

SESSION OF 2009

**SUPPLEMENTAL NOTE ON HOUSE  
SUBSTITUTE FOR SENATE BILL NO. 51**

As Recommended by House Committee on  
Agriculture and Natural Resources

**Brief\***

House Sub. for SB 51 would revise several annexation statutes by doing the following:

- Require a city proposing to annex land unilaterally (*i.e.*, pursuant to KSA 12-520) to submit a copy of the city's plan, dealing with extending services to the area concerned, to the board of county commissioners at least 10 days prior to the required public hearing on the proposed annexation.
- Modify current law dealing with the review process to determine whether municipal services were provided as stated in the relevant annexation plan by reducing the total time that must elapse before deannexation procedures might begin. 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.

---

\*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>

- Reduce from two and one-half years to one and one-half years 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 deannex the land in question. If the board of county commissioners refuses to hold the required deannexation 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.
- Prohibit the annexation, *via* approval by the board of county commissioners, of any portion of any unplatted agricultural land of 21 acres or more without the written consent of the landowner.
- Require an election be held for any annexation proposed to be made *via* approval by the board of county commissioners, if voters reside in the proposed area. The election must be by mail ballot of the qualified voters residing in the area proposed to be annexed, if the area contains qualified voters. If a majority of those voting reject the annexation, the city would be prohibited from annexing the land and no further proposal to annex the proposed area could take place for at least four years from the election date.

### **Background**

The original bill dealt with clothing requirements when hunting deer or elk. The House Committee on Agriculture and Natural Resources deleted the original contents and replaced them with the contents of HB 2029 as recommended by the House Committee on Local Government (*i.e.*, with an election requirement that would apply statewide).

As amended by the House Committee on Local Government, HB 2029 contains the provisions of all three annexation bills recommended by the 2008 Special Committee on Eminent Domain in Condemnation of Water Rights: HBs 2029, 2030 and 2031. The three bills were proposed in response to concerns raised at the Special Committee meetings regarding possible conflicts between unilateral or bilateral annexation and individual property owners' ability to influence annexation decisions.

HB 2029, as introduced, was supported by testimony from Representative Ann Mah. Opposing the bill were representatives of Overland Park, Topeka, Basehor, and Lawrence. A Basehor resident testified his homeowners' association did not support the bill as written.

The House Local Government Committee amended the provisions of HB 2030 into HB 2029, dealing with the agricultural land restriction. Supporters of that bill included landowners and landowner organization representatives, the Kansas Farm Bureau and the Kansas Livestock Association. Testifying in opposition were representatives of the League of Kansas Municipalities, the cities of Overland Park, Topeka, Manhattan, Lawrence and Gardner and the Overland Park Chamber of Commerce.

The House Local Government Committee also amended the provisions of HB 2031 into HB 2029, dealing with the election requirement for certain annexation procedures, with two changes from the introduced version. The Committee changed the bill's definition of "qualified elector" to exclude nonresident landowners, since allowing nonresidents to vote is contrary to the *Kansas Constitution*. The Committee also clarified that the annexations in question are subject to election only if qualified electors reside in the area to be annexed. Supporters of the original HB 2031 included representatives of landowner organizations and the Kansas Farm Bureau. Opponents included the League of Kansas Municipalities, the cities of Overland Park, Topeka, Olathe, and Manhattan and the Overland Park Chamber of Commerce.

The House Committee of the Whole amended HB 2029 to make the election requirement applicable only in Johnson, Sedgwick, and Shawnee counties. (Note: This amendment is not included in the bill's provisions as adopted by the House Committee on Agriculture and Natural Resources.)

According to the fiscal notes on the three bills as introduced:

- Passage of the original HB 2029 – Cities would be required to meet accelerated timetables for service plans and potential litigation. The potential would exist for counties to have additional costs from possible litigation and payment of landowner attorney fees. However, it is not possible to determine the precise fiscal effect on cities and counties.
- Passage of the original HB 2030 – A negligible fiscal effect would result for cities.
- Passage of the original HB 2031 – Both direct and indirect costs would result for cities. The cost of the mail ballot elections would be the direct effect; however, these costs could not be estimated. Indirect costs were not specified in the fiscal note.