

SESSION OF 2003

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 237**

As Amended by House Committee on  
Local Government

**Brief\***

SB 237 would allow Johnson and Labette Counties to utilize tax increment financing (TIF) 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.

The House Committee amended the bill to permit, rather than require, the establishment of a county redevelopment authority. The provisions of the bill are as follows:

**Establishment of a Redevelopment District**

SB 237 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 bill prescribes a number of items to be included in the resolution of intent.

Under the bill, a copy of the resolution setting the public hearing would be published once in the official county newspaper not less than one week or more than two weeks before the hearing and copies of the resolution would be sent by certified mail to each owner of land within the proposed district, to the board of education of any school district

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\*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/klrd>

which levies taxes on property in the proposed district, to the governing body of any city located within three miles of the boundaries of the proposed district, to the K-10 highway association, to the board of County Commissioners of Douglas County, and to the president of the Kansas Development Finance Authority (KDFA).

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 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**

Under the bill, the Board of County Commissioners of Johnson County and Labette County would be permitted to create a redevelopment authority. The composition and powers of the redevelopment authority would be determined by resolution. The composition of the redevelopment authority would be comprised of seven members, appointed by the Board of County Commissioners as follows:

- Three members of the Authority would represent cities, townships, or other local governmental entities located adjacent to the federal enclave.
- Each member would be a resident of the county.
- Each member would serve for the same term as the board member making the appointment until the member's successor is appointed.
- Any member may be removed by the Board of County Commissioners for cause (standard is the same cause justifying removal of any appointive officer).

- Members would receive no compensation, but could be reimbursed for expenses.

The redevelopment authority would be a quasi-municipal organization with a number of powers and duties prescribed by the bill. The Board of County Commissioners would be authorized to dissolve the redevelopment authority, at which time the Board of County Commissioners would assume and perform any ongoing duties or powers for the authority. The Board of County Commissioners also could re-establish a redevelopment authority by subsequent resolution.

#### **Conditions to be Satisfied Before Acquiring Federal Enclave Land**

Under the bill, the Board of County Commissioners could approve the acquisition of federal enclave lands only if the following conditions are met:

- The property is part of the Sunflower Army Ammunition Plant in Johnson County.
- The property is transferred by deed without restrictions due to environmental contamination and with a covenant of transfer in compliance with federal law, or the Governor has executed a finding of suitability for early transfer in compliance with federal laws and regulations.
- Neither the State of Kansas (including its subdivisions or agencies) nor Johnson County has declared an intent to acquire the property for redevelopment purposes.
- The acquisition would not require the redevelopment authority to finance the acquisition with resources other than that which is secured by the property itself.
- The acquisition is made upon terms that expressly exclude any obligation of Johnson County or the state for the payment of any funds for the acquisition.

- The redevelopment authority has presented a feasibility study demonstrating that the costs of acquisition, including all required obligations for environmental remediation, can be paid and satisfied through the subdivision, selling, and redevelopment of the property.

Once all or part of the property has been acquired, the redevelopment authority would be required to immediately request the establishment of a redevelopment district and all redevelopment of the property would be in conformance with the comprehensive master plan and zoning and subdivision regulations adopted by the Board of County Commissioners.

### **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 number of items including 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 and a detailed plan for the financing of the redevelopment plan.

If the Board of County Commissioners or redevelopment authority is considering issuing TIF or other bonds to finance the redevelopment, then the plan and notice must include a summary of this financing.

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, when otherwise authorized by law.
- County or countywide retailers' sales, when otherwise authorized by law.
- State retailers' sales tax, when otherwise authorized by law.
- State compensating use tax, when otherwise authorized by law.
- 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.

Under the bill, school district moneys could not be pledged to repay the bonds.

The bill would allow the Board of County Commissioners to levy an additional 0.5 percent sales tax in countywide sales tax when sales tax and revenue (STAR) bond authority is otherwise authorized by law.

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

### **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, except for an action for enforcement of federal laws commenced by appropriate authorities of the federal government.

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**

SB 237 is similar to SB 611 which was introduced in the 2002 Legislative Session. However, SB 237 has several differences,

including the removal of STAR bond authority for redevelopment of the federal enclave.

The Senate Committee held hearings on SB 237, at which time representatives of the Johnson County Board of Commissioners appeared as proponents, and the Mayor of DeSoto and the Kansas Trial Lawyers Association appeared as opponents of the bill. Information was also provided to the Committee by the Department of Health and Environment regarding the environmental contamination and remediation at the Sunflower Army Ammunition Plant.

The Senate Committee made a number of amendments to the bill. These amendments would:

- Require the Board of County Commissioners of Johnson County and Labette County to create a redevelopment authority.
- Clarify that at least three members of the redevelopment authority would represent cities, townships, or other local governmental entities located adjacent instead of near the federal enclave property.
- Authorize the Board of County Commissioners to dissolve the redevelopment authority, at which time the Board of County Commissioners would assume and perform any ongoing duties or powers for the authority. The Board of County Commissioners also could re-establish a redevelopment authority by subsequent resolution.
- Clarify that STAR bond authority is not provided under the bill.
- Provide an exception to the state's refusal to assume responsibility for fees associated with the defense against litigation arising regarding remediation of environmental contamination in the federal enclave. This exception would be in the case of an action for enforcement of federal laws commenced by appropriate authorities of the federal government.

The fiscal note states the Department of Revenue would have increased expenditures to revise forms and publications (\$3,800); to purchase a software package (\$250,000) with an annual maintenance

fee of \$20,000; and to hire contractors to make modifications to the electronic tax filing system (\$30,000). Any fiscal effect resulting from the passage of this bill would be in addition to amounts recommended in the *FY 2004 Governor's Budget Report*.