

Approved: 1-19-99
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Vice Chairman Rich Becker at 1:30 p.m. on January 14, 1999 in Room 529-S of the Capitol.

All members were present except: Senator Hardenburger

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Vice Chairman Becker opened the meeting requesting Mike Heim, Legislative Staff to brief the Committee on the city-county consolidation interim study. Mr. Heim informed the Committee that the responsibility of the Special Interim Committee on Local Government was to consider legislation for the consolidation of city and county. The topic came about through several different sources last session with the consolidation of Wyandotte County and Kansas City, Kansas in 1996, and four other cases that came forward in the spring of 1998. Mr. Heim also advised that there was considerable discussion at the Interim Committee meeting concerning the 10% of cities and county signatures request on a petition. (Attachment 1).

Mr. Heim also explained to the Committee **SB 7 concerning cities and counties; relating to the consolidation thereof** which was a result of the Special Committee recommendation. (Attachment #2)

Senator Becker asked if in Section 9 if this was meant for the purpose of closing schools and Mr. Heim advised that K.S.A. 12-3909 has a provision whereby consolidation cannot be used for tax purposes under this law and does not affect school closings. Mr. Heim stated this bill should not affect home rule in any way.

Question was asked by Senator Petty if townships were effected by this and Mr. Heim advised it was not.

The Committee discussed if consolidation of counties would be permitted in the pending legislation. Mr. Heim advised there was nothing in the current law that would allow consolidation; and, as a result, there is nothing in the statutes to specifically allow it.

Senator Gooch raised the issue of people who live within a city but do not vote for county government body.

Senator Huelskamp asked if it would be majority vote of the county as a whole for consolidation. Mr. Heim advised it would be the majority vote of the county and majority within any city which is suppose to be part of the consolidation.

Meeting was adjourned at 2:10 p.m. Next meeting scheduled for January 19, 1999.

SENATE BILL No. 7

By Special Committee on Local Government

12-16

8 ~~AN ACT concerning cities and counties; relating to the consolidation~~
9 thereof; amending K.S.A. 12-301 and 12-3909 and K.S.A. 1998 Supp.
10 19-205 and repealing the existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. As used in this act:

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

15 (b) "City" means any city.

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

18 (d) "County" means any county.

19 New Sec. 2. (a) The board of county commissioners of a county and
20 the governing body of any city or cities located within such county may
21 adopt a joint resolution providing for the establishment of a consolidation
22 study commission to prepare a plan for the consolidation of the county
23 and such city or cities located in such county. Such resolution shall not
24 be effective until the question has been submitted to and approved by a
25 majority of the qualified electors of the county voting at an election
26 thereon. Such election shall be called and held in the manner provided
27 by the general bond law.

28 (b) Upon presentation to the board of county commissioners of a
29 sufficient petition requesting the establishment of a consolidation study
30 commission, the board shall adopt a resolution providing for the estab-
31 lishment of a consolidation study commission to prepare a plan for the
32 consolidation of such county and city or cities located therein. Any such
33 petition shall be signed by at least 10% of the qualified electors of the
34 county. Any such petition shall contain a statement that the creation of a
35 consolidation study commission and any final plan adopted by the com-
36 mission which recommends consolidation shall be subject to approval by
37 the qualified electors of the county. In addition, the petition also shall
38 state that no city shall be consolidated with the county and no offices,
39 functions, services and operations of a city shall be consolidated with the
40 county unless such consolidation plan is approved by a majority of the
41 qualified electors of such city voting at the election held on such plan.
42 Such resolution shall be submitted to the qualified electors of the county

Definitions of terms.

How the process starts: two alternatives
(a) governing bodies actions

(b) 10% petition of county electors

Contents of initiative petition

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1 at an election called and held in the manner provided by the general bond
2 law.

3 (c) Any resolution or petition authorized to be adopted or submitted
4 by subsection (a) or (b) shall provide for the establishment of a consoli-
5 dation study commission and shall provide either that the members be
6 appointed or that the members be elected by the qualified electors of the
7 county on a nonpartisan basis. If the commission is to be elected, the
8 procedure for holding such election shall be determined by such reso-
9 lution or petition. The laws applicable to the procedure, manner and
10 method provided for the election of county officers shall apply to the
11 election of members of the commission except that such election shall be
12 called in the manner provided by the general bond law.

13 (d) If a majority of the qualified electors of the county voting on a
14 resolution submitted pursuant to subsection (a) or (b) vote in favor
15 thereof, the commission shall be elected or appointed as provided by the
16 resolution or petition. The number of members on a consolidation study
17 commission shall be determined by the resolution or petition. At least 1/3
18 of the membership of a consolidation study commission shall be residents
19 of the unincorporated area of the county.

20 New Sec. 3. (a) Within 30 days following the certification of the re-
21 sults of the election or appointment of members of the consolidation
22 study commission, the chairperson of the board of county commissioners,
23 acting as the temporary chairperson of the commission, shall call and hold
24 an organizational meeting of the commission. The commission shall elect
25 a chairperson, vice-chairperson and other officers deemed necessary. The
26 commission may adopt rules governing the conduct of its meetings.

27 (b) The commission shall be subject to the open meetings law and
28 the open records law.

29 (c) Members of the commission shall be reimbursed for the actual
30 and necessary expenses incurred in the performance of their official
31 duties.

32 (d) The commission may appoint an executive director of the com-
33 mission. The executive director shall receive compensation established by
34 the commission. The executive director shall employ other staff and may
35 contract with consultants, as the executive director deems necessary to
36 carry out the functions of the commission. Staff employed by the exec-
37 utive director shall receive compensation established by the executive
38 director and approved by the commission.

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

41 New Sec. 4. (a) The commission shall prepare and adopt a plan ad-
42 dressing the consolidation of the city or cities and county or certain city
43 and county offices, functions, services and operations. The commission

Contents required for either the resolution or petition---whether the consolidation study commission is appointed or elected on a nonpartisan basis is set here

The resolution or petition sets the number of commissioners—Note 1/3 of the membership must be from the unincorporated area

Commission startup

open meetings and open records

executive director

budget required

What the Commission is required to do

1 shall conduct such studies and investigations as it deems appropriate to
2 complete its work. Such studies and investigations shall include, but not
3 be limited to:

conduct studies

4 (1) Studies of the efficiency and effectiveness of the administrative
5 operations of the city or cities and county.

6 (2) Studies of the costs and benefits of consolidating the city or cities
7 and county or certain city or cities and county offices, functions, services
8 and operations.

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

hold hearings

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

may compel testimony and documents

18 (d) The commission shall prepare and adopt a preliminary plan ad-
19 dressing the consolidation of the city or cities and county or certain city
20 and county offices, functions, services and operations it deems advisable.
21 Copies of the preliminary plan shall be filed with the county election
22 officer, city clerk of each city to be consolidated 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 such hearings. Notice of
27 such hearings shall be published at least once in a newspaper of general
28 circulation within the county. Following the public hearings on the pre-
29 liminary plan, the commission may adopt, or modify and adopt, the pre-
30 liminary plan as the final plan.

preliminary plan required

**where copies of preliminary plan
available**

**at least two public hearings on the
preliminary plan**

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

**final plan-written opinion by attorney
required**

where copies of final plan available

42 (f) The final plan shall be submitted to the qualified electors of the
43 county at the next general election of the county held at least 45 days

**final plan to a vote at next county
general election**

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

Summary of final plan must be published

7 If a majority of the qualified electors of the county voting on the plan
8 vote in favor thereof, the consolidation plan shall be implemented in the
9 manner provided by the plan except that no city shall be consolidated
10 with the county and no offices, functions, services or operations of a city
11 shall be consolidated with the county unless such consolidation plan is
12 approved by a majority of the qualified electors of such city voting at the
13 election held on such plan.

14 There shall be printed on the ballots at any election called to approve
15 the final plan the following statement:

Statement on ballot required

16 "If the majority of the qualified electors of a county and the majority
17 of the qualified electors of a city voting at the election to approve the
18 final plan vote in favor of such plan, such city shall be included within
19 and subject to the provisions of such plan.

20 If the majority of the qualified electors of a city voting at the election
21 to approve the final plan, do not vote in favor of such plan, such city shall
22 not be included within nor subject to the provisions of such plan in regard
23 to the status of such city as a separate entity from the county."

no city included if city voters don't approve

24 If such a majority of the electors vote against such plan, the proposed
25 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 county or certain city and county
28 offices, functions, services and operations, the provisions of this subsec-
29 tion shall not apply.

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

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

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

Requirements for a plan which does not involve full consolidation

38 (2) Provide for the method of amendment or abandonment of the
39 plan.

40 (3) Authorize the election, appointment or elimination of elective of-
41 ficials and offices.

42 (4) Specify the effective date of the consolidation.

43 (5) In the case of multi-city consolidation with a county, the plan shall

1 include provisions addressing the situation if the plan is approved by the
2 electors of one, but not all cities to be consolidated under the plan.

3 (6) Include other provisions determined necessary by the
4 commission.

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

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

12 (2) Determine whether elections of the governing body of the con-
13 solidated city-county shall be partisan or nonpartisan elections and the
14 time at which such elections shall be held.

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

21 (4) Provide for the official name of the consolidated city-county.

22 (5) Provide for the transfer or other disposition of property and other
23 rights, claims and assets of the county and city.

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

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

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

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

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

41 (2) Bonds issued pursuant to the provisions of article 46 of chapter
42 19 of the Kansas Statutes Annotated, and amendments thereto.

43 (3) Bonds issued for the purpose of financing the construction or

**Requirements of a plan where full city-
county consolidation is proposed**

**If city-county consolidation is approved
by voters the following rules apply**

cash basis and budget laws

bonded debt

1 remodeling of a courthouse, jail or law enforcement center facility, which
2 bonds are payable from the proceeds of a retailers' sales tax.

3 (4) Bonds issued for the purpose of acquiring, enlarging, extending
4 or improving any storm or sanitary sewer system.

5 (5) Bonds issued for the purpose of acquiring, enlarging, extending
6 or improving any municipal utility.

7 (6) Bonds issued to pay the cost of improvements to intersections of
8 streets and alleys or that portion of any street immediately in front of city
9 or school district property.

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

local retailers' sales tax rates

14 (f) Upon the effective date of the consolidation of the city or cities
15 and county, any retailers' sales tax levied by the city or cities or county in
16 accordance with K.S.A. 12-187 *et seq.*, and amendments thereto, prior to
17 such date shall remain in full force and effect, except that part of the rate
18 attributable to the city or cities to be consolidated shall not apply to retail
19 sales in the cities which are not consolidated with the county. The con-
20 solidated city-county shall be a class A, B, C or D city as determined by
21 the commission in the plan.

territory

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

24 (1) All of the territory of the county for purposes of exercising the
25 powers, duties and functions of a county.

26 (2) All of the territory of the county, except the territory of the cities
27 which are not consolidated with the county and the unincorporated area
28 of the county, for purposes of exercising the powers, duties and functions
29 of a city.

voting area

30 (h) For the purposes of section 1 of article 5 of the constitution of
31 the state of Kansas, the "voting area" for the governing body of the con-
32 solidated city-county shall include all the territory within the county.

33 (i) Except for the consolidated city-county and unless otherwise pro-
34 vided by law, other political subdivisions of the county shall not be af-
35 fected by consolidation of the city or cities and county. Such other political
36 subdivisions shall continue in existence and operation.

state and federal funds

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

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

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

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

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

22 (n) Changes in the form of government approved by the voters in
 23 accordance with the consolidation plan are hereby declared to be legis-
 24 lative matters and subject to initiative and referendum in accordance with
 25 K.S.A. 12-3013 *et seq.*, and amendments thereto.

26 New Sec. 7. The board of county commissioners may levy a tax not
 27 to exceed one mill on all taxable tangible property of the county for the
 28 purpose of financing the costs incurred by the consolidation study com-
 29 mission while executing the powers, duties and functions of such com-
 30 mission. After the payment of such costs incurred by the commission any
 31 remaining moneys derived from such tax levy shall be transferred to the
 32 county general fund in the manner provided by K.S.A. 79-2958, and
 33 amendments thereto.

34 Sec. 8. K.S.A. 12-301 is hereby amended to read as follows: 12-301.

35 (a) Whenever two or more cities organized under the laws of the state of
 36 Kansas, which are adjacent to each other, desire to ~~form but one city~~
 37 *consolidate*, such consolidation may be made under the provisions of this
 38 act. ~~Provided~~, That if any one of said. *If one of such* cities shall have
 39 adopted the commission form of government, the word "council," as
 40 hereinafter used, shall be construed literally, or shall be held to mean
 41 mayor and commissioners, or board of commissioners as the sense shall
 42 justify.

43 (b) *The provisions of K.S.A. 12-301 through 12-331a, and amend-*

Considered a city

Special service tax districts

initiative and referendum apply

tax levy—not to exceed one mill—
authorized to pay costs of commission

city-city consolidation clarification

1 *ments thereto, shall not apply to cities consolidated pursuant to this act,*
2 *and amendments thereto.*

3 Sec. 9. K.S.A. 12-3909 is hereby amended to read as follows: 12-
4 3909. ~~Nothing in this act shall be construed as authorizing the consoli-~~
5 ~~datation of any political or taxing subdivision with any other political or~~
6 ~~taxing subdivision.~~ Nothing in this act *K.S.A. 12-3901 through 12-3908,*
7 *and amendments thereto,* shall be construed to authorize the closing or
8 the change of use of any school or attendance facility.

9 Sec. 10. K.S.A. 1998 Supp. 19-205 is hereby amended to read as
10 follows: 19-205. Except as provided by K.S.A. 1998 Supp. 12-344 ~~and,~~
11 12-345, *sections 5 and 6, and amendments thereto,* no person holding any
12 state, county, township or city office shall be eligible to the office of
13 county commissioner in any county in this state.

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

21 Sec. 11. K.S.A. 12-301 and 12-3909 and K.S.A. 1998 Supp. 19-205
22 are hereby repealed.

23 Sec. 12. This act shall take effect and be in force from and after its
24 publication in the statute book.

**consolidation of functions law
clarification or change**

**eligibility requirements for office of
county commissioner clarification**

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

CITY-COUNTY CONSOLIDATION*

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends legislation be introduced that would permit city-county consolidation. Any consolidation would require a majority vote in each entity that was subject to the consolidation.

BACKGROUND

The study came about as a result of interest by local government officials from various parts of the state in city-county consolidation generated by the adoption of a consolidated city-county government involving Wyandotte County and Kansas City, Kansas in 1997. Interest also was generated as a result of an amendment added by the House Committee of the Whole to H.B. 2759 in 1998 which would have amended the local government consolidation of functions law to require a separate majority in each taxing subdivision before a consolidation of functions between the local governments could occur. The House floor amendment was removed from the bill in the Senate Elections and Local Government Committee but the Chair agreed to request an interim study of the consolidation laws.

The following is a brief description of several laws dealing with local government consolidation and cooperation which were reviewed by the Committee.

Wyandotte County-Kansas City Consolidation Law. The 1996 Legislature enacted S.B. 464 which required the Governor to appoint a five-member consolidation study commission for Kansas City, Kansas and Wyandotte County. After the Commission was appointed, a study was

made, and a consolidation plan was submitted to voters in the Spring of 1997. A countywide vote approved the consolidation plan by a 60 percent margin. The Kansas Supreme Court upheld the constitutionality of most of the provisions of this law in a March 1998 decision. Two relatively minor provisions of the law, however, were found to be unconstitutional and were severed by the court.

The plan provides for a new consolidated form of government, known as the Unified Government of Wyandotte County/Kansas City, Kansas or the "Unified Government." The then existing governments of the city and the county were replaced by a governing body composed of a Mayor/Chief Executive and a ten-member Unified Board of Commissioners. Eight Commission members were nominated and elected in eight newly-created districts. Two countywide Commission members were nominated from two newly-created districts comprised of the four northern-most and four southern-most districts; these Commission members were elected at-large. The Mayor/Chief Executive has veto power which can be overridden by a two-thirds majority of the Unified Board of Commissioners.

The plan provides for the appointment of a County Administrator by the Mayor/Chief Executive with the consent of the Unified Board

* S.B. 7 was recommended by the Committee.

of Commissioners. The County Administrator is directly responsible for the daily functions of the Unified Government.

Pursuant to the plan, the elected offices of County Clerk, County Treasurer, County Surveyor, and Public Administrator became appointed positions and all functions performed by these officials were retained. The County Administrator has established positions of Unified Clerk and Unified Treasurer in order to consolidate the duties and responsibilities of the prior County and City clerks and the prior County and City treasurers. The position of County Surveyor has been designated as an administrative position within the Executive Branch to be appointed by the County Administrator. The Public Administrator position and functions has been transferred to the Judicial Branch with the district court judges determining how such functions will be carried out.

The plan provides that several offices have been retained for countywide election: Sheriff, District Attorney, and the Register of Deeds. The district attorney position is retained as it presently exists. Elections for both the Sheriff position and the Register of Deeds position will be nonpartisan and held during the regularly scheduled April election period; prior to consolidation, partisan elections were held for these positions during the regularly scheduled November election period. The terms of office of these two offices will continue to be four years; the terms of office of the present occupants were extended until the election period of April 2001 pursuant to the plan.

Interlocal Cooperation Act. The Interlocal Cooperation Act (K.S.A. 12-2901 *et seq.*), permits any public agency of this state to exercise jointly its power with any other public agency of this state, with any private agency, with public agencies of other states, or the United States.

K.S.A. 19-2904(a) lists a number of areas where cooperation is permitted, including but not limited to the following:

- economic development;
- public improvements;
- public utilities;
- police protection;
- libraries;
- data processing services;
- educational services;
- building and related inspection services;
- flood control and stormwater drainage;
- weather modification;
- sewage disposal;
- refuse disposal;
- park and recreational programs and facilities;
- ambulance service;
- fire protection; and
- the Kansas Tort Claims Act or claims for civil rights violations.

The list is nonexclusive since it is preceded by the phrase "including but not limited to" which was added to the Act as a clarification in 1979.

Every agreement as a condition precedent to its entry into force, except for a limited exception, must be submitted to the Kansas Attorney General for determination of whether the agreement is in proper form and compatible with Kansas law. An agreement is deemed approved 90 days after submission to the Attorney General unless disapproved. The Attorney General is required to detail in writing any shortcomings of an agreement disapproved. (See K.S.A. 12-2904(f).) Agreements establishing a council or other organization of local governments for a study of common problems and for the promotion of intergovernmental relations are exempt from the submission requirement to the Attorney General.

City, County, and Township Contract Law. Cities, counties, and townships are authorized to contract with any other city, county, or township to perform any governmental service, activity, or undertaking each has authority by law to perform. The contracts are authorized by the governing body of the city, county, or township and are not regarded as interlocal agreements under K.S.A. 12-2901 *et seq.* (See K.S.A. 12-2908.) The impact of this statute is that these contracts

do not require the approval of the Attorney General and need not comply with any other requirements of the Interlocal Cooperation Act.

General Consolidation of Functions Law. The law (K.S.A. 12-3901 *et seq.*), applies to "political and taxing subdivisions of this state" which term includes counties, townships, cities, school districts, library districts, park districts, road districts, drainage or levee districts, sewer districts, water districts, fire districts, and taxing subdivisions created under Kansas law.

The law permits both intragovernmental or internal consolidation and intergovernmental or external consolidation. Intragovernmental consolidation is permitted if duplication exists in the operations, procedures, or functions of any of the offices or agencies of the political or taxing subdivision. Intergovernmental consolidation is permitted if duplication exists in the operations, procedures, or functions of offices or agencies of any two or more political or taxing subdivisions. These entities may create either a single intergovernmental office or agency or assign the activity to be performed by one of the participating entities.

The consolidation of functions law permits the abolition of elective offices by consolidation but requires certain special procedures to be followed, including an election on the issue. An amendment in 1991 equates the transfer of statutorily mandated duties of an elected office with an elimination of the office and requires an election. A special hearing on the issue of abolishing an elected office must be held prior to the governing body taking action on the proposal with notice of the hearing published in a newspaper for once each week for two consecutive weeks prior to the hearing. The elected official whose office would be eliminated must be given an opportunity to testify at the hearing. Any other interested party also may testify.

COMMITTEE ACTIVITIES

A two-day public hearing was held on the topic at the September meeting where over 20 conferees testified. The Committee heard from

the League of Kansas Municipalities, the Kansas Association of Counties, the Attorney General's Office, professors from the University of Kansas, Kansas State University, Wichita State University, and Fort Hays State University, officials from Douglas, Riley, and Marion counties, the Unified Government of Wyandotte County and Kansas City, Kansas, the cities of Wichita, Kingman, and Salina, a local government consultant, and a former legislator.

In addition, memoranda were presented to the Committee dealing with the Wyandotte County/Kansas City consolidation law, the Interlocal Cooperation Act, and the consolidation of functions law. A copy of the Wyandotte County/Kansas City, Kansas Consolidation Study Commission Report was also provided to the Committee.

Most conferees favored the idea of a general law applying to all counties and cities which would permit cities and counties to consolidate and form one government if a dual majority in the city and the county approved. Several conferees suggested legislation be adopted permitting the consolidation of two or more counties as well. The local government consultant suggested that a local government consolidation committee be required to be formed whenever populations of local governments fell below certain levels. Further, he suggested that the state provide financial incentives to encourage consolidation and provide penalties whenever consolidation is not chosen. A Kansas State University professor who was an agricultural economics teacher and a local government specialist for the Research and Extension Office testified that before any major consolidation took place it should be preceded by a cost benefit analysis which included a service needs assessment, a service delivery plan, and a budget analysis. A representative of the City of Wichita who also is a professor at Wichita State University suggested that members of consolidation study commissions be elected.

Two conferees, one from Douglas County and the other from Salina, expressed enthusiasm for the use of the interlocal cooperation, local contracting, and consolidation of functions laws

and suggested that if existing laws of this nature were utilized there would be less interest in full consolidation of two local government entities. A former legislator testified that smaller units of local government often provide better service to residents than larger units and that dual majorities should be required before any consolidation of services, functions, or governments took place.

The Executive Director of the League of Kansas Municipalities presented a list of policy issues for the Committee to consider as an aid in drafting permissive consolidation legislation.

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that permissive legislation is needed to allow cities and counties to consolidate into one government if a majority of voters in each entity involved approves the consolidation. The Committee therefore recommends that legislation be introduced for consideration by the 1999 Legislature. The bill authorizes the following.

- Any county and city or cities therein may consolidate and form one local government entity.
- The consolidation process is triggered by the appointment of a consolidation study commission. Voters countywide must approve the appointment or election of a commission. The vote may be initiated either by passage of a joint resolution by the county and city or cities' governing bodies calling for a vote on the issue or by the presentation of a petition signed by 10 percent of the qualified electors of the county. The petition and the ballot must contain an explanatory statement that a proposed consolidation may take place only if approved by a majority of the county electors voting on the issue and by a majority of the ballots cast within each city proposed to be a part of the consolidation.
- The makeup of the consolidations study commission and the method of appointment or election is to be decided in the joint resolution or in the petition. In either case, at least one-third of the commission must reside in the unincorporated area of the county.
- Once appointed or elected, the consolidation study commission may appoint an executive director, employ other staff as needed and must adopt a budget. The commission is required to prepare a plan addressing the consolidation of the city or cities and the county or certain city and county offices, functions, services, and operations. The commission is required to hold public meetings, may administer oaths and subpoena witnesses, and require production of documents and records. Once a preliminary plan has been developed at least two additional public hearings must be held for input from the public.
- Once a final plan has been developed it must be submitted to the qualified electors of the county in the next general election of the county. A majority of those voting must approve the plan as well as a majority within each city proposed to be consolidated with the county.
- The board of county commissioners may levy a tax of not to exceed 1 mill to pay for costs of the commission.
- A plan must include a description of the form, structure, functions, powers, officers and duties of the officers recommended; provide for a method of amendment as well as abandonment of the plan; authorize the election, appointment, or elimination of elected officers; specify the date of the consolidation; and address the situation if the plan is approved by one but not all cities proposed to be consolidated. The plan also must fix the boundaries of the consolidated governing bodies election districts; determine if electors are to be partisan or nonpartisan; and determine the legislative and administrative duties of the officials.
- The consolidated government is subject to the cash basis and budget law; when acting as a city it shall retain city constitutional home rule authority; and when acting as a county it shall retain statutory county home rule powers.

Senate Elections & Local Government
Attachment: # 2-4
Date: 1-14-99