

## CHAPTER 63

( HB 189 )

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:

- (1) *A petition authorized pursuant to subsection (2) of Section 4 of this Act shall meet the requirements of this section. The petition shall be drafted in such a way that the effect of signing the petition is to support the formation of a commission to study the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any function for a city or a county.*
- (2) *Any five (5) qualified voters within the unincorporated area of the county or five (5) qualified voters within the most populous city within the county may commence petition proceedings by filing with the county clerk an affidavit stating they constitute the petition committee and will be responsible for circulating the petition and filing it in proper form. The affidavit shall:*
  - (a) *State the names and addresses of the committee members;*
  - (b) *Specify the address to which all notices to the committee are to be sent; and*
  - (c) *Set out in full the proposal to be considered by the voters.*
- (3) *No later than fourteen (14) business days after the affidavit of the petition committee is filed, the county clerk shall:*
  - (a) *Notify the petition committee of all statutory requirements for petitions under this section; and*
  - (b) *Deliver a copy of the affidavit to the fiscal court and the legislative body of each city within the county.*
- (4) *In form, a petition to be filed under this section shall:*
  - (a) *Be uniform in size and style;*
  - (b) *Be assembled as one (1) instrument for filing;*
  - (c) *Contain signatures that are executed in ink or indelible pencil. The petition shall be signed by registered voters and the petition shall include:*
    1. *The signature of the registered voter;*
    2. *The printed name of the registered voter;*
    3. *The residential address of the registered voter;*
    4. *The date of birth of the registered voter; and*
    5. *The date of signature of the petition.*
  - (d) *Be signed by a number of voters:*
    1. *Equal to at least twenty percent (20%) of the county's residents in the unincorporated areas of the county voting in the preceding regular election; and*
    2. *Equal to at least twenty percent (20%) of the residents of the incorporated areas of the county voting in the preceding regular election; and*
  - (e) *Contain or have attached throughout its circulation, the full text of the proposal.*
- (5) *When it is filed, each sheet of a petition shall have an affidavit executed by the circulator stating:*
  - (a) *That he or she personally circulated the sheet;*
  - (b) *The number of signatures contained on the petition;*
  - (c) *That all signatures were affixed in his or her presence;*

- (d) *That each signer had an opportunity before signing to read the full text of the proposal; and*
  - (e) *That he or she believes them to be genuine signatures of registered voters in the county.*
- (6) *Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency.*
- (a) *If the county clerk finds the petition sufficient, the clerk shall send a certificate of the petition's sufficiency, by certified mail, to:*
    - 1. *The petition committee;*
    - 2. *The fiscal court of the county; and*
    - 3. *The legislative body of each city within the county.*
  - (b) *If the county clerk finds the petition is insufficient, the clerk shall:*
    - 1. *File a certificate of insufficiency specifying the particulars making it insufficient; and*
    - 2. *Send a copy of the certificate, by certified mail, to:*
      - a. *The petition committee;*
      - b. *The fiscal court of the county; and*
      - c. *The legislative body of each city within the county.*
- (7) (a) *A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petition committee files:*
- 1. *A notice of intention to amend it with the county clerk within five (5) days after receiving the certificate of insufficiency; and*
  - 2. *A supplemental petition upon additional sheets within thirty (30) days of receiving the certificate of insufficiency. The supplemental sheets shall comply with all requirements established by subsection (4) of this section.*
- (b) *Within ten (10) days after the supplemental petition is filed, the county clerk shall determine if the amended petition is sufficient. If the county clerk finds the amended petition sufficient, the clerk shall complete a certificate of sufficiency and send a copy of certificate of the petition's sufficiency, by certified mail, to:*
- 1. *The petition committee;*
  - 2. *The fiscal court of the county; and*
  - 3. *The legislative body of each city within the county.*
- (8) *A final determination as to the sufficiency of a petition shall be subject to review in the Circuit Court of the county. This review shall be limited to the validity of the county clerk's determination. A final determination of insufficiency shall not prejudice the filing of a new petition for the same purpose in accordance with this section.*

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

- (1) *All contracts, bonds, franchises, and other obligations of a participating city and the county in existence on the effective date of a charter county government, including but not limited to collective bargaining agreements, shall continue in force and effect as obligations of the charter county government, for the term of those contracts, bonds, franchises, and other obligations.*
- (2) *The charter county government shall succeed to all rights and entitlements of these contracts, bonds, franchises, and other obligations.*
- (3) *All conflicts in the provisions of the contracts, bonds, franchises, and other obligations shall be resolved in a manner that does not impair the rights of any of the parties.*
- (4) *Nothing in KRS 67.825 to 67.875, this section, or Section 1 of this Act shall be construed to nullify a participating city's petition pursuant to KRS 345.010 to be included under KRS Chapter 345 for collective bargaining with firefighters. Nothing in KRS 67.825 to 67.875, this section, or Section 1 of this Act shall be construed to nullify any other legal obligations requiring the continuance of collective bargaining with a*

*county's or participating city's employees. To the extent required by KRS Chapter 345 or any other legal obligation requiring the continuance of collective bargaining, the charter county government shall continue to bargain collectively with those employees who were covered under a contract with the county or participating city at the time of the formation of the charter county government.*

→Section 3. KRS 67.825 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except in a county containing a consolidated local government, a city of the first class,~~or~~ an urban-county government, **or a unified local government**, may vote to merge all units of city and county government into a charter county form of government or to consolidate any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The merger or consolidation shall take place only after compliance with the procedures set forth in KRS 67.830.

→Section 4. KRS 67.830 is amended to read as follows:

- (1) The fiscal court in any county, except in a county containing a consolidated local government, a city of the first class,~~or~~ an urban-county government **or a unified local government**, and a majority of all cities within the county may adopt an ordinance to study the question of merging the county government with all other units of local government within the county to form a charter county form of government, or consolidating any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county.
- (2) In lieu of the adoption of an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk *pursuant to Section 1 of this Act* requesting~~a referendum be held on~~ the **appointment of a commission to study the** question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The petition shall be signed by a number of registered voters equal to at least twenty percent (20%) of the~~number of county~~ residents **in the unincorporated area of the county voting in the preceding regular election and twenty percent (20%) of the residents in incorporated areas of the county** voting in the preceding regular election.
- (3) Within sixty (60) days of the adoption of an ordinance pursuant to subsection (1) of this section, or within sixty (60) days of a petition being filed with the county clerk pursuant to subsection (2) of this section **and certified as sufficient pursuant to Section 1 of this Act**, the fiscal court and the city legislative body of each city within the county shall jointly appoint a commission to study the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The fiscal court shall determine the size of the membership of the commission, which shall be composed of not less than twenty (20) or more than forty (40) **citizen members, and which may include elected or appointed county and city officials. Any officials appointed under this section shall serve as voting members of the commission**~~citizens~~. The actual appointment of individual members to the commission shall be governed by the following provisions:
  - (a) The county **judge/executive, with the approval of the fiscal court**, shall make a number of appointments equal to fifty-five percent (55%) of the membership of the commission;~~;~~
  - (b) ~~Each city located within the county shall join together with other cities of the same classification located within the county for the purpose of making appointments to the commission.~~ Jointly, the cities shall make a number of appointments equal to forty-five percent (45%) of the membership of the commission. **The mayor of each city shall, subject to 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 total population of all cities in the county.** Each~~class of~~ city within the county shall have a minimum of one (1) representative on the commission; ~~and~~;
  - ~~(c) If there is only one (1) city of a particular classification within a county, the city shall make a number of appointments based upon the ratio of the percentage of the population residing within that city to the countywide population.~~
  - ~~(c)(d)~~ The county judge/executive shall serve as a voting member of the commission and preside as its chairman.
- (4) The commission shall be funded by the fiscal court and each city within the county in proportion to its ratio of membership on the commission and shall be responsible for developing a comprehensive plan for the

consolidation of services and functions of cities and the county, or the formation of a charter county government that shall include but not be limited to the following provisions:

- (a) A description of the form, structure, functions, powers, and name of the proposed charter county government;
- (b) A description of the officers and their powers and duties of the proposed charter county government;~~{ and }~~
- (c) The procedures by which the original comprehensive plan may be amended *by the subsequently created charter county government*;
- (d) *The procedures by which the comprehensive plan may be amended by county and participating city or cities as a result of contingencies arising from the failure of certain jurisdictions to vote in favor of joining the comprehensive plan. The contingency plan shall be adopted by the participating county and city or cities by joint ordinance. The contingency plan shall be adopted by the participating county and city or cities within sixty (60) days of the certification of the election result. The contingency plan shall only address:*
  - 1. *Issues of revenue;*
  - 2. *Issues of indebtedness;*
  - 3. *Issues of service provision, service areas, or service area boundaries;*
  - 4. *Personnel or administration, but may not infringe upon any pre-existing collective bargaining agreements in force in participating jurisdictions; and*
  - 5. *Any issues directly related to the cost of government or provision of services within the comprehensive plan.*

*The contingency plan shall not address issues within the plan related to paragraph (a), (b), or (c) of this subsection; and*

- (e) *The procedures whereby the charter county government may be dissolved. The procedures drafted shall include but are not limited to:*
  - 1. *Requirements for a public petition for the dissolution of the charter county government;*
  - 2. *The question to be presented to voters for the dissolution of the charter county government; and*
  - 3. *Any administrative measures necessary to settle tax and debt issues created by the dissolution of the charter county government.*

*The proposed charter plan shall specify that no petition for the dissolution of the charter county government shall be valid until a period of five (5) years have passed from commencement of the first terms of the duly elected officers of the charter county government.*

- (5) *The comprehensive plan shall be completed within four (4) years of the commission's appointment. If a majority of the commission members are unable to agree on a single plan for the formation of a charter county government or the consolidation of services or functions within four (4) years of the appointment of the commission, the commission shall be disbanded unless two-thirds (2/3) of the commission agree to extend the commission for no longer than six (6) months.*
- (6) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan. The question of whether the comprehensive 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.
- ~~(7)~~~~(6)~~ *The comprehensive plan proposed shall be presented to the voters at a regular election and:*
  - (a) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections;~~{ and }~~
  - (b) The results shall be certified by the county board of election commissioners to the county clerk; ~~and{ }~~

- (c) If a majority of those voting on the issue *within each area as required by subsections (8) and (9) of this section* are in favor of adopting the comprehensive plan, the county board of election commissioners shall enter the fact of record and the charter county commission shall organize the charter county government or the county *and each participating city* shall provide for the consolidation of services or functions as provided in the comprehensive plan.
- (8) *Subject to the restrictions in subsection (9) of this section, for the comprehensive plan to be adopted, it shall require both a majority of those residents voting within the unincorporated area of the county to vote in favor of its adoption, and:*
- (a) *A majority of those residents voting within the city containing the largest population in the county, based on the most recent decennial census, to vote in favor of its adoption; or*
- (b) *A majority of those residents voting, pursuant to subsection (9) of this section, within cities that together contain at least fifty percent (50%) of the population residing within the incorporated areas of the county, based on the most recent decennial census, to vote in favor of its adoption.*
- (9) (a) *The votes shall be counted within each city to determine whether the majority of voters within each city are in favor of the adoption of the comprehensive plan.*
- (b) *Each city where the majority of those voting are in favor of adopting the comprehensive plan shall participate in the charter county government, subject to the requirements of subsection (8) of this section.*
- (c) *Each city where the majority of those voting are not in favor of adopting the comprehensive plan:*
1. *Shall not participate in the charter county government;*
  2. *Shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform the functions permitted by the Constitution and general laws of the Commonwealth of Kentucky applicable to the cities of the class to which they have been assigned; and*
  3. *Shall allow eligible voters within the city to vote for the chief executive officer of the charter county government and the relevant legislative body member or members of the charter county government for the area including the nonparticipating city.*
- (10) *If the comprehensive plan is not adopted, the same proposal shall not be submitted for voter consideration for a period of five (5) years from the date of the election wherein the comprehensive plan failed to receive the requisite votes.*

➔Section 5. KRS 67.845 is amended to read as follows:

The comprehensive plan for merging *a participating city or cities* and *a county government*~~[governments]~~ into a charter county government under KRS 67.825 to 67.875 may provide for the corporate dissolution of incorporated cities and special districts within the county. If the *participating* incorporated cities and special districts within the county are dissolved, the following provisions shall apply:

- (1) For purposes of all state and federal licensing and regulatory laws, statutory entitlement, gifts, grants-in-aid, governmental loan, or other governmental assistance under state or federal laws, rules, or regulations:
  - (a) The charter county may be deemed a county and, if so, the entire geographic area and population of the charter county shall be considered in calculating and determining the distribution basis for state or federal statutory entitlements, gifts, grants-in-aid, loans, or other forms of governmental assistance; *and*
  - (b) The charter county government may designate to the appropriate state or federal agency those geographic areas, portions of roads, or segments of population that shall be deemed to constitute rural or urban areas, roads, or population.
- (2) The chief executive officer of the charter county government may determine and make the designations provided for in this section following a public hearing. The charter county government shall fix the time and place of the hearing and it shall be advertised pursuant to KRS Chapter 424.

➔Section 6. KRS 67.855 is amended to read as follows:

- (1) Charter county governments may enact and enforce within their territorial limits the tax, licensing, police, sanitary, and other ordinances not in conflict with the Constitution and general statutes of this state now or hereafter enacted, required for the health, education, safety, welfare, and convenience of the inhabitants of the

county and for the effective administration of the charter county government. A charter county government shall not enact any ordinance that imposes any tax or license, franchise or other fee, or requires a license, franchise, or other permission, for or with respect to the construction or maintenance of any utility equipment, facility, or apparatus along, over, under, or across the streets, alleys, or public grounds of, or the operation of any utility business within, any portion of the area of the government outside of the larger of the area within the corporate boundaries of the *participating* city or cities at the time of creation of the charter county government, or that part of the area of the charter county government within which the government provides at least the level of services provided by any *participating* city that existed prior to the creation of the charter county government.

- (2) Charter county government ordinances shall be deemed to conflict with general statutes of this state only:
  - (a) When the ordinance authorizes that which is expressly prohibited by a general statute; or
  - (b) When there is a comprehensive scheme of legislation on the same subject embodied in a general statute.
- (3) No ordinance or resolution shall be considered by the charter county government legislative body until it has been read at two (2) separate meetings. A second reading may be suspended by a two-thirds (2/3) vote of the membership of the legislative body. Requirements for reading ordinances or resolutions may be satisfied by public reading of the title and summary.
- (4) All ordinances and resolutions shall be effective upon passage, unless timely vetoed by the chief executive officer of the charter county government pursuant to the provisions of the comprehensive plan of the charter county government. Any ordinance or resolution imposing fines, forfeitures, imprisonment, taxes, or fees, other than a bond ordinance or resolution, shall be published in full in ~~a [the daily]~~ newspaper *qualified under KRS 424.120* ~~[that has the largest bona fide circulation in the county and is published in the publication area]~~. The publication requirements for all other ordinances or resolutions, including bond ordinances or resolutions, shall be satisfied by publication in full or by publication of the title and summary.
- (5) The provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation may be adopted by ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the charter county government.

➔Section 7. KRS 67.910 is amended 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 KRS 67.900 to 67.940. 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 *by the subsequently created charter county government*; ~~and~~
  - (h) *The procedures by which the unification plan may be amended by the participating county and city or cities as a result of contingencies arising from the failure of certain jurisdictions to vote in favor of joining the unification plan. The contingency plan shall be adopted by the participating county and city or cities by joint ordinance. The contingency plan shall be adopted by the participating county and city or cities within sixty (60) days of the certification of the election result. The contingency plan shall only address:*
    1. *Issues of revenue;*

2. *Issues of indebtedness;*
3. *Issues of service provision, service areas, or service area boundaries;*
4. *Personnel or administration, but may not infringe upon any pre-existing collective bargaining agreements in force in participating jurisdictions; and*
5. *Any issues directly related to the cost of government or provision of services within the unification plan.*

*The contingency plan shall not address issues within the plan related to paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection; and*

- (i) *The procedures by which the unified local government may be dissolved. The procedures drafted shall include but are not limited to:*

1. *Requirements for a public petition for the dissolution of the unified local government;*
2. *The question to be presented to voters for the dissolution of the unified local government; and*
3. *Any administrative measures necessary to settle tax and debt issues created by the dissolution of the unified local government.*

*The proposed unification plan shall specify that no petition for the dissolution of the unified local government shall be valid until a period of five (5) years has passed from commencement of the first terms of the duly elected officers of the unified local government; and*

- (j) 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 8. KRS 67.918 is amended 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) (a) *Subject to the restrictions in paragraph (b) of this subsection, for the unification plan to be adopted, it shall require both a majority of those residents voting within the unincorporated area of the county to vote in favor of its adoption, and:*
  1. *A majority of those residents voting within the city containing the largest population in the county, based on the most recent decennial census, to vote in favor of its adoption; or*
  2. *A majority of those residents voting, pursuant to paragraph (b) of this subsection, within cities that together contain at least fifty percent (50%) of the population residing within the incorporated areas of the county, based on the most recent decennial census, to vote in favor of its adoption.*
- (b)
  1. *The votes shall be counted within each city to determine whether the majority of voters within each city are in favor of the adoption of the unification plan.*
  2. *Each city where the majority of those voting are in favor of adopting the unification plan shall participate in the unified local government, subject to the requirements of paragraph (a) of this subsection.*
  3. *Each city where the majority of those voting are not in favor of adopting the unification plan:*
    - a. *Shall not participate in the unified local government;*

- b. *Shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform the functions permitted by the Constitution and general laws of the Commonwealth of Kentucky applicable to the cities of the class to which they have been assigned; and*
  - c. *Shall allow eligible voters within the city to vote for the chief executive officer of the unified local government and the relevant legislative body member or members of the unified local government for the area including the nonparticipating city*~~*[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 9. KRS 512.070 is amended to read as follows:

- (1) A person is guilty of criminal littering when he:
  - (a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or
  - (b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or
  - (c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty (50) feet of a public highway; or
  - (d) Discharges sewage, minerals, oil products, or litter into any public waters or lakes within the state.
- (2) Criminal littering is a Class A misdemeanor.
- (3) Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.
- (4) *Notwithstanding any language or provision of this section or KRS 65.8808(3) to the contrary, the legislative body of a local government may, by ordinance, choose to classify the offenses proscribed in subsection (1) of this section as civil offenses in accordance with KRS 65.8808.*

➔Section 10. This Act takes effect January 1, 2013.

**Signed by Governor April 11, 2012.**