

HOUSE BILL No. 2111

By Representative O'Neal

1-20

9 AN ACT enacting the efficiency in local government act; amending
10 K.S.A. 2004 Supp. 19-205 and repealing the existing section.

11

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

13 New Section 1. As used in this act:

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

15 (b) "City" means any city.

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

18 (d) "County" means any county.

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

28 Such resolution shall not be effective until the question has been sub-
29 mitted to and approved by a majority of the qualified electors of the
30 county voting at an election thereon. Such election shall be called and
31 held in the manner provided by the general bond law.

32 (b) Any resolution adopted pursuant to subsection (a) shall provide
33 for the establishment of a reorganization study commission and shall pro-
34 vide either that the members be appointed or that the members be
35 elected by the qualified electors of the county on a nonpartisan basis. If
36 the commission is to be elected, the procedure for holding such election
37 shall be determined by such resolution. The laws applicable to the pro-
38 cedure, manner and method provided for the election of county officers
39 shall apply to the election of members of the commission except that such
40 election shall be called in the manner provided by the general bond law.

41 (c) If a majority of the qualified electors of the county voting on a
42 resolution submitted pursuant to subsection (a) vote in favor thereof, the
43 commission shall be elected or appointed as provided by the resolution.

1 The number of members on a reorganization study commission shall be
2 determined by the resolution. At least $\frac{1}{3}$ of the membership of a reor-
3 ganization study commission shall be residents of the unincorporated area
4 of the county.

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

12 (b) The commission shall be subject to the open meetings law and
13 the open records law.

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

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

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

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

32 (1) Studies of the efficiency and effectiveness of the administrative
33 operations of the city or cities and county.

34 (2) Studies of the costs and benefits of reorganizing the city or cities
35 and county or certain city or cities and county offices, functions, services
36 and operations.

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

40 (c) For the purposes of performing its studies and investigations, the
41 commission or its executive director may administer oaths and affirma-
42 tions, subpoena witnesses, compel their attendance, take evidence, re-
43 quire the production of any books, papers, correspondence, memoranda,

1 agreements or other documents or records which the commission or ex-
2 ecutive director deems relevant or material to its studies and investigation.

3 (d) The commission shall prepare and adopt a preliminary plan ad-
4 dressing the reorganization of the city or cities and county or certain city
5 and county offices, functions, services and operations it deems advisable.
6 Copies of the preliminary plan shall be filed with the county election
7 officer, city clerk of each city to be reorganized and each public library
8 within the county and shall be available to members of the public for
9 inspection upon request. The commission shall hold at least two public
10 hearings to obtain citizen views concerning the preliminary plan. At least
11 seven days shall elapse between the holding of such hearings. Notice of
12 such hearings shall be published at least once in a newspaper of general
13 circulation within the county. Following the public hearings on the pre-
14 liminary plan, the commission may adopt, or modify and adopt, the pre-
15 liminary plan as the final plan.

16 (e) The final plan shall include the full text and an explanation of the
17 proposed plan, and comments deemed desirable by the commission, a
18 written opinion by an attorney admitted to practice law in the state of
19 Kansas and retained by the executive director for such purpose that the
20 proposed plan is not in conflict with the constitution or the laws of the
21 state, and any minority reports. Copies of the final plan shall be filed with
22 the county election officer, city clerk of each city to be reorganized and
23 each public library within the county and shall be available to members
24 of the public for inspection upon request. The commission shall continue
25 in existence at least 90 days following the submission of the final plan for
26 approval at an election as provided by subsection (f).

27 (f) The final plan shall be submitted to the qualified electors of the
28 county at the next general election of the county held at least 45 days
29 following the adoption of the final plan by the commission. Such election
30 shall be called and held by the county election officer in the manner
31 provided by the general election law. A summary of the final plan shall
32 be prepared by the commission and shall be published at least once each
33 week for two consecutive weeks in a newspaper of general circulation
34 within the county.

35 If a majority of the qualified electors of the county voting on the plan
36 vote in favor thereof, the reorganization plan shall be implemented in the
37 manner provided by the plan except that no city shall be reorganized with
38 the county and no offices, functions, services or operations of a city shall
39 be reorganized with the county unless such reorganization plan is ap-
40 proved by a majority of the qualified electors of such city voting at the
41 election held on such plan.

42 There shall be printed on the ballots at any election called to approve
43 the final plan the following statement:

1 “If the majority of the qualified electors of a county and the majority
2 of the qualified electors of a city voting at the election to approve the
3 final plan vote in favor of such plan, such city shall be included within
4 and subject to the provisions of such plan.

5 If the majority of the qualified electors of a city voting at the election
6 to approve the final plan, do not vote in favor of such plan, such city shall
7 not be included within nor subject to the provisions of such plan in regard
8 to the status of such city as a separate entity from the county.”

9 If such a majority of the electors vote against such plan, the proposed
10 reorganization plan shall not be implemented.

11 If the commission submits a final plan which does not recommend the
12 reorganization of the city or cities and county or certain city and county
13 offices, functions, services and operations, the provisions of this subsec-
14 tion shall not apply.

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

18 (b) If the commission submits a plan providing for the reorganization
19 of certain city and county offices, functions, services and operations, the
20 plan shall:

21 (1) Include a description of the form, structure, functions, powers
22 and officers and the duties of such officers recommended in the plan.

23 (2) Provide for the method of amendment or abandonment of the
24 plan.

25 (3) Authorize the election or appointment of officers.

26 (4) Authorize the elimination of offices.

27 (5) Specify the effective date of the reorganization.

28 (6) In the case of multi-city reorganization with a county, the plan
29 shall include provisions addressing the situation if the plan is approved
30 by the electors of one, but not all cities to be reorganized under the plan.

31 (7) Include other provisions determined necessary by the
32 commission.

33 (c) If the plan provides for the reorganization of the city or cities and
34 county, in addition to the requirements of subsection (b) the plan shall:

35 (1) Fix the boundaries of the governing body’s election districts, pro-
36 vide a method for changing the boundaries from time-to-time, any at-
37 large positions on the governing body, fix the number, term and initial
38 compensation of the governing body of the reorganized city-county and
39 the method of election.

40 (2) Determine whether elections of the governing body of the reor-
41 ganized city-county shall be partisan or nonpartisan elections and the time
42 at which such elections shall be held.

43 (3) Determine the distribution of legislative and administrative duties

1 of the reorganized city-county officials, provide for reorganization or ex-
2 pansion of services as necessary, authorize the appointment of a reorgan-
3 ized city-county administrator or a city-county manager, if deemed ad-
4 visable, and prescribe the general structure of the reorganized city-county
5 government.

6 (4) Provide for the official name of the reorganized city-county.

7 (5) Provide for the transfer or other disposition of property and other
8 rights, claims and assets of the county and city.

9 New Sec. 6. (a) If the voters approve a plan which provides for the
10 reorganization of the city or cities and county, such reorganized city-
11 county shall be subject to the provisions of this section.

12 (b) The reorganized city-county shall be subject to the cash-basis and
13 budget laws of the state of Kansas.

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

20 (d) The following shall not be included in computing the total bonded
21 indebtedness of the reorganized city-county for the purposes of deter-
22 mining the limitations on bonded indebtedness:

23 (1) Bonds issued for the purpose of refunding outstanding debt, in-
24 cluding outstanding bonds and matured coupons thereof, or judgments
25 thereon.

26 (2) Bonds issued pursuant to the provisions of article 46 of chapter
27 19 of the Kansas Statutes Annotated, and amendments thereto.

28 (3) Bonds issued for the purpose of financing the construction or
29 remodeling of a courthouse, jail or law enforcement center facility, which
30 bonds are payable from the proceeds of a retailer's sales tax.

31 (4) Bonds issued for the purpose of acquiring, enlarging, extending
32 or improving any storm or sanitary sewer system.

33 (5) Bonds issued for the purpose of acquiring, enlarging, extending
34 or improving any municipal utility.

35 (6) Bonds issued to pay the cost of improvements to intersections of
36 streets and alleys or that portion of any street immediately in front of city
37 or school district property.

38 (e) Any bonded indebtedness and interest thereon incurred by the
39 city or cities or county prior to reorganization or refunded thereafter shall
40 remain an obligation of the property subject to taxation for the payment
41 thereof prior to such reorganization.

42 (f) Upon the effective date of the reorganization of the city or cities
43 and county, any retailers' sales tax levied by the city or cities or county in

1 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
2 such date shall remain in full force and effect, except that part of the rate
3 attributable to the city or cities to be reorganized shall not apply to retail
4 sales in the cities which are not reorganized with the county. For the
5 purposes of 12-188, and amendments thereto, the reorganized city-
6 county shall be a class A, B, C or D city as determined by the commission
7 in the plan.

8 (g) Upon the effective date of the reorganization of the city or cities
9 and county, the territory of the reorganized city-county shall include:

10 (1) All of the territory of the county for purposes of exercising the
11 powers, duties and functions of a county.

12 (2) All of the territory of the county, except the territory of the cities
13 which are not reorganized with the county and the unincorporated area
14 of the county, for purposes of exercising the powers, duties and functions
15 of a city.

16 (h) For the purposes of section 1 of article 5 of the constitution of
17 the state of Kansas, the "voting area" for the governing body of the re-
18 organized city-county shall include all the territory within the county.

19 (i) Except for the reorganized city-county and unless otherwise pro-
20 vided by law, other political subdivisions of the county shall not be af-
21 fected by reorganization of the city or cities and county. Such other po-
22 litical subdivisions shall continue in existence and operation.

23 (j) Unless otherwise provided by law, the reorganized city-county
24 shall be eligible for the distribution of any funds from the state and federal
25 government as if no reorganization had occurred. Except as provided in
26 this subsection, the population and assessed valuation of the territory of
27 the reorganized city-county shall be considered its population and as-
28 sessed valuation for purposes of the distribution of moneys from the state
29 or federal government.

30 (k) The reorganized city-county shall be a county. The governing
31 body of the reorganized city-county shall be considered county commis-
32 sioners for the purposes of section 2 of article 4 of the constitution of the
33 state of Kansas and shall have all the powers, functions and duties of a
34 county and may exercise home rule powers in the manner and subject to
35 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
36 other laws of this state.

37 The governing body of the reorganized city-county shall be responsible
38 for any duties or functions imposed by the constitution of the state of
39 Kansas and other laws of this state upon any county office abolished by
40 the reorganization plan. Such duties may be delegated by the governing
41 body or as provided in the reorganization plan.

42 (l) The reorganized city-county shall be a city of the first, second or
43 third class as determined by the commission in the plan. The governing

1 body of the reorganized city-county shall have all the powers, functions
2 and duties of a city of such class and may exercise home rule powers in
3 the manner and subject to the limitations provided by article 12 of section
4 5 of the constitution of the state of Kansas and other laws of this state.

5 (m) The governing body of the reorganized city-county may create
6 special service districts within the city-county and may levy taxes for serv-
7 ices provided in such districts.

8 (n) Changes in the form of government approved by the voters in
9 accordance with the reorganization plan are hereby declared to be leg-
10 islative matters and subject to initiative and referendum in accordance
11 with K.S.A. 12-3013 *et seq.*, and amendments thereto.

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

20 Sec. 8. K.S.A. 2004 Supp. 19-205 is hereby amended to read as fol-
21 lows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~ 12-345, *sections*
22 *5 and 6, and amendments thereto*, no person holding any state, county,
23 township or city office shall be eligible to the office of county commis-
24 sioner in any county in this state.

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

32 New Sec. 9. Sections 1 through 7, and amendments thereto, shall be
33 known and may be cited as the efficiency in local government act.

34 Sec. 10. K.S.A. 2004 Supp. 19-205 is hereby repealed.

35 Sec. 11. This act shall take effect and be in force from and after its
36 publication in the statute book.