

CHAPTER 65
HOUSE BILL No. 2582*

AN ACT creating the horsethief reservoir benefit district; providing for a governing board; prescribing powers and duties thereof; taxing and bonding authority.

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

Section 1. (a) Sections 1 through 11, and amendments thereto, shall be known and may be cited as the horsethief reservoir benefit 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.

(c) Powers granted pursuant to this act shall be in addition to any other power provided by law.

Sec. 2. As used in sections 1 through 11, and amendments thereto: (a) "Act" means the provisions of sections 1 through 11, and amendments thereto;

(b) "bonds" mean special obligation bonds or special obligation notes payable from the sources described in this act, issued by the district in accordance with the provisions of this act;

(c) "district" means the horsethief reservoir benefit district created pursuant to this act, the boundaries of which shall include all property located within the boundaries of Finney, Ford, Gray and Hodgeman counties;

(d) "governing board" means the governing body of the horsethief reservoir benefit district created pursuant to this act;

(e) "project" means the construction of a dam and recreation facilities within the district; and

(f) "horsethief reservoir benefit district sales tax" means the tax authorized by this act.

Sec. 3. There is hereby created the horsethief reservoir benefit district for the purposes provided by this act.

Sec. 4. (a) The governing board of the horsethief reservoir benefit district shall consist of eight members, as follows:

(1) Four members to be appointed one each by the board of county commissioners of the four counties in the district;

(2) one member to be appointed one each by the governing body of the cities of Dodge City and Garden City;

(3) one member appointed by the Pawnee watershed district; and

(4) the secretary of wildlife and parks or the secretary's designee.

(b) The member appointed by the Pawnee watershed district shall serve as chairperson of the governing board.

(c) The board shall meet upon call of the chairperson as necessary to carry out its duties under this act.

(d) The initial appointment for the members appointed by Finney and Gray counties and Dodge City shall be for a term of one year. The initial appointment for the members appointed by Ford and Hodgeman counties, Garden City and the Pawnee watershed district shall be for a term of two years. For each subsequent appointment, each appointed member of the board shall be appointed for a term of two years. Each member shall continue in such position until a successor is appointed and qualified. Members shall be eligible for reappointment. Whenever a vacancy occurs in the membership of the board, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.

(e) The governing body shall have the following powers and duties: (1) Authority to impose a district wide sales tax pursuant to the provisions of this act;

(2) authority to issue bonds pursuant to the provisions of this act; and

(3) authority to manage recreational facilities within the district.

(f) The governing body shall provide that any fee schedule imposed for users of recreational facilities within the district may be set at a reduced rate or schedule for residents of any county which is a part of the district.

Sec. 5. (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, the district may impose a horsethief reservoir benefit district sales tax on the selling of tangible per-

sonal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within the district for purposes of financing the project in increments of .05% and in an aggregate amount not to exceed .25% and pledge the revenue received therefrom to pay the costs of the project, the costs to manage and operate the project and to make debt service payments on any bonds issued to finance the project. Any horsethief reservoir benefit district sales tax imposed pursuant to this section shall expire no later than the maturity date of the bonds issued to finance such project or refunding bonds issued therefor.

(b) Prior to the imposition of the horsethief reservoir benefit district sales tax, the governing board shall adopt a resolution stating its intention to levy a horsethief reservoir benefit district sales tax for the purpose of financing the project and continued management and operational expenses thereof as proposed by this act. The governing board shall give notice of the public hearing on the imposition of such horsethief reservoir benefit district sales tax. Such notice shall be published at least once a week for two consecutive weeks in the official county newspaper of each county whose boundaries are located within the district. The second notice shall be published at least seven days prior to the date of hearing. The notice shall contain the following information:

- (1) The time and place of the hearing;
- (2) the nature of the project;
- (3) the estimated cost of the project;
- (4) the proposed method of financing the project; and
- (5) the proposed amount of the horsethief reservoir benefit district sales tax to be imposed and the termination date of such horsethief reservoir benefit district sales tax.

(c) The hearing may be adjourned from time to time. Following the hearing, the governing board may authorize the project, approve the estimated cost of the project and the method of financing of the project by adoption of the appropriate resolution. Such resolution shall be effective upon publication once in the official county newspaper of each county whose boundaries are located within the district.

(d) If at the conclusion of the public hearing, the governing board of the district proposes to impose a horsethief reservoir benefit district sales tax, the governing board shall submit a proposition to impose such tax to the qualified electors within the district. Notice of such election shall be provided in accordance with the provisions of K.S.A. 10-120, and amendments thereto. Any such election shall be called and held in the manner provided by K.S.A. 25-431 *et seq.*, and amendments thereto. If an election is held and the proposition is approved by a majority of the voters of the district voting at such election, the governing board, by resolution, may levy such tax. If such a resolution is adopted pursuant to this act, the horsethief reservoir benefit district sales tax shall be imposed in the district. 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.

(e) Upon receipt of a certified copy of the resolution authorizing the levy of the horsethief reservoir benefit 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 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 of all taxes collected under the provisions of this act in the state treasury to the credit of the horsethief reservoir benefit district sales tax fund, which fund is hereby established in the state treasury. All moneys in the horsethief reservoir benefit district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the district. Any refund due on any horsethief reservoir benefit district sales tax collected pursuant to this section shall be paid out of the horsethief reservoir benefit district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the horsethief reservoir benefit district sales tax authorized by this section and applied by the district in the manner provided pursuant to this act.

Sec. 6. No suit to set aside the creation of the district, the authori-

zation or funding of the project or the horsethief reservoir benefit district sales tax shall be brought after the expiration of 30 days from the date of certification of canvass of the votes at an election which authorizes the imposition of a horsethief reservoir benefit district sales tax.

Sec. 7. The costs of the project shall be paid from all or any of the following sources: (a) The revenue received from the horsethief reservoir benefit district sales tax authorized by this act;

(b) the proceeds of any bonds issued pursuant to this act; and

(c) any other funds made available to the district, including funds appropriated by the state or the Pawnee watershed district.

Sec. 8. A fund shall be created by the district for the project and identified by a suitable title. The proceeds from the sale of bonds and any other moneys appropriated by the governing board 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 governing board shall have authority to spend any moneys remaining in the fund for the purpose of management and operation of the project.

Sec. 9. (a) The district may issue bonds in one or more series to finance the undertaking of the 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 5, and amendments thereto. The district 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 district, 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 district and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the district and sealed with the corporate seal of the district. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by resolution of the district. 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 district 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 district.

Sec. 10. The secretary of revenue, in connection with the horsethief reservoir benefit district for which sales tax revenues are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance project costs in such district for which a horsethief reservoir benefit district sales tax has been imposed, shall provide reports identifying each retailer having a place of business in such 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 the district. 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' district sales tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such district sales tax revenues in connection with the bonds used to finance the costs of the project in the district. Except as otherwise provided, the sales 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.

Sec. 11. If the horsethief reservoir benefit district sales tax authorized pursuant to this act is not imposed by December 31, 2008, the provisions of this act shall expire.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 12, 2004.

Published in the *Kansas Register* April 15, 2004.
