

HOUSE BILL No. 2084

By Committee on Local Government

1-25

Proposed Amendments for HB 2084
for Committee on Local Government
February 9, 2012
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Office of Revisor of Statutes

1 AN ACT concerning governmental organization; relating to
2 consolidation; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904,
3 12-3909 and 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
14 listed in K.S.A. 12-3902, and amendments thereto, which are located
15 entirely 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
20 and such city or cities located in such county, or the consolidation of
21 offices, functions, services and operations. If the governing body of a city
22 within the county does not adopt such joint resolution, such city shall not
23 be included within nor subject to the provisions of any consolidation plan
24 in 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) For the purposes of performing its studies and investigations, the
2 commission or its executive director may administer oaths and
3 affirmations, subpoena witnesses, compel their attendance, take evidence,
4 require the production of any books, papers, correspondence,
5 memoranda, agreements or other documents or records which the
6 commission or executive director deems relevant or material to its studies
7 and investigation.

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

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

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

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

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

43 (f) The final plan shall be submitted to the qualified electors of the

Technical amendment

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

5 (7) include other provisions determined necessary by the
6 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-
13 county 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
26 political 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
33 and 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
36 bonded indebtedness, the limitation on bonded indebtedness of a
37 consolidated city-county under this act shall be determined by the
38 commission in the plan, but shall not exceed 30% of the assessed value of
39 all tangible taxable property within the county on the preceding August
40 25.

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

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

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

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

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

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

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

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

42 Sec. 9. K.S.A. 12-3903 is hereby amended to read as follows: 12-
43 3903. (a) Whenever the governing body of any political or taxing

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

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

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

42 Sec. 11. K.S.A. 12-3909 is hereby amended to read as follows: 12-
43 3909. Nothing in this act shall be construed as authorizing the

12-1924. Establishment of system of public recreation; joint systems; operation of system. Any city or school district may establish a system of public recreation in the manner provided by this act. Any city or school district may establish, independently or jointly, a recreation system. The programs and services within a joint recreation system shall not be conducted by both the city and school district, each acting independently of the other. Whenever a recreation system is established, any city or school district operating or participating in the operation of a recreation system shall cooperate in providing property and facilities belonging to each such entity for recreation purposes. The city or school district may acquire and maintain equipment, land, buildings or other recreational facilities and make capital improvements. The operation of the recreation system created pursuant to K.S.A. 12-1925 and all programs and services thereof shall be delegated to a recreation commission appointed in the manner provided by K.S.A. 12-1926.

History: L. 1987, ch. 71, § 3; July 1.

12-1925. Establishment by petition or by action of city or school district; election. (a) Whenever a petition signed by at least 5% of the qualified voters of the city or school district is filed with the clerk thereof, requesting the governing body of the city or school district to establish a recreation system and signed by at least 5% of the qualified voters of the city or school district may be filed with the clerk of the city or school district. Upon receipt of the petition, the clerk shall set a day not less than five nor more than 10 days thereafter for the joint meeting of the two governing bodies for the consideration of the petition. Notice of the receipt of the petition and place of the joint meeting shall be given immediately by the clerk to the executive officer of the city and school district by registered mail. If the petition is found sufficient, the proposition shall be submitted to the qualified voters within the city or school district, whichever has the greater assessed valuation. Such election shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne equally by the city and the school district.

(b) A petition requesting the governing bodies of a city and school district to establish a joint recreation system and signed by at least 5% of the qualified voters of the city or school district may be filed with the clerk of the city or school district. Upon receipt of the petition, the clerk shall set a day not less than five nor more than 10 days thereafter for the joint meeting of the two governing bodies for the consideration of the petition. Notice of the receipt of the petition and place of the joint meeting shall be given immediately by the clerk to the executive officer of the city and school district by registered mail. If the petition is found sufficient, the proposition shall be submitted to the qualified voters within the city or school district, whichever has the greater assessed valuation. Such election shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne equally by the city and the school district.

(c) The governing body of any city and any school district may initiate the establishment of a joint district recreation system by adopting a joint ordinance or resolution proposing to establish a joint recreation system and to levy an annual tax not to exceed one mill for such recreation system and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto. The proposal shall be submitted for approval by the voters of the city or school district, whichever has the greater assessed valuation, at an election called and held in the manner provided by the general bond law, and the cost of the election shall be borne equally by the city and the school district.

(d) Upon approval of the proposition by a majority of those voting on it at the election, the governing body of the city or school district if acting independently or the governing bodies of a city and school district acting jointly, by appropriate resolution or ordinance, shall provide for the establishment, maintenance and conduct of such recreation system as they deem advisable and practical and shall appoint a recreation commission as provided by K.S.A. 12-1926 to be vested with the powers, duties and obligations necessary for the conduct of such recreation system.

History: L. 1987, ch. 71, § 4; July 1.

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(b) A petition requesting the governing bodies of a city and school district to establish a joint recreation system and signed by at least 5% of the qualified voters of the city or school district may be filed with the clerk of the city or school district. Upon receipt of the petition, the clerk shall set a day not less than five nor more than 10 days thereafter for the joint meeting of the two governing bodies for the consideration of the petition. Notice of the receipt of the petition and place of the joint meeting shall be given immediately by the clerk to the executive officer of the city and school district by registered mail. If the petition is found sufficient, the proposition shall be submitted to the qualified voters within the city or school district, whichever has the greater assessed valuation. Such election shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne equally by the city and the school district.

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(d) Upon approval of the proposition by a majority of those voting on it at the election, the governing body of the city or school district if acting independently or the governing bodies of a city and school district acting jointly, by appropriate resolution or ordinance, shall provide for the establishment, maintenance and conduct of such recreation system as they deem advisable and practicable and shall appoint a recreation commission as provided by K.S.A. 12-1926 to be vested with the powers, duties and obligations necessary for the conduct of such recreation system.

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