

## HOUSE BILL No. 2733

By Committee on Taxation

2-19

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1 AN ACT concerning annexation; relating to the resolution approving  
2 annexation; amending K.S.A. 2013 Supp. 12-531 and 12-532 and  
3 repealing the existing sections.

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

6 New Section 1. (a) Three years following the annexation of any land  
7 pursuant to K.S.A. 12-521, and amendments thereto, or, where there has  
8 been litigation relating to the annexation, three years following the  
9 conclusion of such litigation, the board of county commissioners shall call  
10 a hearing to decide whether the city has complied with the resolution  
11 approving the annexation. The board shall consider the following issues:

12 (1) Whether all of the conditions contained in the resolution  
13 approving the annexation have been met by the city in the time frame set  
14 out in the resolution approving the annexation;

15 (2) whether the economic or tax benefit promised to the area annexed  
16 in the resolution approving the annexation has been achieved by the city;

17 (3) whether the city has provided the municipal services as provided  
18 in the timetable set forth in the plan in accordance with K.S.A. 12-521, and  
19 amendments thereto;

20 (4) whether the service plan approved by the city actually pertained to  
21 and extended services to the area annexed; and

22 (5) any other evidence relating to whether or not the city has met the  
23 obligations of the resolution approving the annexation.

24 (b) The board of county commissioners shall schedule the matter for  
25 public hearing and shall give notice of the date, hour and place of the  
26 hearing to: (1) The city; and (2) any landowner in the area subject to the  
27 annexation.

28 (c) At the hearing, the board shall hear testimony as to the issues  
29 listed in subsection (a), from the city and the landowner. After the hearing,  
30 the board shall make a finding as to whether or not the city has complied  
31 with the resolution approving the annexation concerning the issues in  
32 subsection (a). If the board finds that the city has not complied, the board  
33 shall notify the city and any affected landowners that such property may be  
34 deannexed, as provided in K.S.A. 12-532, and amendments thereto.

35 (d) If the board of county commissioners refuses to hold the hearing  
36 as required, any owner of land living in such area annexed may bring an

1 action under the provisions of K.S.A. 60-1201 et seq., and amendments  
2 thereto, to compel the board to hold the hearing. The court, upon finding  
3 the hearing is required, shall award reasonable attorney fees and costs to  
4 the landowner.

5 Sec. 2. K.S.A. 2013 Supp. 12-531 is hereby amended to read as  
6 follows: 12-531. (a) Three years following the annexation of any land  
7 pursuant to K.S.A. 12-520-~~or 12-521~~, and amendments thereto, or, where  
8 there has been litigation relating to the annexation, three years following  
9 the conclusion of such litigation, the board of county commissioners shall  
10 call a hearing to consider whether the city has provided the municipal  
11 services as provided in the timetable set forth in the plan in accordance  
12 with K.S.A. 12-520b-~~or 12-521~~, and amendments thereto. The board of  
13 county commissioners shall schedule the matter for public hearing and  
14 shall give notice of the date, hour and place of the hearing to: (1) The city;  
15 and (2) any landowner in the area subject to the service extension plan.

16 (b) At the hearing, the board shall hear testimony as to the city's  
17 extension of municipal services, or lack thereof, from the city and the  
18 landowner. After the hearing, the board shall make a finding as to whether  
19 or not the city has provided services in accordance with its service  
20 extension plan. If the board finds that the city has not provided services as  
21 provided in its service extension plan, the board shall notify the city and  
22 the landowner that such property may be deannexed, as provided in K.S.A.  
23 12-532, and amendments thereto, if the services are not provided within  
24 1½ years of the date of the board's findings.

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

31 Sec. 3. K.S.A. 2013 Supp. 12-532 is hereby amended to read as  
32 follows: 12-532. (a) If, within 1½ years following the conclusion of the  
33 hearing required by K.S.A. 12-531 *or section 1*, and amendments thereto,  
34 or, where there has been litigation relating to the hearing, 1½ years  
35 following the conclusion of such litigation, *and* the city has not provided  
36 the municipal services as provided in the timetable set forth in the plan  
37 prepared in accordance with K.S.A. 12-520b or 12-521, and amendments  
38 thereto, ~~the~~ *or the city has not complied with the resolution approving the*  
39 *annexation as determined according to section 1, and amendments*  
40 *thereto*, any owner of such land may petition the board of county  
41 commissioners to exclude such land from the boundaries of the city.  
42 Within 10 days after receipt of the petition, the board shall schedule the  
43 matter for public hearing and shall give notice of the date, hour and place

1 of the hearing to: (1) ~~The owner~~ *Any landowner*; (2) the city; (3) the  
2 township into which the property, if deannexed, would be placed; and (4)  
3 the governing body of any fire district, sewer district, water district or  
4 other special district governments which have jurisdiction over territory  
5 adjacent to the area sought to be deannexed. The notice shall be sent by  
6 certified mail no less than 21 days before the date of the hearing.

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

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

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

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

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

40 (2) since the annexation, the governing body of the city initiated the  
41 creation of an improvement or benefit district affecting such land to levy  
42 special assessments thereon to pay a portion of the costs of certain  
43 municipal improvements, and the formation of the district was blocked by

1 the filing of a sufficient protest petition by some or all of the owners of  
2 any land in the proposed district; *or*

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

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

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

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

17 Sec. 4. K.S.A. 2013 Supp. 12-531 and 12-532 are hereby repealed.

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