

HOUSE BILL No. 2379

By Committee on Taxation

3-10

1 AN ACT concerning the community improvement district act; relating to
2 exempt property and reallocation of assessments; bonds; amending
3 K.S.A. 2010 Supp. 12-6a27, 12-6a28, 12-6a29, 12-6a30, 12-6a31 and
4 12-6a36 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 12-6a27 is hereby amended to read as
8 follows: 12-6a27. As used in this act, and amendments thereto, the
9 following words and phrases shall have the following meanings unless a
10 different meaning clearly appears from the context:

11 (a) "Act" means the provisions of K.S.A. 2010 Supp. 12-6a26
12 through 12-6a36, and amendments thereto.

13 (b) "Assessments" means special assessments imposed and levied
14 pursuant to the provisions of this act.

15 (c) "Bonds" means special obligation bonds, special obligation notes,
16 full faith and credit bonds or full faith and credit notes payable solely from
17 the sources described in K.S.A. 2010 Supp. 12-6a33, and amendments
18 thereto, issued by a municipality in accordance with the provisions of this
19 act.

20 (d) "Community improvement district sales tax" means the tax
21 authorized by K.S.A. 2010 Supp. 12-6a31, and amendments thereto.

22 (e) "Consultant" means engineers, architects, planners, attorneys,
23 financial advisors and other persons deemed competent to advise and
24 assist in the planning, making and financing of projects.

25 (f) "Cost" means: (1) All costs necessarily incurred for the
26 preparation of preliminary reports, the preparation of plans and
27 specifications, the preparation and publication of notices of hearings,
28 resolutions, ordinances and other proceedings relating to the creation or
29 administration of the district or the issuance of bonds therefore, necessary
30 fees and expenses of consultants, interest accrued on borrowed money
31 during the period of construction and the amount of a reserve fund for the
32 bonds, together with the cost of land, materials, labor, and other lawful
33 expenses incurred in planning and doing any project and may include a
34 charge of not to exceed 5% of the total cost of the project or the cost of
35 work done by the municipality to reimburse the municipality for the
36 services rendered by the municipality in the administration and supervision

1 of such project ~~by its general officers~~ *and such bonds*; and (2) in the case
2 of property and projects already owned by the municipality and previously
3 financed by the issuance of bonds, "cost" means costs authorized by
4 K.S.A. 10-116a, and amendments thereto.

5 (g) "District" means a community improvement district created
6 pursuant to this act.

7 (h) "Governing body" means the governing body of a city or the
8 board of county commissioners of a county.

9 (i) "Municipality" means any city or county.

10 (j) "Newspaper" means the official newspaper of the municipality.

11 (k) "Owner" means the owner or owners of record, whether resident
12 or not, of real property within the district.

13 (l) "Pay-as-you-go financing" means a method of financing in which
14 the costs of a project are financed without notes or bonds, and the costs of
15 such project are thereafter reimbursed as moneys are deposited in the
16 district fund described in K.S.A. 2010 Supp. 12-6a34, and amendments
17 thereto.

18 (m) "Project" means, *to the extent such item is proposed to be*
19 *financed in whole or in part using methods of financing included in this*
20 *act*:

21 (1) Any project within the district to acquire, improve, construct,
22 demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore,
23 replace, renew, repair, install, relocate, furnish, equip or extend:

24 (A) Buildings, structures and facilities;

25 (B) sidewalks, streets, roads, interchanges, highway access roads,
26 intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and
27 underpasses, traffic signs and signals, utilities, pedestrian amenities,
28 abandoned cemeteries, drainage systems, water systems, storm systems,
29 sewer systems, lift stations, underground gas, heating and electrical
30 services and connections located within or without the public right-of-way,
31 water mains and extensions and other site improvements;

32 (C) parking garages;

33 (D) streetscape, lighting, street light fixtures, street light connections,
34 street light facilities, benches or other seating furniture, trash receptacles,
35 marquees, awnings, canopies, walls and barriers;

36 (E) parks, lawns, trees and other landscape;

37 (F) communication and information booths, bus stops and other
38 shelters, stations, terminals, hangers, rest rooms and kiosks;

39 (G) paintings, murals, display cases, sculptures, fountains and other
40 cultural amenities;

41 (H) airports, railroads, light rail and other mass transit facilities; ~~and~~

42 (I) lakes, dams, docks, wharfs, lakes or river ports, channels and
43 levies, waterways and drainage conduits; *and*

1 (J) acquisition of land for and construction and installation of
2 publicly-owned infrastructure located outside the district which serves
3 property in the district.

4 (2) within the district, to operate or to contract for the provision of
5 music, news, child-care, or parking lots or garages, and buses, minibuses
6 or other modes of transportation;

7 (3) within the district, to provide or contract for the provision of
8 security personnel, equipment or facilities for the protection of property
9 and persons;

10 (4) within the district, to provide or contract for cleaning,
11 maintenance and other services to public or private property;

12 (5) within the district, to produce and promote any tourism,
13 recreational or cultural activity or special event, including, but not limited
14 to, advertising, decoration of any public place in the district, promotion of
15 such activity and special events and furnishing music in any public place;

16 (6) within the district, to support business activity and economic
17 development, including, but not limited to, the promotion of business
18 activity, development and retention and the recruitment of developers and
19 business;

20 (7) within the district, to provide or support training programs for
21 employees of businesses; and

22 (8) to contract for or conduct economic impact, planning, marketing
23 or other studies.

24 Sec. 2. K.S.A. 2010 Supp. 12-6a28 is hereby amended to read as
25 follows: 12-6a28. (a) In addition to any other power provided by law and
26 as a complete alternative to all other methods provided by law, the
27 governing body of any municipality may create a district as provided by
28 this act for the purpose of financing projects. Under this section, a
29 municipality may create a district, or may modify a district previously
30 created under this section, upon receipt of a petition that is signed by the
31 owners of all of the ~~land area~~ *property proposed to be liable for the*
32 *assessments* within the proposed district, and is both: (1) Seeking
33 financing only by assessments; and (2) not seeking the issuance of full
34 faith and credit bonds pursuant to this act. The petition shall contain:

35 (A) The general nature of the proposed project;

36 (B) the estimated cost of the project;

37 (C) the proposed method of financing the project;

38 (D) the proposed amount and method of assessment;

39 (E) a map of the proposed district; and

40 (F) a legal description of the boundaries of the proposed district.

41 (b) Names may not be withdrawn from the petitions by the signers
42 thereof after the governing body commences consideration of the petitions
43 or later than seven days after the filing of such petition with the clerk of

1 the municipality, whichever occurs first. The petition shall contain a notice
2 that: (1) The names of the signers may not be withdrawn after such a
3 period of time; ~~and~~ (2) the signers consent to any assessments to the extent
4 described therein without regard to benefits conferred by the project; *and*
5 *(3) the signers consent to the reallocation of assessments against the*
6 *remaining property in the district if any property originally included in the*
7 *district becomes exempt from assessments by operation of law following*
8 *the formation of the district.*

9 (c) Upon filing of the petition pursuant to this section, the governing
10 body may proceed without notice or a hearing to make findings by
11 resolution or ordinance as to the nature, advisability and estimated cost of
12 the project, the boundaries of the district and the amount and method of
13 assessment. Upon making such findings, the governing body by majority
14 vote may authorize the project in accordance with such findings as to the
15 advisability of the project. The resolution or ordinance shall be effective
16 upon publication once in the newspaper.

17 (d) The district boundaries and the method of financing for the
18 project shall not require that all property that is benefited by the project,
19 whether the benefited property is within or without the district, be included
20 in the district or be subject to an assessment.

21 (e) Following authorization of the project, the ordinance or resolution
22 establishing the district shall be submitted for recording in the office of the
23 register of deeds of the county in which the district is located.

24 Sec. 3. K.S.A. 2010 Supp. 12-6a29 is hereby amended to read as
25 follows: 12-6a29. (a) In addition to any other power provided by law and
26 as a complete alternative to all other methods provided by law, the
27 governing body of any municipality may create a district as provided by
28 this act for the purpose of financing projects. As an alternative to the
29 requirements and procedures described in K.S.A. 2010 Supp. 12-6a28, and
30 amendments thereto, under this section, a municipality may create a
31 district, or may modify a district previously created under this section,
32 upon receipt of a petition that is signed by the owners of more than 55% of
33 the land area within the proposed district, and signed by owners
34 collectively owning more than 55% by assessed value of the land area
35 within the proposed district *excluding the assessed value of improvements*.
36 Under this section, the petition may be seeking financing in whole or in
37 part by a proposed community improvement district sales tax authorized
38 by K.S.A. 2010 Supp. 12-6a31, and amendments thereto, *seeking*
39 *financing in whole or in part by a proposed community improvement*
40 *district sales tax and special assessments*, or seeking the issuance of full
41 faith and credit bonds authorized by K.S.A. 2010 Supp. 12-6a36, and
42 amendments thereto, or ~~both~~ *any combination of such financing*
43 *alternatives*. The petition shall contain:

- 1 (1) The general nature of the proposed project;
 - 2 (2) the estimated cost of the project;
 - 3 (3) the proposed method of financing the project including, if
 - 4 applicable, the issuance of full faith and credit bonds;
 - 5 (4) the proposed amount and method of assessment, if any;
 - 6 (5) the proposed amount of community improvement district sales
 - 7 tax, if any;
 - 8 (6) a map of the proposed district; and
 - 9 (7) a legal description of the proposed district.
- 10 (b) Names may not be withdrawn from the petitions by the signers
- 11 thereof after the governing body commences consideration of the petitions
- 12 or later than seven days after the filing of such petition with the clerk of
- 13 the municipality, whichever occurs first. The petition shall contain a notice
- 14 that: (1) The names of the signers may not be withdrawn after such a
- 15 period of time; ~~and~~ (2) if applicable, the signers consent to any
- 16 assessments to the extent described therein without regard to benefits
- 17 conferred by the project; *and (3) if applicable, the signers consent to the*
- 18 *reallocation of any assessments against the remaining property in the*
- 19 *district if any property originally included in the district becomes exempt*
- 20 *from assessments by operation of law following the formation of the*
- 21 *district.*
- 22 (c) Upon filing of the petition pursuant to this section, the
- 23 municipality shall adopt a resolution to give notice of a public hearing on
- 24 the advisability of creating or modifying the district. Such resolution shall
- 25 be published at least once each week for two consecutive weeks in the
- 26 newspaper and shall be sent by certified mail to all owners. The second
- 27 publication of such resolution shall occur at least seven days prior to the
- 28 date of hearing and the certified mailed notice shall be sent at least ten
- 29 days prior to the date of hearing. Such resolution shall contain the
- 30 following information:
- 31 (1) The time and place of the hearing;
 - 32 (2) the general nature of the proposed project;
 - 33 (3) the estimated cost of the project;
 - 34 (4) the proposed method of financing the project including, if
 - 35 applicable, the issuance of full faith and credit bonds;
 - 36 (5) the proposed amount of the community improvement district sales
 - 37 tax, if any;
 - 38 (6) the proposed amount and method of assessment, if any;
 - 39 (7) a map of the proposed district; and
 - 40 (8) a legal description of the proposed district.
- 41 (d) The hearing on the advisability of creating or modifying the
- 42 district may be adjourned from time to time. Following the hearing or any
- 43 continuation thereof, the governing body by majority vote may create the

1 district by adoption of an ordinance or resolution. Such ordinance or
2 resolution shall authorize the project, approve the estimated cost of the
3 project, contain the legal description of the district, contain a map of the
4 district, levy the community improvement district sales tax, if applicable,
5 approve the maximum amount and method of assessment, if applicable,
6 and approve the method of financing including, if applicable, the issuance
7 of full faith and credit bonds. Such ordinance or resolution shall become
8 effective upon publication once in the newspaper.

9 (e) The district boundaries and the method of financing for the project
10 shall not require that all property that is benefited by the project, whether
11 the benefited property is within or without the district, be included in the
12 district or be subject to an assessment or the community improvement
13 district sales tax.

14 (f) Following authorization of the project, the ordinance or resolution
15 establishing the district shall be submitted for recording in the office of the
16 register of deeds of the county in which the district is located.

17 Sec. 4. K.S.A. 2010 Supp. 12-6a30 is hereby amended to read as
18 follows: 12-6a30. (a) In addition to any other power provided by law and
19 as a complete alternative to all other methods provided by law, the
20 governing body may make, or cause to be made, projects identified in the
21 petition submitted pursuant to either K.S.A. 2010 Supp. 12-6a28 or 12-
22 6a29, and amendments thereto, and may levy and collect special
23 assessments upon property in the district and provide for the payment of
24 all or any part of the cost of the project out of the proceeds of such special
25 assessments. If special assessments shall be levied to finance all or a
26 portion of the cost of a project, the municipality shall follow the
27 procedures in K.S.A. 12-6a01 et seq., and amendments thereto, to levy
28 such assessments except that no assessments may be levied against the
29 municipality at large and annual installments of the assessments may be
30 levied as provided in subsection (b).

31 (b) If the method of financing for the project includes payment from
32 the sources described in subsections (c) or (e) of K.S.A. 2010 Supp. 12-
33 6a33, and amendments thereto, the ordinance or resolution of the
34 municipality that authorizes the levy of special assessments may provide
35 that the annual installments of such assessment for any year may be
36 reduced or eliminated to the extent that, prior to the date the municipality
37 certifies the tax levy of the municipality to the county clerk pursuant to
38 K.S.A. 79-1801, and amendments thereto, the municipality has received
39 sufficient funds from the sources described in subsections (c) and (e) of
40 K.S.A. 2010 Supp. 12-6a33, and amendments thereto, to pay the debt
41 service on any bonds issued under the provisions of this act, and
42 amendments thereto, for the project which would have been paid by such
43 annual installment. The municipality is not required to refund any

1 prepayment of assessments after such prepayment is made to the
2 municipality, and any prepayment of assessments under this section shall
3 be in compliance with the provisions of K.S.A. 10-115, and amendments
4 thereto.

5 *(c) If any property originally included in the district becomes exempt*
6 *from assessments by operation of law following formation of the district,*
7 *the municipality shall reallocate the assessments originally levied against*
8 *the property that has become exempt from assessments against the*
9 *remaining property in the district following notice and hearing as*
10 *provided for in the original assessments.*

11 Sec. 5. K.S.A. 2010 Supp. 12-6a31 is hereby amended to read as
12 follows: 12-6a31. (a) In addition to and notwithstanding any limitations on
13 the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187
14 through 12-197, and amendments thereto, any municipality may impose a
15 community improvement district sales tax on the selling of tangible
16 personal property at retail or rendering or furnishing services taxable
17 pursuant to the provisions of the Kansas retailers' sales tax act, and
18 amendments thereto, within a community improvement district for
19 purposes of financing a project in such district in any increment of .10% or
20 .25% not to exceed 2% and pledging the revenue received therefrom to
21 pay the bonds issued for the project or to reimburse the cost of the project
22 pursuant to pay-as-you-go financing. In the event bonds are issued to
23 finance a project or refunding bonds issued therefore, the community
24 improvement district sales tax imposed pursuant to this section shall expire
25 ~~no later than the date such bonds shall mature~~ *on the earlier of the date the*
26 *bonds or any refunding bonds have been paid or are deemed paid in*
27 *accordance with the documents authorizing the issuance of the bonds or*
28 *when sufficient community improvement district sales tax has been*
29 *received by the municipality to provide for the payment of such bonds. In*
30 *the event pay-as-you-go financing is utilized without the issuance of bonds*
31 *for any portion of the cost of the project, the community improvement*
32 *district sales tax shall expire 22 years from the earlier date the state*
33 *director of taxation begins collecting such tax or when the project bonds or*
34 *the pay-as-you-go costs have been paid. Except as otherwise provided by*
35 *the provisions of K.S.A. 2010 Supp. 12-6a27 et seq., and amendments*
36 *thereto, the tax authorized by this section shall be administered, collected*
37 *and subject to the provisions of K.S.A. 12-187 through 12-197, inclusive,*
38 *and amendments thereto.*

39 (b) Upon receipt of a certified copy of the resolution or ordinance
40 authorizing the levy of the community improvement district sales tax
41 pursuant to this section, the state director of taxation shall cause such tax
42 to be collected in the district at the same time and in the same manner
43 provided for the collection of the state retailers' sales tax. All of the taxes

1 collected under the provisions of this act shall be remitted by the secretary
2 of revenue to the state treasurer in accordance with the provisions of
3 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
4 remittance, the state treasurer shall deposit the entire amount in the state
5 treasury, and the state treasurer shall credit 2% of all taxes so collected to
6 the community improvement district sales tax administration fund, which
7 fund is hereby established in the state treasury, to defray the expenses of
8 the department of revenue in administration and enforcement of the
9 collection thereof. The aggregate amount of moneys credited to the
10 community improvement district sales tax administration fund shall not
11 exceed \$60,000 in any state fiscal year. The remainder of such taxes shall
12 be credited to the community improvement district sales tax fund, which
13 fund is hereby established in the state treasury. All moneys in the
14 community improvement district sales tax fund shall be remitted at least
15 quarterly by the state treasurer, on instruction from the secretary of
16 revenue, to the treasurers of those municipalities which are qualified to
17 receive disbursements from such fund for the amount collected within
18 such municipality. Any refund due on any community improvement
19 district sales tax collected pursuant to this section shall be paid out of the
20 community improvement district sales tax refund fund which is hereby
21 established in the state treasury and reimbursed by the director of taxation
22 from collections of the community improvement district sales tax
23 authorized by this section. Community improvement district sales tax
24 received by a municipality pursuant to this section shall be deposited in the
25 community improvement district sales tax fund created pursuant to K.S.A.
26 2010 Supp. 12-6a34, and amendments thereto.

27 (c) Notwithstanding any other provisions of law to the contrary,
28 copies of all retailers' sales and use tax returns filed with the secretary of
29 revenue in connection with a district for which sales or use tax revenues,
30 or both, are pledged or otherwise intended to be used in whole or in part
31 for the payment of bonds issued to finance costs of a project, shall be
32 provided by the secretary of revenue to the bond trustee, escrow agent or
33 paying agent for such bonds upon a written request of the municipality
34 within 15 days of receipt by the secretary of revenue. The bond trustee,
35 escrow agent or paying agent shall keep such retailers' sales and use tax
36 returns and the information contained therein confidential, but may use
37 such information for purposes of allocating and depositing such sales and
38 use tax revenues in connection with the bonds used to finance costs of a
39 project. Except as otherwise provided herein, the sales and use tax returns
40 received by the bond trustee, escrow agent or paying agent shall be subject
41 to the provisions of K.S.A. 79-3614, and amendments thereto.

42 Sec. 6. K.S.A. 2010 Supp. 12-6a36 is hereby amended to read as
43 follows: 12-6a36. (a) Any municipality may issue full faith and credit

1 bonds in one or more series to finance any project in accordance with the
2 provisions of this act and to refinance or refund any notes or bonds issued
3 pursuant to this act. Bonds issued pursuant to this section shall be general
4 obligations of the municipality and give rise to a charge against its general
5 credit and taxing powers, and such bonds shall so state on their face. Such
6 bonds shall be made payable, both as to principal and interest solely from
7 a pledge of the sources of funds described in K.S.A. 2010 Supp. 12-6a33,
8 and amendments thereto, including a pledge of a municipality's full faith
9 and credit to use its ad valorem taxing authority for the repayment thereof
10 in the event all other authorized sources of revenue are not sufficient. The
11 municipality may pledge such revenue to the repayment of such bonds
12 prior to, simultaneously with or subsequent to the issuance of such bonds.

13 (b) Bonds issued pursuant to this section shall be general obligations
14 of the municipality and are declared to be negotiable instruments. Such
15 bonds shall be executed by the authorized representatives of the
16 municipality and sealed with the corporate seal of the municipality. All
17 details pertaining to the issuance of the bonds and terms and conditions
18 thereof shall be determined by ordinance or resolution of the municipality.
19 The provisions of K.S.A. 10-106, and amendments thereto, requiring a
20 public sale of bonds shall not apply to bonds issued under this section. All
21 bonds issued pursuant to this section and all income or interest therefrom
22 shall be exempt from all state taxes except inheritance taxes. Such bonds
23 shall contain the recitals set forth in K.S.A. 10-112, and amendments
24 thereto. Such bonds shall mature in no more than 22 years. Any
25 municipality issuing bonds under the provisions of this section may refund
26 all or part of such bonds pursuant to the provisions of K.S.A. 10-427, and
27 amendments thereto.

28 (c) ~~The amount of the Full faith and credit bonds in an amount up to~~
29 ~~3% of the assessed valuation of the municipality which are issued and~~
30 ~~outstanding under this act which exceeds 3% of the assessed valuation of~~
31 ~~the municipality shall be within the~~ *shall be exempt from and not subject*
32 *to bonded debt limit applicable to such municipality.*

33 (d) If, within 60 days following the date of the public hearing
34 described in K.S.A. 2010 Supp. 12-6a29, and amendments thereto, a
35 protest petition signed by 5% of the qualified voters of the municipality is
36 filed with the municipality's clerk in accordance with the provisions of
37 K.S.A. 25-3601 et seq., and amendments thereto, no full faith and credit
38 bonds shall be issued until the issuance of the full faith and credit bonds is
39 approved by a majority of the voters voting at an election thereon. The
40 failure of the voters to approve the issuance of full faith and credit bonds
41 shall not prevent a municipality from issuing special obligation bonds.

42 (e) The provisions of subsections (b), (c) and (d) shall not apply to
43 loans from the Kansas transportation revolving fund pursuant to K.S.A.

1 2010 Supp. 75-5063 et seq., and amendments thereto.

2 Sec. 7. K.S.A. 2010 Supp. 12-6a27, 12-6a28, 12-6a29, 12-6a30, 12-
3 6a31 and 12-6a36 are hereby repealed.

4 Sec. 8. This act shall take effect and be in force from and after its
5 publication in the Kansas register.