

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2729

By Committee on Appropriations

3-4

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 property assessed renewable energy and
16 energy efficiency (PARE) program act.

17 Sec. 2. As used in this act:

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

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

24 (2) building envelope items, such as roofing, masonry, foundation,
25 windows and doors;

26 (3) automated or computerized energy control systems;

27 (4) geothermal heating/cooling pumps, heating, ventilating or air con-
28 ditioning and distribution system modifications or replacements;

29 (5) caulking and weather-stripping;

30 (6) replacement or modification of lighting fixtures to increase the
31 energy efficiency of the system without increasing the overall illumination
32 unless the increase in illumination is necessary to conform to the appli-
33 cable building code for the proposed lighting system;

34 (7) energy recovery systems;

35 (8) daylighting systems;

36 (9) cogeneration systems that produce steam or forms of energy such
37 as heat, as well as electricity;

38 (10) tankless hot water systems, solar hot water systems and low-flow
39 bathroom fixtures and toilets; and

40 (11) any other modification, installation or remodeling approved as a
41 utility cost-savings measure by the governing body.

42 (b) “Governing body” means the governing body of a city or the board
43 of county commissioners of a county.

1 (c) “Renewable energy improvement” means a fixture, product, sys-
2 tem, device or interacting group of devices installed behind the meter of
3 any residential, commercial or industrial building that produces energy
4 from renewable resources, including, but not limited to, photovoltaic sys-
5 tems, solar thermal systems, small wind systems, biomass systems or ge-
6 othermal systems, as may be authorized by the governing body.

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

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

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

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

43 Sec. 7. If the city or county, following the public hearing, determines

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

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

30 Sec. 9. Any modification of the area included within an energy man-
31 agement district shall be made by ordinance or resolution, as appropriate,
32 following a public hearing, preceded by at least 30 days' written notice to
33 all owners of real property within the existing and proposed district,
34 served by first class mail. Any energy management district may be abol-
35 ished by ordinance or resolution, as appropriate, following a public hear-
36 ing, preceded by at least 30 days' written notice to all owners within the
37 district by first class mail.

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

1 amendments thereto.

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

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

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

25 (e) Any city or county issuing bonds under the provisions of this act
26 may refund all or part of such issue pursuant to the provisions of K.S.A.
27 10-116a, and amendments thereto.

28 (f) Bonds issued under the provisions of this act shall be in addition
29 to and not subject to any statutory limitation of bonded indebtedness
30 imposed on the city or county.

31 Sec. 11. (a) The governing body which has created an energy man-
32 agement district shall levy and collect special assessments upon real prop-
33 erty in the district on which energy efficiency improvements or renewable
34 energy improvements have been made pursuant to this act. The governing
35 body shall provide for the payment of all ~~reasonable~~ costs of ~~the such~~
36 ~~improvements, not to exceed 5% of such improvements,~~ out of the pro-
37 ceeds of such special assessments. **The governing body shall provide**
38 **for the payment of the administrative costs of the improvements,**
39 **not to exceed 5% of the total costs of such improvements, out of**
40 **the proceeds of such special assessment.** In making such assessments,
41 the city or county shall follow the procedures provided in K.S.A. 12-6a01
42 et seq., and amendments thereto, except that the cost to be assessed shall
43 be determined in accordance with the terms of the contract between the

1 city or county and the owner of the real property upon which the im-
2 provements are made.

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

13 Sec. 12. (a) No improvement shall be made if the governing body
14 determines that the owner of the real property cannot demonstrate suf-
15 ficient income or other sufficient financial means, excluding the value of
16 the real property, to pay the special assessment.

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

20 (c) The costs of renewable energy and energy efficiency improve-
21 ments on the property shall not exceed 10% of the appraised value of the
22 property.

23 (d) Any lien filed pursuant to a special assessment authorized by this
24 act shall be subject to all prior liens of record. The lien must be filed in
25 the office of the register of deeds of the county where the real property
26 is located and must contain the legal description of all real property in
27 the county subject to the lien.

28 Sec. 13. This act shall take effect and be in force from and after its
29 publication in the statute book.