

2007 SESSION LAWS OF KANSAS

CHAPTER 1 SENATE BILL No. 36

AN ACT concerning certain cities and counties; relating to the unification thereof; amending K.S.A. 2006 Supp. 12-362, 12-363 and 12-365 and repealing the existing sections.

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

Section 1. K.S.A. 2006 Supp. 12-362 is hereby amended to read as follows: 12-362. (a) The commission shall prepare and adopt a plan addressing the unification of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of unifying the city and county or certain city and county offices, functions, services and operations.

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

(c) Within one year following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the unification of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. Notice of such hearings shall be published at least twice in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) (1) The final plan shall be submitted to the qualified electors of the county at ~~the next regular general election held in November of an even-numbered year~~ *any primary, general or special election*. If the statutorily mandated duties of an elective office are to be eliminated or if the office is to be eliminated and the duties transferred to a nonelective office, the question of elimination of such duties or office shall be submitted to the voters as a separate ballot question. Such election shall be called and held by the county election officer in the manner provided by ~~the general election law~~ *for the calling and holding of elections pursuant to K.S.A. 10-120, and amendments thereto*. Such election may be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the unification plan shall be implemented in the

manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed unification plan shall not be implemented.

(2) Any proposed unification which eliminates an elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office.

(3) If the final plan provides for the unification of the city of Horace with the county or the unification or elimination of any of the offices or powers, duties and functions of such offices of the city of Horace and a majority of the qualified electors of the city of Horace voting on the plan do not vote in favor thereof, the city of Horace and officers thereof shall continue in existence and operation as if no unification had occurred.

(4) If the commission submits a final plan which does not recommend the unification of the city and county or certain city and county offices, functions, services and operations, the provisions of this subsection shall not apply.

Sec. 2. K.S.A. 2006 Supp. 12-363 is hereby amended to read as follows: 12-363. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

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

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

(2) Provide for the method of amendment of the plan.

(3) Specify the effective date of the unification.

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

(c) If the plan provides for the unification of the city and county, in addition to the requirements of subsection (b) the plan shall:

(1) Provide that the members of the governing body be elected *from districts or* on an at-large basis and fix the number, term and initial compensation of the governing body of the unified city-county and the method of election.

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

(3) Determine the distribution of legislative and administrative duties of the unified city-county officials, provide for unification or expansion of services as necessary, authorize the appointment of a city-county administrator or manager, if deemed advisable, and prescribe the general structure of the unified city-county government.

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

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

(6) Fix the rate of the retailers' sales tax, if any.

Sec. 3. K.S.A. 2006 Supp. 12-365 is hereby amended to read as follows: 12-365. (a) If the voters approve a plan which provides for the unification of the city and county, such unified city-county shall be subject to the provisions of this section.

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

(c) Except as provided in subsection (e), and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of the unified city-county under this act shall be 30% of the assessed value of all tangible taxable property within such county on the preceding August 25.

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

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

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

(3) Bonds issued for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, which

bonds are payable from the proceeds of a retailers' sales tax.

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

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

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

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to unification shall remain an obligation of the property subject to taxation for the payment thereof prior to such unification.

(f) Upon the effective date of the unification of the city and county, any retailers' sales tax levied by the city or county in accordance with K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall remain in full force and effect, except that part of the rate attributable to the former city of Tribune shall not apply to retail sales in any other city located in the county.

(g) Upon the effective date of the unification of the city and county, the territory of the unified city-county shall include:

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

(2) (A) Except as provided by paragraph (B), all of the territory of the county, except the territory of cities located in the county other than the former city of Tribune and the unincorporated area of the county, for purposes of exercising the powers, duties and functions of a city; or

(B) all the territory of the county located within the incorporated areas of the county, for the purpose of exercising the powers, duties and functions of a city. The provisions of this paragraph shall apply only if the final plan provides for the unification of the city of Horace with the county and a majority of the qualified electors of the county and a majority of the qualified electors of the city of Horace voting on the plan vote in favor thereof.

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

(i) Except for the unified city-county and unless otherwise provided by law, other political subdivisions of the county shall not be affected by unification of the city and county. Such other political subdivisions shall continue in existence and operation.

(j) Unless otherwise provided by law, the unified city-county shall be eligible for the distribution of any funds from the state and federal government as if no unification had occurred. Except as provided in this subsection, the population and assessed valuation of the territory of the unified city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

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

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

(l) *Unless otherwise provided in the unification plan*, the unified city-county shall be a city of the ~~first class~~ *third class* and the governing body of the unified city-county shall have all the powers, functions and duties of a city of the ~~first~~ *third* class ~~and~~. *The governing body of the unified city-county* may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

(m) The governing body of the unified city-county may create special service districts within the city-county and may levy taxes for services provided in such districts.

(n) Changes in the form of government approved by the voters in

accordance with the unification plan are hereby declared to be legislative matters and subject to initiative and referendum in accordance with K.S.A. 12-3013 et seq., and amendments thereto.

Sec. 4. K.S.A. 2006 Supp. 12-362, 12-363 and 12-365 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved February 14, 2007.

Published in the *Kansas Register* February 22, 2007.
