

12-5401. Asbestos in buildings; determination of existence; issuance of bonds authorized, protest petition; technical assistance by secretary of health and environment; definitions. (a) When the governing body of any municipality determines that asbestos-containing material is contained in any of its buildings and that it is necessary to undertake an asbestos control project, the governing body may issue and sell general obligation bonds of the municipality for payment of the costs of such project.

(b) No bonds shall be issued or sold under authority of this section until a resolution authorizing the issuance and sale of such bonds is adopted by the governing body and published once a week for two consecutive weeks in a newspaper having general circulation in the municipality. The resolution shall specify the purpose for which bonds are to be issued and the estimated amount thereof. After adoption of the resolution, the bonds may be issued and sold unless, within 30 days following the last publication of the resolution, a petition in opposition to issuance of the bonds, signed by not less than 10% of the qualified electors of the municipality, is filed with the governing body of the municipality. If a petition is filed, the bonds shall not be issued without the question of issuing the same having been submitted to and approved by a majority of the qualified electors of the municipality voting at an election which shall be called for that purpose or at the next general election. If a special election is called, the governing body shall give notice thereof in the manner prescribed in K.S.A. 10-120, and amendments thereto, and the election shall be held in accordance with the provisions of the general bond law. No action shall be brought in any court to contest the validity of any election held under this section, nor to contest any of the proceedings preliminary thereto, except within 90 days immediately following the certification of the results of the election.

(c) Bonds issued under authority of this section shall not be subject to any bonded indebtedness limitations nor shall the bonds be considered in determining the bonded indebtedness of any municipality. In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may, at the option of the governing body, be retired by tax levies made under K.S.A. 10-113, and amendments thereto.

(d) No municipality shall accept a bid for the removal or encapsulation of asbestos-containing material from any person or business entity which does not hold a certificate or license issued by the secretary of health and environment and authorizing the person or business entity to engage in the removal or encapsulation of such material as provided by article 53 of chapter 65 of Kansas Statutes Annotated.

(e) The secretary of health and environment shall provide, upon request, technical assistance to municipalities in performing asbestos exposure assessments and in selecting appropriate asbestos control projects.

(f) As used in this section:

(1) "Municipality" means a municipality as defined by K.S.A. 10-1101, and amendments thereto;

(2) "governing body" means a governing body as defined by K.S.A. 10-1101, and amendments thereto;

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of municipalities and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

History: L. 1985, ch. 68, § 1; L. 1988, ch. 82, § 1; April 14.