

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 454

By Committee on Ways and Means

1-22

10 AN ACT concerning governmental consolidation and reorganization;
11 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904 and 12-3909 and
12 K.S.A. 2007 Supp. 19-205 and repealing the existing sections.
13

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

15 New Section 1. As used in this act:

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

17 (b) "City" means any city.

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

20 (d) "County" means any county.

21 (e) "Political and tax subdivision" means those subdivisions listed in
22 K.S.A. 12-3902, and amendments thereto, which are located entirely
23 within a county.

24 New Sec. 2. (a) The board of county commissioners of a county and
25 the governing body of any city or cities located within such county may
26 adopt a joint resolution providing for the establishment of a consolidation
27 study commission to prepare a plan for the reorganization of the county
28 and such city or cities located in such county. If the governing body of a
29 city within the county does not adopt such joint resolution, such city shall
30 not be included within nor subject to the provisions of any reorganization
31 plan in regard to the status of such city as a separate entity from the
32 county.

33 (b) As an alternative to subsection (a), the board of county commis-
34 sioners of a county and the governing body of any city or cities located
35 therein shall adopt a joint resolution providing for the establishment of a
36 consolidation study commission to prepare a plan as provided in subsec-
37 tion (a) whenever the county election officer is presented with a petition
38 signed by not less than 10% of the qualified electors of the county re-
39 questing a consolidation study commission be appointed. The governing
40 body of any city shall be required to adopt the joint resolution whenever
41 the petition presented to the county clerk contains signatures of not less
42 than 10% of the qualified electors of the city. The petition shall contain
43 the method to be used for the appointment and the number of members

1 of the consolidation study commission.

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

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

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

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

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

26 (e) The commission shall prepare and adopt a budget for the oper-
27 ation and functions of the commission and commission activities.

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

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

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

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

1 plan.

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

8 (d) The commission shall prepare and adopt a preliminary plan ad-
9 dressing 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, serv-
12 ices 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 the issue of the abolishment of
15 other political and taxing subdivisions located within the county and the
16 transfer of the functions of the above political subdivisions to the reor-
17 ganized city-county.

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

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

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

40 (f) The final plan shall be submitted to the qualified electors of the
41 county at the next general election of the county held at least 45 days
42 following the adoption of the final plan by the commission. Such election
43 shall be called and held by the county election officer in the manner

1 provided by the general election law. A summary of the final plan shall
2 be prepared by the commission and shall be published at least once each
3 week for two consecutive weeks in a newspaper of general circulation
4 within the county.

5 If the final plan calls for the consolidation of the county with one or
6 more cities and the consolidation of other political and taxing subdivisions,
7 the ballot shall contain two questions worded substantially as follows:

8 (1) Shall the county of _____ be consolidated with the city or
9 cities of _____?

10 (2) If the consolidation is approved, shall ~~other~~ **the following** polit-
11 ical and taxing subdivisions located entirely within the county be abolished
12 and the functions of these subdivisions transferred to the consolidated
13 city-county: _____?

14 If a majority of the qualified electors of the county voting on the plan
15 vote in favor thereof, the reorganization plan shall be implemented in the
16 manner provided by the plan except that no city shall be consolidated
17 with the county and no offices, functions, services or operations of a city
18 shall be consolidated with the county unless such consolidation plan is
19 approved by a majority of the qualified electors of such city voting at the
20 election held on such plan.

21 If such a majority of the electors vote against such plan, the proposed
22 consolidation plan shall not be implemented.

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

28 New Sec. 5. (a) Any plan submitted by the commission shall provide
29 for the exercise of powers of local legislation and administration not in-
30 consistent with the constitution or other laws of this state.

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

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

36 (2) provide for the method of amendment or abandonment of the
37 plan;

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

39 (4) authorize the elimination of offices;

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

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

1 (7) include other provisions determined necessary by the
2 commission.

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

5 (1) Fix the boundaries of the governing body's election districts, pro-
6 vide a method for changing the boundaries from time-to-time, any at-
7 large positions on the governing body, fix the number, term and initial
8 compensation of the governing body of the consolidated city-county and
9 the method of election;

10 (2) determine whether elections of the governing body of the reor-
11 ganized city-county shall be partisan or nonpartisan elections and the time
12 at which such elections shall be held;

13 (3) determine the distribution of legislative and administrative duties
14 of the consolidated city-county officials, provide for consolidation or ex-
15 pansion of services as necessary, authorize the appointment of a consol-
16 idated city-county administrator or a city-county manager, if deemed ad-
17 visable, and prescribe the general structure of the consolidated
18 city-county government;

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

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

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

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

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

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

36 (d) The following shall not be included in computing the total bonded
37 indebtedness of the consolidated city-county for the purposes of deter-
38 mining the limitations on bonded indebtedness:

39 (1) Bonds issued for the purpose of refunding outstanding debt, in-
40 cluding outstanding bonds and matured coupons thereof, or judgments
41 thereon;

42 (2) bonds issued pursuant to the provisions of article 46 of chapter
43 19 of the Kansas Statutes Annotated, and amendments thereto;

- 1 (3) bonds issued for the purpose of financing the construction or re-
2 modeling of a courthouse, jail or law enforcement center facility, which
3 bonds are payable from the proceeds of a retailer's sales tax;
- 4 (4) bonds issued for the purpose of acquiring, enlarging, extending
5 or improving any storm or sanitary sewer system;
- 6 (5) bonds issued for the purpose of acquiring, enlarging, extending
7 or improving any municipal utility; and
- 8 (6) bonds issued to pay the cost of improvements to intersections of
9 streets and alleys or that portion of any street immediately in front of city
10 or school district property.
- 11 (e) Any bonded indebtedness and interest thereon incurred by the
12 city or cities or county prior to consolidation or refunded thereafter shall
13 remain an obligation of the property subject to taxation for the payment
14 thereof prior to such consolidation.
- 15 (f) Upon the effective date of the consolidation of the city or cities
16 and county, any retailers' sales tax levied by the city or cities or county in
17 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
18 such date shall remain in full force and effect, except that part of the rate
19 attributable to the city or cities to be consolidated shall not apply to retail
20 sales in the cities which are not consolidated with the county.
- 21 (g) Upon the effective date of the consolidation of the city or cities
22 and county, the territory of the consolidated city-county shall include:
- 23 (1) All of the territory of the county for purposes of exercising the
24 powers, duties and functions of a county; and
- 25 (2) all of the territory of the county, except the territory of the cities
26 which are not consolidated with the county and the unincorporated area
27 of the county, for purposes of exercising the powers, duties and functions
28 of a city.
- 29 (h) For the purposes of section 1 of article 5 of the constitution of
30 the state of Kansas, the "voting area" for the governing body of the con-
31 solidated city-county shall include all the territory within the county.
- 32 (i) Unless otherwise provided by law, the consolidated city-county
33 shall be eligible for the distribution of any funds from the state and federal
34 government as if no consolidation had occurred. Except as provided in
35 this subsection, the population and assessed valuation of the territory of
36 the consolidated city-county shall be considered its population and as-
37 sessed valuation for purposes of the distribution of moneys from the state
38 or federal government.
- 39 (j) The consolidated city-county shall be a county. The governing
40 body of the consolidated city-county shall be considered county commis-
41 sioners for the purposes of section 2 of article 4 of the constitution of the
42 state of Kansas and shall have all the powers, functions and duties of a
43 county and may exercise home rule powers in the manner and subject to

1 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
2 other laws of this state.

3 The governing body of the consolidated city-county shall be responsible
4 for any duties or functions imposed by the constitution of the state of
5 Kansas and other laws of this state upon any county office abolished by
6 the consolidation plan. Such duties may be delegated by the governing
7 body or as provided in the consolidation plan.

8 (k) The consolidated city-county shall be a city of the class as deter-
9 mined by the commission in the plan. The governing body of the con-
10 solidated city-county shall have all the powers, functions and duties of a
11 city of such class and may exercise home rule powers in the manner and
12 subject to the limitations provided by article 12 of section 5 of the con-
13 stitution of the state of Kansas and other laws of this state.

14 (l) The governing body of the consolidated city-county may create
15 special service districts within the city-county and may levy taxes for serv-
16 ices provided in such districts.

17 ~~New Sec. 7. The board of county commissioners may levy a tax not~~
18 ~~to exceed one mill on all taxable tangible property of the county for the~~
19 ~~purpose of financing the costs incurred by the consolidation study com-~~
20 ~~mission while executing the powers, duties and functions of such com-~~
21 ~~mission. After the payment of such costs incurred by the commission any~~
22 ~~remaining moneys derived from such tax levy shall be transferred to the~~
23 ~~county general fund in the manner provided by K.S.A. 79-2958, and~~
24 ~~amendments thereto.~~

25 Sec. ~~8~~ 7. K.S.A. 2007 Supp. 19-205 is hereby amended to read as
26 follows: 19-205. Except as provided by K.S.A. 12-344, 12-345, K.S.A. 2007
27 Supp. 12-363 and 12-365, and amendments thereto, *and under provisions*
28 *of this act, and amendments thereto*, no person holding any state, county,
29 township or city office shall be eligible to the office of county commis-
30 sioner in any county in this state.

31 Nothing in this section shall prohibit the appointment of any county
32 commissioner to any state board, committee, council, commission or sim-
33 ilar body which is established pursuant to statutory authority, so long as
34 any county commissioner so appointed is not entitled to receive any pay,
35 compensation, subsistence, mileage or expenses for serving on such body
36 other than that which is provided by law to be paid in accordance with
37 the provisions of K.S.A. 75-3223, and amendments thereto.

38 Sec. ~~9~~ 8. K.S.A. 12-3901 is hereby amended to read as follows: 12-
39 3901. *This act is an alternative to all other laws which authorize the*
40 *consolidation of political and taxing subdivisions of this state or the con-*
41 *solidation of the operations, procedures and functions of offices and agen-*
42 *cies of such subdivisions.* It is the purpose of this act to authorize and
43 permit political and taxing subdivisions of this state to more efficiently

1 and effectively serve the needs of their constituents by consolidating or
 2 cooperating in the consolidation of *such subdivisions or the consolidation*
 3 *of the* operations, procedures and functions of offices and agencies of
 4 such subdivisions which may be more efficiently and effectively exercised
 5 or provided by a single *subdivision*, office or agency.

6 Sec. ~~10~~ **9**. K.S.A. 12-3902 is hereby amended to read as follows: 12-
 7 3902. For the purposes of this act all references to “political and taxing
 8 subdivisions of this state” shall mean and include counties, townships,
 9 cities, school districts, library districts, park districts, road districts, drain-
 10 age or levee districts, sewer districts, water districts, fire districts and
 11 taxing subdivisions created and established under the laws of the state of
 12 Kansas.

13 *The terms “like subdivisions” or “like political and taxing subdivisions”*
 14 *shall mean subdivisions of the same type and function.*

15 Sec. ~~11~~ **10**. K.S.A. 12-3903 is hereby amended to read as follows: 12-
 16 3903. (a) Whenever the governing body of any political or taxing sub-
 17 division of this state ~~shall by resolution determine that duplication exists~~
 18 ~~in the operations, procedures or functions of any of the offices or agencies~~
 19 ~~of such subdivision or that the operations, procedures or functions of any~~
 20 ~~of the offices or agencies thereof can be more efficiently and effectively~~
 21 ~~exercised or provided as a consolidated activity performed by a single~~
 22 ~~office or agency, or whenever the governing body of any two or more~~
 23 ~~political or taxing subdivisions of this state shall by the passage of identical~~
 24 ~~resolutions determine that duplication exists in the operations, procedu-~~
 25 ~~res or functions of offices or agencies of such subdivisions or that the~~
 26 ~~operations, procedures or functions of any of the offices or agencies~~
 27 ~~thereof can be more efficiently and effectively exercised or provided as a~~
 28 ~~consolidated activity performed by a single intergovernmental office or~~
 29 ~~agency or by a single office or agency of one of the participating political~~
 30 ~~or taxing subdivisions~~ *desires to consolidate with like subdivisions or to*
 31 *consolidate the operations, procedures and functions of the offices and*
 32 *agencies of political and taxing subdivisions*, such governing body or gov-
 33 erning bodies are hereby authorized to consolidate *with like subdivisions*
 34 *or consolidate* any or all of the operations, procedures or functions per-
 35 formed or carried on by such offices or agencies *of political and taxing*
 36 *subdivisions* by the passage of a resolution or identical resolutions setting
 37 out the time, form and manner of consolidation and designating the sur-
 38 viving *political or taxing subdivisions or the* office or agency.

39 (b) *The consolidation of like subdivisions or the* elimination of an
 40 elective office by consolidation under the provisions of this act shall ~~be~~
 41 ~~subject to the approval of a majority of~~ *not be effective unless the question*
 42 *of such consolidation or elimination of office has been submitted to and*
 43 *approved by* the electors of the political or taxing ~~subdivision served by~~

1 ~~such office, voting in subdivisions proposed to be consolidated or served~~
 2 ~~by the office proposed to be eliminated. Such question shall be submitted~~
 3 ~~at the next regular general election of the county in which the office of~~
 4 ~~governor is elected, and no elective office shall be eliminated prior to~~
 5 ~~such election held in November of an even-numbered year.~~

6 *If the office is to be eliminated and the duties transferred to a nonelec-*
 7 *tive office, the question of elimination of the elective office shall be sub-*
 8 *mitted to the voters as a separate ballot question. Any such proposed*
 9 *consolidation which eliminates any such an elective office shall provide*
 10 *that the elimination of such office shall become effective upon the date*
 11 *of normal expiration of the term of such office.*

12 ~~Any such proposed consolidation which eliminates any such of like po-~~
 13 ~~litical or taxing subdivisions or any proposal which eliminates an elective~~
 14 ~~office shall not be voted on by the governing body of the political or taxing~~
 15 ~~subdivision until a special public hearing is held within the political or~~
 16 ~~taxing subdivision subdivisions affected by the proposal. Notice of such~~
 17 ~~special hearing shall be published in a newspaper of general circulation~~
 18 ~~in the political or taxing subdivision subdivisions affected at least once~~
 19 ~~each week for two consecutive weeks prior to the hearing. The first pub-~~
 20 ~~lication shall not be less than 21 days prior to such hearing. Any elected~~
 21 ~~officer whose office would be eliminated in such consolidation and any~~
 22 ~~other interested party shall be given an opportunity to appear and offer~~
 23 ~~testimony at any of such hearings.~~

24 (c) Whenever the statutorily mandated duties of any elected county
 25 official are proposed for elimination, by transfer or otherwise, the ques-
 26 tion of the elimination of any such duties shall be considered as an elim-
 27 ination of the elective office itself within the meaning of this section, and
 28 shall be subject to an election prior to such elimination as required by
 29 subsection (b). The provisions of this subsection shall not preclude the
 30 transfer of duties of an elected office with the consent of the affected
 31 elected official.

32 Sec. ~~12 11~~. K.S.A. 12-3904 is hereby amended to read as follows: 12-
 33 3904. Whenever a petition, signed by not less than 10% of the qualified
 34 electors of any political or taxing subdivision of this state or any two or
 35 more political or taxing subdivisions of this state, shall be filed with the
 36 governing body of such subdivision or subdivisions requesting that a propo-
 37 sition for the consolidation of *such like subdivisions or the consolidation*
 38 *of specified operations, procedures and functions of designated offices or*
 39 *agencies of any such subdivision or subdivisions be submitted to the elec-*
 40 *tors thereof, such governing body or governing bodies shall submit such*
 41 *proposition at an election called and held for such purpose in the manner*
 42 *provided by the general bond law. The wording of such a petitioned-for*
 43 *proposition affecting the consolidation of two or more like subdivisions*

1 *or the consolidation of the operations, procedures and functions of any*
2 *two or more subdivisions shall be expressed in general terms. If the prop-*
3 *osition is approved by a majority of the electors voting thereon, the gov-*
4 *erning body or governing bodies shall develop and implement a plan for*
5 *the consolidation consistent with the intent of the proposition. If such*
6 *proposition eliminates an elective office by consolidation, the governing*
7 *body of such subdivision or subdivisions shall provide for the hearing*
8 *required by K.S.A. 12-3903, and amendments thereto. The governing*
9 *body shall submit, in accordance with K.S.A. 12-3903, and amendments*
10 *thereto, such proposition at the next regular general election of the county*
11 *in which the office of governor is elected in accordance with K.S.A. 12-*
12 *3903, and amendments thereto held in November of an even-numbered*
13 *year.*

14 Sec. ~~13~~ **12.** K.S.A. 12-3909 is hereby amended to read as follows: 12-
15 3909. ~~Nothing in this act shall be construed as authorizing the consoli-~~
16 ~~ation of any political or taxing subdivision with any other political or~~
17 ~~taxing subdivision. Nothing in this act shall be construed to authorize the~~
18 ~~closing or the change of use of any school or attendance facility.~~

19 Sec. ~~14~~ **13.** K.S.A. 12-3901, 12-3902, 12-3903, 12-3904 and 12-3909
20 and K.S.A. 2007 Supp. 19-205 are hereby repealed.

21 Sec. ~~15~~ **14.** This act shall take effect and be in force from and after
22 its publication in the statute book.