

CHAPTER 246

(HB 437)

AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

In order to promote efficient and economical management of the affairs of local government and prevent the duplication of services, the voters of any county, except a county containing a consolidated local government, an urban-county government, or a charter county government, may vote to unite the county government with one or more cities within the county to form a unified local government. The creation and implementation of a unified local government shall take place only after compliance with the procedures set forth in Sections 1 to 21 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 21 of this Act:

- (1) *"Citizen member" means a person who is neither an elected nor an appointed official or employee of the county or a participating city.*
- (2) *"Participating city" means a city that has filed an ordinance with the county clerk and has been named in the notification sent by the county clerk under subsection (3) of Section 3 of this Act.*
- (3) *"Population" means the number of residents residing within the territorial limits of a city or county based upon the most recent official decennial census by the United States Bureau of Census.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The unification process shall be initiated in the following manner:

- (1) *The legislative body of one (1) or more cities within the county and the county fiscal court may enact ordinances proposing that a commission be formed to study the question of unifying the county government with one (1) or more cities within the county to form a unified local government. The executive authority of each city enacting an ordinance shall cause a copy of the ordinance to be filed with the county clerk no later than ten (10) days after enactment.*
- (2) *The county clerk shall be responsible for determining whether the required ordinances have been filed to initiate the unification process. The unification process shall be initiated when the county clerk determines that:*
 - (a) *An ordinance has been enacted by the county fiscal court under subsection (1) of this section; and*
 - (b) *An ordinance has been enacted and filed by one (1) or more cities within the county.*
- (3) *If the county clerk makes the determination required by subsection (2) of this section, the clerk shall notify the county judge/executive, the mayor of each city within the county, and the chief executive officer of every special district within the county that the unification process has been initiated by the county and the city or cities named in the notification.*
- (4) *Within sixty (60) days of notification by the county clerk that the unification process has been officially initiated, a unification review commission shall be appointed.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The county judge/executive and the mayor of the participating city with the greatest population shall jointly determine the size of the unification review commission which shall be composed of not less than twenty (20) or more than forty (40) members.*
- (2) *The membership of the unification review commission shall be divided equally between the county and the participating cities. The mayor of each participating city shall, with the approval of the city legislative body, make a number of appointments based on the ratio that the percentage of the population residing in the mayor's city bears to the population of all participating cities. Each participating city shall have a minimum of one (1) representative on the unification review commission. The county judge/executive shall, with the*

approval of the fiscal court, appoint a number of members to the unification review commission equal to the number of city members.

- (3) *The chairperson of the unification review commission shall be a citizen member elected by a majority vote of the membership of the unification review commission at its first meeting.*
- (4) *Any vacancy on the commission shall be filled in the same manner as original appointments are made.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Unless otherwise agreed upon by the county and the participating cities, the unification review commission shall be funded by the fiscal court and each participating city in proportion to their relative population. For purposes of this section, the population of the county shall be calculated excluding the population of any participating city.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The unification review commission shall study matters relating to the feasibility of forming a unified local government, and, if unification is proposed, develop a unification plan consistent with the provisions of the Kentucky Constitution and Sections 1 to 21 of this Act. A unification plan shall include:

 - (a) *The process for establishing the unified local government;*
 - (b) *A description of the form, structure, functions, and powers of the proposed unified local government;*
 - (c) *A description of the officers of the proposed unified local government and their powers and duties;*
 - (d) *A procedure for the orderly and timely transition of specified services, functions, and responsibilities from each affected city and the county to the unified local government;*
 - (e) *A procedure for the orderly transition to the unified local government of the services, functions, and responsibilities of any special district that will be eliminated;*
 - (f) *A procedure for the orderly transition to the unified local government of the services, functions, and responsibilities of any board, commission, or authority that will be eliminated;*
 - (g) *The procedures by which the unification plan may be amended; and*
 - (h) *Such other provisions as the commission shall determine.**
- (2) *The unification review commission may propose a unification plan under which the county and one (1) or more participating cities unite to form a single unit of local government.*
- (3) *The unification plan shall be completed within two (2) years of the commission's appointment. If a majority of the commission members are unable to agree on a plan for unification within the two (2) year period, the unification review commission shall be dissolved by operation of law*

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The legislative authority of a unified local government shall be vested in a legislative council elected in the manner provided by the unification plan.*
- (2) *The executive authority of a unified local government shall be vested in a chief executive officer elected in the manner provided by the unification plan. The chief executive officer shall have the powers and duties of a county judge/executive under KRS 67.710 and a mayor under KRS 83A.130.*
- (3) *A chief administrative officer may be employed to serve on the staff of the chief executive officer. A chief administrative officer shall be appointed by the chief executive officer, subject to confirmation by a vote of three-fifths (3/5) of the legislative council, and possess education or professional experience, or both, in the area of public administration. A chief administrative officer may be removed by executive order of the chief executive officer or by a vote of three-fifths (3/5) of the entire legislative body.*
- (4) *The chief executive officer shall appoint all members of boards, commissions, authorities, or other entities formed by the unified local government after the effective date of the unification plan and shall fill all vacancies as they occur on boards, commissions, authorities, or other entities created by the county or a participating city prior to the effective date of the unification plan, which continue to exist after unification.*

All appointments by the chief executive officer shall be made subject to confirmation by a majority of the legislative council.

- (5) *The salary of the chief executive officer of a unified local government shall be no less than the salary of a county judge/executive pursuant to KRS 64.535 based upon the population of the county in the year prior to election of the chief executive officer.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The unification review commission shall hold at least one (1) public hearing prior to finalizing its plan to combine county government with one (1) or more cities within the county into a unified local government. The commission may hold additional public hearings as determined by the commission. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Following its final public hearing, the unification review commission shall vote on the proposed unification plan as presented, or as modified by the commission. A unification plan approved by a majority vote of the commission members shall be submitted to the registered voters in the county for a vote at the next regular election.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The question whether the unification plan shall be adopted shall be filed with the county clerk not later than the second Tuesday in August preceding the day of the next regular election. The plan shall be advertised at least once not later than ninety (90) days before the regular election at which the voters will be asked to approve or disapprove the adoption of the unification plan.*
- (2) *The question to be submitted to the voters shall read as follows:*
- "Are you in favor of unifying the city (or cities) of _____ and _____ County into a single government according to the unification plan adopted by the Unification Review Commission?"*
- (3) *The unification plan shall be adopted if a majority of those voting on the issue are in favor of forming a unified local government.*
- (4) *The votes shall be counted, returns made, and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of forming a unified local government, the county board of election commissioners shall enter the fact of record and the unified local government shall be organized as provided in the unification plan.*
- (5) *An adopted unification plan shall take effect January 1 following the election of officers to fill elective offices created by the unification plan. Officers shall be elected in the regular election in the next even-numbered year following adoption of the unification plan.*
- (6) *If the question whether the unification plan shall be adopted is rejected by a majority of the electorate, the question is defeated and cannot be voted on again for five (5) years from the date of certification of the election results.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *If the unification plan of a unified local government provides for election of legislative council members by legislative district, the legislative council may defer redistricting of legislative districts, subsequent to each decennial census by the United States Bureau of Census, until after completion of the redistricting of General Assembly seats within the unified local government after that census.*
- (2) *The redistricting of unified local government legislative districts under this section shall be effective for the first regular unified local government primary election scheduled more than one hundred eighty (180) days after completion of the redistricting. But, in no event shall the redistricting become effective later than two (2) years after release of the census data upon which the redistricting is based.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A unified local government may exercise the constitutional and statutory rights, powers, privileges, immunities, and responsibilities of counties and of cities of the highest class within the unified local government:*

- (a) *In effect on the date the unified local government becomes effective;*
 - (b) *Which may subsequently be authorized for or imposed upon counties and cities of that class; and*
 - (c) *Which may be authorized for or imposed upon unified local governments.*
- (2) *A unified local government shall be accorded the same sovereign immunity granted counties, their agencies, officers, and employees.*
- (3) *All ordinances of a unified local government shall be enacted and enforced pursuant to KRS 83A.060 and 83A.065.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Unless otherwise specifically set forth in the unification plan that is approved by the unification commission and submitted to the voters, ordinances, orders, resolutions, and other effects of law in force within a county and participating city at the time of unification that do not conflict with the unification plan remain in effect until superseded by specific action of the new governing body of the unified local government.

- (1) *If a participating city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide;*
- (2) *If a participating city ordinance addresses a subject not addressed by a county ordinance, the city ordinance shall remain effective only within the territory of the participating city until changed by the unified local government;*
- (3) *If a participating city ordinance addresses a subject not addressed by a county ordinance, but conflicts with an ordinance of another participating city, the ordinances shall remain effective in each participating city until changed by the unified local government; and*
- (4) *If a county ordinance addresses a subject matter not addressed by a participating city ordinance, the county ordinance shall become effective countywide.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

All contracts, bonds, franchises, and other obligations of a participating city and the county in existence on the effective date of a unified local government shall continue in force and effect as obligations of the unified local government and the unified local government shall succeed to all rights and entitlements thereunder. All conflicts in the provisions of the contracts, bonds, franchises, or other obligations shall be resolved in a manner that does not impair the rights of any of the parties.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, all offices provided for in Sections 99 and 144 of the Constitution of Kentucky shall remain in existence upon the unification of a county and a participating city or cities pursuant to Sections 1 to 21 of this Act. However, all existing powers and duties of the offices shall be assigned to the unified local government.*
- (2) *Nothing in Sections 1 to 21 of this Act shall alter or affect the election or term of any county court clerk, county attorney, coroner, jailer, sheriff, surveyor, or assessor. Nor shall any provision of Sections 1 to 21 of this Act be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the unified local government.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the effective date of an adopted unification plan, all regular employees of the county and participating city or cities shall become employees of the unified local government.*
- (2) *All rights, privileges, and protections attributed to a regular employee by a civil service system established by a county or participating city prior to the effective date of the unification plan shall continue in effect until changed by statute or ordinance.*

- (3) *Upon the establishment of a unified local government, all rights, privileges, and protections of beneficiaries of a retirement fund or pension fund established by a participating city or county shall continue in effect until all benefits due each beneficiary have been paid.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The territory of a unified local government may be divided into service districts. Each service district shall constitute a separate tax district within which the unified local government shall levy and collect taxes in accordance with the kind, type, level, and character of the services provided by the unified local government in each district. The legislative council of a unified local government may abolish or alter existing districts, or create new districts and may establish partial service districts into which one (1) or more services provided within a full service district may be expanded or extended, and may establish service districts into which all of the services provided within a full service district shall be expanded or extended, along with one (1) or more other services not provided within the full service district.

SECTION 18. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Unless eliminated under the unification plan, all taxing districts, fire protection districts, sanitation districts, water districts, and any special taxing or service districts of any kind existing upon the successful passage of the question set out in Section 10 of this Act shall continue in existence unless dissolved in the manner prescribed by law and shall continue to exercise all the powers and functions permitted by the Constitution and the general laws of the Commonwealth of Kentucky. If a special taxing district in existence upon the successful passage of the question is eliminated under the unification plan or is later dissolved, the unified government may include any rate levied by the special district as part of its levied rate in the area served by the special district without having to comply with the provisions of KRS 132.027.

SECTION 19. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless eliminated under the unification plan, all ordinances of a county and participating city creating boards, commissions, and authorities and interlocal agreements shall survive and be deemed reenacted by the new legislative council. All members of boards, commissions, and authorities may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law. The legislative council shall have the power, by ordinance, to take such action as it deems necessary to abolish, restructure, consolidate or otherwise alter any board, commission, or authority, if the action is consistent with the Kentucky Revised Statutes.*
- (2) *All planning commissions established pursuant to KRS Chapter 100 in existence within a county upon the adoption of a unified local government shall continue to exercise all of the powers and functions permitted by the Constitution of Kentucky and the Kentucky Revised Statutes, until dissolved in the same manner prescribed by law.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The tax structure, tax rates, and level of services in effect in the county and in each of the participating cities upon the adoption of a unified local government shall remain in effect after the adoption of the unified local government and shall remain the same until changed by the newly elected unified local government legislative council.*
- (2) *In order to maintain the tax structure, tax rates, or level of services in the areas of the unified local government formerly comprising incorporated cities, the unified local government council may provide, in a manner described in this section, for taxes and services within the formerly incorporated cities that are different from the taxes and services which are applicable in the remainder of the unified local government. If a unified government is formed that contains a participating city with a restaurant tax imposed pursuant to KRS 91A.400, the restaurant tax may be retained by the unified government in the area of the participating city.*
- (3) *Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the incorporated cities, and the surface of the land in the portion of the county other than that formerly comprising the incorporated cities, may be imposed directly by the unified local government legislative council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall be used for services as provided by KRS 82.085.*

- (4) *All delinquent taxes of a participating city in a unified local government shall be filed with the county clerk and shall be known as certificates of delinquency and shall be governed by the procedures set out in KRS Chapter 134, except that certificates of delinquency on former city tax bills do not have to be advertised as set out in KRS 134.440 and may be paid or purchased directly from the clerk under the provisions of KRS 134.480 without a sheriff's sale pursuant to KRS 134.450.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Any nonparticipating city located within the territory of a unified local government following adoption of a unification plan, shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform all functions permitted by the Constitution of Kentucky and the Kentucky Revised Statutes applicable to cities of the class to which it has been assigned.*
- (2) *After the adoption of a unified local government, there shall be no further incorporation of cities within the county.*
- (3) *After the adoption of a unified local government, any proposed annexation by a city in the county shall first receive the approval of the legislative council of the unified local government prior to the city proceeding under the provisions of KRS Chapter 81A. The city shall request the approval of the unified local government by ordinance. The unified local government shall respond by ordinance within sixty (60) days of receipt of the request. If an ordinance has not been enacted by the unified local government legislative council within sixty (60) days, the request by a city to proceed with an annexation proposal shall be deemed to be approved by the unified local government.*

Approved April 24, 2006.