

CHAPTER 171
HOUSE BILL No. 2267

AN ACT concerning municipalities; amending K.S.A. 12-105a, 12-6a02, 12-6a14, 12-6a19 and 12-1232 and K.S.A. 2006 Supp. 12-6a01 and repealing the existing sections.

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

Section 1. K.S.A. 12-6a19 is hereby amended to read as follows: 12-6a19. (a) Whenever the construction of any water, *stormwater* or sanitary sewer improvement is initiated by petition pursuant to ~~subsection (2)~~ of K.S.A. 12-6a04, and amendments thereto, the governing body of the city may require the owners of property, which benefits from such *water, stormwater or sanitary sewer* improvement but which was not included within the original improvement district, to pay a benefit fee at the time the owners of such property request, by petition, to be served by such improvement.

The amount of such benefit fee shall not exceed the amount of the assessment, including principal and interest, which would have been levied against the property had it been included in the original improvement district. The benefit fee shall be assessed only against the property described in the petition requesting service by the *water, stormwater or sanitary sewer* improvement. Unless otherwise provided by the city, such benefit fee shall be due and payable at the time the property begins being served by the *water, stormwater or sanitary sewer* improvement, and shall be subject to the same interest, as assessments against property originally included in the improvement district for such *water, stormwater or sanitary sewer* improvement. Any benefit fees paid hereunder shall be applied: ~~(a)~~ (1) To the remaining principal and outstanding interest on the bonds issued to finance the *water, stormwater or sanitary sewer* improvement, with a resulting pro rata reduction of the assessments against property originally included in the improvement district for such *water, stormwater or sanitary sewer* improvement; or ~~(b)~~ (2) the city general bond and interest fund if any of the cost of the *water, stormwater or sanitary sewer* improvement was paid by the city at large.

(b) *Whenever the construction of any arterial street improvement is initiated by petition pursuant to of K.S.A. 12-6a04, and amendments thereto, the governing body of the city may require the owners of property, which benefits from such arterial street improvement but which was not included within the original improvement district, to pay a benefit fee at the time the owners of such property request, by petition, to construct a new street or improve an existing street that will be or is connected to such arterial street improvement and thereby benefited by such arterial street improvement. The amount of such benefit fee shall not exceed the amount of assessment, including principal and interest, which would have been levied against the property had it been included in the original improvement district. The benefit fee shall be assessed only against the property described in the petition requesting the construction of streets that will be connected to such arterial street improvement. Unless otherwise provided by the city, such benefit fee shall be due and payable at the conclusion of construction of the street improvement described in the petition, and shall be subject to the same interest, as assessments against property originally included in the improvement district for such arterial street improvement.*

Any benefit fees paid hereunder shall be applied: (1) To the remaining principal and outstanding interest on the bonds issued to finance the arterial street improvement, with a resulting pro rata reduction of the assessments against property originally included in the improvement district for such arterial street improvement; or (2) the city general bond and interest fund if any of the cost of the arterial street improvement was paid by the city at large.

For purposes of this section, the term "arterial street" shall mean a street, boulevard, avenue or part thereof within the city or extending not more than three miles from the boundaries of the city, the primary function of which is, or shall be, the movement of through traffic between areas of concentrated activity within or without the city or the connection of one or more existing or proposed subdivisions within or without the city to other streets within the city.

The governing body of the city may designate, by resolution, all or any

portion of a street or proposed street as an arterial street; such determination to be final and conclusive.

(c) The provisions of this act shall be supplemental to any legal authority cities may exercise in imposing hookup or connection fees or other user or regulatory charges for water, *stormwater* or sanitary sewer service. The amount of any hookup or connection fee imposed pursuant to this section shall not exceed the actual cost of connecting the property to the water, *stormwater* or sanitary sewer.

Sec. 2. K.S.A. 2006 Supp. 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, *including improvements authorized to be constructed under this act*, 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, *any necessary reserves* 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.

(n) "Bonds" means *general obligation bonds or special obligation bonds*.

Sec. 3. K.S.A. 12-6a02 is hereby amended to read as follows: 12-6a02. As a complete alternative to all other methods provided by law, the governing body of any city is hereby authorized to make, or cause to be made, municipal works or improvements which confer a special benefit upon property within a definable area of the city and may levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvement for special benefits conferred upon such property by any such municipal work or improvement and to provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments as hereinafter provided. Such work or improvements may include the following without limitation because of enumeration:

(a) Acquisition of (1) property or interest in property when necessary for any of the purposes authorized by this act and (2) *any improvement authorized to be constructed under this act*.

(b) To open, widen and extend streets and otherwise to improve paving and other surfacing, gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage works incidental thereto, and service connections from sewer, water, gas and other utility mains, conduits or pipes necessarily lying within curb lines.

(c) To improve main and lateral storm water drains and sanitary sewer systems and appurtenances thereto.

(d) To improve street lights and street lighting systems.

(e) To improve waterworks systems owned by the city and water distribution systems owned and operated by a water district established pursuant to K.S.A. 19-3501 et seq., and amendments thereto.

(f) To improve parks, playgrounds and recreational facilities.

(g) To improve any street or other facility by landscaping, planting of trees, shrubs and other perennial plants.

(h) To improve dikes, levees and other flood control works, gates, lift stations, bridges and streets appurtenant thereto.

- (i) To improve vehicle and pedestrian bridges, overpasses and tunnels.
- (j) To improve retaining walls and area walls on public ways or land abutting thereon.
- (k) To improve property for off-street parking facilities including construction and equipment of buildings thereon for such purpose.
- (l) Asbestos control projects and lead control projects.

Sec. 4. K.S.A. 12-6a14 is hereby amended to read as follows: 12-6a14. The total cost of any improvement made under the authority of this act shall be paid as follows:

(a) All costs made payable by the city at large which may be paid from general funds legally available for such purposes or from other general improvement funds available for such purposes may be paid from such funds.

(b) Costs payable by special assessments which have been paid in full prior to the date set by the governing body as provided in K.S.A. 12-6a10, *and amendments thereto*, shall be paid from assessments so collected.

(c) Costs payable by special assessments, to be paid in installments, and costs made payable by the city at large and not payable from available general funds, or other general improvement funds available to the governing body for such purpose, shall be paid by the issuance and sale of bonds of the city as provided by law.

(d) During the progress of any improvement the governing body may issue temporary notes of the city as provided by law *or may issue special obligation temporary notes of the city* to pay such costs, and upon completion of the work, bonds of the city shall be issued and sold as provided hereinbefore.

(e) The costs of more than one (~~+~~) improvement may be paid from a single issue and sale of bonds without other consolidation of the proceedings prior to the bond issue.

(f) The amount of any such general obligation bonds outstanding at any one time shall not exceed the bonded debt limitations of such city under the provisions of any law applicable thereto.

(g) *Any city may also issue special obligation bonds to refund any bonds and repay any temporary notes previously issued under this act.*

Sec. 5. K.S.A. 12-105a is hereby amended to read as follows: 12-105a. As used in this act and the act of which this section is amendatory, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the context shall otherwise require:

(a) "Municipality" means and includes county, township, city, school district of whatever name or nature, community junior college, municipal university, *city, county or district hospital*, drainage district, cemetery district, fire district, and other political subdivision or taxing unit, and including their boards, bureaus, commissions, committees and other agencies, such as, but not limited to, library board, park board, recreation commission, hospital board of trustees having power to create indebtedness and make payment of the same independently of the parent unit.

(b) "Governing body" means and includes the board of county commissioners, the governing body of a city, the township board (trustee, clerk and treasurer), board of education or other governing body of a school district, board of trustees of a community junior college, board of regents of a municipal university, the body of a special district (such as a drainage, cemetery, fire or other) which has the power to create indebtedness and is charged with the duty of paying the same, and the board, bureau, commission, committee or other body of an independent agency of a parent unit.

(c) "Claim" means the document relating to and stating an amount owing to the claimant by a municipality for material or service furnished to the municipality, or some action taken by or for the municipality and for which the municipality may or may not be responsible in a liquidated or an unliquidated amount. A claim is liquidated when the amount due or to become due is made certain by agreement of the parties or is fixed by law.

(d) "Warrant" means an instrument ordering the treasurer of a municipality to pay out of a designated fund a specified sum to a named person or party who or which has filed a claim against the municipality.

(e) "Check" means an ordinary check drawn on a depository bank of a municipality by the treasurer of such municipality and payable to the holder of a warrant or warrants issued by the municipality.

(f) "Warrant check" means a combination of warrant and check. It is a negotiable instrument which orders a depository bank to pay to the order of the payee therein named. A warrant check authorizes the bank upon which drawn to charge the municipality's account with the amount stated therein.

(g) For the purposes of this act the term "audit" shall be construed to mean to examine and render an opinion as to allowance or rejection in whole or in part.

Sec. 6. K.S.A. 12-1232 is hereby amended to read as follows: 12-1232. The library board of a regional library shall consist of six ~~(6)~~ appointed members and, in addition thereto, the official head of each participating county or township shall *appoint a member of the governing body* to be an ex officio member with the same powers as appointed members. Each county or township participating in a regional library shall be equally represented on the library board, but in case such uniform representation cannot be obtained because of the number of counties or townships participating, the governing body shall agree on a method of rotating representation among the participating counties or townships. The official head of each participating county or township, with the approval of the governing body thereof, shall appoint the members from such county or township.

Terms of all members of the library board of any township library previously established under the authority of K.S.A. 80-804 shall expire on the effective date of this act and successors to such members shall be appointed in the manner and for the terms prescribed in this section.

The members first appointed shall be appointed, one ~~(1)~~ for a term expiring the first April 30th following date of appointment, two ~~(2)~~ for terms expiring the second April 30th following date of appointment, one ~~(1)~~ for a term expiring the third April 30th following date of appointment, and two ~~(2)~~ for terms expiring the fourth April 30th following date of appointment. Upon the expiration of the terms of members first appointed, succeeding members shall be appointed in like manner for terms of four ~~(4)~~ years. Vacancies occasioned by removal from the county or township, resignation or otherwise, shall be filled by appointment for the unexpired term. Except for the ex officio members of the board, no person holding any office in a participating county or township shall be a member of the library board while holding such office, and no person who has been appointed for two ~~(2)~~ four-year terms to the library board shall be eligible for further appointment to such board.

New Sec. 7. The board of directors of drainage district No. 2 of Finney county shall provide by the passage of a resolution for the staggering of terms of the board. At the next election of directors, one director shall be elected for a two-year term and two directors shall be elected for three-year terms. Election of directors thereafter shall be for three-year terms.

Sec. 8. K.S.A. 12-105a, 12-6a02, 12-6a14, 12-6a19 and 12-1232 and K.S.A. 2006 Supp. 12-6a01 are hereby repealed.

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

Approved May 9, 2007.

Published in the *Kansas Register* May 17, 2007.
