

HOUSE BILL No. 2065

By Committee on Local Government

1-24

1 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
2 531 and 12-532 and repealing the existing sections.

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

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

15 Sec. 2. K.S.A. 12-531 is hereby amended to read as follows: 12-531.

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

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

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

7 Sec. 3. K.S.A. 12-532 is hereby amended to read as follows: 12-532.

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

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

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

41 (d) Except as provided by this subsection, after the effective date of
42 the order to exclude the land from the city, such land shall not be liable
43 for any general taxes imposed by the city. Such land shall remain liable,

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

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

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

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

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

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

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

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

33 Sec. 4. K.S.A. 12-531 and 12-532 are hereby repealed.

34 Sec. 5. This act shall take effect and be in force from and after its
35 publication in the statute book.