

Township Disorganization, Attachment, and Consolidation

Ranging from those that exist from year to year with responsibilities not much more than creation and adoption of an annual budget, and preparation and submission of an annual report, to those that are indispensable to their constituents by virtue of the breadth of services provided, Kansas townships cover the spectrum of municipal government at its most intimate level.

For those townships that are closer to the former example, there may come a time when a determination is made that the continued existence of a particular township is no longer beneficial or necessary to its constituents. In that event, the following information may be of benefit.

Disorganization and Consolidation Initiated by County Commissioners

1. In accordance with K.S.A. 80-1110, for townships located in counties which have adopted the county unit road system – or in townships having more than 200 residents – the county commissioners may determine that it is in the best interest of the inhabitants of such township or townships to disorganize same and attach the territory to one or more adjacent townships.

To disorganize such a township, the county commissioners shall first adopt a resolution stating their intent to:

disorganize township or townships; and

attachment of the township territory to another township or townships within the county.
(K.S.A. 80-1111.)

This resolution shall also:

fix the time for holding a hearing or hearings (which shall not be more than 40 days after last date of publication);

designate a place for the hearing or hearings (within the township or townships or at place designated by the county commissioners); and

contain a statement that unless a petition, signed by majority of the electors of any township being disorganized, is filed with the county clerk within 30 days after the last publication, such township or townships will be disorganized. (K.S.A. 80-1111.)

The resolution shall be published once each week for two consecutive weeks in a newspaper having general circulation in the township or townships being proposed for disorganization.

A copy of the resolution shall be sent to the clerk of the township or townships.

The county commissioners will then hold a hearing or hearings.

If no petition in opposition is filed the county commissioners shall adopt a second resolution disorganizing such township and attaching the disorganized township or portions of it to another township or townships.

2. Under the provisions of K.S.A. 80-1117, if a township has no residents (as certified by county clerk), county commissioners shall conduct a public hearing on the advisability of adopting a resolution to disorganize or consolidate the township.

Following the hearing the county commissioners shall pass the resolution to either disorganize or consolidate the township with the next geographically closest township within such county having a functioning township board.

All books, papers, records, moneys, and other assets are turned over to the county commissioners.

County commissioners may dispose of assets and place proceeds into a special fund to pay off any debts:

if consolidated, excess money goes to the consolidated township;

if disorganized, excess money goes to the county general fund.

3. Pursuant to K.S.A. 80-1118 county commissioners may disorganize a township and attach its territory to one or more adjacent townships if any of the following criteria apply:

there are less than 200 township residents; or

a vacancy exists in the office of trustee, clerk, or treasurer for two consecutive years (does not have to be the same position; may be a combination of two); or

the township fails to file an annual budget for two consecutive years.

County commissioners desiring to pursue disorganization and attachment under this section shall adopt a resolution which includes the following:

notice that a public hearing will be held to consider disorganization; and

the date, hour, and place of the public hearing (hearing held in a public place in the township most convenient for the greatest number of interested persons, unless the commission determines adequate facilities are not available)

The resolution for the hearing shall be published in a newspaper of general circulation of the township.

Following the public hearing, the county commissioners may pass a second resolution disorganizing the township and attaching the territory to one or more adjacent townships.

The second resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation of the township.

The resolution of disorganization takes effect 60 days after the final publication, unless within such period of time a petition signed by at least 10% of the electors having voted at the last general election is given to the county clerk calling for an election on the issue.

Such proposition may be voted upon:

at the next general election held in the township; or

at a special election called by county commissioners.

The proposition is submitted on a separate ballot.

Consolidation of two or more townships

Pursuant to K.S.A. 80-1109 two or more townships may consolidate into a single township or a new township.

To begin the consolidation process, the township boards, or a majority of the members on the township boards, shall by resolution declare consolidation to be desirable and arrange for a meeting between the respective boards.

At the meeting the boards may enter into an agreement signed by the board members prescribing the terms and conditions of the consolidation and designate the new officers until new officers are elected and take office.

Resolutions for the agreement and consolidation are certified by the township clerks and presented to the county clerk.

Within 10 days after receipt of the resolutions by the county clerk the county commissioners shall call an election, noticed and called in the same manner as bond elections under the general bond law (K.S.A. 10-120).

A special ballot is used for the consolidation question.

If the proposed consolidation passes by majority of electors from the townships involved, then the “county commissioners shall adopt a resolution certifying that the consolidation is in effect in accordance with the agreement and the respective townships [are] considered disorganized.”

Effective Date of Township Disorganization

Generally (K.S.A. 80-1101a, 80-1102a):

“ . . . disorganization . . . shall be effective upon the filing with the county clerk . . . the resignation of the elective incumbent officers of such township or, in any event, at the expiration of the term of office of such incumbents.” (K.S.A. 80-1101a.)

For other than tax purposes (K.S.A. 80-1112):

disorganization of any township and attachment of its territory to one or more other townships shall be effective with the filing of the resignation of township officers with the county clerk or, in any event, with the expiration of the terms of office of the township officers.

For the purpose of taxation, disorganization and attachment is effective (K.S.A. 79-1807, 80-1112, 80-1115):

when the effective date of disorganization (i.e. resignation or expiration of term) occurs on or before April 1, the attachment of territory and the resulting new boundary is effective “for tax purposes” as of the last day of December preceding such attachment of territory (K.S.A. 79-1807(a));

when the effective date of disorganization (i.e. resignation or expiration of term) occurs after April 1, the effective date for tax purposes will be the last day of the following December. (K.S.A. 80-1115.)

In the preceding example, if the effective date of disorganization is after April 1 but before the time fixed for adoption of the budget, the township board to which territory is attached shall

“adopt a budget and provide for the levy of taxes throughout the area of the township as it will exist on January 1, next following the adoption of such budget.” (K.S.A. 80-1115.)

Debts of the Disorganized Township

Upon disorganization all books, papers, funds, and any other assets shall be turned over to the county commissioners who shall dispose of all assets and place all moneys into a special fund to be used to pay off indebtedness, if any, of the disorganized township. (K.S.A. 80-1104, 80-1113, 80-1117(b).)

In the case of disorganization and attachment any excess moneys shall be given to the remaining township or townships in the same manner provided by K.S.A. 80-102 (pro-rata based upon taxable property, if given to more than one township). (K.S.A. 80-1113, 80-1117(b).)

In the case of the disorganization of a township without residents, excess moneys are credited to the county general fund. (K.S.A. 80-80-1117(b).)

The obligation for any indebtedness – including bonded indebtedness - shall remain a charge upon the territory of the disorganized township. (K.S.A. 10-119, K.S.A. 80-1102a, 80-1103.)

Any road construction and maintenance agreement with the county under K.S.A. 68-572, shall terminate when the money and equipment from the disorganized township is turned over to the county. (K.S.A. 80-1102a.)

Any indebtedness of a disorganized township shall be paid by the county commissioners by levy of taxes upon all real and personal property of the disorganized township territory, not to exceed 10 mills, and the county treasurer shall place proceeds from such levy in a special fund. (K.S.A. 80-1103.)

The county commissioners shall dispose of township assets delivered to them and the proceeds thereof shall be placed in the special fund. (K.S.A. 80-1104.)

The county commissioners may audit the indebtedness and issue warrants upon moneys in the special fund. (K.S.A. 80-1103, 80-1113.)

In the case of disorganization and attachment, the responsibility for levy of taxes to pay the outstanding indebtedness – other than bonded indebtedness – falls upon the county commissioners. (K.S.A. 80-1114.)

In the case of bonded indebtedness existing at the time of disorganization and attachment, “such territory shall be liable for the payment of all bonds issued . . . before such . . . disorganization, and the proper taxing authorities of the [township] to which such territory is attached shall levy

such taxes upon such attached territory as are necessary to pay its proper proportion of the interest and principal of such bonds” (K.S.A. 10-119.)

Transfer of Township Board Authority to the County Commissioners

While not technically a township disorganization, there is statutory authority for a township board to initiate action that may lead to a transfer of its responsibilities to the board of county commissioners. In K.S.A. 80-120(a) it is provided that a township board may adopt a resolution providing for such a transfer, which resolution would then be submitted for approval to the qualified electors of the township.

If approved by the voters the township board shall turn over to the county treasurer all money and funds (K.S.A. 80-120(b)), and to the county commissioners all assets and property of the township, at which time the township board is abolished. (K.S.A. 80-120(c).)

Upon the above described actions having taken place, the statute provides that the county commissioners then determine whether the county will assume all duties and funds of the township, or whether the county commissioners will effectively step into the shoes of the former township board and continue to budget and levy taxes for the exercise of the powers, duties and functions of the township.