

## HOUSE BILL No. 2550

By Committee on Taxation

2-21

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9 AN ACT enacting the Fort Scott/Bourbon county riverfront authority act;  
10 creating a riverfront authority and prescribing the powers and duties  
11 thereof.

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

14 Section 1. This act shall be known and may be cited as the Fort Scott/  
15 Bourbon county riverfront authority act.

16 Sec. 2. As used in this act:

17 (a) "Authority" means the riverfront authority created by this act.

18 (b) "Board" means the riverfront board created by this act.

19 (c) "City" means the city of Fort Scott.

20 (d) "Commission" means the county commission of Bourbon county.

21 (e) "Council" means the city council of Fort Scott.

22 (f) "County" means Bourbon county.

23 (g) "Manager" means the city manager of Fort Scott.

24 (h) "Mayor" means the mayor of Fort Scott.

25 (i) "Metropolitan area" includes the area within the corporate limits  
26 of the city of Fort Scott.

27 (j) "Riverfront" means all real estate, equipment, rights and property  
28 useful for the purpose of recreation, along the banks of the Kansas river  
29 that runs through the city of Fort Scott and Bourbon county.

30 Sec. 3. There is hereby created the Fort Scott/Bourbon county riv-  
31 erfront authority. The purpose of the authority is to promote the general  
32 welfare and encourage private capital investment by fostering the creation  
33 of recreational, retail, entertainment, economic development and housing  
34 within the riverfront.

35 Sec. 4. The authority may sue and be sued in its corporate name but  
36 execution shall not in any case issue against any property of the authority.  
37 The authority may adopt a common seal and change the same at pleasure.

38 Sec. 5. For the first three years of its existence, the authority shall  
39 engage in planning and design of the riverfront. At all times the authority  
40 shall have power to acquire, construct, own, operate and maintain for  
41 public service a riverfront system in the metropolitan area and all the  
42 powers necessary or convenient to accomplish the purposes of this act,  
43 including, without limiting the generality of the foregoing, the specific

1 powers enumerated herein.

2 Sec. 6. (a) Except as provided by subsection (c), the authority shall  
3 have power to acquire by purchase, lease, gift or otherwise all or any part  
4 of real property, property, rights in property, for the purpose of planning,  
5 development and creation of a riverfront within the metropolitan area as  
6 herein defined.

7 (b) Except as provided by subsection (c), the authority shall have  
8 power to acquire by purchase, lease, gift or otherwise any property and  
9 rights useful for its purposes and to sell, lease, transfer or convey any  
10 property or rights when no longer useful or exchange the same for other  
11 property or rights which are useful for its purposes.

12 (c) The authority shall not have the power to take property by emi-  
13 nent domain.

14 Sec. 7. (a) The authority shall have power to purchase equipment  
15 such as land, riparian rights, water rights, dams and docks, recreational  
16 equipment and public improvements, and may execute agreements,  
17 leases and equipment trust certificates. All money required to be paid by  
18 the authority under the provisions of such agreements, leases and equip-  
19 ment trust certificates shall be payable solely from the revenue or income  
20 to be derived from the riverfront authority and from grants. Payment for  
21 such equipment, or rentals therefor, may be made in installments, and  
22 the deferred installments may be evidenced by equipment trust certifi-  
23 cates payable solely from such revenue or income, and title to such equip-  
24 ment shall not vest in the authority until the equipment trust certificates  
25 are paid.

26 (b) The agreement to purchase may direct the vendor to sell and  
27 assign the equipment to a bank or trust company, duly authorized to  
28 transact business in the state of Kansas, as trustee, for the benefit and  
29 security of the equipment trust certificates and may direct the trustee to  
30 deliver the equipment to one or more designated officers of the authority  
31 and may authorize the trustee simultaneously therewith to execute and  
32 deliver a lease of the equipment to the authority.

33 (c) The agreements and leases shall be duly acknowledged before  
34 some person authorized by law to take acknowledgments of deeds and in  
35 the form required for acknowledgment of deeds and such agreements,  
36 leases and equipment trust certificates shall be authorized by vote of the  
37 board and shall contain such covenants, conditions and provisions as may  
38 be deemed necessary or appropriate to insure the payment of the equip-  
39 ment trust certificates from the revenue or income to be derived from  
40 the riverfront authority.

41 (d) The covenants, conditions and provisions of the agreements,  
42 leases and equipment trust certificates shall not conflict with any of the  
43 provisions of any trust agreement securing the payment of bonds or cer-

1 tificates of the authority.

2 (e) An executed copy of each such agreement and lease shall be filed  
3 in the office of the city and county clerk of the city and county in which  
4 said authority is operating and such filing shall constitute notice to any  
5 subsequent judgment creditor or any subsequent purchaser.

6 Sec. 8. The authority shall have power to apply for and accept grants  
7 from the federal or state government or any local government, or any  
8 agency thereof, or from any other public or private entity, to be used for  
9 any of the purposes of the authority and to enter into any agreement with  
10 the federal or state government or any local government, or any agency  
11 thereof, or any other public or private entity, in relation to such grants;  
12 provided that such agreement does not conflict with any of the provisions  
13 of any trust agreement securing the payment of bonds or certificates of  
14 the authority.

15 Sec. 9. The authority shall have power to invest and reinvest any  
16 funds held in reserve or sinking funds not required for immediate dis-  
17 bursement, in investments authorized by K.S.A. 12-1675, and amend-  
18 ments thereto, in the manner prescribed therein or in bonds or notes of  
19 the United States, bonds of the state of Kansas or bonds of any county,  
20 unified school district or city of the first class in which said authority is  
21 operating a system or in bonds or certificates of the authority at not to  
22 exceed their par value or their call price and to sell these securities when-  
23 ever the funds are needed for disbursement. Such investment or rein-  
24 vestment of any funds shall not be in conflict with any provisions of any  
25 trust agreement securing the payment of bonds or certificates of the  
26 authority.

27 Sec. 10. The authority shall have power to procure and enter into  
28 contracts for any type of insurance and indemnity against loss or damage  
29 to property from any cause, including loss of use and occupancy, against  
30 death or injury of any person, against employers' liability, against any act  
31 of any member, officer or employee of the board or of the authority in  
32 the performance of the duties of his or her office or employment or any  
33 other insurable risk.

34 Sec. 11. (a) The governing and administrative body of the authority  
35 shall be a board consisting of six members, to be known as the riverfront  
36 board. Members of the board shall be residents of Kansas. No member  
37 of the board shall be an elected official.

38 (b) Members shall not be paid a salary, but shall be reimbursed for  
39 actual expenses incurred by them in the performance of their duties.

40 (c) Members of the board shall be appointed as follows: Three shall  
41 be appointed by the mayor with the approval of the council and three  
42 shall be appointed by the commission. Of the first appointees, the council  
43 and mayor shall designate one member to serve a term of one year, one

1 to serve two years and one to serve a three-year term. The commission  
2 shall designate the terms of its appointees likewise. Should the city and  
3 county consolidate, then the members shall be appointed by the govern-  
4 ing body of the consolidated government as set forth above.

5 (d) Upon the expiration of the term of any member, all successor  
6 members of the board shall be appointed and hold office for terms of  
7 three years from the date of appointment. The city clerk or county clerk  
8 shall certify the action of the respective governing body with respect to  
9 such appointments and file such certificates as a part of the records of  
10 the office of either the city or county clerk. Before entering upon the  
11 duties of office, each member of the board shall take and subscribe the  
12 constitutional oath of office and same shall be filed in the office of the  
13 city clerk and county clerk.

14 (e) Any member may resign from office to take effect when a suc-  
15 cessor has been appointed and has qualified. The mayor, with the ap-  
16 proval of the council and the commission, may remove any member of  
17 the board in case of incompetency, neglect of duty or malfeasance in  
18 office. The member shall be given a copy of the charges and an oppor-  
19 tunity to be publicly heard in person or by counsel upon not less than 10  
20 days' notice. In case of failure to qualify within the time required, or of  
21 abandonment of office, or in case of death, conviction of a crime involving  
22 moral turpitude or removal from office, the office of a member shall  
23 become vacant. A vacancy shall be filled for the unexpired term by ap-  
24 pointment in the same manner as the original appointment.

25 (f) As soon as possible after the appointment of the initial members,  
26 the board shall organize for the transaction of business, select a chair-  
27 person and a temporary secretary from its members and adopt bylaws,  
28 rules and regulations to govern its proceedings. The initial chairperson  
29 and successors shall be elected by the board from time to time for the  
30 term of the chairperson's office as a member of the board or for the term  
31 of three years, whichever is shorter.

32 (g) Regular meetings of the board shall be held at least once each  
33 calendar month, the time and place of such meetings to be fixed by the  
34 board. Four members of the board shall constitute a quorum for the  
35 transaction of business.

36 (h) All action of the board shall be by resolution and the affirmative  
37 vote of at least three members shall be necessary for the adoption of any  
38 resolution. All such resolutions before taking effect shall be approved by  
39 the chairperson of the board and, if the chairperson approves thereof, the  
40 chairperson shall sign the same. If the chairperson does not approve any  
41 such resolution, the chairperson shall return it to the board with the  
42 chairperson's written objections thereto at the next regular meeting of  
43 the board occurring after the passage thereof. If the chairperson fails to

1 return any resolution with the objections thereto by the prescribed time,  
2 the chairperson shall be deemed to have approved the same and it shall  
3 take effect accordingly. Upon the return of any resolution by the chair-  
4 person with the chairperson's objections, the vote by which such resolu-  
5 tion was passed shall be reconsidered by the board. If upon reconsider-  
6 ation the resolution is passed by the affirmative vote of at least five  
7 members, it shall go into effect notwithstanding the veto of the chairper-  
8 son. All resolutions and all proceedings of the authority and all documents  
9 and records in its possession shall be public records, and open to public  
10 inspection, except such documents and records as shall be kept or pre-  
11 pared by the board for use in negotiations, actions or proceedings to  
12 which the authority is a party.

13 Sec. 12. (a) The board shall appoint a secretary and a treasurer, who  
14 need not be members of the board, to hold office during the pleasure of  
15 the board, and fix their duties and compensation. Before entering upon  
16 the duties of their respective offices they shall take and subscribe the  
17 constitutional oath of office, and the treasurer shall execute a bond with  
18 corporate sureties to be approved by the board. The bond shall be payable  
19 to the authority in whatever penal sum may be directed by the board  
20 conditioned upon the faithful performance of the duties of the office and  
21 the payment of all money received by the treasurer according to law and  
22 the orders of the board. The board at any time may require a new bond  
23 from the treasurer in such penal sum as may then be determined by the  
24 board. The obligation of the sureties shall not extend to any loss sustained  
25 by the insolvency, failure or closing of any national or state bank wherein  
26 the treasurer has deposited funds if the bank has been approved by the  
27 board as a depository for these funds. The oaths of office and the trea-  
28 surer's bond shall be filed in the principal office of the authority.

29 (b) All funds deposited by the treasurer in any bank shall be placed  
30 in the name of the authority and shall be withdrawn or paid out only by  
31 check or draft upon the bank, signed by the treasurer and countersigned  
32 by the chairperson of the board, except that the board may designate any  
33 of its members or any officer or employee of the authority to affix the  
34 facsimile signature of the chairperson and another to affix the facsimile  
35 signature of the treasurer to any check or draft.

36 (c) In case any officer whose signature appears upon any check, draft,  
37 bond, certificate or interest coupon, issued pursuant to this act, ceases to  
38 hold such officer's office before the delivery thereof to the payee or the  
39 purchaser of any bond or certificate, the officer's signature nevertheless  
40 shall be valid and sufficient for all purposes with the same effect as if the  
41 officer had remained in office until delivery thereof.

42 Sec. 13. The board may appoint a general manager and such other  
43 persons who are necessary to make the authority succeed. The general

1 manager shall hold office at the pleasure of the board. The general man-  
2 ager shall manage the properties and business of the authority and the  
3 employees thereof, subject to the general control of the board, shall direct  
4 the enforcement of all resolutions, rules and regulations of the board, and  
5 shall perform such other duties as may be prescribed by the board. No  
6 discrimination shall be made in any appointment or promotion because  
7 of race, creed, color, disability, religious or political affiliations.

8 Sec. 14. The board shall make all rules and regulations necessary to  
9 govern the operation of the riverfront and its property and facilities and  
10 to exercise the powers granted to the authority.

11 Sec. 15. (a) The board shall establish a fiscal operating year. At least  
12 30 days prior to the beginning of the first full fiscal year after the creation  
13 of the authority, and annually thereafter, the board shall cause to be  
14 prepared a tentative budget which shall include all operation and main-  
15 tenance expense for the ensuing fiscal year. The tentative budget shall be  
16 considered by the board and, subject to any revision and amendments as  
17 may be determined, shall be adopted prior to the first day of the ensuing  
18 fiscal year as the budget for that year. No expenditures for operations and  
19 maintenance in excess of the budget shall be made during any fiscal year  
20 except by the affirmative vote of at least four members of the board. It  
21 shall not be necessary to include in the annual budget any statement of  
22 necessary expenditures for pensions or retirement annuities, or for inter-  
23 est or principal payments on bonds or certificates, or for capital outlays,  
24 but it shall be the duty of the board to make provisions for payment of  
25 same from appropriate funds.

26 (b) As soon after the end of each fiscal year as may be expedient, the  
27 board shall cause to be prepared and printed a complete and detailed  
28 report and financial statement of its operation and of its assets and lia-  
29 bilities. A reasonably sufficient number of copies of such report shall be  
30 printed for distribution to persons interested and copies of such report  
31 shall be filed with the city and county clerks of the city and county.

32 Sec. 16. (a) The board shall withdraw from the gross receipts of the  
33 authority and charge to operating expenses such an amount of money as  
34 in the opinion of the board shall be sufficient to provide for the adjust-  
35 ment, defense and satisfaction of all suits, claims, demands, rights and  
36 causes of action and the payment and satisfaction of all judgments entered  
37 against the authority for damage caused by injury to or death of any  
38 person and for damage to property resulting from the construction, main-  
39 tenance and operation of the riverfront and the board shall deposit such  
40 moneys in a fund to be known and designated as the damage reserve  
41 fund.

42 (b) The board shall use the moneys in the damage reserve fund to  
43 pay all expenses and costs arising from the adjustment, defense and sat-

1 isfaction of all suits, claims, demands, rights and causes of action and the  
2 payment and satisfaction of all judgments entered against the authority  
3 for damages caused by injury to or death of any person and for damage  
4 to property resulting from the construction, maintenance and operation  
5 of the authority. At any time and from time to time the board may obtain  
6 and maintain insurance coverage or protection partially or wholly insuring  
7 or indemnifying the authority against loss or liability on account of injury  
8 to or death of any person and for damage to property resulting from the  
9 construction, maintenance and operations of the authority. The cost of  
10 obtaining and maintaining such insurance shall be paid out of the moneys  
11 in the damage reserve fund. All moneys received from such insurance  
12 coverage or protection shall be paid into the damage reserve fund.

13 Sec. 17. The authority pursuant to resolutions adopted from time to  
14 time by the board may establish and create such other and additional  
15 special funds as may be found desirable by the board and in and by such  
16 ordinances may provide for payments into all special funds from specified  
17 sources with such preferences and priorities as may be deemed advisable  
18 and may also by any such resolution provide for the custody, disbursement  
19 and application of any moneys in any such special funds consistent with  
20 the provisions of this act.

21 Sec. 18. The authority is a municipality as defined by the Kansas Tort  
22 Claims Act, K.S.A. 75-6101 et seq., and amendments thereto, and entitled  
23 to avail itself of the protections therein. No civil action shall be com-  
24 menced in any court against the authority by any person for any injury to  
25 such person unless it is commenced within two years after the date that  
26 the injury was received or the cause of action accrued.

27 Sec. 19. If any provision of this act is held invalid, such provision  
28 shall be deemed to be excised from this act and the invalidity thereof  
29 shall not affect any of the other provisions of this act. If the application  
30 of any provision of this act to any person or circumstance is held invalid,  
31 it shall not affect the application of such provisions to persons or circum-  
32 stances other than those as to which it is invalid.

33 Sec. 20. This act shall take effect and be in force from and after its  
34 publication in the statute book.