

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB1166

Hearing Date: February 19, 2008

Committee On: Urban Affairs

Introducer(s): (Nelson)

Title: Provide for the extension of the corporate limits of a city of the metropolitan class into an adjoining county

Roll Call Vote - Final Committee Action:

Indefinitely Postponed

Vote Results:

4 Yes	Senators Cornett, Friend, Rogert, White
0 No	
3 Absent	Senators Janssen, Lathrop, McGill
0 Present, not voting	

Proponents:

Senator John Nelson

Representing:

Introducer

Opponents:

James Blinn
Lynn Rex
Fred Uhe
Jill Becker
Rex Moats

Representing:

United Cities of Sarpy County, City of Papillion
League of NE Municipalities
Sarpy County Board
Aquila
Self

Neutral:

None

Representing:

Summary of purpose and/or change: This legislation proposes to amend Sec. 14-117 which defines the authority granted to metropolitan class cities to annex territory.

While not explicitly stated in the statute, it is generally held that metropolitan class cities do not have the authority to annex across county lines due to the ruling of our state Supreme Court in the case of *Barton vs. the City of Omaha*, 180 Neb. 752, 145 N.W.2d 444, 1966. In that case, the court was asked to rule upon the authority of the City of Omaha to annex into Sarpy County. Omaha proposed to attempt an annexation of 152.55 acres in Sarpy County. It was permanently enjoined by the district court from doing so and appealed to the Supreme Court. Noting that Omaha had completed over one hundred annexations after 1915 (when its southern boundary was set as the Sarpy County border) without once having attempted to annex across county lines, the court questioned whether Omaha's actions didn't indicate that it did not believe it had the authority for such an annexation, stating "[the] past failure of the city to assert its powers...is significant under the circumstances..."

Additionally the court noted the absence of authority to conduct certain activities (such as elections) in a county other than the principal county within which it is located.

The court ultimately ruled to uphold the permanent injunction stating, "[t]he degree of ambiguity in the annexation statute draws the past position of the city into the process of statutory construction. Arguments directed to desirable legislative policy must yield, for the power of annexation is construed strictly."

This bill proposes to resolve the issue by legislation, expressly authorizing a metropolitan class city to annex territory in an adjoining county.

Explanation of amendments, if any: N/A

Senator Mike Friend, Chairperson