The bill could have a fiscal effect on counties that fail to hold required public hearings and on cities that fail to provide promised services in land that has been annexed, because the counties and cities would have to pay litigation costs. However, neither the League of Kansas Municipalities nor the Kansas Association of Counties was able to estimate the extent of the fiscal effect.