

Municipalities—City Incorporations, Annexation, and Taxes

SB 150 makes a number of changes related to municipalities, namely, regarding city incorporation and annexation, taxes paid for fire service, and allowing a county to make certain emergency repairs without choosing the lowest and best bid. The bill also makes technical corrections. Details of the bill follow.

Incorporation

The bill:

- Reduces, from a minimum of 300 to a minimum of 250, the number of inhabitants in a territory required for such a territory to be eligible to be incorporated as a city.
- Removes outdated language regarding voter registration documents and signatures on petitions requesting incorporation of a city.

Annexation

The bill does the following:

Homestead Exemption Continuation after Annexation

- Requires homestead rights attributable prior to annexation (unilateral, bilateral, or in most consent-annexation circumstances) to continue after annexation until the land is sold after the annexation.

Reviewing Service Provision; Possible Deannexation Proceedings

- Requires a city proposing to annex land unilaterally or by most consent methods (*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 ten days prior to the required public hearing on the proposed annexation.
- Modifies the law dealing with the review process for both unilateral and most consent annexations (KSA 12-520) and bilateral annexations (KSA 12-521) 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. In detail, the bill:

- Reduces from five to three years the time that must elapse following the annexation of land (or related litigation) 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 is permitted to bring a court action. The court is required to award attorney fees and costs to the landowner if the court finds a hearing is required.
- Reduces from two and one-half years to one and one-half years the time that must elapse following the services 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 is permitted to bring a court action. The court is required to award attorney fees and costs to the landowner if the court finds a hearing is required.

Two-Thirds Majority Vote on Bilateral Annexations

- Requires the board of county commissioners' approval of any such petition to be by a two-thirds, rather than a simple, majority vote of its members.

Election Required on Certain Bilateral Annexations

- Requires an election to be held for any annexation involving 40 acres or more that is proposed to be made *via* approval by the board of county commissioners.
 - “Qualified elector” is defined as an owner of land in the area proposed to be annexed.
 - The election must be by mail ballot.
 - If the electors reject the annexation, the city is 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, unless the proposed annexation is authorized based on one of the following conditions specified in KSA 12-520:
 - The land is owned by or held in trust for the city;

- The land adjoins the city and is owned by or held in trust for any governmental unit other than another city (with restrictions);
or
 - The land adjoins the city and the landowner consents to the annexation.
- For annexations of less than 40 acres, the bill authorizes the board of county commissioners to render a judgment on a petition for annexation unless the board previously has granted three annexations of adjoining tracts within a 60-month period.

Dual Taxation on Land within a Fire District, Annexed by a City

The bill:

- Provides redress for individuals who are paying *ad valorem* taxes to both a city and a fire district for fire service. The bill would deem a landowner, whose land is located in a fire district is annexed by a city while still remaining part of a fire district, to be entitled to a refund of all *ad valorem* taxes paid for fire service from either the city or the fire district, whichever entity taxes for fire service but does not provide it. The tax refund would include any tax levy for bond and interest payments.
- Requires cities and fire districts to establish procedures for landowners to obtain these refunds.

County Bidding Exception

The bill allows a county to repair any courthouse, jail, or other county building, or repair or replace its equipment, without requiring the county to choose the lowest and best bid, when the county commission has declared an emergency based upon public health or safety. An “emergency” is defined as severe damage caused by any natural or man-made cause, including fire, flood, wind, storm, explosion, or terrorism. The bill requires that any such damage be so severe that it prevents the building or equipment from being used for its intended function. Construction of a replacement building remains subject to existing bidding requirements.