

Senate Substitute for HOUSE BILL No. 2007

AN ACT concerning transportation; relating to toll projects; authorizing certain toll projects for new projects or expanded capacity; required approval from local units of government, the Kansas turnpike authority and the state finance council; changing toll project financing requirements; amending K.S.A. 68-2001, 68-2002, 68-2004, 68-2008, 68-20,120 and 68-2301 and repealing the existing sections.

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

Section 1. K.S.A. 68-2001 is hereby amended to read as follows: 68-2001. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) ~~The word "Authority" shall mean~~ *means* the Kansas turnpike authority, created by K.S.A. 68-2003, *and amendments thereto*, or, if ~~said~~ *the* authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(b) ~~The word "Project" or the words "turnpike project" shall mean~~ *means* any express highway or superhighway constructed under the provisions of this act ~~by the authority~~, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, and administration, storage and other buildings and facilities ~~which~~ *that* the authority may deem necessary for the operation of such project, together with all property, rights, easements, and interests ~~which~~ *that* may be acquired by the authority for the construction or the operation of such project.

(c) ~~The word "Cost," as applied to a turnpike project shall embrace,~~ *means* the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for such construction, and the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the authority, for a period of not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expense, and such other expenses as may be necessary or ~~incident~~ *incidental* to the construction of the project, the financing of such construction and the placing of the project in operation. Any obligation or expense ~~hereafter~~ incurred by the department of transportation with the approval of the authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed to ~~said~~ *the* department out of the proceeds of turnpike revenue bonds ~~hereinafter~~ authorized.

(d) ~~The words "Public highways"~~ shall include all public highways, roads and streets in the state, whether maintained by the state or by any county, city, town or other political subdivision.

(e) ~~The word "Bonds" or the words "turnpike revenue bonds" shall mean~~ *means* revenue bonds of the authority authorized under the provisions of this act.

(f) ~~The word "Owner" shall include~~ *includes* all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and interest authorized to be acquired by this act.

Sec. 2. K.S.A. 68-2002 is hereby amended to read as follows: 68-2002. In order to provide for the construction of modern express highways or superhighways embodying, where feasible and necessary, safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction and grade separation at intersections with other highways and railroads, and thereby facilitate vehicular traffic, provide better connections between

the highway system of Kansas and the highway systems of the adjoining states, remove many of the present handicaps and hazards on the congested highways in the state, and promote the agricultural and industrial development of the state, the Kansas turnpike authority (~~hereinafter created~~) is hereby authorized and empowered to construct, maintain, repair and operate turnpike projects (~~as hereinbefore defined~~), and to issue revenue bonds of the authority, payable solely *or partly* from revenues, to finance such projects. No toll road project shall be undertaken unless and until such project and the proposed location therefor have been thoroughly studied with respect to traffic, engineering, cost and financing nor unless such study shows:

(a) That public funds for construction of a free expressway are not available;

(b) that the construction of a toll expressway can be financed ~~wholly~~ *solely or partly* through the investment of private funds in toll road revenue bonds; and

(c) that the project and indebtedness incurred therefor ~~will~~ *can* be ~~entirely self-liquidating~~ *financed solely or partly* through tolls and other income from operation of the project.

Sec. 3. K.S.A. 68-2004 is hereby amended to read as follows: 68-2004. (a) The authority is hereby authorized and empowered to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) adopt an official seal and alter the same at pleasure;

(3) maintain an office at such place or places within the state as it may designate;

(4) sue and be sued in its own name, plead and be impleaded;

(5) determine the location, subject to the approval of the secretary of transportation, of each turnpike project financed under the provisions of this act, determine its design and the materials of construction, and construct, maintain, repair and operate the same;

(6) issue turnpike revenue bonds of the authority for any of its corporate purposes, payable solely *or partly* from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(7) fix and revise from time to time and charge and collect tolls for transit over each turnpike project ~~constructed by it~~;

(8) adopt rules and regulations for the use of any such turnpike project, and adopt rules and regulations for traffic control on such project;

(9) acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(10) designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(11) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(12) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(13) receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(14) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116, and amendments thereto.

Sec. 4. K.S.A. 68-2008 is hereby amended to read as follows: 68-2008. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision thereof, but all such bonds shall be payable solely *or partly* from the funds ~~herein provided therefor~~ from revenues. All such revenue bonds shall contain on the face ~~thereof~~ a statement to the effect that neither the state nor the authority shall be obligated to pay the same or the interest thereon except from revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledge to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely *or partly* from funds provided under the authority of this act and no liability or obligation shall be incurred by the authority ~~hereunder~~ beyond the extent to which moneys shall have been provided under the provisions of this act.

Sec. 5. K.S.A. 68-20,120 is hereby amended to read as follows: 68-20,120. In addition to other powers and duties granted to the secretary of transportation:

(a) (1) ~~The secretary of transportation may study the feasibility of constructing a new toll project projects or turnpike project or designating existing highways or any portion of such highways as a toll project or turnpike project projects.~~

(2) The study of the feasibility of such toll project or turnpike project shall include, but not be limited to:

(A) The total cost of such project;

(B) a determination of the funding of such projects, including the use of ~~one or a combination of public funds, private funds or toll revenues in combination with other funds;~~

(C) a determination of the duration of the collection of tolls on such ~~projects project~~ and if such ~~projects are project is~~ to become toll-free, a projected date when such ~~projects project~~ would become toll-free; ~~and~~

(D) *a determination, after consulting with local officials, that traffic volume, local contribution or other relevant reasons make such tolling project feasible;*

~~(D)~~(E) such other data deemed necessary by the secretary for a determination of the project's feasibility; *and*

(F) *at least one local public meeting to review the project during the feasibility study process.*

(b) After conducting the feasibility study under subsection (a) and if such feasibility study provides a favorable result, the secretary of transportation may ~~recommend the construction of a new construct the toll project or turnpike project or the designation of an existing highway or any portion of such highway as a toll project or turnpike project.~~

(c) *Toll projects or turnpike projects constructed under subsection (b) shall only be constructed to add capacity to existing highways or bridges, or to construct new highways or bridges where a highway or bridge did not previously exist.*

(d) *Prior to constructing a toll project or turnpike project, the secretary and local unit or units of government shall prepare a joint proposal for the construction of the toll project or turnpike project and present the joint proposal to the Kansas turnpike authority and the state finance council. The secretary and the local unit or units of government must receive:*

(1) *A resolution passed by the Kansas turnpike authority approving the construction of the toll project or turnpike project; and*

(2) *a resolution passed by the state finance council approving the construction of the toll project or turnpike project.*

(e) *For purposes of subsection (d):*

(1) *"Local unit or units of government" means the city council, if*

the toll project or turnpike project will be located partially or wholly within the limits of a city, and the county commission where the toll project or turnpike project is located, if the toll project or turnpike project is not wholly located within the limits of a city or cities.

(2) "Approving" means a vote by the Kansas turnpike authority or the state finance council approving the construction of the toll project or turnpike project by a majority of the members present, when a quorum of the members are present for the vote.

(f) Tolls shall be charged only on users of the additional capacity of the highway or bridge constructed as a toll project or turnpike project. Tolls shall be charged on all users of toll projects or turnpike projects that construct highways or bridges where none previously existed.

(g) The secretary shall use toll revenue for payment of the cost of the toll project or turnpike project for which the toll was collected. The secretary shall not use the toll revenue for payment of costs not associated with the toll project or turnpike project for which the toll was collected.

(h) Tolls shall be charged on all users of the toll project or turnpike project regardless of class, size or kind of traffic.

(i) The approvals by the state finance council required by subsection (d) are hereby characterized as matters of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto. Such approvals may be given by the state finance council when the legislature is in session.

Sec. 6. K.S.A. 68-2301 is hereby amended to read as follows: 68-2301. (a) In order to provide for the construction of modern express highways and freeways to link the principal population centers of the state with the major express highways and freeways in this and other states, facilitate vehicular traffic in the areas to be served, remove many of the present handicaps and hazards on the congested highways in the state and promote the agricultural and industrial development of the state, the secretary of transportation is hereby authorized, empowered and directed to establish and construct a state system of modern express highways and freeways. The express highways and freeways within said system shall be constructed pursuant to the criteria established in subsection (b) ~~of this section~~ and shall be located by the secretary of transportation within the following corridors:

(1) Commencing in the vicinity of the intersection of U.S. highway 54 and the Kansas-Oklahoma border, thence proceeding in a northeasterly and easterly direction, within a corridor including and generally delineated by said U.S. highway 54, to the vicinity of the point in Butler county where said U.S. highway 54 and state highway 96 divide; thence proceeding in an easterly and southeasterly direction, generally described by said highway 96, to the vicinity of the juncture of state highway 96 and state highway 39; thence in a southeasterly direction, within a corridor including and generally delineated by state highway 96, U.S. highway 160 and state highway 57, to the Kansas-Missouri border;

(2) commencing in the vicinity of the intersection of interstate highway 70 and U.S. highway 183, near the city of Hays in Ellis county; thence in a southeasterly direction to the general vicinity of the intersection of the east city limits of the city of Great Bend in Barton county and state highway 96; thence in an easterly and southeasterly direction, within a corridor including and generally delineated by state highway 96, to the vicinity of the juncture of state highway 96 and U.S. highway 54 in Sedgwick county;

(3) commencing in the vicinity of the intersection of the north city limits of the city of Hutchinson in Reno county and state highway 61; thence in a northeasterly direction, within a corridor including and generally delineated by state highway 61, to a point near the south city limits of the city of McPherson in McPherson county;

(4) commencing in the vicinity of the intersection of U.S. highway 75 and the Kansas-Nebraska border; thence in a southerly direction,

within a corridor including and generally delineated by U.S. highway 75, to a point near the intersection of said U.S. highway 75 and the proposed right-of-way for interstate highway 35, in the vicinity of the Osage-Coffey county line;

(5) commencing in the vicinity of the intersection of U.S. highway 36 and the Kansas-Missouri border; thence in a westerly direction, within a corridor including and generally delineated by U.S. highway 36, to a point near the intersection of U.S. highways 36 and 81; thence in a southerly direction to a point in the vicinity of the intersection of said U.S. highway 81 and interstate highway 70;

(6) commencing in the vicinity of the intersection of the city limits of the city of Atchison in Atchison county and state highway 7; thence in a southerly direction to the vicinity of the intersection of state highway 7 and interstate highway 35, near the city of Olathe in Johnson county;

(7) commencing in the vicinity of the intersection of U.S. highway 69 and interstate highway 435; thence in a southerly direction, within a corridor including and generally delineated by U.S. highway 69, to the Kansas-Oklahoma border;

(8) commencing in the vicinity of the city of Lawrence in Douglas county; thence in a southerly direction within a corridor which includes the areas between U.S. highways 75, 59 and 169, to the Kansas-Oklahoma border in the general vicinity of a point approximately between the cities of Caney and Coffeyville in Montgomery county; and

(9) commencing in the vicinity of the intersection of the city limits of the city of Lawrence in Douglas county and state highway 10; thence in an easterly direction, within a corridor including and generally delineated by state highway 10, to the vicinity of the intersection of interstate highway 35 and U.S. highways 50 and 56 in the city of Merriam in Johnson county.

(b) All of the moneys deposited in the state freeway fund created in K.S.A. 79-3425, and amendments thereto, except moneys accruing to such fund as a result of the interest or earnings from the investment of moneys in the state freeway fund or in the state freeway construction fund, as provided in ~~subsection (d)~~ of K.S.A. 68-2311(d), and amendments thereto, shall be subject to transfer to the state highway fund, as provided by K.S.A. 79-3425, and amendments thereto. After any such transfer, and subject to the provisions of K.S.A. 68-2311, and amendments thereto, the moneys remaining in the state freeway fund shall be expended by the secretary of transportation for: The construction, reconstruction, improvement and maintenance of the state system of express highways and freeways established in subsection (a) of this section; for the retirement of highway bonds and highway refunding bonds issued under the provisions of this act; and for the purpose of making payments to the Kansas turnpike authority pursuant to the provisions of K.S.A. 68-2096, and amendments thereto, except that such payments shall not be made from the interest or earnings from the investment of moneys in the state freeway construction fund, as provided in K.S.A. 68-2311, and amendments thereto. Moneys in the state freeway fund may be transferred to the state highway fund and may be expended from such fund for:

(1) The construction of state highways within the corridors designated in subsection (a) and approved by the secretary of transportation prior to the effective date of this act;

(2) the construction of bypass routes not exceeding five miles in length; and

(3) the reconstruction, improvement and maintenance of state highways, whether or not such highways are within the corridors designated in subsection (a). Such reconstruction, improvement and maintenance shall be according to need as determined by priorities assigned to such state highways by the secretary of transportation in accordance with established standards and criteria.

The allocation and programming of funds within the state system in

each fiscal year shall be according to need, as determined by a schedule of priorities assigned to segments of the existing highways which generally delineate the corridors of said state system of express highways and freeways. The secretary of transportation shall determine the length of each such segment in establishing said priorities, and the schedule of priorities shall be updated every four years on the basis of current criteria at that time. Immediately after the effective date of this act, the secretary of transportation shall evaluate the schedule of priorities and, where necessary, reestablish such schedule in accordance with the following standards and criteria: Except where it is specifically provided by law that any of the highways to be constructed within the corridors designated in subsection (a) shall be constructed so as to include multiple lanes in each direction on roadways separated by a median, barrier or other center division, all highways constructed within the state system of modern express highways and freeways after the effective date of this act may be constructed either with multiple lanes in each direction on roadways separated by a median, barrier or other center division or may be constructed with two lanes on a single roadway. Whenever the secretary of transportation deems it necessary and appropriate for the safety of vehicular traffic, such highways shall be designed and constructed to include controlled access, passing lanes, expanded shoulder width, long-sight distances, grade separations at intersections with other roads and highways and railroads. Nothing herein shall be construed as abrogating, limiting or otherwise affecting the construction of any highway for which bids for the construction thereof have been solicited and received prior to the effective date of this act, nor shall the foregoing be construed as precluding the secretary of transportation, whenever the secretary deems it feasible and appropriate, from acquiring right-of-way sufficient to accommodate the eventual construction of multiple-lane divided highways within any corridor designated in subsection (a).

(c) In constructing or reconstructing the state system of modern express highways and freeways established in this section, the secretary shall evaluate from time to time the feasibility of designating ~~a portion~~ ~~or new or added capacity~~ portions of any of the modern express highways and freeways within the system as a toll road. If the secretary shall determine that the designation of any ~~such~~ ~~new or added capacity~~ portion as a toll road is feasible, based on the projected traffic, engineering, cost and financing of the proposed toll road and a determination that adequate public funds for construction of such toll road are not available and that the construction of such toll road can be financed ~~entirely~~ *partly* through proceeds of the bonds issued pursuant to this act, ~~the secretary shall submit to the legislature a recommendation that such portion be constructed as a toll road. The recommendation, together with any supporting information deemed necessary by the secretary, may be submitted with or as a part of the annual report required of the secretary in K.S.A. 68-2315 may construct such toll road after meeting the requirements of K.S.A. 60-20,120, and amendments thereto.~~ Nothing in this subsection shall be construed as abrogating, limiting or otherwise affecting any obligations or duties imposed upon the secretary of transportation under this section with respect to the construction, reconstruction, improvement and maintenance of the state system of modern express highways and freeways, including without limitation location studies, engineering, right-of-way acquisition and public hearings, nor shall it affect in any way the allocation, programming or priority of funds therefor.

Sec. 7. K.S.A. 68-2001, 68-2002, 68-2004, 68-2008, 68-20,120 and 68-2301 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.