

SENATE BILL No. 262

By Committee on Federal and State Affairs

2-14

10 AN ACT *[concerning certain municipalities; relating to form of gov-*
11 *ernment;]* enacting the efficiency in local government act; amending
12 K.S.A. *[12-520 and]* 2004 Supp. 19-205 and repealing the existing
13 ~~section~~ *[sections]*.
14

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

16 New Section 1. As used in this act:

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

18 (b) "City" means any city.

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

21 (d) "County" means any county.

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

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

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

1 laws applicable to the procedure, manner and method provided for the
2 election of county officers shall apply to the election of members of the
3 commission except that such election shall be called in the manner pro-
4 vided by the general bond law.

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

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

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

21 (c) Members of the commission shall be reimbursed for the actual
22 and necessary expenses incurred in the performance of their official
23 duties.

24 (d) The commission may appoint an executive director of the
25 commission.

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

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

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

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

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

42 ~~(c) For the purposes of performing its studies and investigations, the~~
43 ~~commission or its executive director may administer oaths and affirma-~~

1 tions, subpoena witnesses, compel their attendance, take evidence, re-
 2 quire the production of any books, papers, correspondence, memoranda,
 3 agreements or other documents or records which the commission or ex-
 4 ecutive director deems relevant or material to its studies and investigation.

5 ~~(c)~~ [(c)] The commission shall prepare and adopt a preliminary plan
 6 addressing the reorganization of the city or cities and county or certain
 7 city and county offices, functions, services and operations it deems advis-
 8 able. Copies of the preliminary plan shall be filed with the county election
 9 officer, city clerk of each city to be reorganized and each public library
 10 within the county and shall be available to members of the public for
 11 inspection upon request. The commission shall hold at least ~~two~~ **[three]**
 12 public hearings to obtain citizen views concerning the preliminary plan.
 13 At least ~~seven~~ **[14]** days shall elapse between the holding of such hearings.
 14 Notice of such hearings shall be published at least ~~once in a newspaper~~
 15 ~~of general~~ **[three times in the newspaper having the largest]** circula-
 16 tion within the county. **[In the notice of such hearings, there shall be**
 17 **included a statement that a tax not to exceed one mill may be levied**
 18 **to finance the costs of the reorganization study commission.]** Fol-
 19 lowing the public hearings on the preliminary plan, the commission may
 20 adopt, or modify and adopt, the preliminary plan as the final plan.

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

32 ~~(e)~~ [(e)] The final plan shall be submitted to the qualified electors of
 33 the county at the next general election of the county held at least 45 days
 34 following the adoption of the final plan by the commission. Such election
 35 shall be called and held by the county election officer in the manner
 36 provided by the general election law. A summary of the final plan shall
 37 be prepared by the commission and shall be published at least once each
 38 week for ~~two~~ **[three]** consecutive weeks in ~~a newspaper of general~~ **[the**
 39 **newspaper having the largest]** circulation within the county.

40 ~~If a majority of the qualified electors of the county voting on the plan~~
 41 ~~vote in favor thereof, the reorganization plan shall be implemented in the~~
 42 ~~manner provided by the plan except that no city shall be reorganized with~~
 43 ~~the county and no offices, functions, services or operations of a city shall~~

1 ~~be reorganized with the county unless such reorganization plan is ap-~~
2 ~~proved by a majority of the qualified electors of such city voting at the~~
3 ~~election held on such plan.~~

4 ***[If a majority of the qualified electors voting on the plan who***
5 ***reside within the corporate limits of the city and a majority of the***
6 ***qualified electors voting on the plan who reside outside of the cor-***
7 ***porate limits of the city vote in favor thereof, the consolidation plan***
8 ***shall be implemented in the manner provided by the plan.***

9 ***[If a majority of the electors who reside within the corporate lim-***
10 ***its of the city or a majority of the qualified electors who reside***
11 ***outside of the corporate limits of the city vote against such plan,***
12 ***the proposed consolidation plan shall not be implemented.]***

13 There shall be printed on the ballots at any election called to approve
14 the final plan ***[a clear statement of the effect, if any, that the proposed***
15 ***consolidation would have on city and county tax levies. There shall***
16 ***also be printed on such ballots]*** the following statement:

17 “If the majority of the qualified electors ~~of a county and the majority~~
18 ~~of the qualified electors~~ ***[who reside outside the corporate limits of***
19 ***any city and a majority of the electors who reside within the cor-***
20 ***porate limits]*** of a city voting at the election to approve the final plan
21 vote in favor of such plan, such city shall be included within and subject
22 to the provisions of such plan.

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

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

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

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

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

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

41 (2) Provide for the method of amendment or abandonment of the
42 plan.

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

- 1 (4) Authorize the elimination of offices.
- 2 (5) Specify the effective date of the reorganization.
- 3 (6) In the case of multi-city reorganization with a county, the plan
4 shall include provisions addressing the situation if the plan is approved
5 by the electors of one, but not all cities to be reorganized under the plan.
- 6 (7) Include other provisions determined necessary by the
7 commission.
- 8 (c) If the plan provides for the reorganization of the city or cities and
9 county, in addition to the requirements of subsection (b) the plan shall:
- 10 (1) Fix the boundaries of the governing body's election districts, pro-
11 vide a method for changing the boundaries from time-to-time, any at-
12 large positions on the governing body, fix the number, term and initial
13 compensation of the governing body of the reorganized city-county and
14 the method of election.
- 15 (2) Determine whether elections of the governing body of the reor-
16 ganized city-county shall be partisan or nonpartisan elections and the time
17 at which such elections shall be held.
- 18 (3) Determine the distribution of legislative and administrative duties
19 of the reorganized city-county officials, provide for reorganization or ex-
20 pansion of services as necessary, authorize the appointment of a reorgan-
21 ized city-county administrator or a city-county manager, if deemed ad-
22 visable, and prescribe the general structure of the reorganized city-county
23 government.
- 24 (4) Provide for the official name of the reorganized city-county.
- 25 (5) Provide for the transfer or other disposition of property and other
26 rights, claims and assets of the county and city.
- 27 New Sec. 6. (a) If the voters approve a plan which provides for the
28 reorganization of the city or cities and county, such reorganized city-
29 county shall be subject to the provisions of this section.
- 30 (b) The reorganized city-county shall be subject to the cash-basis and
31 budget laws of the state of Kansas.
- 32 (c) Except as provided in subsection (d), and in any other statute
33 which specifically exempts bonds from the statutory limitations on bonded
34 indebtedness, the limitation on bonded indebtedness of a reorganized
35 city-county under this act shall be determined by the commission in the
36 plan, but shall not exceed 30% of the assessed value of all tangible taxable
37 property within such county on the preceding August 25.
- 38 (d) The following shall not be included in computing the total bonded
39 indebtedness of the reorganized city-county for the purposes of deter-
40 mining the limitations on bonded indebtedness:
- 41 (1) Bonds issued for the purpose of refunding outstanding debt, in-
42 cluding outstanding bonds and matured coupons thereof, or judgments
43 thereon.

- 1 (2) Bonds issued pursuant to the provisions of article 46 of chapter
2 19 of the Kansas Statutes Annotated, and amendments thereto.
- 3 (3) Bonds issued for the purpose of financing the construction or
4 remodeling of a courthouse, jail or law enforcement center facility, which
5 bonds are payable from the proceeds of a retailer's sales tax.
- 6 (4) Bonds issued for the purpose of acquiring, enlarging, extending
7 or improving any storm or sanitary sewer system.
- 8 (5) Bonds issued for the purpose of acquiring, enlarging, extending
9 or improving any municipal utility.
- 10 (6) Bonds issued to pay the cost of improvements to intersections of
11 streets and alleys or that portion of any street immediately in front of city
12 or school district property.
- 13 (e) Any bonded indebtedness and interest thereon incurred by the
14 city or cities or county prior to reorganization or refunded thereafter shall
15 remain an obligation of the property subject to taxation for the payment
16 thereof prior to such reorganization.
- 17 (f) Upon the effective date of the reorganization of the city or cities
18 and county, any retailers' sales tax levied by the city or cities or county in
19 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
20 such date shall remain in full force and effect, except that part of the rate
21 attributable to the city or cities to be reorganized shall not apply to retail
22 sales in the cities which are not reorganized with the county. For the
23 purposes of K.S.A. 12-188, and amendments thereto, the reorganized
24 city-county shall be a class A, B, C or D city as determined by the com-
25 mission in the plan.
- 26 (g) Upon the effective date of the reorganization of the city or cities
27 and county, the territory of the reorganized city-county shall include:
- 28 (1) All of the territory of the county for purposes of exercising the
29 powers, duties and functions of a county.
- 30 (2) All of the territory of the county, except the territory of the cities
31 which are not reorganized with the county and the unincorporated area
32 of the county, for purposes of exercising the powers, duties and functions
33 of a city.
- 34 (h) For the purposes of section 1 of article 5 of the constitution of
35 the state of Kansas, the "voting area" for the governing body of the re-
36 organized city-county shall include all the territory within the county.
- 37 (i) Except for the reorganized city-county and unless otherwise pro-
38 vided by law, other political subdivisions of the county shall not be af-
39 fected by reorganization of the city or cities and county. Such other po-
40 litical subdivisions shall continue in existence and operation.
- 41 (j) Unless otherwise provided by law, the reorganized city-county
42 shall be eligible for the distribution of any funds from the state and federal
43 government as if no reorganization had occurred. Except as provided in

1 this subsection, the population and assessed valuation of the territory of
2 the reorganized city-county shall be considered its population and as-
3 sessed valuation for purposes of the distribution of moneys from the state
4 or federal government.

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

12 The governing body of the reorganized city-county shall be responsible
13 for any duties or functions imposed by the constitution of the state of
14 Kansas and other laws of this state upon any county office abolished by
15 the reorganization plan. Such duties may be delegated by the governing
16 body or as provided in the reorganization plan.

17 (l) The reorganized city-county shall be a city of the first, second or
18 third class as determined by the commission in the plan. The governing
19 body of the reorganized city-county shall have all the powers, functions
20 and duties of a city of such class and may exercise home rule powers in
21 the manner and subject to the limitations provided by article 12 of section
22 5 of the constitution of the state of Kansas and other laws of this state.

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

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

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

38 Sec. 8. K.S.A. 2004 Supp. 19-205 is hereby amended to read as fol-
39 lows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~, 12-345, *sections*
40 *5 and 6, and amendments thereto*, no person holding any state, county,
41 township or city office shall be eligible to the office of county commis-
42 sioner in any county in this state.

43 Nothing in this section shall prohibit the appointment of any county

1 commissioner to any state board, committee, council, commission or sim-
2 ilar body which is established pursuant to statutory authority, so long as
3 any county commissioner so appointed is not entitled to receive any pay,
4 compensation, subsistence, mileage or expenses for serving on such body
5 other than that which is provided by law to be paid in accordance with
6 the provisions of K.S.A. 75-3223, and amendments thereto.

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

9 ***[Sec. 10. K.S.A. 12-520 is hereby amended to read as follows:***
10 ***12-520. (a) Except as hereinafter provided, the governing body of***
11 ***any city, by ordinance, may annex land to such city if any one or***
12 ***more of the following conditions exist:***

13 ***[(1) The land is platted, and some part of the land adjoins the***
14 ***city.***

15 ***[(2) The land is owned by or held in trust for the city or any***
16 ***agency thereof.***

17 ***[(3) The land adjoins the city and is owned by or held in trust***
18 ***for any governmental unit other than another city, except that no***
19 ***city may annex land owned by a county which has primary use as***
20 ***a county-owned and operated airport, or other aviation related ac-***
21 ***tivity or which has primary use as a county owned and operated***
22 ***zoological facility, recreation park or exhibition and sports facility***
23 ***without the express permission of the board of county commission-***
24 ***ers of the county.***

25 ***[(4) The land lies within or mainly within the city and has a***
26 ***common perimeter with the city boundary line of more than 50%.***

27 ***[(5) The land if annexed will make the city boundary line***
28 ***straight or harmonious and some part thereof adjoins the city, ex-***
29 ***cept no land in excess of 21 acres shall be annexed for this purpose.***

30 ***[(6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins***
31 ***the city, except no tract in excess of 21 acres shall be annexed under***
32 ***this condition.***

33 ***[(7) The land adjoins the city and a written petition for or con-***
34 ***sent to annexation is filed with the city by the owner.***

35 ***[(b) No portion of any unplatted tract of land devoted to agri-***
36 ***cultural use of 21 acres or more shall be annexed by any city under***
37 ***the authority of this section without the written consent of the***
38 ***owner thereof.***

39 ***[(c) No city may annex, pursuant to this section, any improve-***
40 ***ment district incorporated and organized pursuant to K.S.A 19-***
41 ***2753 et seq., and amendments thereto, or any land within such im-***
42 ***provement district. The provisions of this subsection shall apply to***
43 ***such improvement districts for which the petition for incorporation***

1 *and organization was presented on or before January 1, 1987.*

2 *[(d) Subject to the provisions of this section and subsection (e)*
3 *of K.S.A. 12-520a, and amendments thereto, a city may annex, pur-*
4 *suant to this section, any fire district or any land within such fire*
5 *district.*

6 *[(e) Whenever any city annexes any land under the authority of*
7 *paragraph 2 of subsection (a) which does not adjoin the city, tracts*
8 *of land adjoining the land so annexed shall not be deemed to be*
9 *adjoining the city for the purpose of annexation under the authority*
10 *of this section until the adjoining land or the land so annexed ad-*
11 *joins the remainder of the city by reason of the annexation of the*
12 *intervening territory.*

13 *[(f) No city may annex the right-of-way of any highway under*
14 *the authority of this section unless at the time of the annexation the*
15 *abutting property upon one or both sides thereof is already within*
16 *the city or is annexed to the city in the same proceeding. The board*
17 *of county commissioners may notify the city of the existence of any high-*
18 *way which has not become part of the city by annexation and which has*
19 *a common boundary with the city. The notification shall include a legal*
20 *description and a map identifying the location of the highway. The gov-*
21 *erning body of the city shall certify by ordinance that the certification is*
22 *correct and declare the highway, or portion of the highway extending to*
23 *the center line where another city boundary line abuts the opposing side*
24 *of the highway, annexed to the city as of the date of the publication of the*
25 *ordinance.*

26 *[(g) The governing body of any city by one ordinance may annex*
27 *one or more separate tracts or lands each of which conforms to*
28 *any one or more of the foregoing conditions. The invalidity of the*
29 *annexation of any tract or land in one ordinance shall not affect the*
30 *validity of the remaining tracts or lands which are annexed by the*
31 *ordinance and which conform to any one or more of the foregoing*
32 *conditions.*

33 *[(h) Any owner of land annexed by a city under the authority*
34 *of this section, within 30 days next following the publication of the*
35 *ordinance annexing the land, may maintain an action in the district*
36 *court of the county in which the land is located challenging the*
37 *authority of the city to annex the land and the regularity of the*
38 *proceedings had in connection therewith.]*

39 Sec. ~~11~~ [11]. K.S.A. 2004 Supp. 19-205 is hereby repealed.

40 Sec. ~~12~~ [12]. This act shall take effect and be in force from and after
41 its publication in the statute book.