

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2084

By Committee on Local Government

1-25

1 AN ACT concerning governmental organization; relating to consolidation;
2 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
3 19-205 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. As used in sections 1 through 6, and amendments
7 thereto:

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

9 (b) "City" means any city.

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

12 (d) "County" means any county.

13 (e) "Political and taxing subdivision" means those subdivisions listed
14 in K.S.A. 12-3902, and amendments thereto, which are located entirely
15 within a county.

16 New Sec. 2. (a) The board of county commissioners of a county and
17 the governing body of any city or cities located within such county may
18 adopt a joint resolution providing for the establishment of a consolidation
19 study commission to prepare a plan for the consolidation of the county and
20 such city or cities located in such county, or the consolidation of offices,
21 functions, services and operations. If the governing body of a city within
22 the county does not adopt such joint resolution, such city shall not be
23 included within nor subject to the provisions of any consolidation plan in
24 regard to the status of such city as a separate entity from the county.

25 (b) As an alternative to subsection (a), the board of county
26 commissioners of a county and the governing body of any city or cities
27 located therein shall adopt a joint resolution providing for the
28 establishment of a consolidation study commission to prepare a plan as
29 provided in subsection (a) whenever the county election officer is
30 presented with a petition signed by not less than 10% of the qualified
31 electors of the county requesting a consolidation study commission be
32 appointed. The governing body of any city shall be required to adopt the
33 joint resolution whenever the petition presented to the county clerk
34 contains signatures of not less than 10% of the qualified electors of the
35 city. The petition shall contain the method to be used for the appointment
36 and the number of members of the consolidation study commission.

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

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

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

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

17 (d) The commission may appoint an executive director of the
18 commission. The executive director may receive compensation established
19 by the commission. The executive director may employ other staff and
20 may contract with consultants, as the executive director deems necessary
21 to carry out the functions of the commission. Staff employed by the
22 executive director may receive compensation established by the executive
23 director and approved by the commission.

24 (e) The commission shall prepare and adopt a budget for the
25 operation and functions of the commission and commission activities. **The**
26 **commission shall submit such budget for approval to the board. If**
27 **approved by the board, the board shall appropriate moneys as may be**
28 **deemed necessary for such budget.**

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

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

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

43 (b) The commission shall hold public hearings for the purpose of

1 receiving information and materials which will aid in the drafting of the
2 plan.

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

10 (d) The commission shall prepare and adopt a preliminary plan
11 addressing the consolidation of the city or cities and the county and other
12 political and taxing subdivisions or the consolidation of certain city and
13 county and other political and taxing subdivision offices, functions,
14 services and operations it deems advisable.

15 The preliminary plan, if it recommends the consolidation of the county
16 with one or more cities, shall address: ~~(1) the issue of the abolishment of~~
17 ~~other political and taxing subdivisions located entirely within the county~~
18 ~~and the transfer of the functions of the above political subdivisions to the~~
19 ~~reorganized city-county; and, (2) the issue of whether a vote of the~~
20 ~~electorate shall be required countywide or whether separate votes of the~~
21 ~~electorate will be required in the unincorporated area of the county and~~
22 ~~within each city proposed to be consolidated.~~

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

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

39 Copies of the final plan shall be filed with the county election officer,
40 city clerk of each city to be reorganized and each public library within the
41 county and shall be available to members of the public for inspection upon
42 request. The commission shall continue in existence at least 90 days
43 following the submission of the final plan for approval at an election as

1 provided by subsection (f).

2 (f) The final plan shall be submitted to the qualified electors of the
3 county at the next ~~general election of the county~~ **countywide election** held
4 at least 45 days following the adoption of the final plan by the
5 commission. Such election shall be called and held by the county election
6 officer in the manner provided by the general bond law. A summary of the
7 final plan shall be prepared by the commission and shall be published at
8 least once each week for two consecutive weeks in a newspaper of general
9 circulation within the county.

10 If the final plan calls for the consolidation of the county with one or
11 more cities and the consolidation of other political and taxing subdivisions
12 and the final plan calls for a countywide election, the ballot shall contain
13 two questions worded substantially as follows:

14 (1) Shall the county of _____ be consolidated with the city or
15 cities of _____?

16 (2) If the consolidation is approved, shall the following political and
17 taxing subdivisions located entirely within the county be abolished and the
18 functions of these subdivisions transferred to the consolidated city-county:
19 _____?

20 If a majority of the qualified electors voting on the plan who reside
21 within the corporate limits of the city and a majority of the qualified
22 electors voting on the plan who reside outside of the corporate limits of the
23 city vote in favor thereof, the consolidation plan shall be implemented in
24 the manner provided by the plan. If a majority of the electors who reside
25 within the corporate limits of the city or a majority of the qualified electors
26 who reside outside of the corporate limits of the city vote against such
27 plan, the proposed consolidation plan shall not be implemented.

28 If the commission submits a final plan which does not recommend the
29 consolidation of the city or cities and the county and other political and
30 taxing subdivisions or the consolidation of certain city, county and other
31 political and taxing subdivision offices, functions, services and operations,
32 the provisions of this subsection shall not apply.

33 New Sec. 5. (a) Any plan submitted by the commission shall provide
34 for the exercise of powers of local legislation and administration not
35 inconsistent with the constitution or other laws of this state.

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

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

41 (2) provide for the method of amendment or abandonment of the
42 plan;

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

- 1 (4) authorize the elimination of offices;
- 2 (5) specify the effective date of the consolidation;
- 3 (6) in the case of multi-city consolidation with a county, the plan shall
- 4 include provisions addressing the situation if the plan is approved by the
- 5 electors of one city, but not all cities to be consolidated under the plan; and
- 6 (7) include other provisions determined necessary by the commission.
- 7 (c) If the plan provides for the consolidation of the city or cities and
- 8 county, in addition to the requirements of subsection (b) the plan shall:
- 9 (1) Fix the boundaries of the governing body's election districts,
- 10 provide a method for changing the boundaries from time-to-time, provide
- 11 any at-large positions on the governing body, fix the number, term and
- 12 initial compensation of the governing body of the consolidated city-county
- 13 and the method of election;
- 14 (2) determine whether elections of the governing body of the
- 15 reorganized city-county shall be partisan or nonpartisan elections and the
- 16 time at which such elections shall be held;
- 17 (3) determine the distribution of legislative and administrative duties
- 18 of the consolidated city-county officials, provide for consolidation or
- 19 expansion of services as necessary, authorize the appointment of a
- 20 consolidated city-county administrator or a city-county manager, if
- 21 deemed advisable, and prescribe the general structure of the consolidated
- 22 city-county government;
- 23 (4) provide for the official name of the consolidated city-county;
- 24 (5) provide for the transfer or other disposition of property and other
- 25 rights, claims and assets of the county, the city or cities, and other political
- 26 and taxing subdivisions; and
- 27 (6) provide for the transfer of the functions of any political or taxing
- 28 subdivisions approved by voters for consolidation.
- 29 New Sec. 6. (a) If the voters approve a plan which provides for the
- 30 consolidation of the city or cities and the county, such consolidated city-
- 31 county shall be subject to the provisions of this section.
- 32 (b) The consolidated city-county shall be subject to the cash-basis and
- 33 budget laws of the state of Kansas.
- 34 (c) Except as provided in subsection (d), and in any other statute
- 35 which specifically exempts bonds from the statutory limitations on bonded
- 36 indebtedness, the limitation on bonded indebtedness of a consolidated city-
- 37 county under this act shall be determined by the commission in the plan,
- 38 but shall not exceed 30% of the assessed value of all tangible taxable
- 39 property within the county on the preceding August 25.
- 40 (d) The following shall not be included in computing the total bonded
- 41 indebtedness of the consolidated city-county for the purposes of
- 42 determining the limitations on bonded indebtedness:
- 43 (1) Bonds issued for the purpose of refunding outstanding debt,

1 including outstanding bonds and matured coupons thereof, or judgments
2 thereon;

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

5 (3) bonds issued for the purpose of financing the construction or
6 remodeling of a courthouse, jail or law enforcement center facility, which
7 bonds are payable from the proceeds of a retailer's sales tax;

8 (4) bonds issued for the purpose of acquiring, enlarging, extending or
9 improving any storm or sanitary sewer system;

10 (5) bonds issued for the purpose of acquiring, enlarging, extending or
11 improving any municipal utility; and

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

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

19 (f) Upon the effective date of the consolidation of the city or cities
20 and county, any retailers' sales tax levied by the city or cities or county in
21 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
22 such date shall remain in full force and effect, except that part of the rate
23 attributable to the city or cities to be consolidated shall not apply to retail
24 sales in the cities which are not consolidated with the county.

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

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

29 (2) all of the territory of the county, except the territory of the cities
30 which are not consolidated with the county and the unincorporated area of
31 the county, for purposes of exercising the powers, duties and functions of a
32 city.

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

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

43 (j) The consolidated city-county shall be a county. The governing

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

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

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

18 (l) The governing body of the consolidated city-county may create
19 special service districts within the city-county and may levy taxes for
20 services provided in such districts.

21 Sec. 7. K.S.A. 12-3901 is hereby amended to read as follows: 12-
22 3901. *This act is an alternative to all other laws which authorize the*
23 *consolidation of political and taxing subdivisions of this state or the*
24 *consolidation of the operations, procedures and functions of offices and*
25 *agencies of such subdivisions.* It is the purpose of this act to authorize and
26 permit political and taxing subdivisions of this state to more efficiently and
27 effectively serve the needs of their constituents by consolidating or
28 cooperating in the consolidation of *such subdivisions or the consolidation*
29 *of the operations, procedures and functions of offices and agencies of such*
30 *subdivisions which may be more efficiently and effectively exercised or*
31 *provided by a single office or agency.*

32 Sec. 8. K.S.A. 12-3902 is hereby amended to read as follows: 12-
33 3902. For the purposes of this act all references to "political and taxing
34 subdivisions of this state" shall mean and include counties, townships,
35 cities, school districts, library districts, park districts, road districts,
36 drainage or levee districts, sewer districts, water districts, fire districts and
37 taxing subdivisions created and established under the laws of the state of
38 Kansas.

39 *The terms "like subdivisions" or "like political and taxing subdivisions"*
40 *shall mean subdivisions of the same type and function.*

41 Sec. 9. K.S.A. 12-3903 is hereby amended to read as follows: 12-
42 3903. (a) Whenever the governing body of any political or taxing
43 subdivision of this state ~~shall by resolution determine that duplication~~

1 exists in the operations, procedures or functions of any of the offices or
2 agencies of such subdivision or that the operations, procedures or
3 functions of any of the offices or agencies thereof can be more efficiently
4 and effectively exercised or provided as a consolidated activity performed
5 by a single office or agency, or whenever the governing body of any two
6 or more political or taxing subdivisions of this state shall by the passage of
7 identical resolutions determine that duplication exists in the operations,
8 procedures or functions of offices or agencies of such subdivisions or that
9 the operations, procedures or functions of any of the offices or agencies
10 thereof can be more efficiently and effectively exercised or provided as a
11 consolidated activity performed by a single intergovernmental office or
12 agency or by a single office or agency of one of the participating political
13 or taxing subdivisions *desires to consolidate with like subdivisions or to*
14 *consolidate the operations, procedures and functions of the offices and*
15 *agencies of political and taxing subdivisions*, such governing body or
16 governing bodies are hereby authorized to consolidate *with like*
17 *subdivisions or consolidate* any or all of the operations, procedures or
18 functions performed or carried on by such offices or agencies *of political*
19 *and taxing subdivisions* by the passage of a resolution or identical
20 resolutions setting out the time, form and manner of consolidation and
21 designating the surviving *political or taxing subdivisions or the office or*
22 *agency*.

23 (b) *The consolidation of like subdivisions or the elimination of an*
24 *elective office by consolidation under the provisions of this act shall be*
25 *subject to the approval of a majority of not be effective unless the question*
26 *of such consolidation or elimination of office has been submitted to and*
27 *approved by the electors of the political or taxing subdivision served by*
28 *such office, voting in subdivisions proposed to be consolidated or served*
29 *by the office proposed to be eliminated. Such question shall be submitted*
30 *at the next regular general election of the county in which the office of*
31 *governor is elected, and no elective office shall be eliminated prior to such*
32 *election held in November of an even-numbered year.*

33 *If the office is to be eliminated and the duties transferred to a*
34 *nonelective office, the question of elimination of the elective office shall be*
35 *submitted to the voters as a separate ballot question. Any such proposed*
36 *consolidation which eliminates any such an elective office shall provide*
37 *that the elimination of such office shall become effective upon the date of*
38 *normal expiration of the term of such office.*

39 *Any such proposed consolidation which eliminates any such of like*
40 *political or taxing subdivisions or any proposal which eliminates an*
41 *elective office shall not be voted on by the governing body of the political*
42 *or taxing subdivision until a special public hearing is held within the*
43 *political or taxing subdivision. subdivisions affected by the proposal.*

1 Notice of such special hearing shall be published in a newspaper of
2 general circulation in the political or taxing ~~subdivision~~ *subdivisions*
3 *affected at least* once each week for two consecutive weeks prior to the
4 hearing. The first publication shall not be less than 21 days prior to such
5 hearing. Any elected officer whose office would be eliminated in such
6 consolidation and any other interested party shall be given an opportunity
7 to appear and offer testimony at any of such hearings.

8 (c) Whenever the statutorily mandated duties of any elected county
9 official are proposed for elimination, by transfer or otherwise, the question
10 of the elimination of any such duties shall be considered as an elimination
11 of the elective office itself within the meaning of this section, and shall be
12 subject to an election prior to such elimination as required by subsection
13 (b). The provisions of this subsection shall not preclude the transfer of
14 duties of an elected office with the consent of the affected elected official.

15 Sec. 10. K.S.A. 12-3904 is hereby amended to read as follows: 12-
16 3904. Whenever a petition, signed by not less than 10% of the qualified
17 electors of any political or taxing subdivision of this state or any two or
18 more political or taxing subdivisions of this state, shall be filed with the
19 governing body of such subdivision or subdivisions requesting that a
20 proposition for the consolidation of *such like subdivisions or the*
21 *consolidation of* specified operations, procedures and functions of
22 designated offices or agencies of *any* such subdivision or subdivisions be
23 submitted to the electors thereof, such governing body or governing bodies
24 shall submit such proposition at an election called and held for such
25 purpose in the manner provided by the general bond law. The wording of
26 such a petitioned-for proposition affecting the *consolidation of two or*
27 *more like subdivisions or the consolidation of the operations, procedures*
28 *and functions of any* two or more subdivisions shall be expressed in
29 general terms. If the proposition is approved by a majority of the electors
30 voting thereon, the governing body or governing bodies shall develop and
31 implement a plan for the consolidation consistent with the intent of the
32 proposition. If such proposition eliminates an elective office by
33 consolidation, the governing body of such subdivision or subdivisions
34 shall provide for the hearing *required* by K.S.A. 12-3903, and amendments
35 thereto. The governing body shall submit, *in accordance with K.S.A. 12-*
36 *3903, and amendments thereto*, such proposition at the next regular
37 general election ~~of the county in which the office of governor is elected in~~
38 ~~accordance with K.S.A. 12-3903, and amendments thereto. held in~~
39 *November of an even-numbered year.*

40 Sec. 11. K.S.A. 12-3909 is hereby amended to read as follows: 12-
41 3909. ~~Nothing in this act shall be construed as authorizing the~~
42 ~~consolidation of any political or taxing subdivision with any other political~~
43 ~~or taxing subdivision.~~ Nothing in this act shall be construed to authorize

1 the closing or the change of use of any school or attendance facility.

2 Sec. 12. K.S.A. 19-205 is hereby amended to read as follows: 19-205.
3 Except as provided by K.S.A. 12-344, 12-345, K.S.A. ~~2007 2010~~ **2011**
4 Supp. 12-363 and 12-365, and amendments thereto, *and under provisions*
5 *of this act, and amendments thereto*, no person holding any state, county,
6 township or city office shall be eligible to the office of county
7 commissioner in any county in this state.

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

15 Sec. 13. K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
16 19-205 are hereby repealed.

17 Sec. 14. This act shall take effect and be in force from and after its
18 publication in the statute book.

19