

SENATE BILL No. 360

By Senator Pyle

1-12

9 AN ACT concerning eminent domain; relating to tax incentives; amend-
10 ing K.S.A. 2005 Supp. 12-1773 and 12-1774 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) No abatement of ad valorem property tax for real
15 property granted after the effective date of this act by the governing body
16 of any city or the board of county commissioners of any county or other
17 taxing subdivision of the state shall be deemed to abate the ad valorem
18 property tax levied if such abatement is, in any way, related to real prop-
19 erty taken pursuant to the eminent domain procedure act, K.S.A. 26-501
20 et seq., and amendments thereto. The provisions of this section shall not
21 be deemed to apply to any abatement granted prior to the effective date
22 of this act for any calendar year for which any such abatement was
23 granted.

24 (b) No ad valorem tax exemption for real property granted after the
25 effective date of this act by the governing body of any city or the board
26 of county commissioners of any county or other taxing subdivision of the
27 state shall be deemed to provide an exemption from the ad valorem prop-
28 erty tax levied if such exemption is, in any way, related to real property
29 taken pursuant to the eminent domain procedure act, K.S.A. 26-501 et
30 seq., and amendments thereto. The provisions of this section shall not be
31 deemed to apply to any exemption granted prior to the effective date of
32 this act for any calendar year for which any such exemption was granted.

33 (c) Neither special obligation bonds nor full faith and credit tax in-
34 crement bonds, pursuant to K.S.A. 12-1774 et seq., and amendments
35 thereto, may be issued after the effective date of this act by the governing
36 body of the state of Kansas, any city or the board of county commissioners
37 of any county or other taxing subdivision of the state with regard to real
38 property taken pursuant to the eminent domain procedure act, K.S.A. 26-
39 501 et seq., and amendments thereto. The provisions of this section shall
40 not be deemed to apply to any bonds issued prior to the effective date of
41 this act.

42 (d) No credits against taxes owed may be granted after the effective
43 date of this act by the state of Kansas, the governing body of any city or

1 the board of county commissioners of any county or other taxing subdi-
2 vision of the state with regard to real property taken pursuant to the
3 eminent domain procedure act, K.S.A. 26-501 *et seq.*, and amendments
4 thereto. The provisions of this subsection shall not be deemed to apply
5 to tax credits granted prior to the effective date of this act for any calendar
6 year for which any such tax credit was granted.

7 (e) This section shall be in addition and supplemental to the eminent
8 domain procedure act.

9 Sec. 2. K.S.A. 2005 Supp. 12-1773 is hereby amended to read as
10 follows: 12-1773. ~~(a) Any city which has adopted a redevelopment project~~
11 ~~plan in accordance with the provisions of this act may purchase or oth-~~
12 ~~erwise acquire real property in connection with such project plan. Upon~~
13 ~~a 2/3 vote of the members of the governing body thereof a city may acquire~~
14 ~~by condemnation any interest in real property, including a fee simple title~~
15 ~~thereto, which it deems necessary for or in connection with any project~~
16 ~~plan of an area located within the redevelopment district. Prior to the~~
17 ~~exercise of such eminent domain power, the city shall offer to the owner~~
18 ~~of any property which will be subject to condemnation with respect to~~
19 ~~any redevelopment project, other than one which includes an auto race~~
20 ~~track facility or a special bond project, compensation in an amount equal~~
21 ~~to the highest appraised valuation amount determined for property tax~~
22 ~~purposes by the county appraiser for any of the three most recent years~~
23 ~~next preceding the year of condemnation, except that, if in the year next~~
24 ~~preceding the year of condemnation any such property had been damaged~~
25 ~~or destroyed by fire, flood, tornado, lightning, explosion or other cata-~~
26 ~~strophic event, the amount offered should be equal to the appraised val-~~
27 ~~uation of the property which would have been determined taking into~~
28 ~~account such damage or destruction unless such property has been re-~~
29 ~~stored, renovated or otherwise improved. However no city shall exercise~~
30 ~~such eminent domain power to acquire real property in a conservation~~
31 ~~area. Any such city may exercise the power of eminent domain in the~~
32 ~~manner provided by K.S.A. 26-501 et seq., and amendments thereto. In~~
33 ~~addition to the compensation or damage amount finally awarded there-~~
34 ~~under with respect to any property subject to proceedings thereunder as~~
35 ~~a result of the construction of an auto race track facility or a special bond~~
36 ~~project, such city shall provide for the payment of an amount equal to~~
37 ~~25% of such compensation or damage amount. In addition to any com-~~
38 ~~ensation or damages allowed under the eminent domain procedure act,~~
39 ~~such city shall also provide for the payment of relocation assistance as~~
40 ~~provided in K.S.A. 12-1777, and amendments thereto.~~

41 ~~—(b) Any property acquired by a city under the provisions of this act~~
42 ~~may be sold, transferred or leased to a developer, in accordance with the~~
43 ~~redevelopment project plan and under such other conditions as may be~~

1 ~~agreed upon~~; however, eminent domain shall not be used to acquire such
2 property.

3 Sec. 3. K.S.A. 2005 Supp. 12-1774 is hereby amended to read as
4 follows: 12-1774. (a) (1) Any city shall have the power to issue special
5 obligation bonds in one or more series to finance the undertaking of any
6 redevelopment project in accordance with the provisions of this act. Such
7 special obligation bonds shall be made payable, both as to principal and
8 interest:

9 (A) From tax increments allocated to, and paid into a special fund of
10 the city under the provisions of K.S.A. 12-1775, and amendments thereto;

11 (B) from revenues of the city derived from or held in connection with
12 the undertaking and carrying out of any redevelopment project or projects
13 under this act including historic theater sales tax increments and envi-
14 ronmental increments;

15 (C) from any private sources, contributions or other financial assis-
16 tance from the state or federal government;

17 (D) from a pledge of all of the revenue received by the city from any
18 transient guest and local sales and use taxes which are collected from
19 taxpayers doing business within that portion of the city's redevelopment
20 district established pursuant to K.S.A. 12-1771, and amendments thereto,
21 occupied by a redevelopment project if there first is a finding by the
22 secretary that based upon the feasibility study the redevelopment project
23 will create a major tourism area for the state; is the restoration of a historic
24 theater as defined in subsection (l) of K.S.A. 12-1770a, and amendments
25 thereto; has been designated as a special bond project as defined in sub-
26 section (z) of K.S.A. 12-1770a, and amendments thereto; or is a major
27 motorsports complex as defined in subsection (uu) of K.S.A. 12-1770a,
28 and amendments thereto. The proceeds of special obligation bonds issued
29 pursuant to this paragraph after June 3, 2004, shall not be used to finance
30 personal property as defined in K.S.A. 79-102, and amendments thereto.
31 A city proposing to finance a major motorsports complex pursuant to this
32 paragraph shall prepare a project plan as required in K.S.A. 12-1780c,
33 and amendments thereto;

34 (E) (i) from a pledge of a portion or all increased revenue received
35 by the city from franchise fees collected from utilities and other busi-
36 nesses using public right-of-way within the redevelopment district; (ii)
37 from a pledge of all or a portion of the revenue received by the city from
38 sales taxes;

39 (F) with the approval of the county, from a pledge of all of the rev-
40 enues received by the county from any transient guest, local sales and use
41 taxes which are collected from taxpayers doing business within that por-
42 tion of the redevelopment district established pursuant to K.S.A. 12-1771,
43 and amendments thereto;

1 (G) from a pledge of all of the revenue received from any state sales
2 taxes which are collected from taxpayers doing business within that por-
3 tion of the city's redevelopment district occupied by a redevelopment
4 project if the secretary finds that, based upon the feasibility study, the
5 redevelopment project will create a major tourism area for the state; is
6 the restoration of a historic theater as defined in subsection (1) of K.S.A.
7 12-1770a, and amendments thereto; has been designated a special bond
8 project as defined in subsection (z) of K.S.A. 12-1770a, and amendments
9 thereto; or is a major motorsports complex as defined in subsection (uu)
10 of K.S.A. 12-1770a, and amendments thereto. The proceeds of special
11 obligation bonds issued pursuant to this paragraph after June 3, 2004,
12 shall not be used to finance personal property as defined in K.S.A. 79-
13 102, and amendments thereto;

14 (H) by any combination of these methods except that for a project
15 which has been designated as a special bond project as defined in sub-
16 section (z) of K.S.A. 12-1770a and amendments thereto, 100% of city and
17 county sales taxes shall be pledged for such project except for amounts
18 committed to other use by election of voters or pledged to bond repay-
19 ment prior to the approval of a project using special obligation bonds
20 payable from the revenues described in subsections (a)(1)(D) and
21 (a)(1)(G) of K.S.A. 12-1774, and amendments thereto.

22 The city may pledge such revenue to the repayment of such special
23 obligation bonds prior to, simultaneously with, or subsequent to the is-
24 suance of such special obligation bonds.

25 (2) Bonds issued under paragraph (1) of subsection (a) shall not be
26 general obligations of the city, nor in any event shall they give rise to a
27 charge against its general credit or taxing powers, or be payable out of
28 any funds or properties other than any of those set forth in paragraph (1)
29 of this subsection and such bonds shall so state on their face.

30 (3) Bonds issued under the provisions of paragraph (1) of this sub-
31 section shall be special obligations of the city and are declared to be
32 negotiable instruments. They shall be executed by the mayor and clerk
33 of the city and sealed with the corporate seal of the city. All details per-
34 taining to the issuance of such special obligation bonds and terms and
35 conditions thereof shall be determined by ordinance of the city. All special
36 obligation bonds issued pursuant to this act and all income or interest
37 therefrom shall be exempt from all state taxes except inheritance taxes.
38 Such special obligation bonds shall contain none of the recitals set forth
39 in K.S.A. 10-112, and amendments thereto. Such special obligation bonds
40 shall, however, contain the following recitals, viz., the authority under
41 which such special obligation bonds are issued, they are in conformity
42 with the provisions, restrictions and limitations thereof, and that such
43 special obligation bonds and the interest thereon are to be paid from the

1 money and revenue received as provided in paragraph (1) of this
2 subsection.

3 (b) (1) Subject to the provisions of paragraph (2) of this subsection,
4 any city shall have the power to issue full faith and credit tax increment
5 bonds to finance the undertaking of any redevelopment project in ac-
6 cordance with the provisions of K.S.A. 12-1770 et seq., and amendments
7 thereto, other than a project that will create a major tourism area, is a
8 special bond project or result in the renovation of an historic theater.
9 Such full faith and credit tax increment bonds shall be made payable,
10 both as to principal and interest: (A) From the revenue sources identified
11 in paragraph (1)(A), (B), (C), (D) , (E) or (G) of subsection (a) or by any
12 combination of these sources; and (B) subject to the provisions of para-
13 graph (2) of this subsection, from a pledge of the city's full faith and credit
14 to use its ad valorem taxing authority for repayment thereof in the event
15 all other authorized sources of revenue are not sufficient.

16 (2) Except as provided in paragraph (3) of this subsection, before the
17 governing body of any city proposes to issue full faith and credit tax in-
18 crement bonds as authorized by this subsection, the feasibility study re-
19 quired by K.S.A. 12-1772, and amendments thereto, shall demonstrate
20 that the benefits derived from the project will exceed the cost and that
21 the income therefrom will be sufficient to pay the costs of the project.
22 No full faith and credit tax increment bonds shall be issued unless the
23 governing body states in the resolution required by K.S.A. 12-1772, and
24 amendments thereto, that it may issue such bonds to finance the proposed
25 redevelopment project. The governing body may issue the bonds unless
26 within 60 days following the date of the public hearing on the proposed
27 project plan a protest petition signed by 3% of the qualified voters of the
28 city is filed with the city clerk in accordance with the provisions of K.S.A.
29 25-3601 et seq., and amendments thereto. If a sufficient petition is filed,
30 no full faith and credit tax increment bonds shall be issued until the
31 issuance of the bonds is approved by a majority of the voters voting at an
32 election thereon. Such election shall be called and held in the manner
33 provided by the general bond law. The failure of the voters to approve
34 the issuance of full faith and credit tax increment bonds shall not prevent
35 the city from issuing special obligation bonds in accordance with this
36 section. No such election shall be held in the event the board of county
37 commissioners or the board of education determines, as provided in
38 K.S.A. 12-1771, and amendments thereto, that the proposed redevelop-
39 ment district will have an adverse effect on the county or school district.

40 (3) As an alternative to paragraph (2) of this subsection, any city which
41 adopts a redevelopment project plan but does not state its intent to issue
42 full faith and credit tax increment bonds in the resolution required by
43 K.S.A. 12-1772, and amendments thereto, and has not acquired property

1 in the redevelopment project area may issue full faith and credit tax in-
2 crement bonds if the governing body of the city adopts a resolution stating
3 its intent to issue the bonds and the issuance of the bonds is approved by
4 a majority of the voters voting at an election thereon. Such election shall
5 be called and held in the manner provided by the general bond law. The
6 failure of the voters to approve the issuance of full faith and credit tax
7 increment bonds shall not prevent the city from issuing special obligation
8 bonds pursuant to paragraph (1) of subsection (a). Any project plan
9 adopted by a city prior to the effective date of this act in accordance with
10 K.S.A. 12-1772, and amendments thereto, shall not be invalidated by any
11 requirements of this act.

12 (4) During the progress of any redevelopment project in which the
13 redevelopment project costs will be financed, in whole or in part, with
14 the proceeds of full faith and credit tax increment bonds, the city may
15 issue temporary notes in the manner provided in K.S.A. 10-123, and
16 amendments thereto, to pay the redevelopment project costs for the pro-
17 ject. Such temporary notes shall not be issued and the city shall not ac-
18 quire property in the redevelopment project area until the requirements
19 of paragraph (2) or (3) of this subsection, whichever is applicable, have
20 been met.

21 (5) Full faith and credit tax increment bonds issued under this sub-
22 section shall be general obligations of the city and are declared to be
23 negotiable instruments. They shall be issued in accordance with the gen-
24 eral bond law. All such bonds and all income or interest therefrom shall
25 be exempt from all state taxes except inheritance taxes. The amount of
26 the full faith and credit tax increment bonds issued and outstanding which
27 exceeds 3% of the assessed valuation of the city shall be within the bonded
28 debt limit applicable to such city.

29 (6) Any city issuing special obligation bonds under the provisions of
30 this act may refund all or part of such issue pursuant to the provisions of
31 K.S.A. 10-116a, and amendments thereto.

32 (c) Any increment in ad valorem property taxes resulting from a re-
33 development project in the established redevelopment district under-
34 taken in accordance with the provisions of this act, shall be apportioned
35 to a special fund for the payment of the redevelopment project costs,
36 including the payment of principal and interest on any special obligation
37 bonds or full faith and credit tax increment bonds issued to finance such
38 project pursuant to this act and may be pledged to the payment of prin-
39 cipal and interest on such bonds.

40 (d) For each project financed with special obligation bonds payable
41 from the revenues described in subsections (a)(1)(D) and (a)(1)(G), the
42 city shall prepare and submit annually to the secretary of commerce by
43 October 1 of each year, a report describing the status of any projects

1 within such redevelopment area, any expenditures of the proceeds of
2 special obligation bonds that have occurred since the last annual report
3 and any expenditures of the proceeds of such bonds expected to occur in
4 the future, including the amount of sales tax revenue, how it has been
5 spent, the projected amount of such revenue and the anticipated use of
6 such revenue. The department of commerce shall compile this informa-
7 tion and submit a report annually to the governor, Kansas, Inc. and the
8 legislature by February 1 of each year.

9 (e) A city may use the proceeds of special obligation bonds or full
10 faith and credit tax increment bonds, or any uncommitted funds derived
11 from sources set forth in this section to pay the redevelopment project
12 costs as defined in K.S.A. 12-1770a, and amendments thereto, to imple-
13 ment the redevelopment project plan.

14 (f) With respect to a redevelopment district established prior to Jan-
15 uary 1, 2003, for which, prior to January 1, 2003, the secretary of com-
16 merce made a finding as provided in subsection (a) of this section that a
17 redevelopment project would create a major tourism area for the state,
18 such special obligation bonds shall be payable both as to principal and
19 interest, from a pledge of all of the revenue from any transient guest,
20 state and local sales and use taxes collected from taxpayers as provided
21 in subsection (a) of this section whether or not revenues from such taxes
22 are received by the city.

23 (g) *The provisions of this section shall not apply to a redevelopment*
24 *district in which real property has been taken pursuant to the eminent*
25 *domain procedure act, K.S.A. 26-501 et seq., and amendments thereto.*

26 Sec. 4. K.S.A. 2005 Supp. 12-1773 and 12-1774 are hereby repealed.

27 Sec. 5. This act shall take effect and be in force from and after its
28 publication in the Kansas register.