

SENATE BILL No. 178

AN ACT concerning cities and counties; relating to special benefit districts therein; the powers and duties of the governing bodies thereof; amending K.S.A. 12-1617e, 12-6a01, 12-6a04 and 12-6a08 and K.S.A. 2002 Supp. 12-194 and 25-432 and repealing the existing sections; also repealing K.S.A. 2002 Supp. 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138 and 12-17,139.

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

Section 1. K.S.A. 12-6a01 is hereby amended to read as follows: 12-6a01. For the purpose of this act, the terms defined in this section shall have the meanings ascribed to them as follows:

(a) "Improvement" means any type of improvement made under authority of this act and the singular may include the plural, and includes reimprovement of a prior improvement.

(b) "To improve" means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend or to otherwise perform any work which will provide a new facility or enhance, extend or restore the value or utility of an existing facility.

(c) "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 improvements already owned by the city and previously financed by the issuance of revenue bonds, such acquisition to constitute a refunding of such revenue bonds and no additional refunding authority shall be required but nothing herein shall be construed to require a holder of any such revenue bonds to surrender bonds for refunding unless the provisions of such bonds allow the redemption thereof.

(d) "Cost" means 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 improvement and may include a charge of not to exceed 5% of the total cost of an improvement or the cost of work done by the city to reimburse the city for the services rendered by the city in the administration and supervision of such improvement by its general officers and where property and improvements already owned by the city and previously financed by the issuance of revenue bonds is acquired the cost shall include not to exceed the principal amount of such outstanding revenue bonds plus the amount of matured interest, interest maturing within 90 days, and the amount of any call premium or purchase premium required.

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

(f) "Improvement district" means:

(1) An area deemed by the governing body to be benefited by an improvement and subject to special assessment for all or a portion of the cost of the improvement; *or*

(2) *an area described in a petition submitted in accordance with subsection (c) or (d) of K.S.A. 12-6a04, and amendments thereto, and subject to a special assessment for all or a portion of the cost of the improvement.*

(g) "Street" means street, alley, avenue, boulevard, or other public way or any part thereof.

(h) "Newspaper" means the official designated newspaper of the city, or if there is no newspaper published therein or no official newspaper, a newspaper of general circulation in the city authorized to publish legal notices.

(i) "Asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite and actinolite.

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

(k) "Asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in any municipally owned building or privately owned building, which has been declared by the governing body to be for a public purpose and a benefit to the general health, safety and welfare or to the general economic development of the area within such privately owned buildings are located.

Such project shall include, but not by way of limitation, any activity undertaken for:

- (1) The removal or encapsulation of asbestos-containing material;
- (2) any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation;
- (3) conducting inspections, reinspections and periodic surveillance of buildings;
- (4) performing response actions;
- (5) developing, implementing and updating operations and maintenance programs and management plans; and
- (6) all preparation, cleanup, disposal and postabatement clearance testing measures associated with such activities.

(l) “Lead control project” means any activity which is necessary or incidental to the control of any lead hazard in any municipally owned building or privately owned building, which has been declared by the governing body to be for a public purpose and a benefit to the general health, safety and welfare or to the general economic development of the area within such privately owned buildings are located. Such project shall include, but not by way of limitation, any activity undertaken for:

- (1) The removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil;
- (2) any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation;
- (3) conducting inspections, reinspections and periodic surveillance of buildings;
- (4) performing response actions;
- (5) developing, implementing and updating operations and maintenance programs and management plans; and
- (6) all preparation, cleanup, disposal and postabatement clearance testing measures associated with such activities.

(m) “Lead hazard” means any condition which causes exposure to lead that would result in adverse human health effects.

Sec. 2. K.S.A. 12-6a04 is hereby amended to read as follows: 12-6a04. (a) Before any contract is let or any work is ordered or authorized for an improvement, the governing body shall by resolution direct and order a public hearing on the advisability of the improvement. Except as provided in ~~subsection (d)~~ *subsections (d) and (e)*, notice of the hearing shall be given by not less than two publications in a newspaper. The two publications shall be a week apart and at least three days shall elapse between the last publication and the hearing. Notice shall be given as to:

- (1) Time and place of hearing;
- (2) general nature of the proposed improvements;
- (3) the estimated or probable cost;
- (4) extent of the proposed improvement district to be assessed;
- (5) the proposed method of assessment; and
- (6) proposed apportionment of cost, if any, between the improvement district and the city at large. The hearing may be adjourned from time to time and until the governing body shall have made findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and the apportionment of cost, if any, between the district and the city at large, all as finally determined by the governing body, except that the area of the improvement 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 improvement. The governing body may proceed without such notice and hearing, to make findings by resolution as to the advisability of improvements as provided in this section whenever the proceedings are to improve sanitary and storm water sewers.

(b) Petitions for any improvement authorized to be made under the provisions of this act which set forth:

- (1) The general nature of the proposed improvement;
- (2) the estimated or probable cost;
- (3) the extent of the proposed improvement district to be assessed;
- (4) the proposed method of assessment;

(5) the proposed apportionment of cost, if any, between the improvement district and the city at large; and

(6) a request that such improvement be made without notice and hearing as required in subsection (a) of this section, may be filed with the city clerk. Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after such filing, whichever occurs first, except that the petitions shall contain a notice that the names of the signers may not be withdrawn after such a period of time. Such petitions may be found sufficient if signed by either:

(A) A majority of the resident owners of record of property liable for assessment under the proposal; (B) the resident owners of record of more than one-half of the area liable for assessment under the proposal; or (C) the owners of record, whether resident or not, of more than one-half of the area liable to be assessed under the proposal.

(c) *Any municipality, as such term is defined in K.S.A. 12-105a, and amendments thereto, or any one or more persons or entities who or which, whether one or more, are willing to pay the costs of a proposed improvement may file a petition requesting the proposed improvement. Such petition shall be filed with the city clerk and shall set forth:*

(1) *The general nature of the proposed improvement;*  
(2) *the estimated or probable cost;*  
(3) *a description of the property proposed to be included in the improvement district to be assessed;*  
(4) *the proposed method or methods of assessment;*  
(5) *the proposed apportionment of costs, if any, between the improvement district and the city at large;*

(6) *a statement that the signers of the petition, in the aggregate, are the owners of 100% of the property or properties proposed to be included in the improvement district, acknowledge that the:*

(A) *Petition is one submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto;*

(B) *proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement; and*

(C) *signers' names may not be withdrawn from the petition by the signers thereof after the governing body commences consideration of the petition or later than seven days after such filing, whichever occurs first; and*

(7) *a request that such improvement be made without notice and hearing as required in subsection (a).*

*For purposes of subsection (c), the term "entity" shall mean and include, but shall not be limited to, any municipality, any natural person, corporation, partnership, limited liability company, limited liability partnership, trust, association or other form of business or charitable organization.*

(d) Upon filing of such petitions, the governing body may make findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city at large, all as determined by the governing body. *With respect to any petition filed pursuant to subsection (c), such findings shall include a finding that the improvement district does not include all the property which may be deemed to be benefitted by the proposed improvement and the the persons who signed such petition are willing to pay the costs of the proposed improvement as set forth in the petition.* Thereupon the governing body may proceed without notice and hearing to order the improvement as provided in K.S.A. 12-6a06, and amendments thereto, except that no protest shall be received as provided in such section. The area of the improvement district finally determined by the governing body to be assessed may not exceed the district proposed in the petition unless notice is given and a hearing held as provided in subsection (a) of this section, in which instance the proceedings shall be subject to protest as in other cases.

~~(d)~~ (e) Whenever adjoining parallel streets have been improved, and the city proposes to improve the intervening connecting street to the same extent as the streets to be connected, or when two portions of any street have been improved and an intervening portion not exceeding two blocks has not been improved, and the city proposes to improve such intervening

portion to the same extent as the improved portions, in addition to the notice required under subsection (a), notice of public hearing on the advisability of such improvements shall be given by certified mail to the owners of record of such property. Such notice shall include the information required under subsection (a).

Sec. 3. K.S.A. 12-6a08 is hereby amended to read as follows: 12-6a08. (a) The portion of the cost of any improvement to be assessed against the property in the improvement district as determined in K.S.A. 12-6a04, and amendments thereto, shall be apportioned against the property in accordance with the special benefits accruing thereto by reasons of such improvement *or in accordance with the provisions of any petition submitted pursuant to subsection (b) or (c) of K.S.A. 12-6a04, and amendments thereto.* The cost may be assessed equally per front foot or per square foot against all lots and pieces of land within such improvement district or assessed against such property according to the value of the lots and pieces of land therein. ~~The value of such property shall be as~~ determined by the governing body of the city with or without regard to the buildings and improvements thereon *or as set forth in the petition requesting such improvement* or the cost may be determined and fixed on the basis of any other reasonable assessment plan which will result in imposing substantially equal burdens or shares of the cost upon property *within the improvement district* similarly benefited. The governing body may from time to time determine and establish by ordinance reasonable general classifications and formulae for the apportionment of the cost between the city and the area to be assessed, and the methods of assessing the special benefits, for various classes of improvements.

(b) This section shall not be construed to limit the adoption of any assessment plan for any improvement that recognizes varying benefit levels *to property within the improvement district* and imposes assessments in relation thereto.

New Sec. 4. (a) Sections 4 through 13, 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, economic development purposes or purposes for which public money may be expended.

New Sec. 5. As used in sections 4 through 13, and amendments thereto: (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) “Act” means the provisions of sections 4 through 13, and amendments thereto.

(c) “Bonds” means special obligation bonds or special obligation notes payable solely from the sources described in section 11, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

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

(e) “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, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, 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 bonds, “cost” means costs authorized by K.S.A. 10-116a and amendments thereto.

(f) “District” means a transportation development district created pursuant to this act.

(g) “Governing body” means the governing body of a city or the board of county commissioners of a county.

(h) “Municipality” means any city or county.

(i) “Newspaper” means the official newspaper of the municipality.

(j) “Owner” means the owner or owners of record, whether resident or not, of real property within the district.

(k) “Project” means any project or undertaking, whether within or without the district, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend 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 or any other transportation related project or infrastructure.

(l) “Transportation development district sales tax” means the tax authorized by section 9, and amendments thereto.

New Sec. 6. (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 district as provided by this act for the purpose of financing projects. A municipality may create a district, or may modify a previously created district, upon receipt of a petition signed by the owners 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 project;

(4) the proposed amount and method of assessment;

(5) the proposed amount of transportation development district 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 petitions or later than seven days after such filing, whichever occurs first. The petition shall contain a notice that: (1) The names of the signers may not be withdrawn after such a period of time; and (2) the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

(c) Upon filing of the petition for a district financed only by assessments, the governing body may proceed without notice or a hearing to make findings by resolution or ordinance as to the nature, advisability and estimated cost of the project, the boundaries of the district and the amount and method of assessment. Upon making such findings the governing body may authorize the project in accordance with such findings as to the advisability of the project. The resolution or ordinance shall be effective upon publication once in a newspaper.

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

(e) Following authorization of the project, the petition shall be submitted for recording in the office of the register of deeds of the county in which the district is located.

New Sec. 7. 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 identified in the petition submitted pursuant to section 6 or 8 and amendments thereto 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 assessments may be levied 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.

New Sec. 8. (a) Upon filing a petition in accordance with section 6 and amendments thereto for a district financed in whole or in part by a

proposed transportation development district sales tax authorized by section 9 and amendments thereto, the municipality shall adopt a resolution stating its intention to levy such transportation development district sales tax, and give notice of the public hearing on the advisability of creating the district and financing of the project. Such notice shall be published at least once each week for two consecutive weeks in the newspaper and shall be sent by certified mail to all owners. The second 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) The time and place of the hearing;
- (2) the 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 the transportation development district sales tax;
- (6) the proposed amount and method of assessment, if any; and
- (7) a map or boundary description of the proposed district.

(b) The hearing on the advisability of the creating of the district and the financing of the project 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 and the method of financing by adoption of the appropriate ordinance or resolution. Such ordinance or resolution shall become effective upon publication once in the newspaper, unless, within 30 days after the commencement of the hearing, a petition requesting an election upon such question and signed by at least 5% of the owners is submitted to the clerk of the municipality. An election of the owners shall then be called and held thereon, in accordance with subsection (b) of section 9 and amendments thereto.

New Sec. 9. (a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may impose a transportation development district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within a transportation development district for purposes of financing a project in such district in any increment of .10% or .25% not to exceed 1% and pledging the revenue received therefrom to pay the bonds issued for the project. Any transportation development district sales tax imposed pursuant to this section shall expire no later than the date the bonds issued to finance such project or refunding bonds issued therefore shall mature.

(b) Any municipality proposing to impose a transportation development district sales tax authorized by this section shall adopt a resolution stating its intention to levy such tax. Such notice shall contain the information for notices set forth in subsections (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) and (a)(7) of section 8 and amendments thereto and 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 is submitted to the clerk of the municipality requesting an election upon such question, an election of the owners shall be called and held thereon. If the information in such notice is identical to the information included in such categories in the notice provided in subsection (a) of section 8 and amendments thereto, the notice and protest requirements set forth in this section are deemed satisfied by compliance with the notice, hearing and protest requirement of section 8 and amendments thereto. 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 voting thereon, the governing body, by resolution or ordinance, may levy such tax. Except as provided in this act, the tax authorized by this section shall be administered, collected and subject to provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.

(c) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the transportation development district sales tax

pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The remainder of such taxes shall be credited to the transportation development district sales tax fund, which fund is hereby established in the state treasury. All moneys in the transportation development district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those municipalities which are qualified to receive disbursements from such fund the amount collected within such municipality. Any refund due on any transportation development district sales tax collected pursuant to this section shall be paid out of the transportation development district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the transportation development district sales tax authorized by this section. Transportation development district sales tax received by a municipality pursuant to this section shall be deposited in the transportation development district sales tax fund created pursuant to section 12, and amendments thereto.

New Sec. 10. No suit to set aside the assessments 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 publication of the ordinance or resolution creating the district. No suit to set aside the transportation development district sales tax shall be brought after the expiration of 30 days from the publication of the ordinance or resolution declaring the intent to impose the transportation development district sales tax.

New Sec. 11. 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;

(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 development district sales tax authorized by section 9, and amendments thereto; and

(d) any other funds appropriated by the municipality.

New Sec. 12. 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. Upon payment of the principal and interest on the bonds, if any, the municipality shall have the authority to spend any moneys remaining in the fund for the purposes for which local sales tax receipts may be spent.

New Sec. 13. (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 11, 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, except for any revenues received under the provisions of subsection (d) of section 11 and amendments thereto, which revenues are subject to annual appropriation.

(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) such bonds shall mature in no more than 22 years.

(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. 14. K.S.A. 2002 Supp. 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 K.S.A. 2002 Supp. 12-17,130 through 12-17,139, 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. 15. K.S.A. 2002 Supp. 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 organized under K.S.A. 31-301, and amendments thereto;



- (6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;
- (7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;
- (8) community college districts organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;
- (9) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;
- (10) hospital districts;
- (11) improvement districts organized under K.S.A. 19-2753, and amendments thereto;
- (12) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;
- (13) sewage disposal districts organized under K.S.A. 19-27,140, and amendments thereto;
- (14) water districts organized under K.S.A. 19-3501 *et seq.*, and amendments thereto; or
- (15) transportation development districts created pursuant to ~~K.S.A. 2002 Supp. 12-17,130~~ *section 4 et seq.*, and amendments thereto.

New Sec. 16. The secretary of revenue in connection with a redevelopment project area for which sales, use and transient guest tax revenues are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance redevelopment project costs in such redevelopment project area or a transportation development district for which a transportation development district sales tax has been imposed, shall provide reports identifying each retailer having a place of business in such redevelopment district or transportation development district setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer within such city or county. Such report shall be made available to the bond trustee, escrow agent or paying agent for such bonds within a reasonable time after it has been requested from the director of taxation. The bond trustee, escrow agent or paying agent shall keep such retailers' sales, use, transient guest and transportation development district sales tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales, use, transient guest and transportation development district sales tax revenues in connection with the bonds used to finance redevelopment project costs in such redevelopment project area or used to finance the costs of a project in a transportation development district. Except as otherwise provided, the sales, use and transient guest tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614 and amendments thereto.

New Sec. 17. The provisions of sections 4 through 13 and 16, and amendments thereto, and K.S.A. 12-194 and 25-432, as amended pursuant to this act, shall apply to all transportation development districts, whether created before or after July 1, 2003.

Sec. 18. K.S.A. 12-1617e is hereby amended to read as follows: 12-1617e. (a) The governing body of any city ~~shall have the power to~~ *may* have removed or abated from any lot or parcel of ground within the city any and all nuisances, including rank grass, weeds or other vegetation ~~and shall have the power to cause to be.~~ *The governing body may have* drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the city, county or joint board of health or other agency as may be designated by the governing body of the city files with the clerk of such city its statement in writing that such nuisance, rank vegetation; or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city. The governing body of the city, by resolution, also may make such determination.

~~The city clerk shall issue notice requiring~~ (b) *Except as provided by subsection (c), the governing body of the city shall order* the owner or agent of the owner of the ~~premises property~~ *premises property* to remove and abate from the ~~premises property~~ *premises property* the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the ~~notice.~~ *The*

~~notice order.~~ The order shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or its designated representative. The ~~notice order~~ shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service, ~~or if the same.~~ If the property is unoccupied and the owner is a nonresident, then by mailing ~~a notice the order~~ by certified mail, return receipt requested, to the last known address of the owner.

(c) *If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body of a city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.*

(d) If the owner or agent fails to comply with the requirement of the ~~notice order~~ for a period longer than that named in the ~~notice order~~, the city shall proceed to have the things described in the ~~notice order~~ removed and abated from the lot or parcel of ground. *If the city abates or removes the nuisance, the city shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The city also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.*

~~(b)~~ (e) Any city may remove and abate from property other than public property or property open to use by the public a motor vehicle determined to be a nuisance. Disposition of such vehicle shall be in compliance with the procedures for impoundment, notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. If a public auction is conducted, but no responsible bid received, the city may file proof thereof with the division of vehicles, and the division shall issue a certificate of title of such motor vehicle to the city. Any person whose motor vehicle has been disposed of pursuant to this subsection shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 *et seq.*, and amendments thereto. The amount of such refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

Sec. 19. K.S.A. 12-1617e, 12-6a01, 12-6a04 and 12-6a08 and K.S.A. 2002 Supp. 12-194, 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138, 12-17,139 and 25-432 are hereby repealed.

Sec. 20. 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 SENATE, and passed that body

\_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

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

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

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

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

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

APPROVED \_\_\_\_\_

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