

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 12, 2004 in Room 313-S (Old Supreme Court Room) of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Mike Heim Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Rep. Toelkes, Kansas House
Rep. Thimesch, Kansas House
Jane Mosteller, Exit 39 Neighborhood Association
Dennis Schwartz, Rural Water District No. 8
Dan Benner, Exit 39 Neighborhood Association
Rep. Steve Huebert, Kansas House
Mark Lenz, Sunnydale Community, Valley Center
Lynanne DeGarmo, Sunnydale Community
Ed Peck, Tecumseh Township
Grace Yost, Sunnydale Community
Jane Kelsey, Shawnee County Farm Bureau
Cathy Byers, Exit 39 Neighborhood Association
Jack Perrin, Sunnydale Community
Lavonna Benner, Exit 39 Neighborhood Association
Fred Mosteller, Exit 39 Neighborhood Association
Dale Kuhn, Exit 39 Neighborhood Association
Joanie Stork, Exit 39 Neighborhood Association
Debbie Hudson, Exit 39 Neighborhood Association
Theresa Solano, Exit 39 Neighborhood Association
Arlene Clayton
LaVerne Ebney
Don Moler, League of Kansas Municipalities
Bob Watson, City of Overland Park
James McClinton, City of Topeka
Jeff Bridges, City of Andover
Bob Martz, City of Wichita
Lisa Stubbs, City of Topeka

Others attending:

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See Attached List.

HB 2590 cemeteries; relating to the abandonment of burial rights

Rep. Yonally made a motion for the favorable passage of HB 2590. Rep. Toelkes seconded the motion. The motion carried.

HB 2601 open records act; allowance of costs and attorney fees

Rep. Storm made a motion to amend HB 2601 in line 36 concerning “good faith”, deleting the work “and” and inserting the work “or”. Rep. Toelkes seconded the motion. The motion to amend the bill carried.

Rep. Yonally made a motion for the favorable passage of HB 2601 as amended. Rep. Lane seconded the motion. The motion carried.

The Chairman opened the hearing on:

HB 2654 annexation by cities, election, extension of municipal services required; procedure to de-annex

Rep. Toelkes, Kansas House, testified in support of the bill (Attachment 1). He said the bill would allow land to be unilaterally annexed by a city only after approval by at least 60 percent of the qualified electors in the area to be annexed. He explained that under current law, the residents of the area to be annexed have no voice in the process. Rep. Toelkes said under existing law, municipal services must be provided to the annexed land within 5 years. He said **HB 2654** would reduce the first review to one year with the compliance being in place by the end of the 2nd year or the area affected could petition for de-annexation.

Rep. Thimesch, Kansas House, introduced Dale Kuhn. Mr. Kuhn testified in support of the bill. He provided no written testimony.

Rep. Steve Huebert, Kansas House, testified in support of the bill. He provided no written testimony.

Jane Mosteller, Exit 39 Neighborhood Association, testified in support of the bill (Attachment 2). She explained that 30 out of 42 states actively annexing, reported that popular determination is the method most often used for their state. She suggested some amendments to the bill:

- Allowing non-residential landowners to have a vote also;
- Sec. 3 K.S.A. 12-531 De-annexation - Many service plans are written “upon petition/request.” Consequently, until the annexees requests the \$133,000 of city services, the yearly clock should not start. If a service plan is written “upon petition/request,” or similar language, the clock issue should become void. This would allow the annexees the ability to apply to be de-annexed if the city shows no intent to provide services in return for the increased tax dollars they will be receiving. Provide for de-annexation of any area annexed, if the annexation was in

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- the court system when this bill was introduced. Install the Judicial system as the deciding authority in de-annexations, as is currently practiced in many states.
- Add requirements that the cities must have property listed on Metro Planning Land Use Maps for at least 10 years prior to initiating of an annexation.

Mrs. Mosteller said that Kansas is one of only 8 states that still allows this type of predatory annexations (under the title of “aggressive municipal controller” annexations).

Dennis Schwartz, Rural Water District No. 8, testified in support of the bill ([Attachment 3](#)). He said that annexation of lands served by a rural water district can result in a significant loss of customer base that rural water districts have grown to rely upon. He explained that the process of annexation under K.S.A. 12-520 fails to consider the potentially extreme financial hardship that the loss of subscribers will impose on the remaining members of the district.

Dan Benner, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 4](#)). He said that cities are allowed to annex for no reason other than their own revenue increase. He stated that citizens are not allowed a voice in their own future.

Mark Lenz, Sunnydale Community, testified in support of the bill ([Attachment 5](#)). He said that Park City extended their city limits northward until they touched Sunnydale; planning to abuse the state’s unilateral annexation laws to eventually annex the entire Sunnydale area; to help pay for the extension of their services into the area and to position them for commercial developments around the nearby highway interchanges. Mr. Lenz explained how Park City annexed the easements along I-135 in order to get past large agricultural plots they could not unilaterally annex.

Lynanne DeGarmo, Sunnydale Community, testified in support of the bill ([Attachment 6](#)). She said that with current annexation laws, the property owner has no voting rights whatsoever. She stated that the city send a letter telling what date and time to appear for a hearing on the property. She explained that the people who will sit in the judgement seat at the hearing are the people of the annexing city’s City Council.

Edgar Peck, Tecumseh Township, testified in support of the bill ([Attachment 7](#)). He said that under current annexation law, platted and developed subdivisions that are now adjacent to city boundaries will be uncontested target areas for municipalities that are seeking to expand their taxing base. He explained that when an area that was once several miles outside the city limits and is now an established developed community is targeted for annexation, it seems only fair that the citizens be given an opportunity to vote by ballot whether to consent to annexation.

Grace Yost, Sunnydale Community, testified in support of the bill ([Attachment 8](#)). She said that current annexation laws don’t allow the landowners a voice or a vote. She explained that the area where she resides was recently annexed and that the city doing the annexing did not follow the legal guidelines for the process. She said that residents sought legal help to de-annex and by judge’s order were de-annexed. Ms. Yost said that the city immediately started the annexation process again. She informed that fighting annexation is a costly and time consuming task.

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Jane Kelsey, Shawnee County Farm Bureau Association, testified in support of the bill ([Attachment 9](#)). She said that the annexation of areas adjacent to cities often have a negative impact on local townships and fire districts. She explained that townships and fire districts have expanded services to the residents in the areas and that the loss of geographic area through annexation results in an inadequate funding base for the remaining area. Ms. Kelsey said that to maintain the current level of services, an undue burden would be placed on remaining taxpayers, or as an alternative, services would be reduced.

Cathy Byers, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 10](#)). She said that as homeowners involved in the annexation process, they have no civil rights or laws to protect them.

Jack Perrin, Sunnysdale Community, testified in support of the bill ([Attachment 11](#)). He said that annexation creates problems for townships. He stated that many times property owners, following annexation, are confused about what unit of government is responsible for their needs. He asked the question, "does a township continue to exist (all or part) when losing territory and tax base to a city due to annexation?"

LaVonna Benner, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 12](#)). She explained that at age 75 she lives on a limited income. She stated that tax increases and/or costs associated with municipal service installation will be a considerable financial burden.

Fred Mosteller, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 13](#)). He said that non-residential landowners should be included in the voting process and suggested such as an amendment to the bill.

Joanie Storck, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 14](#)). She said current law concerning annexation service plans does not assure the service plan commitments are:

- Completed in a timely fashion;
- Estimated costs are within reason;
- Final costs do not exceed estimates

Debbie Hudson, Exit 39 Neighborhood Association, testified in support of the bill ([Attachment 15](#)). She said that unilateral annexation amounts to taxation without representation.

Theresa Solana, Exit 39 Neighborhood Association, testified in support of the bill. She provided no written testimony.

Arlene Clayton, testified in support of the bill ([Attachment 16](#)).

LaVerne Ebney, testified in support of the bill. She provided no written testimony.

Don Moler, League of Kansas Municipalities, testified in opposition to the bill ([Attachment 17](#)). He said that to adopt the language found in the bill would effectively obliterate all of the unilateral annexation statutes and completely reverse many years of public policy in this state. He stated that the League is

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adamantly opposed to any revision in the annexation statutes which would curtail or significantly modify the authority of cities to reasonably expand their boundaries as times and needs change.

Bob Watson, City of Overland Park, testified in opposition to the bill ([Attachment 18](#)). He said the most troubling feature of the bill for the City of Overland Park is that it would prohibit the city from annexing land whose owners have asked to be annexed unless a costly election were held among the voters in the annexation area.

James McClinton, City of Topeka, testified in opposition to the bill ([Attachment 19](#)). He said that by requiring a one year deadline for the provision of services to newly annexed areas, the bill would make the annexation of territories requiring significant infrastructure improvements virtually impossible.

Jeff Bridges, City of Andover, testified in opposition to the bill ([Attachment 20](#)). He said that the bill would alter the entire paradigm of growth and development in the State of Kansas. He stated that if cities do not have the tools readily available to grow their economies; if there is increased segregation of who pays for services delivered; if we create cities that cannot sustain themselves; if no one will take responsibility for these pockets of residents; then we create a whole new system that counties and townships do not have the tools to deal with.

Bob Martz, City of Wichita, testified in opposition to the bill ([Attachment 21](#)). He said the bill would take away the rights for a city to grow and expand their boundaries. He explained that growth is necessary to remain vital and viable.

Lisa Stubbs, City of Topeka, testified in opposition to the bill ([Attachment 22](#)). She said current law gives a well thought out balance to the needs of urban vs. rural. She advised that there is much wisdom in the current provisions that do not allow for a careless process for cities to annex properties on their borders.

Written testimony in opposition to the bill was submitted by:

- Jack Whitson, City of Park City ([Attachment 23](#))
- Bruce Armstrong, City of Haysville ([Attachment 24](#))

Written neutral testimony on the bill was submitted by:

- Morris Dunlap ([Attachment 25](#))

The Chairman closed the hearing on: **HB 2654**

Minutes

Rep. Yonally made a motion to approve the minutes of the February 3, 2004 meeting. Rep. Reitz seconded the motion. The motion carried.

The meeting was adjourned at 6:00 p.m.

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The next meeting is scheduled for February 17, 2004.