

HOUSE BILL No. 2514

By Committee on Taxation

3-8

9 AN ACT concerning the transportation development district act; relating
10 to infrastructure development; amending K.S.A. 2004 Supp. 12-
11 17,140, 12-17,141, 12-17,142, 12-17,144, 12-17,145, 12-17,146, 12-
12 17,147, 12-17,150 and 12-17,151 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2004 Supp. 12-17,140 is hereby amended to read
16 as follows: 12-17,140. (a) K.S.A. 2004 Supp. 12-17,140 through 12-17,149,
17 and amendments thereto, shall be known and may be cited as the trans-
18 portation *and infrastructure* development district act.

19 (b) The powers conferred by this act are for public uses, economic
20 development purposes or purposes for which public money may be
21 expended.

22 Sec. 2. K.S.A. 2004 Supp. 12-17,141 is hereby amended to read as
23 follows: 12-17,141. As used in K.S.A. 2004 Supp. 12-17,140 through 12-
24 17,149, and amendments thereto: (a) “Acquire” means the acquisition of
25 property or interests in property by purchase, gift, condemnation or other
26 lawful means and may include the acquisition of existing property and
27 projects already owned by a municipality.

28 (b) “Act” means the provisions of K.S.A. 2004 Supp. 12-17,140
29 through 12-17,149, and amendments thereto.

30 (c) “Bonds” means special obligation bonds or special obligation
31 notes payable solely from the sources described in K.S.A. 2004 Supp. 12-
32 17,147, and amendments thereto, issued by a municipality in accordance
33 with the provisions of this act.

34 (d) “Consultant” means engineers, architects, planners, attorneys and
35 other persons deemed competent to advise and assist the governing body
36 in planning and making of projects.

37 (e) “Cost” means: (1) All *project* costs necessarily incurred for the
38 preparation of preliminary reports, the preparation of plans and specifi-
39 cations, the preparation and publication of notices of hearings, resolu-
40 tions, ordinances and other proceedings, necessary fees and expenses of
41 consultants, interest accrued on borrowed money during the period of
42 construction and the amount of a reserve fund for the bonds, together
43 with the cost of land, materials, labor and other lawful expenses incurred

1 in planning and doing any project and may include a charge of not to
2 exceed 5% of the total cost of a project or the cost of work done by the
3 municipality to reimburse the municipality for the services rendered by
4 the municipality in the administration and supervision of such project by
5 its general officers; and (2) in the case of property and projects already
6 owned by the municipality and previously financed by the issuance of
7 bonds, "cost" means costs authorized by K.S.A. 10-116a and amendments
8 thereto.

9 (f) "District" means a transportation *and infrastructure* development
10 district created pursuant to this act.

11 (g) "Governing body" means the governing body of a city or the board
12 of county commissioners of a county.

13 (h) "Municipality" means any city or county.

14 (i) "Newspaper" means the official newspaper of the municipality.

15 (j) "Owner" means the owner or owners of record, whether resident
16 or not, of real property within the district.

17 (k) "Project" means any project or undertaking, whether within or
18 without the district, to: (1) Improve, construct, reconstruct, maintain,
19 restore, replace, renew, repair, install, furnish, equip or extend any
20 bridge, street, road, highway access road, interchange, intersection, sign-
21 ing, signalization, parking lot, bus stop, station, garage, terminal, hangar,
22 shelter, rest area, dock, wharf, lake or river port, airport, railroad, light
23 rail or other mass transit facility or any other transportation related project
24 or infrastructure;

25 (2) *acquisition of property within the district;*

26 (3) *payment of relocation assistance;*

27 (4) *site preparation including utility relocations;*

28 (5) *sanitary and storm sewers and lift stations;*

29 (6) *drainage conduits, channels, levees and river walk canal facilities;*

30 (7) *street grading, paving, graveling, macadamizing, curbing, gutter-*
31 *ing and surfacing;*

32 (8) *street light fixtures, connection and facilities;*

33 (9) *underground gas, water, heating and electrical services and con-*
34 *nections located within or without the public right-of-way;*

35 (10) *sidewalks and pedestrian underpasses or overpasses;*

36 (11) *drives and driveway approaches located within the public right-*
37 *of-way;*

38 (12) *water mains and extensions;*

39 (13) *plazas and arcades;*

40 (14) *parking facilities;*

41 (15) *landscaping and plantings, fountains, shelters, benches, sculp-*
42 *tures, lighting, decorations and similar amenities;*

43 (16) *all related expenses to redevelop and finance the district; and*

1 (17) *costs incurred in connection with the construction of buildings*
2 *or other structures.*

3 (1) “Transportation *and infrastructure* development district sales tax”
4 means the tax authorized by K.S.A. 2004 Supp. 12-17,145, and amend-
5 ments thereto.

6 Sec. 3. K.S.A. 2004 Supp. 12-17,142 is hereby amended to read as
7 follows: 12-17,142. (a) In addition to any other power provided by law
8 ~~and as a complete alternative to all other methods provided by law~~, the
9 governing body of any municipality may create a district as provided by
10 this act for the purpose of financing projects. A municipality may create
11 a district, or may modify a previously created district, upon receipt of a
12 petition signed by the owners of all of the land area within the proposed
13 district *upon which will be imposed special assignments pursuant to*
14 *K.S.A. 12-17,142, and amendments thereto, or 2/3 of all owners of all of*
15 *the land area within the proposed district upon which will be imposed a*
16 *transportation and infrastructure development district sales tax.* The pe-
17 tition shall contain: (1) The general nature of the proposed project;

18 (2) the estimated cost of the project;
19 (3) the proposed method of financing the project;
20 (4) the proposed amount and method of assessment;
21 (5) the proposed amount of transportation *and infrastructure* devel-
22 opment district sales tax; and

23 (6) a map or boundary description of the proposed district.

24 (b) Names may not be withdrawn from the petitions by the signers
25 thereof after the governing body commences consideration of the peti-
26 tions or later than seven days after such filing, whichever occurs first. The
27 petition shall contain a notice that: (1) The names of the signers may not
28 be withdrawn after such a period of time; and (2) the signers consent to
29 any assessments to the extent described therein without regard to benefits
30 conferred by the project.

31 (c) Upon filing of the petition for a district financed only by assess-
32 ments, the governing body may proceed without notice or a hearing to
33 make findings by resolution or ordinance as to the nature, advisability and
34 estimated cost of the project, the boundaries of the district and the
35 amount and method of assessment. Upon making such findings the gov-
36 erning body may authorize the project in accordance with such findings
37 as to the advisability of the project. The resolution or ordinance shall be
38 effective upon publication once in a newspaper.

39 (d) The district boundaries and the method of financing for the pro-
40 ject shall not require that all property that is benefited by the project,
41 whether the benefited property is within or without the district, be in-
42 cluded in the district or be subject to an assessment or the transportation
43 development district sales tax.

1 (e) Following authorization of the project, the petition shall be sub-
2 mitted for recording in the office of the register of deeds of the county
3 in which the district is located.

4 Sec. 4. K.S.A. 2004 Supp. 12-17,144 is hereby amended to read as
5 follows: 12-17,144. (a) Upon filing a petition in accordance with K.S.A.
6 2004 Supp. 12-17,142 and amendments thereto for a district financed in
7 whole or in part by a proposed transportation *and infrastructure* devel-
8 opment district sales tax authorized by K.S.A. 2004 Supp. 12-17,145 and
9 amendments thereto, the municipality shall adopt a resolution stating its
10 intention to levy such transportation *and infrastructure* development dis-
11 trict sales tax, and give notice of the public hearing on the advisability of
12 creating the district and financing of the project. Such notice shall be
13 published at least once each week for two consecutive weeks in the news-
14 paper and shall be sent by certified mail to all owners. The second notice
15 shall be published at least seven days prior to the date of hearing and the
16 certified mailed notice shall be sent at least 10 days prior to the date of
17 hearing. Such notice shall contain the following information:

- 18 (1) The time and place of the hearing;
- 19 (2) the general nature of the proposed project;
- 20 (3) the estimated cost of the project;
- 21 (4) the proposed method of financing of the project;
- 22 (5) the proposed amount of the transportation *and infrastructure* de-
23 velopment district sales tax;
- 24 (6) the proposed amount and method of assessment, if any; and
- 25 (7) a map or boundary description of the proposed district.

26 (b) The hearing on the advisability of the creating of the district and
27 the financing of the project may be adjourned from time to time. Follow-
28 ing the hearing or any continuation thereof, the governing body may cre-
29 ate the district, authorize the project and approve the estimated cost of
30 the project, the boundaries of the district and the method of financing
31 by adoption of the appropriate ordinance or resolution. Such ordinance
32 or resolution shall become effective upon publication once in the news-
33 paper, unless, within 30 days after the commencement of the hearing, a
34 petition requesting an election upon such question and signed by at least
35 5% of the owners is submitted to the clerk of the municipality. An election
36 of the owners shall then be called and held thereon, in accordance with
37 subsection (b) of K.S.A. 2004 Supp. 12-17,145 and amendments thereto.

38 Sec. 5. K.S.A. 2004 Supp. 12-17,145 is hereby amended to read as
39 follows: 12-17,145. (a) In addition to and notwithstanding any limitations
40 on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-
41 187 through 12-197, and amendments thereto, any municipality may im-
42 pose a transportation *and infrastructure* development district sales tax on
43 the selling of tangible personal property at retail or rendering or furnish-

1 ing services taxable pursuant to the provisions of the Kansas retailers'
2 sales tax act, and amendments thereto, within a transportation *and infra-*
3 *structure* development district for purposes of financing a project in such
4 district in any increment of .10% or .25% not to exceed 1% and pledging
5 the revenue received therefrom to pay the bonds issued for the project.
6 Any transportation *and infrastructure* development district sales tax im-
7 posed pursuant to this section shall expire no later than the date the bonds
8 issued to finance such project or refunding bonds issued therefore shall
9 mature.

10 (b) Any municipality proposing to impose a transportation *and infra-*
11 *structure* development district sales tax authorized by this section shall
12 adopt a resolution stating its intention to levy such tax. Such notice shall
13 contain the information for notices set forth in subsections (a)(2), (a)(3),
14 (a)(4), (a)(5), (a)(6) and (a)(7) of K.S.A. 2004 Supp. 12-17,144 and amend-
15 ments thereto and shall be published at least once each week for two
16 consecutive weeks in the newspaper. If within 30 days after the last pub-
17 lication of the notice a petition signed by at least 5% of the owners is
18 submitted to the clerk of the municipality requesting an election upon
19 such question, an election of the owners shall be called and held thereon.
20 If the information in such notice is identical to the information included
21 in such categories in the notice provided in subsection (a) of K.S.A. 2004
22 Supp. 12-17,144 and amendments thereto, the notice and protest require-
23 ments set forth in this section are deemed satisfied by compliance with
24 the notice, hearing and protest requirement of K.S.A. 2004 Supp. 12-
25 17,144 and amendments thereto. Such election shall be called and held
26 in the manner provided by K.S.A. 25-431 *et seq.*, and amendments
27 thereto. If no protest or no sufficient protest is filed or if an election is
28 held and the proposition carries by a majority of the owners voting
29 thereon, the governing body, by resolution or ordinance, may levy such
30 tax. Except as provided in this act, the tax authorized by this section shall
31 be administered, collected and subject to provisions of K.S.A. 12-187 to
32 12-197, inclusive, and amendments thereto.

33 (c) Upon receipt of a certified copy of the resolution or ordinance
34 authorizing the levy of the transportation *and infrastructure* development
35 district sales tax pursuant to this section, the state director of taxation
36 shall cause such tax to be collected in the district at the same time and
37 in the same manner provided for the collection of the state retailers' sales
38 tax. All of the taxes collected under the provisions of this act shall be
39 remitted by the secretary of revenue to the state treasurer in accordance
40 with the provisions of K.S.A 75-4215, and amendments thereto. Upon
41 receipt of each such remittance, the state treasurer shall deposit the entire
42 amount in the state treasury. The remainder of such taxes shall be cred-
43 ited to the transportation *and infrastructure* development district sales

1 tax fund, which fund is hereby established in the state treasury. All mon-
2 eys in the transportation *and infrastructure* development district sales tax
3 fund shall be remitted at least quarterly by the state treasurer, on instruc-
4 tion from the secretary of revenue, to the treasurers of those municipal-
5 ities which are qualified to receive disbursements from such fund the
6 amount collected within such municipality. Any refund due on any trans-
7 portation *and infrastructure* development district sales tax collected pur-
8 suant to this section shall be paid out of the transportation *and infrastruc-*
9 *ture* development district sales tax refund fund which is hereby
10 established in the state treasury and reimbursed by the director of taxation
11 from collections of the transportation *and infrastructure* development
12 district sales tax authorized by this section. Transportation *and infrastruc-*
13 *ture* development district sales tax received by a municipality pursuant to
14 this section shall be deposited in the transportation *and infrastructure*
15 development district sales tax fund created pursuant to K.S.A. 2004 Supp.
16 12-17,148, and amendments thereto.

17 Sec. 6. K.S.A. 2004 Supp. 12-17,146 is hereby amended to read as
18 follows: 12-17,146. No suit to set aside the assessments or otherwise ques-
19 tion the validity of the proceedings for the creation of the district or the
20 authorization of the project shall be brought after the expiration of 30
21 days from the publication of the ordinance or resolution creating the
22 district. No suit to set aside the transportation *and infrastructure* devel-
23 opment district sales tax shall be brought after the expiration of 30 days
24 from the publication of the ordinance or resolution declaring the intent
25 to impose the transportation *and infrastructure* development district sales
26 tax.

27 Sec. 7. K.S.A. 2004 Supp. 12-17,147 is hereby amended to read as
28 follows: 12-17,147. The total cost of any project authorized pursuant to
29 this act shall be paid from all or any of the following sources: (a) Special
30 assessments imposed in the district pursuant to this act which have been
31 paid in full prior to the date set by the governing body as provided in
32 K.S.A. 12-6a10, and amendments thereto;

33 (b) special assessments imposed in the district pursuant to this act,
34 to be paid in installments;

35 (c) a pledge of all of the revenue received from the transportation
36 *and infrastructure* development district sales tax authorized by K.S.A.
37 2004 Supp. 12-17,145, and amendments thereto; and

38 (d) any other funds appropriated by the municipality.

39 Sec. 8. K.S.A. 2004 Supp. 12-17,150 is hereby amended to read as
40 follows: 12-17,150. The secretary of revenue in connection with a rede-
41 velopment project area *or project* for which sales, use and transient guest
42 tax revenues are pledged or otherwise intended to be used in whole or
43 in part for the payment of bonds issued to finance redevelopment project

1 costs in such redevelopment project area or a transportation *and infrastruc-*
2 *ture* development district for which a transportation *and infrastruc-*
3 *ture* development district sales tax has been imposed, shall provide re-
4 ports identifying each retailer having a place of business in such
5 redevelopment district or transportation *and infrastructure* development
6 district setting forth the tax liability and the amount of such tax remitted
7 by each retailer during the preceding month and identifying each business
8 location maintained by the retailer within such city or county. Such report
9 shall be made available to the bond trustee, escrow agent or paying agent
10 for such bonds within a reasonable time after it has been requested from
11 the director of taxation. The bond trustee, escrow agent or paying agent
12 shall keep such retailers' sales, use, transient guest and transportation *and*
13 *infrastructure* development district sales tax returns and the information
14 contained therein confidential, but may use such information for purposes
15 of allocating and depositing such sales, use, transient guest and transpor-
16 tation *and infrastructure* development district sales tax revenues in con-
17 nection with the bonds used to finance redevelopment project costs in
18 such redevelopment project area or used to finance the costs of a project
19 in a transportation *and infrastructure* development district. Except as
20 otherwise provided, the sales, use and transient guest tax returns received
21 by the bond trustee, escrow agent or paying agent shall be subject to the
22 provisions of K.S.A. 79-3614 and amendments thereto.

23 Sec. 9. K.S.A. 2004 Supp. 12-17,151 is hereby amended to read as
24 follows: 12-17,151. (a) The provisions of K.S.A. 2004 Supp. 12-17,140
25 through 12-17,150, and amendments thereto, and K.S.A. 12-194 and 25-
26 432, as amended pursuant to this act, shall apply to all transportation
27 development districts, whether created before or after July 1, 2003.

28 (b) *The provisions of K.S.A. 2004 Supp. 12-17,140 through 12-17,150,*
29 *and amendments thereto, shall apply to all transportation development*
30 *districts or transportation and infrastructure development districts,*
31 *whether created before or after July 1, 2005.*

32 Sec. 10. K.S.A. 2004 Supp. 12-17,140, 12-17,141, 12-17,142, 12-
33 17,144, 12-17,145, 12-17,146, 12-17,147, 12-17,150 and 12-17,151 are
34 hereby repealed.

35 Sec. 11. This act shall take effect and be in force from and after its
36 publication in the statute book.