

HOUSE BILL No. 2365

By Representative Patterson

2-12

AN ACT relating to economic development; establishing community improvement districts.

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

Section 1. This act shall be known and cited as the community improvement districts act.

Sec. 2. The purpose of this act is to allow owners of real property to collectively organize and coordinate efforts to develop, redevelop, beautify and improve their community through the creation of a community improvement district. Such districts may provide innovative ways to generate moneys to fund enhanced services and capital improvements while spurring on economic development; promote, stimulate and develop the general and economic welfare of the state of Kansas and its communities; assist in the development and redevelopment of areas within and without a city thereby promoting the general welfare of the citizens of Kansas by authorizing the cities to acquire certain property, issue special obligation bonds or execute development agreements financing projects on a pay-as-you-go basis at interest for the financing of projects. It is further found and declared that the powers conferred by this act are for uses and purposes for which public moneys may be expended and the power of eminent domain exercised. The necessity in the public interest for the provisions of this act is hereby declared as a matter of legislative determination.

Sec. 3. (a) Any municipality or county may establish one or more community improvement districts (hereafter, districts) after receiving a petition signed by: (1) the owners of real property in the district, collectively owning real property representing 50% of the assessed value of the real property located within the proposed district; and (2) more than 50% per capita of all owners of the real property located within the district and filed with the municipal clerk.

(b) The petition shall:

(1) Set forth the purpose of, duration of and limitations of the district powers;

(2) describe the proposed legal description and boundaries of the district in graphic form;

1 (3) set forth an initial five-year plan specifying the type and estimated
2 costs of the improvements and services to be provided by the district;

3 (4) set forth the size, area, existing uses, proposed uses, duration and
4 type of district, including a preliminary plan that identifies all of the pro-
5 posed project improvements and, in a general manner, all of the buildings,
6 facilities and improvements in each district proposed to be constructed
7 or improved in each project as well as the proposed phasing of the project
8 improvements;

9 (5) set forth the project costs to be incurred in developing or rede-
10 veloping the district necessary to implement the district improvements,
11 including, but not limited to, costs incurred for: (A) Acquisition of prop-
12 erty within the project; (B) site preparation including grading and utility
13 relocations; (C) sanitary and storm sewers and related facilities; (D) drain-
14 age conduits, channels and water handling facilities; (E) street or parking
15 lot grading, paving, graveling, macadamizing, curbing, guttering and sur-
16 facing; (F) street light fixtures, connection and facilities; (G) gas, water,
17 heating, electrical and all other utility services and connections located
18 within or without public right-of-way, on or off the site of the district but
19 necessary for the development or redevelopment of the district; (H) side-
20 walks, drives and driveway approaches located within and without public
21 right-of-way; (I) parking facilities; (J) landscaping and plantings, fountains,
22 shelters, benches, sculptures, lighting, decorations and similar amenities;
23 (K) all related expenses to develop or redevelop, or both, and finance the
24 project improvements, such as design, engineering, professional services,
25 development fees, financing costs and fees, development-construction
26 and permanent financing interest; and (L) costs and capital expenditures
27 incurred in connection with the construction of public or private buildings
28 or other structures, including those to be owned by or leased by the
29 petitioner, its developer, their successors or assigns;

30 (6) set forth the maximum rates of real property taxes and special
31 assessments that may be imposed by the district; and

32 (7) set forth the district sales tax proposed to be levied in the district.

33 (c) After the petition is filed with the municipal clerk, such clerk shall
34 verify whether the petition meets the requirements of this subsection, if
35 it does not meet the requirements of the act the municipal clerk shall
36 notify the party which filed the petition of its specific deficiencies. The
37 clerk must verify the petition within 90 days of its filing.

38 (d) Within 45 days after the petition is verified, the governing body
39 of the municipality by resolution, shall call and hold a public hearing
40 concerning the establishment of the district.

41 (e) Notice of the public hearing shall be given in a newspaper of
42 general circulation within the municipality once a week for two consec-
43 utive weeks prior to the week of the public hearing, and by certified mail

1 to all property owners of record within the proposed district. The second
2 published notice shall be published at least seven days prior to the date
3 of hearing and the certified mail notice shall be sent at least 15 days prior
4 to the hearing. Such notice shall contain:

- 5 (1) The time and place of hearing;
- 6 (2) the general nature of the proposed community improvement
7 district;
- 8 (3) the estimated cost of the project;
- 9 (4) the proposed method of financing of the project;
- 10 (5) the proposed amount of special assessments and the method of
11 assessment;
- 12 (6) the proposed amount of real property taxes that may be imposed;
- 13 (7) the proposed project sales tax to be imposed upon economic ac-
14 tivity within the district; and
- 15 (8) a map or boundary description of the proposed district.

16 (f) Upon the conclusion of the public hearing, the governing body of
17 the municipality may pass an ordinance adopting the proposed petition
18 and establishing the district as set forth in the petition. Notice of such
19 ordinance shall be published at least once each week for two consecutive
20 weeks in a newspaper of general circulation. If within 30 days after the
21 last publication of the notice, a petition signed by at least 5% of the owners
22 of record within the community improvement district is submitted to the
23 clerk of the municipality requesting an election upon such question, an
24 election of the owners of record, whether resident or not, shall be called
25 and held thereon. Such election shall be called and held in the manner
26 provided by K.S.A. 25-431 et seq., and amendments thereto. If no protest
27 or no sufficient protest is filed or if an election is held and the proposition
28 carries by a majority of the owners of record within the district voting
29 thereon, the governing body of the community improvement district shall
30 commence implementation of the district plan. No suit to set aside the
31 community improvement district or otherwise question the validity of the
32 proceedings for the creation of the community improvement district or
33 the authorization of the project shall be brought after the expiration of
34 30 days from the adoption of the ordinance or resolution creating the
35 district.

36 (g) Amendments may be made to the petition without an additional
37 public hearing if the amendments do not change the boundaries of the
38 proposed district and are made prior to the adoption of an ordinance
39 approving the petition. If the amendments are made prior to the close of
40 the public hearing, notice of the amendments may be given at the public
41 hearing, otherwise notice must be given by mail and publication not less
42 than 10 days prior to the adoption of an ordinance establishing the pro-
43 posed district and approving the amended petition.

1 (h) After the adoption of an ordinance establishing the district and
2 approving the petition, the petition may be amended only after proper
3 notice is given regarding the proposed amendments and a public hearing
4 is held.

5 Sec. 4. A community development district can be either a political
6 subdivision with the power to impose special assessments and real prop-
7 erty taxes or a nonprofit corporation with the power to impose special
8 assessments. Both political subdivision districts and nonprofit districts are
9 governed by a board of directors.

10 (a) A district that is a political subdivision shall be governed by a board
11 of directors elected by the district's qualified voters or appointed by the
12 municipality. The petition must specify which method will be applicable.
13 The board must consist of at least five but not more than 30 directors,
14 each of whom must be at least 18 years of age and either an owner of
15 real property or a business within the district, or a registered voter within
16 the district.

17 (1) *Election of Directors.* If the petition provides that the directors
18 are to be elected, the directors shall be elected at large by the qualified
19 voters of the district pursuant to a mail-in ballot procedure, except that
20 the initial board of directors may be stated in the petition in lieu of holding
21 an election with subsequent members being elected.

22 (A) "Qualified voters" for the purpose of electing directors of a dis-
23 trict means the registered voters residing within the district who own real
24 property within the district.

25 (B) The election procedure shall be as follows:

26 (i) The municipal clerk shall specify the date on which the election
27 will occur. Such date shall be a Tuesday and shall not be earlier than the
28 10th Tuesday, nor later than the 15th Tuesday, after the effective date of
29 the ordinance establishing the district.

30 (ii) Candidates must file with the municipal clerk no later than the
31 second Tuesday after the effective date of the ordinance establishing the
32 district.

33 (iii) The municipal clerk shall publish notice of the election in a news-
34 paper of general circulation within the municipality two times. The first
35 publication date must be more than 60 days prior to the date of election
36 and the second publication date must not be more than 30 days nor less
37 than 10 days prior to the date of the election.

38 (C) The terms of the directors shall be equally divided between two
39 and four-year terms based on the number of votes received with the
40 directors receiving the highest number of votes serving the four-year
41 terms. If an odd number of directors is elected, the director receiving the
42 least number of votes shall serve a two-year term. Successor directors
43 shall serve four-year terms and be elected in the same manner as the

1 initially elected board members. Alternatively, the initial directors may
2 be named in the petition so no election needs to be held until the initial
3 directors serving a two-year term need to be elected. The petition shall
4 set out the term of office for each of the named directors.

5 (2) *Appointment of Directors.* If the petition provides that the direc-
6 tors are to be appointed by the municipality, the appointments shall be
7 made by the chief elected official of the municipality with the consent of
8 the governing body of the municipality and may be completed at the time
9 the petition is approved. One-half of the directors appointed shall serve
10 a four-year term and one-half will serve a two-year term. If there is an
11 odd number of directors appointed, the last director appointed shall serve
12 a two-year term. Successor directors serve four-year terms.

13 (b) A district that is a nonprofit corporation shall be governed by a
14 board of directors selected in accordance with chapter 17 of the Kansas
15 Statutes Annotated.

16 Sec. 5. The cost of any community improvement district project shall
17 be paid from all or any of the following sources:

18 (a) *Special assessments.* The board of directors of any community
19 improvement district may levy by resolution one or more special assess-
20 ments against real property within the district's boundaries after a special
21 assessment petition is submitted to the board requesting such assessment.
22 More than one special assessment may be requested in such petition.

23 (1) The special assessment petition must be signed by:

24 (A) The owners of real property in the district, collectively own real
25 property representing more than 50% of the assessed value of the real
26 property within the district; and

27 (B) more than 50% per capita of the owners of all real property within
28 the district.

29 (2) The special assessment petition, for each special assessment re-
30 quested, must also state the purpose, method of assessment, amount and
31 expiration date of the special assessment, and the tracts of real property
32 to be benefited by the service or improvements, or both, and to be paid
33 within the special assessment.

34 (3) To assure that the rate of assessment reflects the various amounts
35 of benefit level derived from the various improvements and services
36 funded by the special assessment, the levy rate of the special assessment
37 may vary for each class of real property established by the district based
38 on the level of benefit derived by each class of real property.

39 (4) The community improvement districts may make multiple as-
40 sessments based on appropriate petitions for proper purposes.

41 (5) Real property within the district that is tax exempt is also exempt
42 from the district's special assessment unless the owners of such property
43 elect to participate in the district. Such exempt property includes, but is

1 not limited to, property that is actually and regularly used exclusively for
2 religious worship, for schools and colleges, or for purposes purely chari-
3 table and not held for private or corporate profit.

4 (6) The funds received from each special assessment shall be placed
5 in separate accounts and not commingled.

6 (b) *Real property taxes.* Only community improvements districts
7 which are political subdivisions have the power to levy real property taxes.
8 A district that is a political subdivision may levy such a tax by resolution.

9 (1) A resolution levying such a tax is not effective until it is approved
10 by a majority of the qualified voters by mail-in ballots. For purposes of
11 this subsection, “qualified voters” means:

12 (A) Registered voters residing in the district; or

13 (B) if there are no registered voters residing within the district, the
14 owners of real property within the district.

15 (2) Election procedure is as follows:

16 (A) Upon receipt of written notice of a district’s resolution, the elec-
17 tion authority shall specify a date upon which the election shall occur.
18 The election date shall be a tuesday. The date shall not be earlier than
19 the 10th Tuesday nor later than the 15th Tuesday after the date of the
20 board’s passage of the resolution.

21 (B) The election authority shall publish notice of the election in a
22 newspaper of general circulation within the municipality two times. The
23 first publication shall be more than 60 days prior to the date of election
24 and the second publication date shall not be more than 30 days prior to
25 the election.

26 (3) Real property within the district that is tax exempt is also exempt
27 from the district’s real property taxes. Such exempt property includes
28 property owned by a city, county or other political subdivision, as well as
29 that which is actually and regularly used exclusively for religious worship,
30 for schools and colleges or for purposes purely charitable and not held
31 for private or corporate profit.

32 (c) *Local economic activity tax.* Any district plan may provide for and
33 impose a local economic activity tax on the selling of tangible personal
34 property at retail or rendering or furnishing services within the district
35 for purposes of financing a project in such district in any increment of
36 .10% not to exceed 1% and pledging the revenue received therefrom to
37 pay the bonds issued for the project or otherwise pay for project costs
38 pursuant to the district plan. Any local economic activity tax imposed
39 pursuant to this section shall expire no later than the date the bonds issued
40 to finance such project or refunding bonds issued therefore shall mature
41 or as otherwise provided in the district plan providing for the payment of
42 project costs.

43 (d) *Coordination and use of other statutory economic development*

1 *provisions*. A tax increment financing plan pursuant to K.S.A. 12-1770 *et*
2 *seq.*, and amendments thereto also may be implemented, in whole or in
3 part, to develop a community improvement district plan in conjunction
4 with other statutory provisions providing for the development or rede-
5 velopment of areas within municipalities or counties or any other eco-
6 nomic development provisions. However, the provisions of subsection (d)
7 of K.S.A. 12-1771, and amendments thereto, shall not apply if any tax
8 increment financing plan within a district captures any incremental taxes
9 imposed by the municipality.

10 (e) *Other sources*. A community improvement district may accept
11 grants, gifts, donation of property, labor, services and any other contri-
12 butions from any public or private source. It can also charge and collect
13 fees and rents for the use of its real and personal property, as well as
14 enter into agreements to provide services for a fee.

15 Sec. 6. (a) Any community improvement district may issue bonds in
16 one or more series to finance the undertaking of any project in accordance
17 with the provisions of this act. Such bonds or other form of obligations
18 or development agreements used to finance or provide for the financing
19 of project costs shall be made payable, both as to the principal and interest
20 solely from a pledge of the sources of funds described in section 5, and
21 amendments thereto. The district may pledge such revenue to the re-
22 payment of such bonds or obligations prior to, simultaneously with or
23 subsequent to the issuance.

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

29 (c) Bonds or other obligations issued pursuant to subsection (a) shall
30 be special obligations of the district and are declared to be negotiable
31 instruments. Such bonds or obligations shall be executed by the author-
32 ized representatives of the district and sealed with the corporate seal of
33 the municipality. All details pertaining to the issuance of the bonds and
34 terms and conditions thereof shall be determined by ordinance or reso-
35 lution of the municipality. The provisions of K.S.A. 10-106, and amend-
36 ments thereto, requiring a public sale of bonds shall not apply to bonds
37 issued under this act. All bonds issued pursuant to this act and all income
38 or interest therefrom shall be exempt from all state taxes except inher-
39 itance taxes. Such bonds shall contain none of the recitals set forth in
40 K.S.A. 10-112, and amendments thereto. Such bonds shall contain the
41 following recitals: The authority under which such bonds are issued; that
42 such bonds are in conformity with the provisions, restrictions and limi-
43 tations thereof; and that such bonds and the interest thereon are to be

1 paid from the money and revenue received as provided in subsection (a).

2 (d) Any municipality issuing bonds under the provisions of this act
3 may refund all or part of such issue pursuant to the provisions of K.S.A.
4 10-116a, and amendments thereto.

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

8 Sec. 7. A separately named fund shall be created for each district
9 with each project within each district within the fund identified by a
10 suitable name. The proceeds from the sale of bonds and any other moneys
11 appropriated for such purpose shall be credited to such fund. Such fund
12 shall be used solely to pay for the costs of the project.

13 Sec. 8. The board of directors of the community improvement dis-
14 trict have the power to:

15 (a) Make and enter into contracts with both public and private
16 entities;

17 (b) enter into agreements with the municipality to eliminate any pub-
18 lic nuisance within the district;

19 (c) acquire and sell real and personal property;

20 (d) borrow money;

21 (e) issue bonds and other obligations and loan money;

22 (f) employ or contract for services, including managerial, engineering,
23 legal, technical, clerical, accounting, security, cleaning, waste removal and
24 maintenance;

25 (g) provide assistance and funding to construct, reconstruct, install,
26 repair, maintain and equip numerous improvements as authorized by this
27 act;

28 (h) assist the growth and development of business within the district
29 by utilizing its power to contract for or conduct economic planning and
30 marketing studies as well as its power to provide advertising and market-
31 ing for the district;

32 (i) expend its revenues or loan funds as needed to correct conditions
33 on private property within the district, provided that the municipality has
34 determined that such expenditure will remediate such conditions and
35 serve a public purpose.

36 Sec. 9. Once a community improvement district is formed, it will
37 operate in accordance with its powers, purpose and limitations, if any, as
38 set forth in this act.

39 Sec. 10. This act shall take effect and be in force from and after its
40 publication in the statute book.

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