

Substitute for HOUSE BILL No. 2470

By Committee on Governmental Organization and Elections

3-18

9 AN ACT concerning municipalities; relating to consolidation and reor-
10 ganization; relating to changes in boundaries; amending K.S.A. 18-202
11 and K.S.A. 2004 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 the efficiency in local government act,
15 and amendments thereto:

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

17 (b) "City" means any city.

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

20 (d) "County" means any county.

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

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

34 (b) Any resolution adopted pursuant to subsection (a) shall provide
35 for the establishment of a reorganization study commission and shall pro-
36 vide either that the members be appointed or that the members be
37 elected by the qualified electors of the county on a nonpartisan basis.
38 Such resolution shall include a statement that a tax not to exceed one mill
39 may be levied to finance the costs of the reorganization study commission.
40 If the commission is to be elected, the procedure for holding such election
41 shall be determined by such resolution. The laws applicable to the pro-
42 cedure, manner and method provided for the election of county officers
43 shall apply to the election of members of the commission except that such

1 election shall be called in the manner provided by the general bond law.

2 (c) If a majority of the qualified electors of the county voting on a
3 resolution submitted pursuant to subsection (a) vote in favor thereof, the
4 commission shall be elected or appointed as provided by the resolution.
5 The number of members on a reorganization study commission shall be
6 determined by the resolution. At least $\frac{1}{3}$ of the membership of a reor-
7 ganization study commission shall be residents of the unincorporated area
8 of the county.

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

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

18 (c) Members of the commission shall be reimbursed for the actual
19 and necessary expenses incurred in the performance of their official
20 duties.

21 (d) The commission may appoint an executive director of the
22 commission.

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

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

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

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

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

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

1 executive director deems relevant or material to its studies and investigation.
2 (d) The commission shall prepare and adopt a preliminary plan ad-
3 dressing the reorganization of the city or cities and county or certain city
4 and county offices, functions, services and operations it deems advisable.
5 Copies of the preliminary plan shall be filed with the county election
6 officer, city clerk of each city to be reorganized and each public library
7 within the county and shall be available to members of the public for
8 inspection upon request. The commission shall hold at least three public
9 hearings to obtain citizen views concerning the preliminary plan. At least
10 14 days shall elapse between the holding of such hearings. Notice of such
11 hearings shall be published at least three times in a newspaper of largest
12 circulation within the county. In the notice of such hearing, there shall
13 be included a statement that a tax not to exceed one mill may be levied
14 to finance the costs of the reorganization study commission. Following
15 the public hearings on the preliminary plan, the commission may adopt,
16 or modify and adopt, the preliminary plan as the final plan.

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

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

36 If a majority of the qualified electors voting on the plan who reside
37 within the corporate limits of the city and a majority of the qualified
38 electors voting on the plan who reside outside of the corporate limits of
39 the city vote in favor thereof, the consolidation plan shall be implemented
40 in the manner provided by the plan.

41 If a majority of the electors who reside within the corporate limits of
42 the city or a majority of the qualified electors who reside outside of the
43 corporate limits of the city vote against such plan, the proposed consoli-

1 dation plan shall not be implemented.

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

4 “If the majority of the qualified electors who reside outside the cor-
5 porate limits of the city and a majority of the electors who reside within
6 the corporate limits of the city voting at the election to approve the final
7 plan vote in favor of such plan, such city shall be included within and
8 subject to the provisions of such plan.

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

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

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

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

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

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

27 (2) Provide for the method of amendment or abandonment of the
28 plan.

29 (3) Authorize the election or appointment of officers. Any officers
30 selected on the basis of election shall continue to be selected by election.

31 (4) Authorize the elimination of offices.

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

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

36 (7) Include other provisions determined necessary by the
37 commission.

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

40 (1) Fix the boundaries of the governing body's election districts, pro-
41 vide a method for changing the boundaries from time-to-time, any at-
42 large positions on the governing body, fix the number, term and initial
43 compensation of the governing body of the reorganized city-county and

1 the method of election.

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

5 (3) Determine the distribution of legislative and administrative duties
6 of the reorganized city-county officials, provide for reorganization or ex-
7 pansion of services as necessary, authorize the appointment of a reorgan-
8 ized city-county administrator or a city-county manager, if deemed ad-
9 visable, and prescribe the general structure of the reorganized city-county
10 government.

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

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

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

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

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

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

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

31 (2) Bonds issued pursuant to the provisions of article 46 of chapter
32 19 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

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

43 (e) Any bonded indebtedness and interest thereon incurred by the

1 city or cities or county prior to reorganization or refunded thereafter shall
2 remain an obligation of the property subject to taxation for the payment
3 thereof prior to such reorganization.

4 (f) Upon the effective date of the reorganization of the city or cities
5 and county, any retailers' sales tax levied by the city or cities or county in
6 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
7 such date shall remain in full force and effect, except that part of the rate
8 attributable to the city or cities to be reorganized shall not apply to retail
9 sales in the cities which are not reorganized with the county. For the
10 purposes of K.S.A. 12-188, and amendments thereto, the reorganized
11 city-county shall be a class A, B, C or D city as determined by the com-
12 mission in the plan.

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

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

17 (2) All of the territory of the county, except the territory of the cities
18 which are not reorganized with the county and the unincorporated area
19 of the county, for purposes of exercising the powers, duties and functions
20 of a city.

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

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

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

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

42 The governing body of the reorganized city-county shall be responsible
43 for any duties or functions imposed by the constitution of the state of

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

4 (l) The reorganized city-county shall be a city of the first, second or
5 third class as determined by the commission in the plan. The governing
6 body of the reorganized city-county shall have all the powers, functions
7 and duties of a city of such class and may exercise home rule powers in
8 the manner and subject to the limitations provided by article 12 of section
9 5 of the constitution of the state of Kansas and other laws of this state.

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

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

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

25 New Sec. 8. Sections 1 through 7, and amendments thereto, shall be
26 known and may be cited as the efficiency in local government act.

27 Sec. 9. K.S.A. 2004 Supp. 19-205 is hereby amended to read as fol-
28 lows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~, 12-345, *sections*
29 *5 and 6, and amendments thereto*, no person holding any state, county,
30 township or city office shall be eligible to the office of county commis-
31 sioner in any county in this state.

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

39 Sec. 10. K.S.A. 18-202 is hereby amended to read as follows: 18-202.
40 ~~That whenever the citizens of two or more counties desire a change in~~
41 ~~the boundaries thereof, they may petition their respective boards of~~
42 ~~county commissioners therefor, and each of said petitions shall designate~~
43 ~~the change desired, and shall be signed by none but legal voters of the~~

1 county before whose board the same is presented, and shall be signed by
2 at least one-half of such legal voters of each county respectively, to be
3 ascertained from the last assessment rolls of the several township assess-
4 sors in the county and accompanied by affidavits signed and sworn to by
5 at least two credible witnesses, that the signatures to the petition are
6 genuine, and that the persons signing the same are legal voters in said
7 county: *Provided*, That before any petition shall be heard, satisfactory
8 proof shall be made by affidavit, to said board, that at least three notices
9 containing copies of such petition or petitions have been posted at least
10 six weeks before the same shall be heard, in three public places in each
11 township in the counties to be affected by such change of boundaries,
12 one of which shall be kept posted upon the door of the office of the clerk
13 of the district court of said counties, which notices shall contain a copy
14 of the petition, and shall show the time of hearing: *And provided further*,
15 That if an equal number shall sign the remonstrances in each county
16 where the petition is to be heard to the number signing the petitions, no
17 election shall be held.

18 (a) *Upon presentation of a petition requesting a change in the bound-*
19 *aries of two or more counties signed by at least 5% of the qualified electors*
20 *of the county, the board of county commissioners shall adopt a resolution*
21 *changing the boundaries as requested by the petition. Such resolution*
22 *shall not be effective until the question has been submitted to and ap-*
23 *proved by a majority of the voters of each of the counties voting at an*
24 *election thereon as provided by K.S.A. 18-201 et seq., and amendments*
25 *thereto.*

26 (b) *At least three public hearings shall be called and held on any*
27 *resolution adopted pursuant to this section. At least one hearing shall be*
28 *held in each county affected by the proposed change. Notice of such hear-*
29 *ing shall be published in a newspaper or newspapers of general circulation*
30 *in each county affected at least three times prior to the date of each*
31 *hearing.*

32 Sec. 11. K.S.A. 18-202 and K.S.A. 2004 Supp. 19-205 are hereby
33 repealed.

34 Sec. 12. This act shall take effect and be in force from and after its
35 publication in the statute book.