

HOUSE BILL No. 2551

By Committee on Taxation

1-27

1 AN ACT concerning sales taxation; relating to authorization for the
2 Sherwood improvement district to impose a sales tax; amending K.S.A.
3 19-2765 and repealing the existing section.
4

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

6 New Section 1. (a) The board of directors of the Sherwood
7 improvement district, hereinafter referred to as the board, incorporated
8 under K.S.A. 19-2753 et seq., and amendments thereto, may adopt a
9 resolution imposing a retailers' sales tax within the boundaries of such
10 district for the purpose of paying the costs of road and drainage
11 improvements and maintenance within the boundaries of the district. The
12 rate of such tax shall not exceed 1.0% and shall be in addition to the
13 applicable aggregate amount of retailers' sales tax imposed by the state and
14 any other jurisdictions and may be imposed notwithstanding any
15 limitations on the aggregate amount of retailers' sales tax otherwise
16 provided by law and the revenue therefrom shall be pledged to pay such
17 costs or projects as specified in the board's resolution.

18 (b) (1) A public hearing shall be held prior to the adoption of any
19 resolution by the board proposing to impose a retailers' sales tax. The
20 board shall give notice of such public hearing at least once a week for at
21 least three consecutive weeks in a newspaper of general circulation within
22 the district and for a period of at least three weeks on the official website
23 of the district. Notice shall be published as provided herein at least seven
24 days prior to the date of the hearing. The notices shall contain the
25 following information:

26 (A) The time and place of the hearing;

27 (B) the nature of the project or projects or expenses for road and
28 drainage improvements and maintenance within the boundaries of the
29 district for which sales tax revenue is to be pledged;

30 (C) the estimated costs of such project or projects or amount of such
31 expenses;

32 (D) the proposed method of financing such project or projects, if any;
33 and

34 (E) the proposed percent of public improvement district sales tax to
35 be imposed.

36 (2) Upon the conclusion of the public hearing, the board may adopt

1 the resolution as proposed or as modified at such hearing. The resolution
2 shall specify the rate and the costs, expenses or projects for which the
3 revenue from the sales tax will be used and shall be published in a
4 newspaper of general circulation within the district at least once a week for
5 a period of at least three weeks and on the official website of the district
6 for a period of at least three weeks.

7 (c) If, at the conclusion of the public hearing, the board adopts a
8 resolution to impose a district sales tax, the board shall submit the
9 resolution for approval by the qualified electors within the district. Notice
10 of such election shall be published by the board at least once a week for
11 three consecutive weeks in a newspaper of general circulation within the
12 district and in the official newspaper for the county within which the
13 district is located and for a period of at least three weeks on the website of
14 the district. The first of such notices shall be not less than 21 days prior to
15 the election. Such notice shall be published at least once seven days prior
16 to the date of such election. The notices shall set forth the time and place
17 of holding the election, the percent of sales tax to be imposed, and the
18 purpose or purposes for which the sales tax revenue would be used.

19 (d) The election shall be held at the usual place of holding elections at
20 any general election, as defined in K.S.A. 25-2502, and amendments
21 thereto, or at a special election called for that purpose. A statement
22 describing the purpose or purposes for which the sales tax revenue would
23 be used shall be included as a part of the ballot proposition. The
24 proposition shall be: "Shall the Sherwood improvement district be
25 authorized to impose a sales tax within the borders of the district, of 1%,
26 for purposes of paying the costs of road and drainage improvements and
27 maintenance within the boundaries of the district." The election shall be
28 conducted by the officers or persons provided by law for holding elections
29 in the county. If an election is held and the resolution is approved by a
30 majority of the qualified electors within the district voting at such election,
31 the board may impose such tax as provided in this section for the purpose
32 or purposes specified in the resolution.

33 (e) If a majority of the electors voting thereon at such election fail to
34 approve the resolution, such resolution or such resolution as modified by
35 the board upon public notice and a hearing as provided in this section, may
36 be resubmitted to the electors under the conditions and in the manner
37 provided in this section for submission of the resolution to the electors.

38 (f) Any increase in the rate of such tax shall be accomplished under
39 the conditions and in the manner provided herein for the adoption and
40 approval of such tax. The reduction or repeal of a retailers' sales tax
41 imposed pursuant to this section may be accomplished by the adoption of a
42 resolution of the board so providing and shall not require approval by the
43 electors within the district. All revenue received by the district from its

1 retailers' sales tax shall be used solely for the purpose or purposes
2 specified in the resolution imposing such tax by the board and the
3 qualified electors of the district. If the tax imposed pursuant to this section
4 or a portion thereof has been pledged for a specific project or projects,
5 such tax or such portion thereof shall expire when sales tax sufficient to
6 pay all of the costs incurred in the financing of such project or projects has
7 been collected by retailers as determined by the secretary of revenue.

8 (g) (1) The district shall utilize the services of the state department of
9 revenue to administer, enforce and collect the district's retailers' sales tax.
10 Except as otherwise provided, such tax shall be identical in its application
11 and exemptions therefrom to the Kansas retailers' sales tax act, and all
12 laws and rules and regulations of the state department of revenue relating
13 to the Kansas retailers' sales tax act shall apply to such tax insofar as the
14 same may be made applicable.

15 (2) The secretary of revenue is authorized to administer, enforce and
16 collect the district's sales tax approved pursuant to the provisions of this
17 section and to adopt such rules and regulations necessary for the efficient
18 and effective administration, enforcement and collection thereof. The state
19 director of taxation shall cause such taxes to be collected within the
20 boundaries of the district at the same time and in the same manner
21 provided for the collection of the state retailers' sales tax. All moneys
22 collected by the director of taxation pursuant to the provisions of this
23 section shall be remitted to the state treasurer in accordance with the
24 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
25 each such remittance, the state treasurer shall deposit the entire amount in
26 the state treasury to the credit of the Sherwood improvement district's sales
27 tax fund, which fund is hereby established in the state treasury. Any refund
28 due on any tax collected pursuant to this section shall be paid out of the
29 Sherwood improvement district sales tax refund fund, which fund is
30 hereby established in the state treasury, and reimbursement to such fund
31 shall be made by the director of taxation from collections of the tax
32 revenue from the district. All moneys collected pursuant to this section for
33 the improvement district shall be remitted at least quarterly by the state
34 treasurer to the district and as requested by the board.

35 (h) The provisions of K.S.A. 12-191, and amendments thereto,
36 insofar as may be made applicable, shall apply to sales subject to the tax
37 imposed pursuant to this section, including the notice required to be
38 provided to the director of taxation and the effective date for such tax.

39 (i) Any sales tax imposed by the Sherwood improvement district shall
40 terminate if the improvement district is abolished pursuant to the
41 provisions of K.S.A. 19-2786d, and amendments thereto, and the annexing
42 or incorporating city shall assume any debts, liabilities or obligations
43 financed by such sales tax.

1 New Sec. 2. No suit to set aside the authorization of the Sherwood
2 improvement district sales tax pursuant to section 1, and amendments
3 thereto, shall be brought after the expiration of 30 days from the date of
4 certification of canvass of the votes at an election which authorizes the
5 imposition of such improvement district sales tax.

6 New Sec. 3. The secretary of revenue, in connection with the
7 Sherwood improvement district retailers' sales tax, if authorized and
8 imposed pursuant to the provisions of section 1, and amendments thereto,
9 and where revenues from such district's retailers' sales tax are pledged or
10 otherwise intended to be used in whole or in part for the payment of bonds
11 issued to finance project costs in such district for which a district sales tax
12 has been imposed, shall provide reports identifying each retailer having a
13 place of business in such district, setting forth the tax liability and the
14 amount of such tax remitted by each retailer during the preceding month,
15 and identifying each business location maintained by the retailer within the
16 district. Such report shall be made available to the bond trustee, escrow
17 agent or paying agent for such bonds within a reasonable time after it has
18 been requested from the director of taxation. The bond trustee, escrow
19 agent or paying agent shall keep such retailers' district sales tax returns and
20 the information contained therein confidential, but may use such
21 information for purposes of allocating and depositing such district sales
22 tax revenues in connection with the bonds used to finance the costs of the
23 project in the district. Except as otherwise provided, the sales tax returns
24 received by the bond trustee, escrow agent or paying agent shall be subject
25 to the confidentiality requirement provisions of K.S.A. 79-3614, and
26 amendments thereto.

27 Sec. 4. K.S.A. 19-2765 is hereby amended to read as follows: 19-
28 2765. Every improvement district incorporated under K.S.A. 19-2753 et
29 seq., and amendments thereto, shall have the power to:

- 30 (a) Adopt a seal.
- 31 (b) Be sued and to sue by its corporate name.
- 32 (c) Adopt resolutions prescribing the manner in which the powers of
33 the district shall be carried out, and generally regulating the affairs of the
34 district.
- 35 (d) Plan and construct or to purchase public works and improvements
36 necessary for public health, recreation, convenience or welfare within the
37 limits of the improvement district. Also to construct or purchase works
38 outside the limits of the district which may be necessary to secure outlets,
39 disposal, etc., and permit satisfactory performance of the works within the
40 district.
- 41 (e) Purchase, hold, sell and convey real estate and other property.
- 42 (f) Take private property for public use by exercise of the right of
43 eminent domain as provided by law.

1 (g) (1) Annually levy and collect a general tax not exceeding five
2 mills on all taxable tangible property within the district, to create a general
3 fund. Unless consented to in writing by the owners of at least 90% of the
4 total area of land in the improvement district, no such levy shall be made
5 by any improvement district where the density of population thereof, as
6 determined by the county clerk of the county in which the district is
7 located, on the basis of the assessment rolls for the last assessment made
8 for the county, does not exceed one resident for each five acres of land,
9 including platted land and unplatted land, located within the district. (2) In
10 addition to the levy authorized pursuant to (1), any improvement district
11 located in McPherson county may levy and collect annually a tax not
12 exceeding 20 mills on all taxable tangible property within the district to
13 create a fund to provide street lights in the district. (3) In lieu of the levy
14 authorized under (1), any improvement district located in a county having
15 a population of more than 150,000 and less than 180,000 and having an
16 assessed taxable tangible valuation in such district of more than \$300,000,
17 may levy and collect annually a tax not exceeding 15 mills on all taxable
18 tangible property within the district to provide moneys for the general fund
19 and, in addition, may annually levy and collect a tax of not to exceed
20 seven mills on all taxable tangible property within the district to provide
21 moneys for law enforcement and fire protection for all property located
22 within the district, if, in either case, 51% of the qualified electors of the
23 improvement district, as determined and verified by the board of directors
24 of the district, shall petition the directors requesting that such levies be
25 made. (4) Any improvement district may annually levy and collect a
26 general tax not exceeding six mills on all taxable tangible property within
27 the district to create a general fund, but no levy in excess of five mills may
28 be made unless the board of directors of such improvement district has
29 published a resolution authorizing a levy in excess of five mills once each
30 week for three consecutive weeks in a newspaper of general circulation
31 within the district. If within 30 days after the last publication of such
32 resolution, a petition protesting such levy, signed by qualified electors of
33 the improvement district equal in number to not less than 10% of the
34 electors voting at the last improvement district election for directors, is
35 filed with the county clerk of the county in which such improvement
36 district is located, no levy in excess of five mills may be made. If no
37 petition protesting the levy in excess of five mills is filed within the
38 prescribed time, the improvement district may, annually thereafter, levy
39 such general tax not exceeding six mills.

40 (h) Levy assessments and special taxes, if deemed expedient by the
41 directors, upon all of the real estate in the district that may be benefited by
42 special works and improvements including the improvement and
43 maintenance of roads in the district, which will be conducive to the public

1 health, convenience or welfare.

2 (i) Authorize the issuance of bonds to pay the cost of constructing
3 public works and improvements that will benefit all property located
4 within the district and be conducive to the public health, convenience, or
5 welfare and be beneficial to all of the inhabitants of the district. No such
6 bonds shall be issued unless consented to in writing by the owners of all of
7 the land in the improvement district or until authorized by a vote of the
8 taxpayers as hereinafter provided. The total amount of such bonds
9 outstanding shall not, unless consented to in writing by the owners of all of
10 the land in the improvement district, exceed 25% of the assessed valuation
11 of the district as shown by latest assessment rolls. Unless consented to in
12 writing by the owners of at least 90% of the total area of land in the
13 improvement district, no such bonds shall be issued for the payment of the
14 cost of any improvement within any improvement district where the
15 density of population thereof, as determined by the county clerk of the
16 county in which the district is located, on the basis of the assessment rolls
17 for the last assessment made for the county does not exceed one resident
18 for each five acres of land, including platted land and unplatted land,
19 located within the district. Any improvement district having a population
20 of more than 2,000 and an assessed taxable tangible valuation of more than
21 \$2,000,000 and located within a county having a population of more than
22 300,000 is hereby authorized to issue revenue bonds the proceeds of which
23 shall be used only to purchase, construct, reconstruct, equip, maintain or
24 repair buildings and to acquire sites therefor, and to enlarge or remodel
25 such buildings and equip the same for the purposes set out in and pursuant
26 to the provisions of K.S.A. 12-1740 et seq., and amendments thereto.

27 (j) Contract with other improvement districts or with other public
28 corporations for cooperation or joint action in the construction of public
29 works or improvements. Also to contract for and receive aid, contributions
30 and loans from the United States government or any agency thereof.

31 (k) Establish by resolution of the board of directors reasonable rates
32 on charges for the use of the sewage disposal system of the district and
33 provide for the manner of the making and collection of the same. "Sewage
34 disposal system" for the purposes of this act shall include the system of
35 sewers and the sewage disposal plant of the district.

36 (l) Make all contracts and do all other acts in relation to the affairs of
37 the district necessary to the proper exercise of its corporate legislative or
38 administrative powers and to the accomplishment of the purpose of its
39 organization.

40 (m) Purchase or acquire outdoor emergency warning sirens.

41 (n) Employ any person necessary to carry out the provisions of this
42 act.

43 (o) Secure the general health of the district by the adoption of

1 resolutions to prevent, abate and remove nuisances. The secretary of the
2 board of directors shall send a notice to the owner of the property to
3 remove or abate such nuisance within a period of time not to exceed 10
4 days. If the owner fails to remove or abate the nuisance within the time
5 specified the board may provide for the removal or abatement of the
6 nuisance and provide for the assessment of the cost of abating or removing
7 such nuisance against the property upon which the same is located or
8 maintained. Such assessments shall be certified by the secretary of the
9 board of directors of the district to the county clerk of the county in which
10 the property is located, to be placed upon the tax roll for collection at the
11 same time and in the same manner as ad valorem property tax levies are
12 collected and shall be subject to the same penalties and the same procedure
13 for collection as is prescribed by law for the collection of such ad valorem
14 property taxes. Any unpaid costs assessed pursuant to this subsection shall
15 become a lien upon the property from the date of assessment thereof.

16 (p) Secure the health of the district by the adoption of resolutions
17 requiring the removal or destruction of grass, weeds or other vegetation
18 from any lot or parcel of land located within the district. The secretary of
19 the board of directors shall send notice to the owner of the property to
20 remove the grass, weeds or vegetation within a period of time not to
21 exceed 10 days. If the owner fails to remove the grass, weeds or vegetation
22 within the time specified, the board may provide for the removal thereof
23 and assess the cost of removal against the property on which the same was
24 located. Such assessments shall be certified by the secretary of the board
25 of directors of the district to the county clerk of the county in which the
26 property is located, to be placed upon the tax roll for collection at the same
27 time and in the same manner as ad valorem property tax levies are
28 collected and shall be subject to the same penalties and the same procedure
29 for collection as is prescribed by law for the collection of such ad valorem
30 property taxes. Any unpaid costs assessed pursuant to this subsection shall
31 become a lien upon the property from the date of assessment thereof.

32 (q) Adopt resolutions regulating and prohibiting the running at large
33 of domestic animals.

34 (r) Adopt resolutions for the preservation of the peace and order of
35 the district and to prevent injury, destruction or interference with public or
36 private property.

37 (s) Adopt resolutions providing for the assessment of unpaid bills or
38 charges for utility services provided by the district against the property
39 receiving the service. Such assessments shall be certified by the secretary
40 of the board of directors of the district to the county clerk of the county in
41 which the property is located, to be placed upon the tax roll for collection
42 at the same time and in the same manner as ad valorem property tax levies
43 are collected and shall be subject to the same penalties and the same

1 procedure for collection as is prescribed by law for the collection of such
2 ad valorem property taxes. Any unpaid costs assessed pursuant to this
3 subsection shall become a lien upon the property from the date of
4 assessment thereof.

5 (t) Take any other action necessary to carry out and execute the
6 general powers granted by this section.

7 (u) *The Sherwood improvement district may impose a retailers' sales*
8 *tax within the borders of the district as permitted by and pursuant to the*
9 *provisions of section 1, and amendments thereto. The board of directors of*
10 *the district may by resolution issue bonds for the purposes permitted by*
11 *section 1, and amendment thereto, to be paid, in whole or in part, by such*
12 *district's sales tax revenues. The provisions of K.S.A. 19-2767, and*
13 *amendments thereto, shall apply in so far as applicable. Any such bonds*
14 *not proposed in the board's resolution imposing the district's sales tax*
15 *shall only be issued upon a public hearing after notice of the hearing and*
16 *proposed bond issuance by one publication in a newspaper of general*
17 *circulation within the district and on the district's official website, at least*
18 *five days before the day fixed for the hearings and authorization by a*
19 *majority of the qualified electors of the district voting at an election for*
20 *such purpose, noticed, called and held in the manner provided for the*
21 *giving of notice, calling and holding of an election under K.S.A. 19-2768,*
22 *and amendments thereto. The election notice and ballot shall contain all*
23 *information required for an order calling for an election by K.S.A. 19-*
24 *2768, and amendments thereto.*

25 Sec. 5. K.S.A. 19-2765 is hereby repealed.

26 Sec. 6. This act shall take effect and be in force from and after its
27 publication in the statute book.