

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2185

As Amended by House Committee on Local
Government

Brief*

HB 2185 would establish a statewide, permissive process for a county to consolidate with one or more of the cities within its boundaries, subject to a dual-majority vote. Legislative approval would no longer be required for individual city-county consolidation efforts to go forward.

The specific process is set out in detail below, referenced to the sections of the bill. It was drawn from the processes set out in statute for the consolidation of the City of Kansas City with Wyandotte County, and the City of Tribune with Greeley County, except that HB 2185 does not require the Legislature to specifically approve each consolidation. The bill would expand the definition of "county" to provide that where a city is located in more than one county, the term means the county which contains the largest population of the city.

***Study Commission: Establishment, Makeup, and Duties
(Sections 2 and 3)***

The bill would allow for a consolidation study or require it under certain circumstances, as follows:

- Authorize or require the board of county commissioners and the governing body of any city or cities within the county's boundaries to adopt a joint resolution establishing a consolidation study

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

commission. The board of county commissioners would be required to do so if the county election office is presented with a petition signed by at least 10 percent of the county's qualified voters. Likewise, the city's governing body would be required to do so if the county clerk receives a petition containing signatures of at least 10 percent of the city's qualified voters;

- Require that any such resolution provide for the appointment method and number of commission members. The bill would require at least one-third of the members be residents of the incorporated county;
- Establish a process for appointing commission officers and adopting rules governing its meetings, by way of an organizational meeting which the bill would required to occur within 30 days following appointment of the members. All commission meetings would be subject to the Kansas Open Meetings Act;
- Authorize the commission members to be reimbursed for actual and necessary expenses, and to appoint an executive director who could receive compensation, employ other staff, and contract with consultants; and
- Require the commission to adopt a budget and submit it for approval to the board of county commissioners. The board of county commissioners would be required to fund the budget as it deems necessary.

***Consolidation Plan: Preliminary and Final Plans,
Contents and Required Election; Dual Majority Vote
(Sections 4 and 5; Section 4, unless otherwise noted)***

The bill would provide a process for developing, refining and vetting the plan, set content requirements, and mandate an election requiring a dual majority vote, as follows:

- Require the study commission to prepare and adopt a plan for consolidation of the city or cities and the county, as well as other political or taxing subdivisions, or consolidation of any offices, functions, services and operations of any of the aforementioned entities. In doing so the study commission would be required to conduct needed studies and investigations, with examples given in the bill. The study commission or its executive director would be authorized to administer oaths and affirmations, subpoena witnesses, and perform other, listed duties to gather its information;
- Require the study commission to hold public hearings to receive information and materials which would aid in drafting the plan;
- Require a process whereby the preliminary plan is vetted. The preliminary plan would be required to be filed with the county election officer, city clerk of each city to be reorganized, and each public library within the county, and be made available to the public upon request. The study commission would be required to hold at least two public hearings to obtain citizen input, with public notice requirements for the hearings and at least seven days between the two hearings;
- Authorize the study commission to adopt, modified or unmodified, the preliminary plan as the final plan after the hearings are held;

- Require the final plan contain the full text and an explanation of the proposed plan; comments deemed desirable by the study commission; a written opinion by a Kansas licensed attorney, retained by the executive director, that the proposed plan is not in conflict with Kansas laws or its constitution; and any minority reports. Copies of the final plan would be required to be filed with the county election officer, city clerk of each city to be reorganized, and each public library within the county, and be made available to the public upon request;
- Require the final plan be submitted to the voters at the next countywide election that is held at least 45 days after the final plan is adopted by the study commission. The election would be required to be held by the county election officer in the manner provided by the general bond law. (Note: General bond law is contained in KSA 10-120, *et seq.*) The bill would specify the ballot language, consisting of two questions. If a final plan is submitted that does not recommend a consolidation of entities or of offices, functions, services and operations, an election would not be held;
- Require, in order for the consolidation plan to pass, that both a majority of those voting who are qualified and reside within the city limits and a majority of the qualified voters who reside outside the city limits vote in favor of the plan. If a majority of either of the groups votes against the plan, the plan would not be implemented;
- Require the study commission to remain in existence for at least 90 days following the election;
- Set the contents of the plan (Section 5). Among a number of other requirements, the plan would be

required to include provisions addressing the situation if, in the case of multi-city consolidation within a county, the plan is approved by the voters of one city but not all cities contained in the plan.

Requirements Applicable to an Approved Plan for City-County Consolidation (Section 6)

The bill would specify a number of requirements regarding any approved plan that provides for city-county consolidation. Some of these are described below:

- The consolidated city-county would be required to be subject to the cash-basis and budget laws of Kansas;
- With certain prescribed exceptions, the bond debt limit of a consolidated city-county could not exceed 30 percent of the assessed value of all tangible taxable property within the county on the preceding August 25;
- Any bond debt and related interest incurred by a city or cities or the county prior to consolidation or refunded after consolidation would be required to remain an obligation of the property subject to taxation prior to the consolidation;
- Any retailers' sales tax levied prior to consolidation by the city or cities or county would remain in force, except the part attributable to a city or cities would not apply to sales in the cities which are not consolidated with the county.
- Areas are established, for the purposes of exercising the powers, duties and functions of a county and a city, and for the purposes of voting. The consolidated city-county would be required to

be both a county and a city of the class as determined by the study commission in the plan. The governing body of the consolidated city-county could create special service districts and levy taxes for these purposes.

Background

Representative Huebert testified in support of the bill, and noted that the same provisions passed the House of Representatives during the 2012 Session. He stated that groups should not have to petition the Legislature in order to consolidate, and that the bill's requirement for a dual-majority vote is essential so the larger party cannot take advantage of the smaller party. Others testifying in support of the bill included representatives of the Kansas Association of Counties and the Kansas Farm Bureau, as well as former State Representative Ann Mah.

A representative of the League of Kansas Municipalities testified in opposition, as did a member of the public. The representative from the League stated the dual-majority provision of the bill disenfranchises voters who live within the corporate limits of a city by stripping them of their status as county residents.

There was no neutral testimony on the bill.

The House Committee on Local Government amended the bill by expanding the definition of "county." The Committee further amended the bill to strike sections that would have amended existing law by providing an alternative allowing subdivisions of the same type and function to consolidate (*e.g.*, two library districts or two townships, but not a library district with a water district).

The fiscal note submitted by the Division of the Budget on the original bill stated the bill would have no fiscal effect on

the state. The consolidation would have a fiscal effect on the cities and counties that chose to participate, but that amount is not known.