

CHAPTER 166
HOUSE BILL No. 2712

AN ACT concerning certain municipalities; relating to the powers and duties thereof; relating to fire protection; amending K.S.A. 19-3610, 80-1540, 80-1541 and 80-1542 and K.S.A. 2003 Supp. 31-150 and 80-104 and repealing the existing sections.

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

Section 1. K.S.A. 19-3610 is hereby amended to read as follows: 19-3610. (a) The board of county commissioners each year shall levy an ad valorem tax on the taxable tangible property within each fire district in the county organized by virtue of this act ~~including or excluding such property within any city in each district as the case may be~~, as ~~shall be~~ *is* required by the budget of each district. All proceeds of such levy shall be used ~~for the~~ to carry out the powers, duties and functions of the governing body of the fire district as specified in K.S.A. 19-3601a, and amendments thereto. Except as otherwise authorized by this section, the board of county commissioners shall not make a levy, in any year, in any fire district in excess of five mills upon the property in the district. Whenever a fire district ~~shall have~~ *has* contracted with ~~a any other fire district, city or township or private entity within the vicinity of the district~~ to furnish fire protection to the district, the board may make a tax levy which ~~will produce~~ *produces* a sum not exceeding the amount payable to the ~~other fire district, city or township or private entity~~ under such contract during the budget year for which the tax levy is made.

(b) The board of county commissioners of any county, ~~whenever the same is~~ *when* authorized by a majority of the electors of any fire district voting at an election called and held thereon, may levy a tax of more than five mills but not more than seven mills in any year upon the property within such district. Such election shall be a question submitted election and shall be called and held in the manner provided for the calling and holding of elections upon the question of issuance of bonds under the provisions of K.S.A. 10-120, and amendments thereto.

Sec. 2. K.S.A. 2003 Supp. 80-104 is hereby amended to read as follows: 80-104. (a) In addition to all other powers, the township board of each township shall have power to ~~procure not to exceed three acres of~~ *acquire* land for the township, and to build thereon permanent buildings, or to purchase school building or grounds or both the building and grounds the same to be used for public purposes, such as meetings relating to township business, political gatherings, township fairs, entertainments, whether for free use or for hire and profit, at which an admission price may be charged, and such other meetings as may be authorized by the township board. The board may join with any corporation, association, society or lodge in the construction or purchase of such building, upon such terms and conditions as may be agreed upon by the board and corporation, association, society or lodge. If such building is so constructed or purchased it shall be for the joint use of the township and the corporation, association, society or lodge joining in the construction or purchase thereof upon such terms and conditions as are mutually agreed upon. Except as provided by subsection (b), the board shall not acquire any land or erect buildings thereon or purchase such schoolhouse or appropriate any of the moneys of the township or levy any tax therefor without first submitting the question to a vote of the electors of the township. Such election shall be governed by and the returns thereof made in accordance with the laws governing the election of township officers. Funds authorized by such election may be used in the joint construction or purchase of a building as herein provided.

(b) The township board may ~~procure~~ *acquire*, either by purchase or by lease, not to exceed ~~two~~ *10* acres of land for the township ~~and build thereon sheds and buildings that may be necessary for the storage and protection of tools, implements and machinery without such election~~. The cost of such land may be paid out of the general fund of the township or from the general road fund of the township, or from either or both of the funds.

The township board may accept land in the form of a gift, donation or devise without first submitting the question to a vote of the electors of the county.

(c) Whenever any township is authorized by virtue of an election to

construct or purchase township buildings, general obligation bonds may be issued for such purpose in accordance with the provisions of the general bond law.

Sec. 3. K.S.A. 2003 Supp. 31-150 is hereby amended to read as follows: 31-150. (a) Except as otherwise provided in ~~subsection (b)~~ *this section*, the construction of school buildings shall comply with the requirements of the ~~1985 edition of the uniform building code, volume I, and the 1985 edition of the uniform mechanical code, of the international conference of building officials~~ *2000 edition of the international building code as published by the international codes council*. All electric wiring shall conform to requirements of the ~~1984~~ 1999 issue of the national electric code of the national fire protection association. ~~Minimum plumbing requirements shall meet the 1985 edition of the uniform plumbing code issued by the international association of plumbing and mechanical officials.~~

(b) The construction of mobile, modular, portable or relocatable school buildings shall conform to the requirements of the ~~1985~~ 2000 edition of the life safety code ~~as adopted~~ *as published* by the national fire protection association. ~~Minimum plumbing requirements shall meet the 1985 edition of the uniform plumbing code issued by the international association of plumbing and mechanical officials.~~

(c) The construction of all school buildings shall conform to the provisions for making buildings and facilities accessible to, and usable by, persons with a disability, as required by K.S.A. 58-1301 through 58-1311, and amendments thereto.

(d) No contract shall be let for the construction of any school building, and it shall be illegal to pay out any public funds for the construction of a school building until the plans for such building shall: (1) Bear the seal of an architect or a professional engineer licensed by the state board of technical professions of the state of Kansas certifying that the plans meet the applicable requirements of this act; and (2) be submitted to the state board of education for approval as to compliance with such requirements.

(e) The provisions of subsections (c) and (d) of this section shall not apply to any building or structure operated or used for any purpose by, or located upon the land of any community college, area vocational school, area vocational-technical school, technical college, ~~or municipal university~~, institution under the governance of the state board of regents *or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto*. Prior to construction of any new building or remodeling of any existing building, all community colleges, area vocational schools, area vocational-technical schools, technical colleges ~~and~~ *any municipal university*, institutions under the governance of the state board of regents *or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto*, shall submit to the state fire marshal a code footprint for evaluation and approval of the fire/life safety features of such buildings.

(f) The relocation of school buildings to which the provisions of subsection (b) apply shall not be construed to be construction or reconstruction under the provisions, or for the purposes, of this section.

~~(g) The construction or reconstruction of any school building to which the provisions of this section were applicable prior to January 26, 1992, shall be governed by the provisions of this section which were in effect on the date the contract for such construction or reconstruction was entered into.~~

(g) The construction or reconstruction of a school building, whether funded by bonds or other moneys, in a school district where general obligation bonds were authorized to be issued by a vote of the electors in an election held on or before July 1, 2000, shall be governed by the provisions of this section that were in effect on January 1, 2004.

The provisions of this subsection shall expire on July 1, 2006.

(h) The state fire marshal shall adopt rules and regulations specifying those subsequent editions of the codes enumerated in subsections (a) and (b) which the state fire marshal has determined provide protection equivalent to those editions specified herein. Compliance with any subsequent edition specified by such rules and regulations shall be considered compliance with the edition of the code specified by this section.

Sec. 4. K.S.A. 80-1540 is hereby amended to read as follows: 80-1540. The township board of any township may create a fire district as

provided herein, which by this act. Such fire district may include a part or all of the township and may include all or a part of any other township: ~~Provided~~. No area may be included which is already in located within an existing fire district or city may be included in a district created pursuant to this section without the consent of that district or city. ~~Upon the filing with a township board of a petition signed by not less than fifty-one percent (51%) of the owners of the area of the land within the limits of the proposed fire district sought to be created, the township board for whom such petition shall be filed, shall within thirty (30) days after such filing, set a date for a public hearing upon said petition and give notice of such hearing by publication for three (3) successive weeks in a newspaper of general circulation in the township. The date of the hearing shall be not more than ten (10) days after the date of the last publication. Upon such hearing or within thirty (30) days thereafter, the township board, or if the proposed fire district includes land in more than one township, then the governing body of such townships meeting and acting together shall each approve or reject the petition as filed or may modify the proposed fire district by excluding certain areas from the district and approve said petition as modified. The action of the township board or township boards, as the case may be, shall be by resolution which shall be published once in a newspaper of general circulation in the township. The township board of any township, or if the proposed fire district includes land in more than one township, then the governing body of such townships meeting and acting together shall adopt, by resolution, a proposition to create a new fire district, describing the area of land within the proposed fire district. Such proposition shall be submitted at the next general election to be held in such township or at a special election called for that purpose by the board of county commissioners. The proposition shall be submitted on a separate ballot in substantially the following form:~~

Proposition to create a new fire district consisting of (describe area to be included in fire district).

[] Yes [] No

Notice of such election shall be given by the county clerk by publication at least once each week for two consecutive weeks in a newspaper having a general circulation in such townships. At least 30 days shall elapse between the last publication and the date of the election. If a majority of the votes cast in the area of the proposed fire district shall be in the affirmative, such fire district shall be deemed created. The expenses of such election shall be paid by the county from the county general fund.

Sec. 5. K.S.A. 80-1541 is hereby amended to read as follows: 80-1541. ~~In the event the township board, or township boards, as the case may be, approve the creation of the fire district either as petitioned for or as modified, any landowner within such district, within 30 days after such publication, may appeal from the action of the township board or boards to the board of county commissioners of the county in which the township is located. Such appeal shall be in writing and shall state the objections to the action of the township board or boards and a copy thereof shall be filed with the township board or boards. Within 30 days after the filing of such an appeal, the board of county commissioners shall fix a time and place for hearing the appeal and give notice thereof by publication for two weeks in a newspaper of general circulation in the township. The date of the hearing shall be not more than 10 days after the date of the last publication, nor more than 60 days after the filing of such appeal. At such hearing or within 10 days thereafter, the board of county commissioners shall either approve or reject the creation of the fire district as fixed by the township board or boards, or may modify the same by excluding certain areas therefrom.~~

~~(a) Upon the creation of a fire district by the township board or boards by the board of county commissioners on appeal, the governing body of the fire district as hereinafter provided, shall have authority to may:~~

- ~~(1) Levy taxes and assessments, to;~~
- ~~(2) enter into contracts, to;~~
- ~~(3) acquire, and operate and maintain fire-fighting equipment and to;~~
- ~~(4) acquire and construct buildings to house the same and to fire-fighting equipment;~~
- ~~(5) exercise eminent domain;~~
- ~~(6) exercise powers granted to fire districts under K.S.A. 80-1514, and amendments thereto;~~

(7) *issue general obligation bonds and no-fund warrants as provided under K.S.A. 80-1514b, and amendments thereto; and*

(8) *do all things necessary to effectuate the purposes of this act. Any such district, when organized, shall have the right of eminent domain. In addition to the powers provided for in this section, the governing body shall have any powers granted to a fire district under K.S.A. 80-1514a, and amendments thereto. The governing body shall also have the authority to issue general obligation bonds and no-fund warrants under the provisions of K.S.A. 80-1514b, and amendments thereto.*

(b) *Any territory included in any fire district created under the provisions of this act which is thereafter included within the corporate limits of any city by way of annexation thereafter is annexed by a city shall be excluded from the fire district and shall be furnished fire protection by the such city annexing it. Subject to the provisions of K.S.A. 19-270, new lands may be included in the district whenever a petition requesting such inclusion is filed with the governing body of the fire district under the same procedure and conditions as is required for the creation of a fire district, but no area may be included which is already in an existing fire district or city without the consent of that district or city.*

Sec. 6. K.S.A. 80-1542 is hereby amended to read as follows: 80-1542. *If such a fire district as created hereunder consists of includes land in only one township, then the township board located in less than four townships, the members of the township boards shall be the governing body of such fire district. If such fire district as created hereunder includes land located in two four or more townships, then the governing body of both such townships shall, meeting and acting together, shall adopt a resolution fixing the number of members from each township board that will constitute the governing body of such fire district and the period of time that such member will serve on the governing body of such fire district. If the fire district includes land in three or more townships, then the governing body of each such townships shall appoint and designate one of its members to serve on the governing body of such fire district. If any of the members of the township board serving on the governing body of a fire district created hereunder do not reside in such fire district, then the township board shall appoint an elector of such township and residing in such fire district to serve on the governing body of such fire district in place of any member of the township board who does not reside in such fire district. In any fire district created hereunder in which there is located a city of the third class, which has consented to be included in such fire district, the governing body of such city shall appoint a person to serve as a member of the governing body of such fire district. For a fire district which includes land in less than four townships, a member of the township board once elected shall continue to serve as a member of the governing board of the fire district throughout the remainder of his or her such person's term as an officer of the township. The member appointed by a city of the third class shall serve on the governing body of such fire district until a successor is appointed. Any vacancy, by way of death, resignation or for other reasons shall be filled by the township or city of the third class from which such vacancy occurs.*

New Sec. 7. (a) *If any township has no residents, as certified by the county clerk of the county in which such township is located, the board of county commissioners, by resolution, may disorganize the township or consolidate the township with the next geographically closest township, within such county, having a functioning township board. Prior to the adoption of such resolution, the board of county commissioners shall conduct a public hearing on the advisability of adopting such resolution. Until such time as the disorganization or consolidation is completed, the board of county commissioners may exercise all of the statutory powers of the township board deemed necessary and advisable by such board of county commissioners.*

(b) *All books, papers, records, moneys and other assets belonging to any township proposed to be disorganized or consolidated under subsection (a) shall be delivered by the persons in possession thereof to the board of county commissioners. The board of county commissioners may dispose of any assets of such township in the manner provided by this section. If at the time of its disorganization or consolidation, the townships has any outstanding indebtedness, the board of county commissioners shall place any moneys together with the proceeds of any assets of such township into a special fund that shall be used for the purpose of paying*

such indebtedness. Moneys and assets in excess of that required for the payment of outstanding indebtedness either shall be transferred to the township with which the disorganized township is consolidated or shall be disposed of in such other manner as determined by the board of county commissioners to be in the best interests of the former residents or property owners of such township.

Sec. 8. K.S.A. 19-3610, 80-1540, 80-1541 and 80-1542 and K.S.A. 2003 Supp. 31-150 and 80-104 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 17, 2004.
