

HOUSE BILL No. 2176

By Committee on Local Government

1-28

1 AN ACT concerning cities; relating to the vacation or exclusion of
2 territory or easements; providing procedure to challenge certain
3 decisions of a city; amending K.S.A. 12-504 and 12-505 and repealing
4 the existing sections.
5

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

7 Section 1. K.S.A. 12-504 is hereby amended to read as follows: 12-
8 504. ~~Whenever the governing body of the city in which any of the~~
9 ~~following are located or whenever~~ (a) The owner or owners of: (1) Any
10 townsite or part of a townsite, ~~or of;~~ (2) any addition or part of an addition
11 to any city; ~~or the governing body in which the following are located, or~~
12 ~~the owner or owners of~~ (3) the lands adjoining on both sides of any street,
13 alley or public reservation such as, but not limited to, public easements,
14 dedicated building setback lines, access control, or a part thereof, in any
15 city ~~or any addition thereto, that~~ desires to have the same any townsite or
16 part thereof, any addition or part thereof, or public easements, building
17 setback lines, access control or part thereof vacated, or that desires to
18 exclude any farming lands or unplatted tracts, or any addition or part of an
19 addition ~~to be vacated hereunder, from the boundaries of the city wherein~~
20 ~~situated, shall petition~~ the governing body of such city ~~or the city planning~~
21 ~~commission shall and request a public hearing on the issues. The~~
22 ~~governing body shall give public notice of the same of such request by a~~
23 ~~publication in a newspaper of general circulation in the vicinity of such~~
24 ~~place sought to be vacated or excluded or in the official city newspaper in~~
25 ~~which is situated the place, tract or tracts, street, alley, or public~~
26 ~~reservation sought to be vacated or excluded, if there is any such~~
27 ~~newspaper published therein and shall designate whether the hearing will~~
28 ~~be conducted by the governing body or the planning commission. Such~~
29 ~~The notice shall be published at least one time at least 20 days prior to the~~
30 ~~date of the hearing. Such The notice shall state that a petition has been~~
31 ~~filed in the office of the city clerk praying for requesting such vacation or~~
32 ~~exclusion, or both, describing the property fully, and that on a certain date~~
33 ~~after the completion of such publication notice, naming the day on which~~
34 ~~the petition will be presented to the governing body of the city or the city~~
35 ~~planning commission for a hearing thereon, and that at such time and~~
36 ~~place. The notice shall specify whether the hearing is to be held before the~~

1 governing body or the planning commission. All interested persons
 2 interested can appear and shall be given an opportunity to be heard under
 3 on the petition.

4 (b) Any city may initiate the deannexation of land from the city by
 5 following the notice and public hearing process established in subsection
 6 (a). The hearing shall be held before the city governing body.

7 Sec. 2. K.S.A. 12-505 is hereby amended to read as follows: 12-505.

8 (a) (1) Upon the presentation of such the petition, as hereinbefore provided
 9 for, to the governing body of the city or planning commission, the
 10 governing body or planning commission shall proceed to hear the same
 11 petition, or may adjourn the hearing from time to time to some day and
 12 hour certain, as deemed necessary, and which adjournment shall be noted
 13 upon the record of the proceedings thereof as provided in the notice. On
 14 the day of the hearing of such petition, the governing body or planning
 15 commission shall hear such testimony as may be produced before it, and
 16 such other testimony as required in order to fully understand the true
 17 nature of the petition and on the propriety of granting the same petition. If
 18 the planning commission holds the hearing, the commission shall make a
 19 recommendation regarding the vacation and submit such recommendation
 20 to the governing body in the same manner provided by K.S.A. 12-752, and
 21 amendments thereto, for the submission and approval of recommendations
 22 regarding plats. Subject to the provisions of subsection (b);

23 (2) If the governing body or planning commission determines from
 24 the proofs and evidence presented that due and legal notice has been given
 25 by publication as required in this act, and, that no private rights will be
 26 injured or endangered by such vacation or exclusion, and that the public
 27 will suffer no loss or inconvenience thereby, and that in justice to the
 28 petitioner or petitioners the prayer request of the petitioner ought to be
 29 granted, the governing body shall enact an ordinance containing the order
 30 that such vacation or exclusion, or both, be made. Any order approving a
 31 vacation of plat, street, alleys, easements or a public reservation shall
 32 provide for the reservation to the city and the owners of any lesser
 33 property rights for public utilities, rights-of-ways and easements for public
 34 service facilities originally held in such plat, street, alley, easement or
 35 public reservation then in existence and use.

36 (3) The petition shall not be granted if a written objection thereto is
 37 filed with the city clerk, at the time of or before the hearing, by any owner
 38 or adjoining owner who would be a proper party to the petition but has not
 39 joined therein. When only a portion of a street, alley or public reservation
 40 is proposed to be vacated, the petition shall not be granted if a written
 41 objection is filed with the clerk of the governing body by any owner of
 42 lands which that adjoin the portion to be vacated.

43 (b) If within two years following the effective date of the annexation

1 of any tract pursuant to K.S.A. 12-520c, and amendments thereto, and
2 upon petition of the owner of any such tract, the governing body of the city
3 shall exclude such tract if the owner reimburses the city for all costs
4 incurred by the city in the extension of services to such tract, together with
5 interest on the amount of such costs at a rate provided by K.S.A. 16-201,
6 and amendments thereto. The owner shall be required to pay only those
7 costs which are attributable to services which exclusively benefit such
8 tract.

9 The provisions of this subsection shall apply only to a tract which is
10 under one ownership on the date the petition for exclusion is filed by the
11 owner thereof with the city governing body, and which will not adjoin the
12 city on the effective date of its exclusion from the city.

13 The terms "tract" and "owner" in this subsection shall have the same
14 meaning ascribed thereto in K.S.A. 12-519, and amendments thereto.

15 The provisions of this subsection shall expire on December 31, 1997.

16 (e) Any lands ~~so~~ excluded pursuant to this section shall be listed for
17 future taxation ~~the same~~ as though ~~it~~ the lands had never been a part of
18 such city, and which order shall be entered at length on the records of the
19 proceedings of the governing body. Thereupon The city clerk shall certify
20 a copy of such ordinance containing the order to the register of deeds of
21 the county in which such property is located. The register of deeds shall
22 record in the deed records of the county at the expense of the petitioner or
23 petitioners, and the register of deeds shall also write on the margin of the
24 recorded plat of such townsite or addition, the words "canceled by order"
25 or "canceled in part by order," as the case may be, giving reference thereon
26 to the page and book of records where ~~such~~ the ordinance containing the
27 order is recorded in the register's office.

28 New Sec. 3. Any owner of land aggrieved by the decision of the city
29 governing body under the provisions of K.S.A. 12-505, 13-443, 14-423
30 and 15-427, and amendments thereto, within 30 days following the
31 publication of the vacation ordinance, may bring an action in district court
32 challenging the reasonableness of such decision.

33 Sec. 4. K.S.A. 12-504 and 12-505 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.