

CHAPTER 158

(HB 596)

AN ACT relating to annexation.

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

➔Section 1. KRS 81A.412 is amended to read as follows:

- (1) A city may annex any area which meets the requirements of KRS 81A.410, if each of the owners of record of the land to be annexed gives prior consent in writing to the annexation. In this event, the city shall not be required to enact the notification ordinance required by KRS 81A.420(1) or to comply with the notice requirements of KRS 81A.425, and it shall not be required to wait the sixty (60) day period provided for in KRS 81A.420(2) prior to enacting a final ordinance annexing the area. When a city has obtained the prior written consent of each owner of record of the land to be annexed, the city may enact a single ordinance finally annexing the land described in the ordinance. If the city has elected to establish the zoning for the new territory pursuant to KRS 100.209 prior to the completion of annexation under this section, the ordinance annexing the territory shall include a map showing the zoning. Upon the enactment of this ordinance, the territory shall become a part of the city.
- (2) *When a city located in a county subject to the crediting provisions set forth in KRS 68.197 proposes to annex territory, it shall provide written notice to the fiscal court of the county in which the territory is located regarding the proposed annexation that includes a map and description of the territory to be annexed at least forty-five (45) days prior to the enactment of the ordinance finally annexing the territory into the city.*

➔Section 2. KRS 81A.420 is amended to read as follows:

- (1) When a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. The ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory. *The city shall provide written notice to the fiscal court of the county in which the territory is located regarding the proposed annexation that includes a map and a description of the area to be annexed.*
- (2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, ~~or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days of February 12, 1988,~~ *fifty-one percent (51%) or more* ~~{fifty percent (50%)}~~ of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, ~~{an election shall be held at the next regular election if the petition is presented to the county clerk and certified by the county clerk as sufficient not later than the second Tuesday in August preceding the regular election:~~
- (a) ~~The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of _____?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;~~
- (b) ~~If less than fifty five percent (55%) of those persons voting oppose annexation, the unincorporated territory shall become a part of the city; and~~
- (c) ~~If fifty five percent (55%) or more of those persons voting oppose annexation, }the ordinance proposing annexation shall become ineffectual for any purpose.~~
- (3) In not less than sixty (60) days after the enactment of the ordinance, if no petition *containing the signatures of fifty-one percent (51%) or more of the resident voters or owners of real property within the limits of the territory proposed to be annexed in opposition to the proposal* has been received by the mayor as set ~~out~~ *herein, or within sixty (60) days of the certification of election results in which less than fifty five percent*

~~(55%) of those persons voting opposed annexation, **forth in subsection (2) of this section, and if the city has provided the written notice described in subsection (1) of this section at least forty-five (45) days prior,**~~ the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. If the city has elected to establish the zoning for the new territory prior to the completion of the annexation pursuant to KRS 100.209, the ordinance shall include a map showing the zoning. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

➔SECTION 3. A NEW SECTION OF KRS 65.210 TO 65.300 IS CREATED TO READ AS FOLLOWS:

Any interlocal agreement entered into under KRS 65.210 to 65.300 that was in existence on or after January 1, 2024, concerning the sharing of occupational or insurance premium tax revenue between a city and county, and where a party to the agreement is a county subject to the crediting provisions set forth in KRS 68.197 or KRS 91A.080, shall not be terminable without the consent of each party to the agreement.

➔Section 4. KRS 65.250 is amended to read as follows:

(1) Any agreement entered into under KRS 65.210 to 65.300 shall specify the following:

- (a) The purpose and duration of the agreement;
- (b) If the agreement creates an interlocal agency:
 - 1. The organization, composition, authority, and nature of the interlocal agency, including the terms and qualifications of the members of the governing authority and their manner of appointment or selection;
 - 2. A statement of the powers delegated to the interlocal agency or any restrictions, limitations, or conditions the contracting parties wish to place on those powers; and
 - 3. A general statement of any responsibilities of the interlocal agency to the parties that established it;
- (c) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor; said agreement for financing the joint or cooperative undertaking shall include agreements relative to the respective responsibilities of the public agencies involved for the payment of the employer's share involved in any pertinent pension plan or plans, if any, provided for by KRS 65.280;
- (d) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement, including the method for disposing of property upon such partial or complete termination;
- (e) *If the interlocal agreement concerns the sharing of occupational or insurance premium tax revenue between a city and county, and the county that is a party to the contract is subject to the crediting provisions set forth in KRS 68.197 or KRS 91A.080, the contract shall not be terminable without the consent of each party to the contract;* and
- ~~(f)(e)~~ Any other necessary and proper matters.

(2) In the event that the agreement does not establish an interlocal agency to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), ~~and (e)~~, **and (f)** enumerated in subsection (1) of this section, contain the following:

- (a) Provision for an administrator responsible for the joint or cooperative undertaking; and
- (b) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

A county subject to the crediting provisions set forth in KRS 68.197 shall have standing to challenge a proposed annexation on the basis that a city has failed to comply with the provisions of this chapter. The county may bring suit in the Circuit Court of the county in which the territory to be annexed is located. Any suit brought pursuant to this section shall be brought prior to or within sixty (60) days after the enactment of the ordinance finally annexing the territory into the city.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) *When a city annexes territory in a county that contains active residential, commercial, or industrial uses on a substantial part of the territory, and the crediting provisions set forth in KRS 68.197 apply to the county, the city shall remit payments to the county on January 1 of each year for a period of ten (10) years following the enactment of the ordinance finally annexing territory into the city, pursuant to the following formula unless the city and county otherwise agree in writing:*

- (a) *The county shall calculate the amounts of ad valorem property, occupational licensure, and insurance premium taxes the county collected within the territory in the year prior to the proposed annexation;*
- (b) *The county shall then add to the total amount of ad valorem property tax one hundred fifty percent (150%) of the occupational licensure tax and one hundred fifty percent (150%) of the insurance premium tax collected in the year prior to annexation; and*
- (c) *The county shall then subtract from the figure calculated in paragraph (b) of this subsection the property tax, occupational licensure tax, and insurance premium tax revenue it has collected or anticipates it will be able to collect for each year following the annexation, which figure will represent the remittance payment required to be paid by the city to the county.*

The county shall update its calculation of the figure in paragraph (c) of this subsection on a yearly basis, and shall provide the figure to the city at least thirty (30) days prior to the date on which payment is required to be made by the city. A city shall not be required to remit payments unless the county has provided the city with documentation confirming the figure calculated in paragraph (c) of this subsection.

(2) (a) *When a city proposes to annex territory that does not contain active residential, commercial, or industrial uses on a substantial part of the territory, the crediting provisions set forth in KRS 68.197 apply to the county in which the territory is located, and:*

- 1. *The territory is not immediately contiguous to the existing city boundary and is connected only by a corridor, unless:*
 - a. *Existing water and sewer services were provided by the city to the territory on or before January 1, 2024; and*
 - b. *The county has not made a previous investment in infrastructure in the territory, not including routine road maintenance; or*
- 2. *The territory is contiguous to the existing city boundary, but the city is not able to provide tangible benefits or services as a result of the annexation, including but not limited to:*
 - a. *Specialized infrastructure or utilities that the county itself cannot feasibly provide at the time of the annexation;*
 - b. *The provision of public safety or emergency response services that the county itself cannot feasibly provide at the time of annexation; or*
 - c. *The ability to sell alcoholic beverages in the territory to be annexed;*

the county may, within fifteen (15) days after receiving written notice of the annexation from the city as required by subsection (2) of Section 1 of this Act or subsection (1) of Section 2 of this Act, enact a resolution stating that the county desires to negotiate with the city regarding the creation of an interlocal agreement for revenue and cost sharing related to development of the territory to be annexed. A copy of the resolution shall be immediately transmitted to the city.

(b) *If a city receives the resolution, it shall negotiate with the county to form an interlocal agreement that addresses participation between the county and city in:*

- 1. *Cost sharing for public investment in the development of the area;*
- 2. *Cost sharing for provision of municipal services within the area; and*
- 3. *Revenue sharing of occupational tax revenue collected from the territory.*

(c) *The negotiations shall be completed within sixty (60) days of the enactment of the resolution by the county, and the city shall not enact an ordinance finally annexing the territory into the city during that period.*

- (d) *If the parties fail to reach an agreement within the sixty (60) day period described in paragraph (c) of this subsection:*
1. *The city may enact an ordinance finally annexing the territory into the city; and*
 2. *The county may elect to:*
 - a. *Not participate in the development of the territory; or*
 - b. *Participate with the city in the development of the territory.*
- (e) *If the county elects to participate with the city in development of the territory pursuant to subsection (2)(d)2.b. of this section, a cost and revenue sharing default option shall apply, under which the county shall provide funding for:*
1. *Fifty percent (50%) of the costs associated with the public investment made in developing the territory; and*
 2. *Fifty percent (50%) of the costs associated with the provision of additional municipal services in the territory.*
- The city shall be required to remit to the county, on a yearly basis, fifty percent (50%) of the occupational tax revenue generated in the territory, or an amount of occupational tax revenue that would equal the amount that the county would collect from the territory pursuant to its countywide occupational tax rate in the absence of crediting, whichever is less. In no instance shall a county receive payments under this section that would exceed the amount it would collect from the territory pursuant to its countywide occupational tax rate in the absence of crediting. If a county would receive an amount of revenue that is less than fifty percent (50%) of the occupational tax revenue generated in the territory pursuant to this paragraph, then its responsibility for funding pursuant to subparagraphs 1. and 2. of this paragraph shall be changed to a percentage equal to the percentage of revenue that the county would receive under this paragraph. A county may, during the sixty (60) day period discussed in paragraph (c) of this subsection, elect to impose a countywide occupational tax or raise its countywide occupational tax rate in conformance with statute.*
- (f) *Any agreement made pursuant to this subsection, including a default agreement under subsection (2)(e) of this section, shall be considered an interlocal agreement and be subject to the provisions of the Interlocal Cooperation Act, including the reporting requirements set forth in KRS 65.260.*
- (3) *When a city proposes to annex territory in a county in which the crediting provisions set forth in KRS 68.197 apply, the provisions of subsections (1) and (2) of this section shall not apply if the city and county are parties to an interlocal agreement concerning the sharing of occupational tax revenue between the city and county, and that agreement would apply to the proposed annexation.*
- (4) (a) *When a city completes an annexation of territory in a county in which the crediting provisions set forth in KRS 68.197 apply, the city shall submit to the Department for Local Government the information required by this subsection. The information shall be submitted within (60) days following the enactment of the ordinance finally annexing the territory into the city, and shall include the following:*
1. *The information required in KRS 81A.470(1)(a) and (b);*
 2. *A statement indicating whether the annexation was subject to subsection (1), (2), or (3) of this section, or if the annexation was one in which the city provided tangible benefits or services as a result of the annexation pursuant to subsection (2)(a)2. of this section; and*
 3. *A copy of any interlocal agreement created as a result of compliance with this section or that applies as described in subsection (3) of this section.*
- (b) *The Department for Local Government may make reporting forms consistent with this subsection, and may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this subsection.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

As used in Sections 7 to 9 of this Act, unless the context requires otherwise:

- (1) *"Commercial purposes" means the use of land, buildings, or structures, or parts thereof, for the buying, selling, storage, or shipment of goods or services, or other substantially similar types of activity;*

- (2) *"District" means a designated county industrial district;*
- (3) *"Industrial purposes" means the use of land, buildings, or structures, or parts thereof, for manufacturing, production or assembly of goods, warehousing and distribution, or other substantially similar types of activity; and*
- (4) *"Substantial investment" means expenditures by the county in an amount equal to or greater than twenty percent (20%) of the total assessed value of real property at the time of the designation of a designated county industrial district in utility, transportation, or other similar infrastructure within the district, not including normal or routine county road maintenance.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A fiscal court may establish a designated county industrial district by enacting an ordinance stating its intent to establish a district that includes a map and description of the area to be included within the district. Within ten (10) days of the enactment of the initial ordinance, the fiscal court shall provide written notice to all cities within the county that includes a map and a description of the area to be included within the district.*
- (b) 1. *The fiscal court shall obtain written consent for inclusion within the proposed district from each property owner of record within the area to be included in the district.*
- 2. *If a county fails to obtain the consent of each property owner of record, the county shall be barred from including the land owned by a property owner who did not consent within a district for a period of five (5) years in any future attempts to include that land in the district.*
- (c) 1. *Within one hundred (100) days following the enactment of the ordinance of intent to establish a district, and after obtaining the consent of each property owner of record, the fiscal court may enact a final ordinance establishing the district. Within ten (10) days of the enactment of the final ordinance, the fiscal court shall provide written notice that includes a map and a description of the area to be included within the district to all cities within the county.*
- 2. *If the fiscal court does not enact the final ordinance within one hundred (100) days following the enactment of the ordinance of intent to establish a district, the fiscal court shall be barred from including any part of the area identified in the ordinance in a district for a period of five (5) years.*
- (2) *The area within a designated county industrial district shall:*
 - (a) *Be suitable for development for industrial or commercial purposes;*
 - (b) *As of the date of the establishment of the district, not be used for industrial or commercial purposes; and*
 - (c) *As of the date of the establishment of the district, not have any part that is contiguous to the municipal boundaries of any city.*
- (3) *Land within a district shall be used solely for industrial or commercial purposes.*
- (4) *A county may establish up to two (2) districts that shall collectively total no more than one thousand (1,000) acres.*
- (5) *If, within five (5) years following the establishment of a district, the county has not made substantial investment in the district, the district shall be dissolved by operation of law.*
- (6) *A landowner of property located within a district may have the property removed from the district with the consent of the county that established the district.*
- (7) *A property owner of land within an established district or abutting a district, or a city within a county containing a district, may bring suit against the county, in the Circuit Court of the county in which the district is located, on the basis that the county has failed to comply with the provisions of Sections 7 to 9 of this Act.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any statute to the contrary, and except as set out in subsection (2) of this section, a city shall not annex any territory that is within a designated county industrial district, or territory that is part of*

a proposed district between the enactment of the initial ordinance but before the enactment of the final ordinance as described in subsection (1)(c)1. of Section 8 of this Act.

- (2) *A city may annex territory within a district, subject to all other requirements provided by law, if it enters into an interlocal agreement with the county that specifically allows part or all of the district to be annexed or the county government passes a resolution stating that territory in the district may be annexed.*

Became law without Governor's signature April 10, 2024.