

HOUSE BILL No. 2949

AN ACT concerning cities and counties; relating to transportation development districts; amending K.S.A. 12-194 and 25-432 and repealing the existing sections.

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

New Section 1. (a) This section and sections 2 through 9, and amendments thereto, shall be known and may be cited as the transportation development district act.

(b) The powers conferred by this act are for public uses and purposes for which public money may be expended.

New Sec. 2. As used in this act:

(a) "Acquire" means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and projects already owned by a municipality.

(b) "Bonds" means special obligation bonds or special obligation notes payable solely from the sources described in section 7, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(c) "Consultant" means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the governing body in planning and making of projects.

(d) "Cost" means (1) all costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants and interest accrued on borrowed money during the period of construction together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of revenue bonds, "cost" means the principal amount of such outstanding revenue bonds plus the amount of matured interest, interest maturing within 90 days, plus the amount of any call premium or purchase premium required.

(e) "District" means a transportation development district created pursuant to this act.

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

(g) "Municipality" means any city or county.

(h) "Newspaper" means the official newspaper of the municipality.

(i) "Project" means any project or undertaking to improve any bridge, street, road, highway access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility and any similar or related project or infrastructure.

(j) "Transportation district excise tax" means the tax authorized by section 6, and amendments thereto.

(k) "To improve" means to construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any project.

New Sec. 3. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body of any municipality may create a transportation development district as provided by this act for the purpose of financing projects. A municipality may create a district upon receipt of a petition signed by the owners of record, whether resident or not, of all of the land area within the proposed district. The petition shall contain:

- (1) The general nature of the proposed project;
- (2) the estimated cost of the project;
- (3) the proposed method of financing the district;
- (4) the proposed method of assessment;
- (5) the proposed amount of any sales tax; and
- (6) a map or boundary description of the proposed district.

(b) Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the peti-

tions or later than seven days after such filing, whichever occurs first, and the petitions shall contain a notice that the names of the signers may not be withdrawn after such a period of time.

(c) The district boundaries and the method of financing for the project shall not require that all property that is benefited by the project be included in the district or be subject to an assessment or the transportation district excise tax.

New Sec. 4. (a) Before the creation of any district, the governing body, by resolution, shall call and hold a public hearing on the advisability of the creating of the district and the financing of the project. Notice of the hearing shall be given by at least one publication in a newspaper and by certified mail to all property owners within the proposed district. The notice shall be published at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least 10 days prior to the date of hearing. Such notice shall contain the following information:

- (1) Time and place of hearing;
- (2) general nature of the proposed project;
- (3) the estimated cost of the project;
- (4) the proposed method of financing of the project;
- (5) the proposed amount of assessments and the method of assessment;
- (6) the proposed amount of any transportation district excise tax; and
- (7) a map or boundary description of the proposed district.

(b) The hearing may be adjourned from time to time. Following the hearing or any continuation thereof, the governing body may create the district, authorize the project and approve the estimated cost of the project, the boundaries of the district, the method of financing and the method of assessments, if any, by adoption of the appropriate ordinance or resolution.

(c) The area of the district to be assessed may be less than, but shall not exceed, the area proposed to be assessed as stated in the notice of hearing without giving notice and holding a new hearing on the project.

(d) Nothing in this section shall be construed as authorizing the imposition of a transportation district excise tax until authorized as provided by section 6, and amendments thereto.

New Sec. 5. In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body may make, or cause to be made, projects which confer a special benefit upon property within the district and may levy and collect special assessments upon property in the district and provide for the payment of all or any part of the cost of the project out of the proceeds of such special assessments. If special assessments will be levied to finance all or a portion of the cost of a project, the municipality shall follow the assessment procedures in K.S.A. 12-6a01 *et seq.*, and amendments thereto, except that no project costs may be apportioned against the municipality at large and no full faith and credit notes or bonds may be issued by the municipality to finance a project under this act. A petition submitted pursuant to section 3, and amendments thereto, shall be conclusive as to the method of assessment, property to be included in the district and benefits of any project.

New Sec. 6. (a) Any municipality may impose a transportation district excise tax on the selling of tangible personal property at retail or rendering or furnishing services within a transportation development district for purposes of financing a project in such district in any increment of .10% not to exceed 1.0% and pledging the revenue received therefrom to pay the bonds issued for the project. Any transportation district excise tax imposed pursuant to this section shall expire no later than the date the bonds issued to finance such project or refunding bonds issued therefor shall mature.

(b) Any municipality proposing to impose a transportation district excise tax authorized by this section shall adopt a resolution stating its intention to levy such tax. Such notice shall be published at least once each week for two consecutive weeks in the newspaper. If within 30 days after the last publication of the notice a petition signed by at least 5% of the owners of record within the transportation development district is submitted to the clerk of the municipality requesting an election upon such question, an election of the owners of record, whether resident or not,

shall be called and held thereon. Such election shall be called and held in the manner provided by K.S.A. 25-431 *et seq.*, and amendments thereto. If no protest or no sufficient protest is filed or if an election is held and the proposition carries by a majority of the owners of record within the district voting thereon, the governing body, by resolution or ordinance, may levy such tax. Such tax shall be administered and collected by the municipality, except that such tax shall be subject to the conditions or limitations contained in the provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.

New Sec. 7. No suit to set aside the assessments, the transportation district excise tax or otherwise question the validity of the proceedings for the creation of the district or the authorization of the project shall be brought after the expiration of 30 days from the adoption of the ordinance or resolution creating the district.

New Sec. 8. The total cost of any project authorized pursuant to this act shall be paid from all or any of the following sources:

(a) Special assessments imposed in the district pursuant to this act which have been paid in full prior to the date set by the governing body as provided in K.S.A. 12-6a10, and amendments thereto, shall be paid from assessments so collected;

(b) special assessments imposed in the district pursuant to this act, to be paid in installments;

(c) a pledge of all of the revenue received from the transportation district excise tax authorized by section 6, and amendments thereto; and

(d) any other funds appropriated by the municipality.

New Sec. 9. A separate fund shall be created for each district and each project and such fund shall be identified by a suitable title. The proceeds from the sale of bonds and any other moneys appropriated by the governing body for such purpose shall be credited to such fund. Such fund shall be used solely to pay the costs of the project.

New Sec. 10. (a) Any municipality may issue bonds in one or more series to finance the undertaking of any project in accordance with the provisions of this act. Such bonds shall be made payable, both as to principal and interest solely from a pledge of the sources of funds described in section 8, and amendments thereto. The municipality may pledge such revenue to the repayment of such bonds prior to, simultaneously with, or subsequent to the issuance of such bonds.

(b) Bonds issued pursuant to subsection (a) shall not be general obligations of the municipality, give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in subsection (a) and such bonds shall so state on their face.

(c) Bonds issued pursuant to subsection (a) shall be special obligations of the municipality and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the municipality and sealed with the corporate seal of the municipality. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by ordinance or resolution of the municipality. The provisions of K.S.A. 10-106, and amendments thereto, requiring a public sale of bonds shall not apply to bonds issued under this act. All bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes except inheritance taxes. Such bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such bonds shall contain the following recitals: The authority under which such bonds are issued; that such bonds are in conformity with the provisions, restrictions and limitations thereof; and that such bonds and the interest thereon are to be paid from the money and revenue received as provided in subsection (a).

(d) Any municipality issuing bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(e) Bonds issued under the provisions of this act shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on such municipality.

Sec. 11. K.S.A. 12-194 is hereby amended to read as follows: 12-194. No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax,

upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; ~~or~~ (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; *or (d) levying a tax for the purpose of financing a transportation development district, created under sections 1 through 10, and amendments thereto.* No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

Sec. 12. K.S.A. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision; and

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer; and

(c) the election is nonpartisan; and

(d) the election is not one at which any candidate is elected, retained or recalled; and

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto;

(4) townships;

(5) benefit districts ~~as~~ organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts ~~as~~ organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

(7) combined sewer districts ~~as~~ organized under K.S.A. 19-27,169, and amendments thereto;

(8) community college districts ~~as~~ organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;

(9) fire districts ~~as~~ organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

(10) hospital districts;

(11) improvement districts ~~as~~ organized under K.S.A. 19-2753, and amendments thereto;

(12) Johnson county park and recreation district ~~as~~ organized under K.S.A. 19-2859, and amendments thereto;

(13) sewage disposal districts ~~as~~ organized under K.S.A. 19-27,140, and amendments thereto; ~~or~~

(14) water districts ~~as~~ organized under K.S.A. 19-3501 *et seq.*, and amendments thereto; *or*

(15) *transportation development districts created pursuant to section 1 et seq.*, and amendments thereto.

Sec. 13. K.S.A. 12-194 and 25-432 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_

HOUSE concurred in  
SENATE amendments \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*