

HOUSE BILL No. 2084

By Committee on Local Government

1-25

1 AN ACT concerning governmental organization; relating to
2 consolidation; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904,
3 12-3909 and 19-205 and repealing the existing sections.

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

6 New Section 1. As used in sections 1 through 6, and amendments
7 thereto:

8 (a) "Board" means the board of county commissioners.

9 (b) "City" means any city.

10 (c) "Commission" means a consolidation study commission selected
11 pursuant to section 2, and amendments thereto.

12 (d) "County" means any county.

13 (e) "Political and taxing subdivision" means those subdivisions
14 listed in K.S.A. 12-3902, and amendments thereto, which are located
15 entirely within a county.

16 New Sec. 2. (a) The board of county commissioners of a county and
17 the governing body of any city or cities located within such county may
18 adopt a joint resolution providing for the establishment of a consolidation
19 study commission to prepare a plan for the consolidation of the county
20 and such city or cities located in such county, or the consolidation of
21 offices, functions, services and operations. If the governing body of a city
22 within the county does not adopt such joint resolution, such city shall not
23 be included within nor subject to the provisions of any consolidation plan
24 in regard to the status of such city as a separate entity from the county.

25 (b) As an alternative to subsection (a), the board of county
26 commissioners of a county and the governing body of any city or cities
27 located therein shall adopt a joint resolution providing for the
28 establishment of a consolidation study commission to prepare a plan as
29 provided in subsection (a) whenever the county election officer is
30 presented with a petition signed by not less than 10% of the qualified
31 electors of the county requesting a consolidation study commission be
32 appointed. The governing body of any city shall be required to adopt the
33 joint resolution whenever the petition presented to the county clerk
34 contains signatures of not less than 10% of the qualified electors of the
35 city. The petition shall contain the method to be used for the appointment
36 and the number of members of the consolidation study commission.

1 (c) Any resolution adopted pursuant to subsections (a) or (b) shall
2 provide for the establishment of a consolidation study commission and
3 shall provide for the method of appointment and the number of members
4 of the commission. At least $\frac{1}{3}$ of the membership of a consolidation study
5 commission shall be residents of the unincorporated area of the county.

6 New Sec. 3. (a) Within 30 days following appointment of members
7 of the consolidation study commission, the chairperson of the board of
8 county commissioners, acting as the temporary chairperson of the
9 commission, shall call and hold an organizational meeting of the
10 commission. The commission shall elect a chairperson, vice-chairperson
11 and other officers deemed necessary. The commission may adopt rules
12 governing the conduct of its meetings.

13 (b) The commission shall be subject to the Kansas open meetings
14 act and the Kansas open records act.

15 (c) Members of the commission may be reimbursed for the actual
16 and necessary expenses incurred in the performance of their official
17 duties.

18 (d) The commission may appoint an executive director of the
19 commission. The executive director may receive compensation
20 established by the commission. The executive director may employ other
21 staff and may contract with consultants, as the executive director deems
22 necessary to carry out the functions of the commission. Staff employed
23 by the executive director may receive compensation established by the
24 executive director and approved by the commission.

25 (e) The commission shall prepare and adopt a budget for the
26 operation and functions of the commission and commission activities.

27 New Sec. 4. (a) The commission shall prepare and adopt a plan
28 addressing the consolidation of the city or cities and the county and other
29 political or taxing subdivisions or consolidation of certain city, county
30 and other political and taxing subdivision offices, functions, services and
31 operations. The commission shall conduct such studies and investigations
32 as it deems appropriate to complete its work. Such studies and
33 investigations shall include, but not be limited to:

34 (1) Studies of the efficiency and effectiveness of the administrative
35 operations of the city or cities and the county and other political and
36 taxing subdivisions.

37 (2) Studies of the costs and benefits of consolidating the city or
38 cities and the county and other political and taxing subdivisions or
39 consolidating certain city or cities and county and other political and
40 taxing subdivision offices, functions, services and operations.

41 (b) The commission shall hold public hearings for the purpose of
42 receiving information and materials which will aid in the drafting of the
43 plan.

1 (c) For the purposes of performing its studies and investigations, the
2 commission or its executive director may administer oaths and
3 affirmations, subpoena witnesses, compel their attendance, take evidence,
4 require the production of any books, papers, correspondence,
5 memoranda, agreements or other documents or records which the
6 commission or executive director deems relevant or material to its studies
7 and investigation.

8 (d) The commission shall prepare and adopt a preliminary plan
9 addressing the consolidation of the city or cities and the county and other
10 political and taxing subdivisions or the consolidation of certain city and
11 county and other political and taxing subdivision offices, functions,
12 services and operations it deems advisable.

13 The preliminary plan, if it recommends the consolidation of the county
14 with one or more cities, shall address: (1) The issue of the abolishment of
15 other political and taxing subdivisions located entirely within the county
16 and the transfer of the functions of the above political subdivisions to the
17 reorganized city-county; and, (2) the issue of whether a vote of the
18 electorate shall be required countywide or whether separate votes of the
19 electorate will be required in the unincorporated area of the county and
20 within each city proposed to be consolidated.

21 Copies of the preliminary plan shall be filed with the county election
22 officer, city clerk of each city to be reorganized and each public library
23 within the county and shall be available to members of the public for
24 inspection upon request. The commission shall hold at least two public
25 hearings to obtain citizen views concerning the preliminary plan. At least
26 seven days shall elapse between the holding of the hearings. Notice of the
27 hearings shall be published at least once in a newspaper of general
28 circulation within the county. Following the public hearings on the
29 preliminary plan, the commission may adopt, or modify and adopt, the
30 preliminary plan as the final plan.

31 (e) The final plan shall include the full text and an explanation of
32 the proposed plan, and comments deemed desirable by the commission, a
33 written opinion by an attorney admitted to practice law in the state of
34 Kansas and retained by the executive director for such purpose that the
35 proposed plan is not in conflict with the constitution or the laws of the
36 state, and any minority reports.

37 Copies of the final plan shall be filed with the county election officer,
38 city clerk of each city to be reorganized and each public library within the
39 county and shall be available to members of the public for inspection
40 upon request. The commission shall continue in existence at least 90 days
41 following the submission of the final plan for approval at an election as
42 provided by subsection (f).

43 (f) The final plan shall be submitted to the qualified electors of the

1 county at the next general election of the county held at least 45 days
2 following the adoption of the final plan by the commission. Such election
3 shall be called and held by the county election officer in the manner
4 provided by the general bond law. A summary of the final plan shall be
5 prepared by the commission and shall be published at least once each
6 week for two consecutive weeks in a newspaper of general circulation
7 within the county.

8 If the final plan calls for the consolidation of the county with one or
9 more cities and the consolidation of other political and taxing
10 subdivisions and the final plan calls for a countywide election, the ballot
11 shall contain two questions worded substantially as follows:

12 (1) Shall the county of _____ be consolidated with the city or
13 cities of _____?

14 (2) If the consolidation is approved, shall the following political and
15 taxing subdivisions located entirely within the county be abolished and
16 the functions of these subdivisions transferred to the consolidated city-
17 county: _____?

18 If a majority of the qualified electors voting on the plan who reside
19 within the corporate limits of the city and a majority of the qualified
20 electors voting on the plan who reside outside of the corporate limits of
21 the city vote in favor thereof, the consolidation plan shall be implemented
22 in the manner provided by the plan. If a majority of the electors who
23 reside within the corporate limits of the city or a majority of the qualified
24 electors who reside outside of the corporate limits of the city vote against
25 such plan, the proposed consolidation plan shall not be implemented.

26 If the commission submits a final plan which does not recommend the
27 consolidation of the city or cities and the county and other political and
28 taxing subdivisions or the consolidation of certain city, county and other
29 political and taxing subdivision offices, functions, services and
30 operations, the provisions of this subsection shall not apply.

31 New Sec. 5. (a) Any plan submitted by the commission shall provide
32 for the exercise of powers of local legislation and administration not
33 inconsistent with the constitution or other laws of this state.

34 (b) If the commission submits a plan providing for the consolidation
35 of certain city and county offices, functions, services and operations, the
36 plan shall:

37 (1) Include a description of the form, structure, functions, powers
38 and officers and the duties of such officers recommended in the plan;

39 (2) provide for the method of amendment or abandonment of the
40 plan;

41 (3) authorize the election or appointment of officers;

42 (4) authorize the elimination of offices;

43 (5) specify the effective date of the consolidation;

1 (6) in the case of multi-city consolidation with a county, the plan
2 shall include provisions addressing the situation if the plan is approved by
3 the electors of one city, but not all cities to be consolidated under the
4 plan; and

5 (7) include other provisions determined necessary by the
6 commission.

7 (c) If the plan provides for the consolidation of the city or cities and
8 county, in addition to the requirements of subsection (b) the plan shall:

9 (1) Fix the boundaries of the governing body's election districts,
10 provide a method for changing the boundaries from time-to-time, provide
11 any at-large positions on the governing body, fix the number, term and
12 initial compensation of the governing body of the consolidated city-
13 county and the method of election;

14 (2) determine whether elections of the governing body of the
15 reorganized city-county shall be partisan or nonpartisan elections and the
16 time at which such elections shall be held;

17 (3) determine the distribution of legislative and administrative duties
18 of the consolidated city-county officials, provide for consolidation or
19 expansion of services as necessary, authorize the appointment of a
20 consolidated city-county administrator or a city-county manager, if
21 deemed advisable, and prescribe the general structure of the consolidated
22 city-county government;

23 (4) provide for the official name of the consolidated city-county;

24 (5) provide for the transfer or other disposition of property and other
25 rights, claims and assets of the county, the city or cities, and other
26 political and taxing subdivisions; and

27 (6) provide for the transfer of the functions of any political or taxing
28 subdivisions approved by voters for consolidation.

29 New Sec. 6. (a) If the voters approve a plan which provides for the
30 consolidation of the city or cities and the county, such consolidated city-
31 county shall be subject to the provisions of this section.

32 (b) The consolidated city-county shall be subject to the cash-basis
33 and budget laws of the state of Kansas.

34 (c) Except as provided in subsection (d), and in any other statute
35 which specifically exempts bonds from the statutory limitations on
36 bonded indebtedness, the limitation on bonded indebtedness of a
37 consolidated city-county under this act shall be determined by the
38 commission in the plan, but shall not exceed 30% of the assessed value of
39 all tangible taxable property within the county on the preceding August
40 25.

41 (d) The following shall not be included in computing the total
42 bonded indebtedness of the consolidated city-county for the purposes of
43 determining the limitations on bonded indebtedness:

1 (1) Bonds issued for the purpose of refunding outstanding debt,
2 including outstanding bonds and matured coupons thereof, or judgments
3 thereon;

4 (2) bonds issued pursuant to the provisions of article 46 of chapter
5 19 of the Kansas Statutes Annotated, and amendments thereto;

6 (3) bonds issued for the purpose of financing the construction or
7 remodeling of a courthouse, jail or law enforcement center facility, which
8 bonds are payable from the proceeds of a retailer's sales tax;

9 (4) bonds issued for the purpose of acquiring, enlarging, extending
10 or improving any storm or sanitary sewer system;

11 (5) bonds issued for the purpose of acquiring, enlarging, extending
12 or improving any municipal utility; and

13 (6) bonds issued to pay the cost of improvements to intersections of
14 streets and alleys or that portion of any street immediately in front of city
15 or school district property.

16 (e) Any bonded indebtedness and interest thereon incurred by the
17 city or cities or county prior to consolidation or refunded thereafter shall
18 remain an obligation of the property subject to taxation for the payment
19 thereof prior to such consolidation.

20 (f) Upon the effective date of the consolidation of the city or cities
21 and county, any retailers' sales tax levied by the city or cities or county in
22 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
23 such date shall remain in full force and effect, except that part of the rate
24 attributable to the city or cities to be consolidated shall not apply to retail
25 sales in the cities which are not consolidated with the county.

26 (g) Upon the effective date of the consolidation of the city or cities
27 and county, the territory of the consolidated city-county shall include:

28 (1) All of the territory of the county for purposes of exercising the
29 powers, duties and functions of a county; and

30 (2) all of the territory of the county, except the territory of the cities
31 which are not consolidated with the county and the unincorporated area
32 of the county, for purposes of exercising the powers, duties and functions
33 of a city.

34 (h) For the purposes of section 1 of article 5 of the constitution of
35 the state of Kansas, the "voting area" for the governing body of the
36 consolidated city-county shall include all the territory within the county.

37 (i) Unless otherwise provided by law, the consolidated city-county
38 shall be eligible for the distribution of any funds from the state and
39 federal government as if no consolidation had occurred. Except as
40 provided in this subsection, the population and assessed valuation of the
41 territory of the consolidated city-county shall be considered its population
42 and assessed valuation for purposes of the distribution of moneys from
43 the state or federal government.

1 (j) The consolidated city-county shall be a county. The governing
2 body of the consolidated city-county shall be considered county
3 commissioners for the purposes of section 2 of article 4 of the
4 constitution of the state of Kansas and shall have all the powers, functions
5 and duties of a county and may exercise home rule powers in the manner
6 and subject to the limitations provided by K.S.A. 19-101a, and
7 amendments thereto, and other laws of this state.

8 The governing body of the consolidated city-county shall be
9 responsible for any duties or functions imposed by the constitution of the
10 state of Kansas and other laws of this state upon any county office
11 abolished by the consolidation plan. Such duties may be delegated by the
12 governing body or as provided in the consolidation plan.

13 (k) The consolidated city-county shall be a city of the class as
14 determined by the commission in the plan. The governing body of the
15 consolidated city-county shall have all the powers, functions and duties of
16 a city of such class and may exercise home rule powers in the manner and
17 subject to the limitations provided by article 12 of section 5 of the
18 constitution of the state of Kansas and other laws of this state.

19 (l) The governing body of the consolidated city-county may create
20 special service districts within the city-county and may levy taxes for
21 services provided in such districts.

22 Sec. 7. K.S.A. 12-3901 is hereby amended to read as follows: 12-
23 3901. *This act is an alternative to all other laws which authorize the*
24 *consolidation of political and taxing subdivisions of this state or the*
25 *consolidation of the operations, procedures and functions of offices and*
26 *agencies of such subdivisions.* It is the purpose of this act to authorize
27 and permit political and taxing subdivisions of this state to more
28 efficiently and effectively serve the needs of their constituents by
29 consolidating or cooperating in the consolidation of *such subdivisions or*
30 *the consolidation of the operations, procedures and functions of offices*
31 *and agencies of such subdivisions which may be more efficiently and*
32 *effectively exercised or provided by a single office or agency.*

33 Sec. 8. K.S.A. 12-3902 is hereby amended to read as follows: 12-
34 3902. For the purposes of this act all references to "political and taxing
35 subdivisions of this state" shall mean and include counties, townships,
36 cities, school districts, library districts, park districts, road districts,
37 drainage or levee districts, sewer districts, water districts, fire districts
38 and taxing subdivisions created and established under the laws of the
39 state of Kansas.

40 *The terms "like subdivisions" or "like political and taxing*
41 *subdivisions" shall mean subdivisions of the same type and function.*

42 Sec. 9. K.S.A. 12-3903 is hereby amended to read as follows: 12-
43 3903. (a) Whenever the governing body of any political or taxing

1 subdivision of this state shall by resolution determine that duplication
2 exists in the operations, procedures or functions of any of the offices or
3 agencies of such subdivision or that the operations, procedures or
4 functions of any of the offices or agencies thereof can be more efficiently
5 and effectively exercised or provided as a consolidated activity performed
6 by a single office or agency, or whenever the governing body of any two
7 or more political or taxing subdivisions of this state shall by the passage
8 of identical resolutions determine that duplication exists in the operations,
9 procedures or functions of offices or agencies of such subdivisions or that
10 the operations, procedures or functions of any of the offices or agencies
11 thereof can be more efficiently and effectively exercised or provided as a
12 consolidated activity performed by a single intergovernmental office or
13 agency or by a single office or agency of one of the participating political
14 or taxing subdivisions *desires to consolidate with like subdivisions or to*
15 *consolidate the operations, procedures and functions of the offices and*
16 *agencies of political and taxing subdivisions, such governing body or*
17 *governing bodies are hereby authorized to consolidate with like*
18 *subdivisions or consolidate any or all of the operations, procedures or*
19 *functions performed or carried on by such offices or agencies of political*
20 *and taxing subdivisions by the passage of a resolution or identical*
21 *resolutions setting out the time, form and manner of consolidation and*
22 *designating the surviving political or taxing subdivisions or the office or*
23 *agency.*

24 (b) *The consolidation of like subdivisions or the elimination of an*
25 *elective office by consolidation under the provisions of this act shall be*
26 *subject to the approval of a majority of not be effective unless the*
27 *question of such consolidation or elimination of office has been submitted*
28 *to and approved by the electors of the political or taxing subdivision*
29 *served by such office, voting in subdivisions proposed to be consolidated*
30 *or served by the office proposed to be eliminated. Such question shall be*
31 *submitted at the next regular general election of the county in which the*
32 *office of governor is elected, and no elective office shall be eliminated*
33 *prior to such election held in November of an even-numbered year.*

34 *If the office is to be eliminated and the duties transferred to a*
35 *nonelective office, the question of elimination of the elective office shall*
36 *be submitted to the voters as a separate ballot question. Any such*
37 *proposed consolidation which eliminates any such an elective office shall*
38 *provide that the elimination of such office shall become effective upon*
39 *the date of normal expiration of the term of such office.*

40 Any such proposed consolidation which eliminates any such of like
41 political or taxing subdivisions or any proposal which eliminates an
42 elective office shall not be voted on by the governing body of the political
43 or taxing subdivision until a special public hearing is held within the

1 political or taxing ~~subdivision~~. *subdivisions affected by the proposal.*
2 Notice of such special hearing shall be published in a newspaper of
3 general circulation in the political or taxing ~~subdivision~~ *subdivisions*
4 *affected at least* once each week for two consecutive weeks prior to the
5 hearing. The first publication shall not be less than 21 days prior to such
6 hearing. Any elected officer whose office would be eliminated in such
7 consolidation and any other interested party shall be given an opportunity
8 to appear and offer testimony at any of such hearings.

9 (c) Whenever the statutorily mandated duties of any elected county
10 official are proposed for elimination, by transfer or otherwise, the
11 question of the elimination of any such duties shall be considered as an
12 elimination of the elective office itself within the meaning of this section,
13 and shall be subject to an election prior to such elimination as required by
14 subsection (b). The provisions of this subsection shall not preclude the
15 transfer of duties of an elected office with the consent of the affected
16 elected official.

17 Sec. 10. K.S.A. 12-3904 is hereby amended to read as follows: 12-
18 3904. Whenever a petition, signed by not less than 10% of the qualified
19 electors of any political or taxing subdivision of this state or any two or
20 more political or taxing subdivisions of this state, shall be filed with the
21 governing body of such subdivision or subdivisions requesting that a
22 proposition for the consolidation of *such like subdivisions or the*
23 *consolidation of* specified operations, procedures and functions of
24 designated offices or agencies of *any* such subdivision or subdivisions be
25 submitted to the electors thereof, such governing body or governing
26 bodies shall submit such proposition at an election called and held for
27 such purpose in the manner provided by the general bond law. The
28 wording of such a petitioned-for proposition affecting the *consolidation*
29 *of two or more like subdivisions or the consolidation of the operations,*
30 *procedures and functions of any* two or more subdivisions shall be
31 expressed in general terms. If the proposition is approved by a majority of
32 the electors voting thereon, the governing body or governing bodies shall
33 develop and implement a plan for the consolidation consistent with the
34 intent of the proposition. If such proposition eliminates an elective office
35 by consolidation, the governing body of such subdivision or subdivisions
36 shall provide for the hearing *required* by K.S.A. 12-3903, and
37 amendments thereto. The governing body shall submit, *in accordance*
38 *with K.S.A. 12-3903, and amendments thereto,* such proposition at the
39 next regular general election ~~of the county in which the office of governor~~
40 ~~is elected in accordance with K.S.A. 12-3903, and amendments thereto.~~
41 *held in November of an even-numbered year.*

42 Sec. 11. K.S.A. 12-3909 is hereby amended to read as follows: 12-
43 3909. ~~Nothing in this act shall be construed as authorizing the~~

1 ~~consolidation of any political or taxing subdivision with any other~~
2 ~~political or taxing subdivision.~~ Nothing in this act shall be construed to
3 authorize the closing or the change of use of any school or attendance
4 facility.

5 Sec. 12. K.S.A. 19-205 is hereby amended to read as follows: 19-
6 205. Except as provided by K.S.A. 12-344, 12-345, K.S.A. ~~2007~~ 2010
7 Supp. 12-363 and 12-365, and amendments thereto, *and under provisions*
8 *of this act, and amendments thereto*, no person holding any state, county,
9 township or city office shall be eligible to the office of county
10 commissioner in any county in this state.

11 Nothing in this section shall prohibit the appointment of any county
12 commissioner to any state board, committee, council, commission or
13 similar body which is established pursuant to statutory authority, so long
14 as any county commissioner so appointed is not entitled to receive any
15 pay, compensation, subsistence, mileage or expenses for serving on such
16 body other than that which is provided by law to be paid in accordance
17 with the provisions of K.S.A. 75-3223, and amendments thereto.

18 Sec. 13. K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
19 19-205 are hereby repealed.

20 Sec. 14. This act shall take effect and be in force from and after its
21 publication in the statute book.
22