

SENATE BILL No. 367

By Committee on Ways and Means

5-2

AN ACT concerning counties; relating to the procedure for the incorporation thereof; amending K.S.A. 15-123 and repealing the existing section.

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

Section 1. K.S.A. 15-123 is hereby amended to read as follows: 15-123. (a) After the hearing has been adjourned *sine die*, the board or joint board of county commissioners shall consider the matter. It may request the director of the division of community development of the department of economic development to make a study of the general area in which the territory is located, information in possession of the county board and other sources, and render an opinion as to the advisability of the proposed incorporation. The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest. If the board or joint board determines that the territory should not be incorporated, it shall make an order so stating. ~~In addition to other requirements~~ *Except as provided by subsection (b)*, if any of the territory wholly within one county is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners. If the board or joint board *of county commissioners* determines that the territory should be incorporated, it shall prepare an order or joint order incorporating the territory as a city by the name of "the city of _____" as stated in the petition and describing the metes and bounds thereof. When the order has been adopted, the inhabitants within such bounds and such further territory as from time to time may be lawfully added thereto shall be a body politic and corporate by that name, and they and their successors (except such corporation be lawfully dissolved) shall have perpetual succession. The order shall be adopted at the next regular meeting of the board. Where two counties are involved, the board of each county shall adopt the joint order at its next regular meeting and not less than two commissioners of each county shall vote in favor thereof, ~~except that in addition to other requirements.~~ *Except as provided by subsection (b)*, if

1 any of the territory is within five miles of an existing city, the territory
2 shall not be incorporated except by the unanimous vote of the commis-
3 sioners of each county ~~involved~~ *in which the territory is located*. The
4 order or joint order so incorporating the city shall order the first election
5 in the city for city officers. The order or joint order shall be entered at
6 length upon the journal of the proceedings of the board or boards of
7 county commissioners and shall be published once in some newspaper
8 printed or in general circulation in the city at least one week before the
9 city election. Nomination papers for candidates for city office shall be
10 filed with the county election officer of the county where the petition for
11 incorporation was filed and the county election officer shall conduct such
12 election.

13 *(b) The provisions of subsection (a) requiring the unanimous vote of*
14 *the board or boards of county commissioners shall not apply if the ter-*
15 *ritory proposed to be incorporated is located within an improvement dis-*
16 *trict incorporated and organized pursuant to K.S.A. 19-2753 et seq., and*
17 *amendments thereto, on or before January 1, 1987, whether or not the*
18 *territory is located within five miles of an existing city.*

19 Sec. 2. K.S.A. 15-123 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its
21 publication in the statute book.

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