

HOUSE BILL No. 2467

By Committee on Taxation

2-14

9 AN ACT concerning taxation; relating to development excise taxes;
10 requirements of municipalities thereto; amending K.S.A. 12-742 and
11 12-747 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 12-742 is hereby amended to read as follows: 12-
15 742. (a) When used in this act:

16 (1) "Base flood" means a flood having a 1% chance of being equaled
17 or exceeded in any one year;

18 (2) "*development activity*" means any development, construction or
19 change in use of or expansion of land, a subdivision or a building that
20 creates additional demand and need for public infrastructure facilities;

21 (3) "*development excise tax*" means a tax or charge imposed by a
22 municipality upon development, subdivision or building activity as a con-
23 dition of subdivision, development or building approval. Such develop-
24 ment excise tax shall be specifically attributable to and earmarked for
25 public infrastructure, including, but not limited to, roads, streets, high-
26 ways, storm drains, water supply treatment facilities and distribution
27 lines, wastewater collection lines and any related improvements, upon
28 which the development activity places a burden, but shall not include
29 uniformly applied special assessments, building permit fees, hookup fees
30 or other permit or application fees;

31 (4) "floodway fringe" means those portions of a flood plain outside
32 of the boundaries of a regulatory floodway and within stream reaches
33 where such a floodway has been established;

34 ~~(3)~~ (5) "flood plain" means land adjacent to a watercourse subject to
35 inundation from a flood having a chance occurrence in any one year of
36 1%;

37 ~~(4)~~ (6) "governing body" means the governing body of a city in the
38 case of cities and the board of county commissioners in the case of
39 counties;

40 ~~(5)~~ (7) "manufactured home" means a structure which is subject to
41 the federal manufactured home construction and safety standards estab-
42 lished pursuant to 42 U.S.C. § 5403;

43 ~~(6)~~ (8) "planning commission" means a city, county, regional or met-

1 ropolitan planning commission;

2 ~~(7)~~ (9) “residential-design manufactured home” means a manufac-
3 tured home on permanent foundation which has (A) minimum dimen-
4 sions of 22 body feet in width, (B) a pitched roof and (C) siding and
5 roofing materials which are customarily used on site-built homes;

6 ~~(8)~~ (10) “subdivision” means the division of a lot, tract or parcel of
7 land into two or more parts for the purpose, whether immediate or future,
8 of sale or building development, including resubdivision;

9 ~~(9)~~ (11) “subdivision regulations” mean the lawfully adopted subdivi-
10 sion ordinances of a city and the lawfully adopted subdivision resolutions
11 of a county;

12 ~~(10)~~ (12) “zoning” means the regulation or restriction of the location
13 and uses of buildings and uses of land;

14 ~~(11)~~ (13) “zoning regulations” mean the lawfully adopted zoning or-
15 dinances of a city and the lawfully adopted zoning resolutions of a county.

16 (b) The provisions of this section shall become effective on and after
17 January 1, 1992.

18 Sec. 2. K.S.A. 12-747 is hereby amended to read as follows: 12-747.

19 (a) A city planning commission is hereby authorized to make or cause to
20 be made a comprehensive plan for the development of such city and any
21 unincorporated territory lying outside of the city but within the same
22 county in which such city is located, which in the opinion of the planning
23 commission, forms the total community of which the city is a part. The
24 city shall notify the board of county commissioners in writing of its intent
25 to extend the planning area into the county. A county planning commis-
26 sion is authorized to make or cause to be made a comprehensive plan for
27 the coordinated development of the county, including references to plan-
28 ning for cities as deemed appropriate. The provisions of this subsection
29 may be varied through interlocal agreements.

30 (b) The planning commission may adopt and amend a comprehensive
31 plan as a whole by a single resolution, or by successive resolutions, the
32 planning commission may adopt or amend parts of the plan. Such reso-
33 lution shall identify specifically any written presentations, maps, plats,
34 charts or other materials made a part of such plan. In the preparation of
35 such plan, the planning commission shall make or cause to be made com-
36 prehensive surveys and studies of past and present conditions and trends
37 relating to land use, population and building intensity, public facilities,
38 transportation and transportation facilities, economic conditions, natural
39 resources and may include any other element deemed necessary to the
40 comprehensive plan. Such proposed plan shall show the commission’s
41 recommendations for the development or redevelopment of the territory
42 including: (a) The general location, extent and relationship of the use of
43 land for agriculture, residence, business, industry, recreation, education,

1 public buildings and other community facilities, major utility facilities
2 both public and private and any other use deemed necessary; (b) popu-
3 lation and building intensity standards and restrictions and the application
4 of the same; (c) public facilities including transportation facilities of all
5 types whether publicly or privately owned which relate to the transpor-
6 tation of persons or goods; (d) public improvement programming based
7 upon a determination of relative urgency; (e) the major sources and ex-
8 penditure of public revenue including long range financial plans for the
9 financing of public facilities and capital improvements, based upon a pro-
10 jection of the economic and fiscal activity of the community, both public
11 and private; (f) utilization and conservation of natural resources; ~~and~~ (g)
12 *policies and procedures for the adoption, imposition, collection and ac-*
13 *counting for development excise taxes; and (h) any other element deemed*
14 *necessary to the proper development or redevelopment of the area. Be-*
15 *fore adopting or amending any such plan or part thereof, the planning*
16 *commission shall hold a public hearing thereon, notice of which shall be*
17 *published at least once in the official city newspaper in the case of a city*
18 *or in the official county newspaper in the case of a county. Such notice*
19 *shall be published at least 20 days prior to the date of the hearing. Upon*
20 *the adoption or amendment of any such plan or part thereof by adoption*
21 *of the appropriate resolution by a majority vote of all members of the*
22 *planning commission, a certified copy of the plan or part thereof, together*
23 *with a written summary of the hearing thereon, shall be submitted to the*
24 *governing body. No comprehensive plan shall be effective unless ap-*
25 *proved by the governing body as provided by this section. The governing*
26 *body either may: (1) Approve such recommendations by ordinance in a*
27 *city or resolution in a county; (2) override the planning commission's*
28 *recommendations by a 2/3 majority vote; or (3) may return the same to*
29 *the planning commission for further consideration, together with a state-*
30 *ment specifying the basis for the governing body's failure to approve or*
31 *disapprove. If the governing body returns the planning commission's rec-*
32 *ommendations, the planning commission, after considering the same,*
33 *may resubmit its original recommendations giving the reasons therefor*
34 *or submit new and amended recommendations. Upon the receipt of such*
35 *recommendations, the governing body, by a simple majority thereof, may*
36 *adopt or may revise or amend and adopt such recommendations by the*
37 *respective ordinance or resolution, or it need take no further action*
38 *thereon. If the planning commission fails to deliver its recommendations*
39 *to the governing body following the planning commission's next regular*
40 *meeting after receipt of the governing body's report, the governing body*
41 *shall consider such course of inaction on the part of the planning com-*
42 *mission as a resubmission of the original recommendations and proceed*
43 *accordingly. The comprehensive plan and any amendments thereto shall*

1 become effective upon publication of the respective adopting ordinance
2 or resolution.

3 (c) An attested copy of the comprehensive plan and any amendments
4 thereto shall be sent to all other taxing subdivisions in the planning area
5 which request a copy of such plan. Such plan or part thereof shall con-
6 stitute the basis or guide for public action to insure a coordinated and
7 harmonious development or redevelopment which will best promote the
8 health, safety, morals, order, convenience, prosperity and general welfare
9 as well as wise and efficient expenditure of public funds.

10 (d) At least once each year, the planning commission shall review or
11 reconsider the plan or any part thereof and may propose amendments,
12 extensions or additions to the same. The procedure for the adoption of
13 any such amendment, extension or addition to any plan or part thereof
14 shall be the same as that required for the adoption of the original plan or
15 part thereof.

16 New Sec. 3. (a) Before imposing or modifying a development excise
17 tax, a municipality shall prepare a document, which shall be a part of
18 either the comprehensive plan, the zoning regulation, the subdivision
19 regulation or a subdivision or zoning ordinance, or both, detailing the
20 method of calculating any development excise tax imposed and costs of
21 public infrastructure to be paid for, by any development excise tax, in-
22 cluding a statement of the need for and rationale used in determining
23 the calculation and anticipated amount of the development excise tax and
24 a projection of how funds generated shall be expended.

25 (b) The municipality shall annually prepare a report detailing the
26 funds generated by any development excise tax imposed by such munic-
27 ipality and how those funds were expended.

28 Sec. 4. K.S.A. 12-742 and 12-747 are hereby repealed.

29 Sec. 5. This act shall take effect and be in force from and after its
30 publication in the statute book.