

SESSION OF 2002

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 611**

As Recommended by Senate Committee on
Commerce

Brief*

Sub. for SB 611 would allow Johnson and Labette Counties to utilize tax increment financing (TIF), including sales tax and revenue (STAR) bonds, to develop federal enclaves located in those counties. Under current law, cities are authorized to enter into TIF arrangements and to issue bonds which are backed by property tax revenues. However, counties do not have this authority and only a small number of specific projects have statutory authority to utilize state and local sales tax revenues to pay off TIF bonds.

Establishment of a Redevelopment District

Sub. for SB 611 sets out the procedures under which Johnson County and Labette County could establish a redevelopment district to cover and include all or any part of the property located within a federal enclave in those counties. Prior to establishment of the redevelopment district, the board would be required to adopt a resolution stating its intent to create the district and the proposed adoption of a comprehensive master development plan for the property. The resolution of intent would be required to:

- Give notice, including the date, time, and place of a public hearing to consider adoption of the comprehensive master development plan for the property and establishment of the redevelopment district.
- Describe the proposed boundaries of the redevelopment district.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

- Describe the proposed master development plan and indicate where copies of the plan may be obtained and inspected.

After the public hearing, the board of county commissioners would have 60 days to consider adoption of the comprehensive master development plan. Once the plan is adopted, the commission could establish the redevelopment district by resolution.

Under the bill, a redevelopment district could also be established by the Kansas Development Finance Authority (KDFA) by request of Johnson County or Labette County. This would be done according to a series of statutes in the KDFA Act which were originally intended to facilitate the development of the Sunflower Army Ammunition Plant by the Oz Entertainment Company.

Establishment of a County Redevelopment Authority

Once a redevelopment district was established, the bill would allow the board of county commissioners to create a redevelopment authority. The composition and powers of the redevelopment authority would be determined by resolution.

Redevelopment Process

Once the redevelopment district is established, redevelopment within the district could be undertaken in one or more redevelopment projects which could be implemented in separate development stages. A developer proposing a redevelopment project within the district would be required to prepare a redevelopment project plan and submit it to the board of county commissioners or the county redevelopment authority. The project plan would be required to contain:

- A feasibility study showing that the benefits to the state and its political subdivisions would exceed the cost of the project and that income generated from the project would be sufficient to pay for the project.
- A comprehensive description of the project and an analysis of its compliance and compatibility with the county's comprehensive master development plan.

- A description and map of the area to be redeveloped.
- A detailed description of the buildings and facilities proposed to be constructed or a completed, proposed development plan for the project prepared in compliance with the county's applicable zoning and subdivision regulations.
- A detailed plan for the financing of the redevelopment plan.
- Any other information that the board of county commissioners deems necessary to advise the public of the intent and content of the plan.

Between 30 and 70 days after receipt of the redevelopment project plan, the board of county commissioners or county redevelopment authority would be required to hold a public hearing on the plan and provide notice of such hearing.

Following the public hearing, the board of county commissioners or the redevelopment authority would consider and could approve and adopt the project plan. Any redevelopment project approved would be required to be completed within 20 years from the date of the project approval.

Bonds

The bill would permit Johnson and Labette Counties to issue special obligations bonds which would be considered in like manner to bonds which could be issued by the KDFA to finance the redevelopment project. The bonds could be payable from the following revenues:

- Property tax increments.
- Revenues of the authority or the developer derived from or held in connection with the undertaking and carrying out of any redevelopment plan.
- Private sources, contributions, or other financial assistance from the state or federal government.

- State transient guest tax revenues.
- County or countywide retailers' sales.
- State retailers' sales tax.
- State compensating use tax.
- A portion or all increased revenue received by any city from franchise fees collected from utilities and other businesses using public right-of-way within the redevelopment district.
- By any combination of these methods.

The bill would set the maximum maturity of bonds issued to finance the redevelopment of the federal enclaves at 20 years.

Under the bill, school district moneys could not be pledged to repay the bonds and state sales taxes could only be pledged to repay the bonds if the president of the KDFRA makes a finding that the entity or business undertaking the redevelopment project produces at least \$10,000,000 in revenue annually.

Liability for Remediation of Environmental Hazards

The bill contains several measures which are aimed at clarifying the intent of the State of Kansas regarding responsibility for the environmental hazards created on the federal enclaves while the lands were owned by the United States government. The bill states that neither the state nor its political subdivisions would assume responsibility for environmental remediation or associated fees which would be required within the redevelopment district or for attorney fees incurred by the state as a defendant in any litigation arising regarding remediation.

The bill also references the covenant of transfer, which is a document that would be delivered by the United States government upon completion of all remedial action necessary to protect human health and the environment on the federal enclave lands transferred.

Prior to taking title, possession, or exercising control over the federal enclave, the bill would require a written opinion from a competent attorney specializing in environmental law and maintaining professional liability insurance, and the Kansas Attorney General, regarding the state's potential liability resulting from taking title, possession, or exercising control over the land. The bill would also require Johnson County or Labette County to ensure that adequate environmental insurance is obtained and purchased to cover the property prior to taking title, possession, or exercising control over the land.

Background

The Senate Committee held hearings on SB 611, at which time Representative John Ballou and representatives of the Johnson County Commission, the KDFA, the City of DeSoto, the K-10 Corridor Association, the City of Olathe, the United States General Services Administration, the Kansas Chapter of the Sierra Club, the Sunflower Restoration Advisory Board, and several Johnson County residents testified regarding the bill.

The Senate Committee made a number of changes to the bill aimed at, among other things, clarifying which federal enclaves would be included in the bill, the revenue streams available for repayment of the bonds, and the intent of the State regarding liability for environmental hazards. The Senate Committee subsequently recommended a substitute bill.

The Division of the Budget reports that SB 611, as introduced, would not result in a direct or immediate fiscal effect. A fiscal note for the substitute bill was not available upon publication of this supplemental note.