

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2663

By Committee on Energy and Utilities

2-5

10 AN ACT concerning cities and counties; creating energy management
11 districts.

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

14 Section 1. Sections 1 through 11, and amendments thereto, shall be
15 known and may be cited as the ~~energy management district act~~ **property**
16 **assessed renewable energy and energy efficiency (PARE) program**
17 **act.**

18 Sec. 2. As used in this act:

19 (a) "Energy efficiency improvement" means an installation or modi-
20 fication that is designed to reduce energy consumption in residential ~~or~~
21 ~~commercial~~, **commercial or industrial** buildings, and may include, but
22 is not limited to, the following:

23 (1) Insulation in walls, roofs, floors and foundations and in heating
24 and cooling distribution systems;

25 (2) ~~storm windows and doors, multi-glazed windows and doors, heat-~~
26 ~~absorbing or heat-reflective glazed and coated window and door systems,~~
27 ~~additional glazing, reductions in glass area and other window and door~~
28 ~~system modifications that reduce energy consumption~~ **building enve-**
29 **lope items, such as roofing, masonry, foundation, windows and**
30 **doors;**

31 (3) ~~automatic~~ **automated or computerized** energy control systems;

32 (4) **geothermal heating/cooling pumps**, heating, ventilating or air
33 conditioning and distribution system modifications or replacements ~~in~~
34 ~~buildings or central plants;~~

35 (5) caulking and weather-stripping;

36 (6) replacement or modification of lighting fixtures to increase the
37 energy efficiency of the system without increasing the overall illumination
38 ~~of a residential or commercial building~~ unless the increase in illumination
39 is necessary to conform to the applicable building code for the proposed
40 lighting system;

41 (7) energy recovery systems;

42 (8) daylighting systems; ~~and~~

43 (9) **cogeneration systems that produce steam or forms of en-**

1 **ergy such as heat, as well as electricity;**
2 **(10) tankless hot water systems, solar hot water systems and**
3 **low-flow bathroom fixtures and toilets; and**
4 ~~(9)~~ **(11)** any other modification, installation or remodeling approved
5 as a utility cost-savings measure by the governing body.
6 (b) “Governing body” means the governing body of a city or the board
7 of county commissioners of a county.
8 (c) “Renewable energy improvement” means a fixture, product, sys-
9 tem, device or interacting group of devices installed behind the meter of
10 any residential ~~or commercial~~, **commercial or industrial** building that
11 produces energy from renewable resources, including, but not limited to,
12 photovoltaic systems, solar thermal systems, small wind systems, biomass
13 systems or geothermal systems, as may be authorized by the governing
14 body.

15 Sec. 3. The governing body of any city or county, in accordance with
16 the procedures and subject to the limitations of this act, may establish
17 one or more energy management districts within the city or county for
18 the purpose of constructing, installing or acquiring energy efficiency im-
19 provements or renewable energy improvements.

20 Sec. 4. Any city or county may construct energy efficiency improve-
21 ments or renewable energy improvements and assess the cost thereof,
22 wholly or in part, against the property especially benefited by such im-
23 provements. The improvements shall be authorized by city ordinance or
24 county resolution and shall be constructed under the direction of the
25 municipal engineer or other officer having similar duties or under the
26 direction of the governing body in accordance with plans and specifica-
27 tions adopted by the governing body or, if such improvements qualify
28 pursuant to the ordinance or resolution of the governing body, the owner
29 of the real property may arrange for the improvements and obtain fi-
30 nancing for the improvements from the city or county through the process
31 set forth in the ordinance or resolution forming the district.

32 Sec. 5. Any city or county may initiate the formation of an energy
33 management district by the adoption of a resolution of intent. Such res-
34 olution of intent shall contain the following: (a) The intent to designate
35 an area for the assessment, even if the area will cover the entire city or
36 county; (b) a description of the boundaries of the proposed district; (c) a
37 general description of the goals and details to be provided within the
38 district; (d) a finding that the district served a public purpose of the gov-
39 erning body by achieving its defined goals; (e) a summary of the eligible
40 energy efficiency improvements and renewable energy improvements; (f)
41 such other information as deemed advisable by the governing body; and
42 (g) the time and place of a public hearing to be held by the governing
43 body to consider establishment of the district.

1 Sec. 6. Notice of the public hearing on the proposed establishment
2 of an energy management district shall be published once in the official
3 newspaper of the city or county and a copy of such notice and a copy of
4 the resolution of intent shall be mailed by first class mail to all owners of
5 real property in the proposed district. Publication and mailing shall be at
6 least 30 days prior to the hearing and the hearing shall be held not later
7 than 60 days after adoption of the resolution of intent.

8 Sec. 7. If the city or county, following the public hearing, determines
9 it advisable and in the public interest to establish a district, the city or
10 county shall create the district by ordinance or resolution, as appropriate.
11 The ordinance or resolution creating the district shall contain the follow-
12 ing: (a) A description of the boundaries of the district; (b) a list of all
13 eligible energy efficiency improvements and renewable energy improve-
14 ments; (c) a finding that the district serves a public purpose of the city or
15 county by achieving the district's defined goals; (d) a method for ranking
16 requests from owners of real property for financing through contractual
17 assessments if requests exceed the authorization amount; (e) specification
18 of whether the owners of real property may purchase the equipment for
19 the energy efficiency improvement or renewable energy improvement
20 directly or contract for the installation; (f) a draft contract specifying the
21 terms and conditions to be agreed upon by the city or county and any
22 owner of real property on which the improvements are to be made; and
23 (g) the terms of members, method of appointment and duties of any
24 manager, administrator or board established to oversee and manage the
25 financing of any energy efficiency improvements or renewable energy
26 improvements in the district. The boundaries of the district may include
27 less territory than that described in the resolution of intent but may not
28 include any territory not described in the resolution of intent. Following
29 the creation of the district, owners of real property within the assessment
30 area may opt-in to the program voluntarily.

31 Sec. 8. Within 45 days following publication of an ordinance estab-
32 lishing a district pursuant to section 7, and amendments thereto, the own-
33 ers of real property located within the district may file with the governing
34 body a petition in opposition to the continuation of the district. Upon a
35 finding that a petition opposing the establishment of the district was
36 signed by not less than a majority of the number of owners of real property
37 located within the district, the district shall be dissolved.

38 Sec. 9. Any modification of the area included within an energy man-
39 agement district shall be made by ordinance or resolution, as appropriate,
40 following a public hearing, preceded by at least 30 days' written notice to
41 all owners of real property within the existing and proposed district,
42 served by first class mail. Any energy management district may be abol-
43 ished by ordinance or resolution, as appropriate, following a public hear-

1 ing, preceded by at least 30 days' written notice to all owners within the
2 district by first class mail.

3 Sec. 10. (a) A city or county which has created an energy manage-
4 ment district pursuant to this act may issue bonds in one or more series
5 to finance energy efficiency improvements or renewable energy improve-
6 ments to real property located within such district. Such bonds shall be
7 made payable, both as to principal and interest, solely from a pledge of
8 revenues from special assessments imposed pursuant to section 11, and
9 amendments thereto.

10 (b) Bonds issued pursuant to this section shall not be general obli-
11 gations of the city or county, give rise to a charge against the general
12 credit or taxing powers of the city or county or be payable out of any
13 funds or properties other than the revenues described in subsection (a).

14 (c) Bonds issued pursuant to this section shall be special obligations
15 of the city or county and are declared to be negotiable instruments. Such
16 bonds shall be executed by the authorized representatives of the city or
17 county and sealed with the corporate seal of the city or county. All details
18 pertaining to the issuance of the bonds and terms and conditions thereof
19 shall be determined by ordinance or resolution of the city or county. The
20 provisions of K.S.A. 10-106, and amendments thereto, requiring a public
21 sale of bonds shall not apply to bonds issued under this section. All bonds
22 issued pursuant to this section and all income or interest therefrom shall
23 be exempt from all state taxes except inheritance taxes. Such bonds shall
24 contain none of the recitals set forth in K.S.A. 10-112, and amendments
25 thereto. Such bonds shall contain the following recitals: The authority
26 under which such bonds are issued; that such bonds are in conformity
27 with the provisions, restrictions and limitations thereof; and that such
28 bonds and the interest thereon are to be paid from the money and rev-
29 enues described in subsection (a). Such bonds shall mature in no more
30 than 22 years.

31 **(d) Any city or county issuing bonds under the provisions of**
32 **this act shall not use the bonds to generate revenue.**

33 ~~(e)~~ (e) Any city or county issuing bonds under the provisions of this
34 act may refund all or part of such issue pursuant to the provisions of
35 K.S.A. 10-116a, and amendments thereto.

36 ~~(f)~~ (f) Bonds issued under the provisions of this act shall be in ad-
37 dition to and not subject to any statutory limitation of bonded indebt-
38 edness imposed on the city or county.

39 Sec. 11. (a) The governing body which has created an energy man-
40 agement district shall levy and collect special assessments upon real prop-
41 erty in the district on which energy efficiency improvements or renewable
42 energy improvements have been made pursuant to this act. The governing
43 body shall provide for the payment of all **reasonable** costs of ~~such the~~

1 improvements, **not to exceed 5% of such improvements**, out of the
2 proceeds of such special assessments. In making such assessments, the
3 city or county shall follow the procedures provided in K.S.A. 12-6a01 et
4 seq., and amendments thereto, except that the cost to be assessed shall
5 be determined in accordance with the terms of the contract between the
6 city or county and the owner of the real property upon which the im-
7 provements are made.

8 (b) Assessments pursuant to this act shall be payable at the time of
9 the payment of general property taxes. All assessments shall bear interest
10 at such rate as provided by the contract between the city or county and
11 the owner of the real property upon which the improvements are made.
12 Such assessments shall be collected and paid over to the city or county
13 treasurer in the same manner as other taxes of the city or county are
14 collected and paid. At any time prior to the date when an assessment is
15 due, the owner of the real property may pay the whole of the assessment
16 against such property with interest accrued to the date of payment to the
17 city or county treasurer.

18 **Sec. 12. (a) No improvement shall be made if the governing**
19 **body determines that the owner of the real property cannot dem-**
20 **onstrate sufficient income or other sufficient financial means, ex-**
21 **cluding the value of the real property, to pay the special**
22 **assessment.**

23 (b) **Real property shall be considered eligible for purposes of**
24 **this act if the total unpaid balances of debts secured by mortgages**
25 **and other liens does not exceed 80% of the market value of the**
26 **real property.**

27 (c) **The costs of renewable energy and energy efficiency im-**
28 **provements on the property shall not exceed 10% of the appraised**
29 **value of the property.**

30 (d) **Any lien filed pursuant to a special assessment authorized**
31 **by this act shall be subject to all prior liens of record. The lien**
32 **must be filed in the office of the register of deeds of the county**
33 **where the real property is located and must contain the legal de-**
34 **scription of all real property in the county subject to the lien.**

35 ~~Sec. 13.~~ This act shall take effect and be in force from and after
36 its publication in the statute book.