

CORRECTED
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**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 341**

As Recommended by House Committee on
Local Government

Brief*

House Sub. for SB 341 would add new law and amend existing law related to local government consolidation. The bill would establish a process, applicable statewide, whereby a county could consolidate with one or more of the cities within its boundaries. Additionally, the bill would amend existing law regarding consolidation of functions to allow full consolidation of two like political subdivisions. Details of the bill follow.

**NEW GENERAL CITY-COUNTY CONSOLIDATION
PROCESS (Sections 1-6)**

***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 commission. The board of county commissioners must do so if the county election office is presented

*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>

with a petition signed by at least 10 percent of the county's qualified voters. Likewise, the city's governing body must 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. At least one-third of the members must 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 must 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.
- 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 must 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 will aid in drafting the plan.
- Require a process whereby the *preliminary plan* is vetted. The preliminary plan must 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 must 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 must 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 must 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 must 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 must remain in force, except the part attributable to a city or cities must 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 must 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 may create special service districts and levy taxes for these purposes.

"CONSOLIDATION OF FUNCTION" LAW EXPANSION
(Sections 7-11)

The bill would make changes to the "consolidation of function" law (KSA 12-3901, *et seq.*), which now allows for consolidation of political or taxing subdivision operations, procedures and functions. Under current law, operational consolidation can be done within one political or taxing subdivision or among various political or taxing subdivisions.

The bill would expand the application of these sections of law to allow full consolidation of like subdivisions, in addition to allowing consolidation of operations, procedures and functions of the offices and agencies of political and taxing subdivisions. (**Note:** "Political and taxing subdivision" is defined in current law to include cities; counties; townships; school, library, park, road, drainage or levee, sewer, water, and fire districts; and "taxing subdivisions created and established under the laws of the state of Kansas.")

Under the bill, the question of consolidation of like subdivisions must be submitted to the voters of the subdivisions proposed to be consolidated, at the next general election held in November of an even-numbered year. Current law requires, and the bill would retain, such an election if an elective office is proposed to be removed.

WHO CAN SERVE ON A BOARD OF COUNTY COMMISSIONERS (Section 12)

The bill would amend KSA 19-205, which prohibits any person holding a state, county, township, or city office from being a county commissioner, with certain exceptions, to include the provisions of this bill under the list of exceptions. (**Note:** Under Sections 1-6 of the bill, a consolidated city-county would be considered both a city and a county.)

Background

As it left the Senate, SB 341 would have dissolved any city in Kansas that received money from the United States Environmental Protection Agency for the purpose of buyout or relocation during calendar years 2010 and 2011. (This version of the bill was identical to HB 2412, as amended by the House Committee on Local Government, which passed the Senate by a vote of 40-0.) The House Committee on Local Government deleted these contents from SB 341 and replaced them with the contents of HB 2084 as amended by

the same Committee, with the addition of a technical correction.

With respect to HB 2084, currently a specific state law must be passed in order for a city and county to consolidate. Three specific laws have been adopted — for Wyandotte County/Kansas City, Kansas, Greeley County/Tribune, and Shawnee County/Topeka; however, only the first two in that list resulted in successful consolidation efforts. For the past several years, efforts have been made to adopt a general set of statutes that would authorize city-county consolidations anywhere in the state. HB 2084 is the most recent such effort.

HB 2084 received a hearing in 2011 in the House Committee on Local Government. Proponents included representatives of the Kansas County Officials Association and the Kansas Association of Counties (with some concern about the dual majority vote provision and a suggestion for a technical amendment), and a Topeka citizen. Opponents included a representative of the League of Kansas Municipalities (LKM) and several Kansas citizens. The LKM representative indicated the League was opposed to the dual majority vote mandate in the bill.

The House Committee on Local Government amended HB 2084 to require the election be held at the next countywide, instead of general election, and to make a technical correction.

The fiscal note on HB 2084, as introduced, indicated consolidations resulting from the bill's passage could result in more efficient local government, depending on the size and population of the area involved. Passage of this bill would have no effect on the state budget.