

CHAPTER 207

SENATE BILL No. 379

(Amends Chapter 19)

AN ACT concerning certain municipalities; concerning governmental consolidation; relating to governing bodies of certain drainage districts; amending K.S.A. 12-301, 12-302, 18-202, 24-484 and 24-506 and K.S.A. 2005 Supp. 19-101a and K.S.A. 24-409, as amended by section 1 of 2006 Senate Bill No. 392, and repealing the existing sections.

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

Section 1. K.S.A. 12-301 is hereby amended to read as follows: 12-301. ~~Whenever two or more cities organized under the laws of the state of Kansas, which are adjacent to each other, desire to form but one city, such consolidation may be made under the provisions of this act. *Provided*, That if any one of said cities shall have adopted the commission form of government, the word "council," as hereinafter used, shall be construed literally, or shall be held to mean mayor and commissioners, or board of commissioners as the sense shall justify.~~

*As used in K.S.A. 12-302, et seq., and amendments thereto:*

(a) "City" means any city.

(b) "Council" means the governing body of a city.

Sec. 2. K.S.A. 12-302 is hereby amended to read as follows: 12-302. (a) Whenever the governing bodies of two or more ~~adjacent~~ cities desire to consolidate such cities, they may submit the question of consolidating such cities at elections called and held in the manner provided in subsection (b) or may adopt a joint resolution announcing their intent to consolidate the cities and publish such resolution at least once a week for two consecutive weeks in a newspaper of general circulation within the cities. Upon the expiration of 10 days after the date of the last publication of the resolution, the governing bodies of the cities shall have the power to consolidate the cities by joint ordinance unless prior thereto a protest petition signed by at least ~~10%~~ 5% of the qualified electors of any one of the cities is filed with the city clerk of such city. Cities which propose to consolidate and which do not receive such a protest petition shall ~~forthwith~~ request the city council of the largest city to fix a time for a joint session of the city councils of the cities to pass an ordinance consolidating them. If such a protest petition is filed, the governing body of such city shall call a special election to submit the question of consolidation in the manner provided in subsection (b). Joint resolutions announcing a proposed consolidation shall not be adopted more often than once a year.

(b) Whenever a petition signed by not less than ~~10%~~ 5% of the qualified electors of a city is presented to the governing body, requesting an election on the question of consolidation with ~~an adjacent~~ another city or cities, or whenever the governing body of any city on its own motion elects to submit the question of consolidating with ~~an adjacent~~ another city or cities, the mayor, within 20 days after the petition is filed or after such action is taken by the governing body, shall call such an election. Such election shall be held within 50 days after such petition is filed, or such action is taken by the governing body. A notice of the election shall be published not less than 30 days prior to the holding thereof. If a majority of the votes cast at such election favor consolidation, the governing body, at its next regular meeting, shall pass a resolution stating that the city desires to be consolidated with ~~the adjacent~~ such other city or cities and become a part thereof. The governing body shall ~~forthwith~~ request the city council of the other city or cities to fix a time for a joint session of the city councils of the cities to pass an ordinance consolidating the same. ~~At such meeting~~, the governing body of the city ~~theretofore having~~ which has held an election at which a majority of the votes cast were in favor of such consolidation shall ~~at such joint meeting~~ vote for the joint ordinance consolidating the cities. Elections under the provisions of this act shall not be held more often than once a year.

Sec. 3. K.S.A. 18-202 is hereby amended to read as follows: 18-202. ~~That whenever the citizens of two or more counties desire a change in the boundaries thereof, they may petition their respective boards of county commissioners therefor, and each of said petitions shall designate the change desired, and shall be signed by none but legal voters of the county before whose board the same is presented, and shall be signed by at least one-half of such legal voters of each county respectively, to be~~

ascertained from the last assessment rolls of the several township assessors in the county and accompanied by affidavits signed and sworn to by at least two credible witnesses, that the signatures to the petition are genuine, and that the persons signing the same are legal voters in said county. *Provided*, That before any petition shall be heard, satisfactory proof shall be made by affidavit, to said board, that at least three notices containing copies of such petition or petitions have been posted at least six weeks before the same shall be heard, in three public places in each township in the counties to be affected by such change of boundaries; one of which shall be kept posted upon the door of the office of the clerk of the district court of said counties, which notices shall contain a copy of the petition, and shall show the time of hearing. *And provided further*, That if an equal number shall sign the remonstrances in each county where the petition is to be heard to the number signing the petitions, no election shall be held.

(a) *The boards of county commissioners of any two or more counties may adopt a resolution changing the boundaries of such counties. Such resolution shall describe the change desired. Such resolution shall not be effective until the question has been submitted to and approved by a majority of the voters of each of the counties voting at an election thereon as provided by K.S.A. 18-201 et seq., and amendments thereto.*

(b) *Upon presentation of a petition requesting a change in the boundaries of two or more counties signed by at least 5% of the qualified electors of the county, the board of county commissioners shall adopt a resolution changing the boundaries as requested by the petition. Such resolution shall not be effective until the question has been submitted to and approved by a majority of the voters of each of the counties voting at an election thereon as provided by K.S.A. 18-201 et seq., and amendments thereto.*

(c) *At least three public hearings shall be called and held on any resolution adopted pursuant to this section. At least one hearing shall be held in each county affected by the proposed change. Notice of such hearing shall be published in a newspaper or newspapers of general circulation in each county affected at least three times prior to the date of each hearing.*

Sec. 4. K.S.A. 2005 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

~~(2) Counties may not consolidate or alter county boundaries.~~

~~(3) Counties may not affect the courts located therein.~~

~~(4)~~ (3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

~~(5)~~ (4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

~~(6)~~ (5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

~~(7)~~ (6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

~~(8)~~ (7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

~~(9)~~ (8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

~~(10)~~ (9) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of

and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

~~(11)~~ (10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

~~(12)~~ (11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

~~(13)~~ (12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

~~(14)~~ (13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

~~(15)~~ (14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

~~(16)~~ (15) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2006.

~~(17)~~ (16) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2006.

~~(18)~~ (17) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

~~(19)~~ (18) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

~~(20)~~ (19) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

~~(21)~~ (20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

~~(22)~~ (21) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

~~(23)~~ (22) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

~~(24)~~ (23) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

~~(25)~~ (24) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

~~(26)~~ (25) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

~~(27)~~ (26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

~~(28)~~ (27) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

~~(29)~~ (28) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

~~(30)~~ (29) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, and amendments thereto.

~~(31)~~ (30) Counties may not exempt from or effect changes in K.S.A. 2005 Supp. 80-121, and amendments thereto.

~~(32)~~ (31) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

~~(33)~~ (32) Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

~~(34)~~ (33) Counties may not exempt from or effect changes in K.S.A.

2005 Supp. 26-601, and amendments thereto.

~~(35)~~ (34) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

~~(36)~~ (35) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 5. K.S.A. 24-409, as amended by section 1 of 2006 Senate Bill No. 392 is hereby amended to read as follows: 24-409. (a) ~~Except as provided in subsection (b);~~ All powers granted to drainage districts incorporated under the provisions of this act shall be exercised by a board of directors consisting of three persons ~~who shall be owners of land located in the district. Directors also shall reside in the county in which such district is located, or if such district is located in more than one county, the directors shall reside in a county in which a portion of the drainage district is located.~~ Except as provided in K.S.A. 24-412, and amendments thereto, the directors shall hold their offices for four years and until their successors are elected or appointed, as the case may be, and qualified, and shall be chosen at the time and in the manner provided by law.

(b) ~~Notwithstanding the provisions of subsection (a);~~ *Members of the board of directors shall be owners of land located in the drainage district and shall reside in the county in which the district is located or, if the district is located in more than one county, a county in which any portion of the district is located, except:*

(1) *If there are no residents within the drainage district who are owners of land within the district, any owner of land located within the district shall be a qualified voter and shall be eligible to hold the office of director; and*

(2) a director shall be either an owner of or a tenant on land located within the drainage district whenever: ~~(1)~~ (A) The drainage district is located within one county and the population of the county does not exceed 10,000; or ~~(2)~~ (B) the drainage district is located in more than one county and the population of any such county does not exceed 10,000.

Sec. 6. K.S.A. 24-484 is hereby amended to read as follows: 24-484. (a) The commissioners making the ~~said~~ application for the charter of incorporation as a drainage district, shall be named in ~~said~~ the charter as the directors of ~~said~~ the drainage district, to serve for the term of four years from the date of ~~said~~ the incorporation, unless one or more of ~~said~~ the commissioners should be disabled or refuse to serve, in any which event the district court having jurisdiction, as provided in K.S.A. 24-481, shall have jurisdiction to designate some suitable person or persons as commissioners to make ~~said~~ the application. At the expiration of the period of three and one-half years from the date of ~~said~~ incorporation of ~~said~~ the drainage district, and thereafter every four years, the ~~said~~ board of directors of ~~said~~ the drainage district shall cause an election to be called and held for the election of successors to ~~said~~ the board of directors.

The directors elected at ~~said~~ the first election shall qualify and assume the duties of their respective offices on the fourth anniversary of the date of ~~said~~ incorporation, unless same should fall on Sunday or a legal holiday, in which event they shall assume their offices on the preceding day, ~~like-~~

wise. Directors shall be elected and assume their offices at each four-year period. In event of the death, disqualification or resignation of any director, the remaining directors shall have authority to fill any such vacancies occurring in their number for the unexpired term of such director. *Except as provided by subsection (b)*, at the first and all subsequent elections held for the election of directors, only residents of ~~said the drainage district~~ shall be entitled to vote, but any qualified elector of the county ~~wherein said district is situate~~ *in which the district is located* may be elected a director of ~~said the drainage district~~, whether ~~he or she shall reside in said~~ *a resident of the drainage district* or not.

*(b) If there are no residents in the drainage district, any owner of land within the district shall be a qualified voter and shall be qualified to hold the office of director.*

Sec. 7. K.S.A. 24-506 is hereby amended to read as follows: 24-506.

*(a)* The board of directors of any drainage district incorporated pursuant to K.S.A. 24-501 et seq., and amendments thereto, shall consist of one person from each county in the district if the number of counties is odd, but if the number of counties is even, then there shall be an additional director at large. If the drainage district is located wholly within one county, the number of directors shall be three. *Except as provided in subsection (b)*, the directors shall be freeholders who shall be residents of Kansas, whose lands in whole or in part are located within the district. The directors shall hold their offices for a term of four years and until their successors are elected and qualified. Elections to choose directors, except the first, shall be held on the first Tuesday in April and every four years thereafter. ~~Directors elected in any district prior to the effective date of this act shall hold their office until their successors are elected and qualified at the election in April, 1985.~~

*(b) If there are no residents in the drainage district, any owner of land within the district shall be a qualified voter and shall be qualified to hold the office of director.*

Sec. 8. K.S.A. 12-301, 12-302, 18-202, 24-484 and 24-506 and K.S.A. 2005 Supp. 19-101a and K.S.A. 24-409, as amended by section 1 of 2006 Senate Bill No. 392, are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 23, 2006.

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