

HOUSE BILL No. 2130

By Committee on Elections and Governmental Organization

1-19

9 AN ACT concerning governmental consolidation and reorganization;
10 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904 and 12-3909 and
11 K.S.A. 2006 Supp. 19-205 and repealing the existing sections.
12

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

14 New Section 1. As used in this act:

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

16 (b) "City" means any city.

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

19 (d) "County" means any county.

20 (e) "Political and tax subdivision" means those subdivisions listed in
21 K.S.A. 12-3902, and amendments thereto, which are located entirely
22 within a county.

23 New Sec. 2. (a) The board of county commissioners of a county and
24 the governing body of any city or cities located within such county may
25 adopt a joint resolution providing for the establishment of a consolidation
26 study commission to prepare a plan for the reorganization of the county
27 and such city or cities located in such county. If the governing body of a
28 city within the county does not adopt such joint resolution, such city shall
29 not be included within nor subject to the provisions of any reorganization
30 plan in regard to the status of such city as a separate entity from the
31 county.

32 (b) As an alternative to subsection (a), the board of county commis-
33 sioners of a county and the governing body of any city or cities located
34 therein shall adopt a joint resolution providing for the establishment of a
35 consolidation study commission to prepare a plan as provided in subsec-
36 tion (a) whenever the county election officer is presented with a petition
37 signed by not less than 10% of the qualified electors of the county re-
38 questing a consolidation study commission be appointed. The governing
39 body of any city shall be required to adopt the joint resolution whenever
40 the petition presented to the county clerk contains signatures of not less
41 than 10% of the qualified electors of the city. The petition shall contain
42 the method to be used for the appointment and the number of members
43 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
7 of the consolidation study commission, the chairperson of the board of
8 county commissioners, acting as the temporary chairperson of the com-
9 mission, shall call and hold an organizational meeting of the commission.
10 The commission shall elect a chairperson, vice-chairperson and other of-
11 ficers deemed necessary. The commission may adopt rules governing the
12 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
16 and necessary expenses incurred in the performance of their official
17 duties.

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

25 (e) The commission shall prepare and adopt a budget for the oper-
26 ation and functions of the commission and commission activities.

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

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

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

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

1 (c) For the purposes of performing its studies and investigations, the
2 commission or its executive director may administer oaths and affirma-
3 tions, subpoena witnesses, compel their attendance, take evidence, re-
4 quire the production of any books, papers, correspondence, memoranda,
5 agreements or other documents or records which the commission or ex-
6 ecutive director deems relevant or material to its studies and investigation.

7 (d) The commission shall prepare and adopt a preliminary plan ad-
8 dressing the consolidation of the city or cities and the county and other
9 political and taxing subdivisions or the consolidation of certain city and
10 county and other political and taxing subdivision offices, functions, serv-
11 ices and operations it deems advisable.

12 The preliminary plan, if it recommends the consolidation of the county
13 with one or more cities, shall address the issue of the abolishment of
14 other political and taxing subdivisions located within the county and the
15 transfer of the functions of the above political subdivisions to the reor-
16 ganized city-county.

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

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

33 Copies of the final plan shall be filed with the county election officer,
34 city clerk of each city to be reorganized and each public library within
35 the county and shall be available to members of the public for inspection
36 upon request. The commission shall continue in existence at least 90 days
37 following the submission of the final plan for approval at an election as
38 provided by subsection (f).

39 (f) The final plan shall be submitted to the qualified electors of the
40 county at the next general election of the county held at least 45 days
41 following the adoption of the final plan by the commission. Such election
42 shall be called and held by the county election officer in the manner
43 provided by the general election law. A summary of the final plan shall

1 be prepared by the commission and shall be published at least once each
2 week for two consecutive weeks in a newspaper of general circulation
3 within the county.

4 If the final plan calls for the consolidation of the county with one or
5 more cities and the consolidation of other political and taxing subdivisions,
6 the ballot shall contain two questions worded substantially as follows:

7 (1) Shall the county of _____ be consolidated with the city or
8 cities of _____?

9 (2) If the consolidation is approved, shall other political and taxing
10 subdivisions located entirely within the county be abolished and the func-
11 tions of these subdivisions transferred to the consolidated city-county?

12 If a majority of the qualified electors of the county voting on the plan
13 vote in favor thereof, the reorganization plan shall be implemented in the
14 manner provided by the plan except that no city shall be consolidated
15 with the county and no offices, functions, services or operations of a city
16 shall be consolidated with the county unless such consolidation plan is
17 approved by a majority of the qualified electors of such city voting at the
18 election held on such plan.

19 If such a majority of the electors vote against such plan, the proposed
20 consolidation plan shall not be implemented.

21 If the commission submits a final plan which does not recommend the
22 consolidation of the city or cities and the county and other political and
23 taxing subdivisions or the consolidation of certain city, county and other
24 political and taxing subdivision offices, functions, services and operations,
25 the provisions of this subsection shall not apply.

26 New Sec. 5. (a) Any plan submitted by the commission shall provide
27 for the exercise of powers of local legislation and administration not in-
28 consistent with the constitution or other laws of this state.

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

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

34 (2) provide for the method of amendment or abandonment of the
35 plan;

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

37 (4) authorize the elimination of offices;

38 (5) specify the effective date of the consolidation;

39 (6) in the case of multi-city consolidation with a county, the plan shall
40 include provisions addressing the situation if the plan is approved by the
41 electors of one, but not all cities to be consolidated under the plan; and

42 (7) include other provisions determined necessary by the commission.

43 (c) If the plan provides for the consolidation of the city or cities and

1 county, in addition to the requirements of subsection (b) the plan shall:

2 (1) Fix the boundaries of the governing body's election districts, pro-
3 vide a method for changing the boundaries from time-to-time, any at-
4 large positions on the governing body, fix the number, term and initial
5 compensation of the governing body of the consolidated city-county and
6 the method of election;

7 (2) determine whether elections of the governing body of the reor-
8 ganized city-county shall be partisan or nonpartisan elections and the time
9 at which such elections shall be held;

10 (3) determine the distribution of legislative and administrative duties
11 of the consolidated city-county officials, provide for consolidation or ex-
12 pansion of services as necessary, authorize the appointment of a consol-
13 idated city-county administrator or a city-county manager, if deemed ad-
14 visable, and prescribe the general structure of the consolidated
15 city-county government;

16 (4) provide for the official name of the consolidated city-county;

17 (5) provide for the transfer or other disposition of property and other
18 rights, claims and assets of the county, the city or cities, and other political
19 and taxing subdivisions; and

20 (6) provide for the transfer of the functions of any political or taxing
21 subdivisions approved by voters for consolidation.

22 New Sec. 6. (a) If the voters approve a plan which provides for the
23 consolidation of the city or cities and the county, such consolidated city-
24 county shall be subject to the provisions of this section.

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

27 (c) Except as provided in subsection (d), and in any other statute
28 which specifically exempts bonds from the statutory limitations on bonded
29 indebtedness, the limitation on bonded indebtedness of a consolidated
30 city-county under this act shall be determined by the commission in the
31 plan, but shall not exceed 30% of the assessed value of all tangible taxable
32 property within the county on the preceding August 25.

33 (d) The following shall not be included in computing the total bonded
34 indebtedness of the consolidated city-county for the purposes of deter-
35 mining the limitations on bonded indebtedness:

36 (1) Bonds issued for the purpose of refunding outstanding debt, in-
37 cluding outstanding bonds and matured coupons thereof, or judgments
38 thereon;

39 (2) bonds issued pursuant to the provisions of article 46 of chapter
40 19 of the Kansas Statutes Annotated, and amendments thereto;

41 (3) bonds issued for the purpose of financing the construction or re-
42 modeling of a courthouse, jail or law enforcement center facility, which
43 bonds are payable from the proceeds of a retailer's sales tax;

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

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

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

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

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

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

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

22 (2) all of the territory of the county, except the territory of the cities
23 which are not consolidated with the county and the unincorporated area
24 of the county, for purposes of exercising the powers, duties and functions
25 of a city.

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

29 (i) Unless otherwise provided by law, the consolidated city-county
30 shall be eligible for the distribution of any funds from the state and federal
31 government as if no consolidation had occurred. Except as provided in
32 this subsection, the population and assessed valuation of the territory of
33 the consolidated city-county shall be considered its population and as-
34 sessed valuation for purposes of the distribution of moneys from the state
35 or federal government.

36 (j) The consolidated city-county shall be a county. The governing
37 body of the consolidated city-county shall be considered county commis-
38 sioners for the purposes of section 2 of article 4 of the constitution of the
39 state of Kansas and shall have all the powers, functions and duties of a
40 county and may exercise home rule powers in the manner and subject to
41 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
42 other laws of this state.

43 The governing body of the consolidated city-county shall be responsible

1 for any duties or functions imposed by the constitution of the state of
2 Kansas and other laws of this state upon any county office abolished by
3 the consolidation plan. Such duties may be delegated by the governing
4 body or as provided in the consolidation plan.

5 (k) The consolidated city-county shall be a city of the class as deter-
6 mined by the commission in the plan. The governing body of the con-
7 solidated city-county shall have all the powers, functions and duties of a
8 city of such class and may exercise home rule powers in the manner and
9 subject to the limitations provided by article 12 of section 5 of the con-
10 stitution of the state of Kansas and other laws of this state.

11 (l) The governing body of the consolidated city-county may create
12 special service districts within the city-county and may levy taxes for serv-
13 ices provided in such districts.

14 New Sec. 7. The board of county commissioners may levy a tax not
15 to exceed one mill on all taxable tangible property of the county for the
16 purpose of financing the costs incurred by the consolidation study com-
17 mission while executing the powers, duties and functions of such com-
18 mission. After the payment of such costs incurred by the commission any
19 remaining moneys derived from such tax levy shall be transferred to the
20 county general fund in the manner provided by K.S.A. 79-2958, and
21 amendments thereto.

22 Sec. 8. K.S.A. 2006 Supp. 19-205 is hereby amended to read as fol-
23 lows: 19-205. Except as provided by K.S.A. 12-344, 12-345, K.S.A. 2006
24 Supp. 12-363 and 12-365, and amendments thereto, *and under provisions*
25 *of this act, and amendments thereto*, no person holding any state, county,
26 township or city office shall be eligible to the office of county commis-
27 sioner in any county in this state.

28 Nothing in this section shall prohibit the appointment of any county
29 commissioner to any state board, committee, council, commission or sim-
30 ilar body which is established pursuant to statutory authority, so long as
31 any county commissioner so appointed is not entitled to receive any pay,
32 compensation, subsistence, mileage or expenses for serving on such body
33 other than that which is provided by law to be paid in accordance with
34 the provisions of K.S.A. 75-3223, and amendments thereto.

35 Sec. 9. K.S.A. 12-3901 is hereby amended to read as follows: 12-
36 3901. *This act is an alternative to all other laws which authorize the*
37 *consolidation of political and taxing subdivisions of this state or the con-*
38 *solidation of the operations, procedures and functions of offices and agen-*
39 *cies of such subdivisions.* It is the purpose of this act to authorize and
40 permit political and taxing subdivisions of this state to more efficiently
41 and effectively serve the needs of their constituents by consolidating or
42 cooperating in the consolidation of *such subdivisions or the consolidation*
43 *of the operations, procedures and functions of offices and agencies of*

1 such subdivisions which may be more efficiently and effectively exercised
2 or provided by a single *subdivision*, office or agency.

3 Sec. 10. K.S.A. 12-3902 is hereby amended to read as follows: 12-
4 3902. For the purposes of this act all references to “political and taxing
5 subdivisions of this state” shall mean and include counties, townships,
6 cities, school districts, library districts, park districts, road districts, drain-
7 age or levee districts, sewer districts, water districts, fire districts and
8 taxing subdivisions created and established under the laws of the state of
9 Kansas.

10 *The terms “like subdivisions” or “like political and taxing subdivisions”*
11 *shall mean subdivisions of the same type and function.*

12 Sec. 11. K.S.A. 12-3903 is hereby amended to read as follows: 12-
13 3903. (a) Whenever the governing body of any political or taxing sub-
14 division of this state ~~shall by resolution determine that duplication exists~~
15 ~~in the operations, procedures or functions of any of the offices or agencies~~
16 ~~of such subdivision or that the operations, procedures or functions of any~~
17 ~~of the offices or agencies thereof can be more efficiently and effectively~~
18 ~~exercised or provided as a consolidated activity performed by a single~~
19 ~~office or agency, or whenever the governing body of any two or more~~
20 ~~political or taxing subdivisions of this state shall by the passage of identical~~
21 ~~resolutions determine that duplication exists in the operations, procedu-~~
22 ~~res or functions of offices or agencies of such subdivisions or that the~~
23 ~~operations, procedures or functions of any of the offices or agencies~~
24 ~~thereof can be more efficiently and effectively exercised or provided as a~~
25 ~~consolidated activity performed by a single intergovernmental office or~~
26 ~~agency or by a single office or agency of one of the participating political~~
27 ~~or taxing subdivisions desires to consolidate with like subdivisions or to~~
28 ~~consolidate the operations, procedures and functions of the offices and~~
29 ~~agencies of political and taxing subdivisions, such governing body or gov-~~
30 ~~erning bodies are hereby authorized to consolidate with like subdivisions~~
31 ~~or consolidate any or all of the operations, procedures or functions per-~~
32 ~~formed or carried on by such offices or agencies of political and taxing~~
33 ~~subdivisions by the passage of a resolution or identical resolutions setting~~
34 ~~out the time, form and manner of consolidation and designating the sur-~~
35 ~~ving political or taxing subdivisions or the office or agency.~~

36 (b) *The consolidation of like subdivisions or the elimination of an*
37 *elective office by consolidation under the provisions of this act shall be*
38 *subject to the approval of a majority of not be effective unless the question*
39 *of such consolidation or elimination of office has been submitted to and*
40 *approved by the electors of the political or taxing subdivision served by*
41 *such office, voting in subdivisions proposed to be consolidated or served*
42 *by the office proposed to be eliminated. Such question shall be submitted*
43 *at the next regular general election of the county in which the office of*

1 ~~governor is elected, and no elective office shall be eliminated prior to~~
2 ~~such election held in November of an even-numbered year.~~

3 *If the office is to be eliminated and the duties transferred to a nonelec-*
4 *tive office, the question of elimination of the elective office shall be sub-*
5 *mitted to the voters as a separate ballot question. Any such proposed*
6 *consolidation which eliminates any such an elective office shall provide*
7 *that the elimination of such office shall become effective upon the date*
8 *of normal expiration of the term of such office.*

9 ~~Any such proposed consolidation which eliminates any such of like po-~~
10 ~~litical or taxing subdivisions or any proposal which eliminates an~~ elective
11 office shall not be voted on by the governing body of the political or taxing
12 subdivision until a special public hearing is held within ~~the~~ political or
13 taxing ~~subdivision~~ *subdivisions affected by the proposal.* Notice of such
14 special hearing shall be published in a newspaper of general circulation
15 in the political or taxing ~~subdivision~~ *subdivisions affected at least once*
16 *each week for two consecutive weeks prior to the hearing. The first pub-*
17 *lication shall not be less than 21 days prior to such hearing. Any elected*
18 *officer whose office would be eliminated in such consolidation and any*
19 *other interested party shall be given an opportunity to appear and offer*
20 *testimony at any of such hearings.*

21 (c) Whenever the statutorily mandated duties of any elected county
22 official are proposed for elimination, by transfer or otherwise, the ques-
23 tion of the elimination of any such duties shall be considered as an elim-
24 ination of the elective office itself within the meaning of this section, and
25 shall be subject to an election prior to such elimination as required by
26 subsection (b). The provisions of this subsection shall not preclude the
27 transfer of duties of an elected office with the consent of the affected
28 elected official.

29 Sec. 12. K.S.A. 12-3904 is hereby amended to read as follows: 12-
30 3904. Whenever a petition, signed by not less than 10% of the qualified
31 electors of any political or taxing subdivision of this state or any two or
32 more political or taxing subdivisions of this state, shall be filed with the
33 governing body of such subdivision or subdivisions requesting that a prop-
34 osition for the consolidation of *such like subdivisions or the consolidation*
35 *of specified operations, procedures and functions of designated offices or*
36 *agencies of any such subdivision or subdivisions be submitted to the elec-*
37 *tors thereof, such governing body or governing bodies shall submit such*
38 *proposition at an election called and held for such purpose in the manner*
39 *provided by the general bond law. The wording of such a petitioned-for*
40 *proposition affecting the consolidation of two or more like subdivisions*
41 *or the consolidation of the operations, procedures and functions of any*
42 *two or more subdivisions shall be expressed in general terms. If the prop-*
43 *osition is approved by a majority of the electors voting thereon, the gov-*

1 erning body or governing bodies shall develop and implement a plan for
2 the consolidation consistent with the intent of the proposition. If such
3 proposition eliminates an elective office by consolidation, the governing
4 body of such subdivision or subdivisions shall provide for the hearing
5 *required* by K.S.A. 12-3903, and amendments thereto. The governing
6 body shall submit, *in accordance with K.S.A. 12-3903, and amendments*
7 *thereto*, such proposition at the next regular general election ~~of the county~~
8 ~~in which the office of governor is elected in accordance with K.S.A. 12-~~
9 ~~3903, and amendments thereto~~ *held in November of an even-numbered*
10 *year.*

11 Sec. 13. K.S.A. 12-3909 is hereby amended to read as follows: 12-
12 3909. ~~Nothing in this act shall be construed as authorizing the consoli-~~
13 ~~ation of any political or taxing subdivision with any other political or~~
14 ~~taxing subdivision.~~ Nothing in this act shall be construed to authorize the
15 closing or the change of use of any school or attendance facility.

16 Sec. 14. K.S.A. 12-3901, 12-3902, 12-3903, 12-3904 and 12-3909 and
17 K.S.A. 2006 Supp. 19-205 are hereby repealed.

18 Sec. 15. This act shall take effect and be in force from and after its
19 publication in the statute book.