

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2144**

As Agreed to March 31, 2005

Brief*

Senate Substitute for HB 2144 would amend sales tax and revenue (STAR) bonds and tax increment financing bond law. The changes are as follows.

STAR Bonds

- The bill would amend the tax increment financing (TIF) statutes to add “major motorsports complex” to the list of projects eligible for STAR bonds. The definition of “major motorsports complex” specifies that it is a project located in Shawnee County. In addition, STAR bonds for the major motorsports complex could be used to finance a maximum of 50 percent of the redevelopment project costs.
- The feasibility study for STAR bonds would require the following information:
 - Description of the project;
 - A statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;
 - A statement concerning whether a portion of the local sales and use taxes is pledged to other uses and unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes is committed, the applicant would describe the following:

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- The percentage of sales and use taxes collected that are committed; and
- The date or dates on which the local sales and uses taxes pledged to other uses can be pledged for repayment of STAR bonds;
- An anticipated principal and interest payment schedule on the bonds;
- Following approval of the redevelopment plan, the feasibility study would be supplemented to include a copy of the minutes of the governing body meeting or meetings of the city whose bonding authority would be utilized in the project, to show that the redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public meeting.
- For a proposed major commercial entertainment and tourism area applying for STAR bonds, the feasibility study would be required to also include:
 - visitation expectations;
 - economic impact;
 - the unique quality of the project;
 - the ability of the project to gain sufficient market share to remain profitable past the term of repayment and maintain status as a significant factor for travel decisions;
 - integration and collaboration with other resources or businesses;
 - the quality of service and experience provided, as measured against national consumer standards for the specific target market;
 - project accountability, measured according to best industry practices; and
 - the expected return on state and local investment that the project is anticipated to produce.
- The failure to include all information required in the feasibility study for a redevelopment project would not affect the validity of the bonds issued pursuant to the act.

- The definition of redevelopment project costs would be amended to mean those costs necessary to implement a redevelopment project plan or a bioscience development project plan including costs incurred for:
 - acquisition of property within the redevelopment project area;
 - payment of relocation assistance for persons dispossessed of ownership of property in a redevelopment district;
 - site preparation including utility relocations;
 - sanitary and storm sewers and lift stations;
 - drainage conduits, channels, levees, and river walk canal facilities;
 - street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing;
 - street light fixtures, connections, and facilities;
 - underground gas, water, heating and electrical services and connections located within the public right-of-way;
 - sidewalks and pedestrian underpasses or overpasses;
 - drives and driveway approaches located within the public right-of-way;
 - water mains and extensions;
 - plazas and arcades;
 - parking facilities;
 - landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
 - related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with STAR bonds, such expenses would require prior approval by the Secretary of Commerce.

- The bill would prohibit the use of STAR bond proceeds from being spent on the construction of buildings or other structures to be owned by or leased to a developer; however, the “redevelopment project costs” would include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility. In addition, proceeds would not be available for:
 - fees and commissions paid to real estate agents, financial advisors, or any other consultants who represent the businesses considering locating in a redevelopment district;
 - salaries for local government employees;
 - moving expenses for employees of the businesses locating within the redevelopment district;
 - property taxes for businesses that locate in the redevelopment district;
 - lobbying costs; and
 - bond origination fees paid to the city.
- The auto race track facility and the 400-acre area would be limited to no more than \$308,000,000 of STAR bonds, unless the city has secured prior approval from the Secretary of Commerce and the Secretary of Revenue. Any STAR bonds issued for the refunding of existing bonds or issued solely to fund reserve funds for bond refunding would not count toward the limit on the cap. However, prior to issuing STAR bonds for any purpose, the city must have the approval of the Secretary of Commerce and the Secretary of Revenue.
- Any city approved for a STAR bond project would be required to prepare and submit an annual report of the status of any STAR bond project, describing the status of the project and any expenditures of the proceeds of the bonds that have occurred since the last annual report and any expenditures of the proceeds expected to occur in the future, to the Department of Commerce on October 1. The Department of Commerce would be required to compile the information and submit a report annually to the Governor, Kansas Inc., and the Legislature by February 1 of each year about all STAR bond projects. The

reporting requirement also would apply to the auto race track project.

- Relocation payments would be made to persons, families, and businesses who move from real property located in the redevelopment district or who move personal property from real property located in the redevelopment district due to the acquisition of the real property by the city would be considered relocation assistance.
- The Secretary of Commerce would be required to set a limit on the total amount of STAR bonds that may be issued for any redevelopment project.
- The bill also would require an independent certified public accountant annually audit each project at the expense of the city. Any unauthorized payments would be repaid to the bond fund through an agreement with the Department of Revenue.

Tax Increment Financing Act

- The bill would clarify the tax increment financing statutes and amend the law so that a city may pledge all or a portion of the revenue received from local sales taxes for a local tax increment financing project.
- The bill also would make several technical corrections to the statutes.

Other

The amended bill would allow the Secretary of Commerce with the approval of the Governor to contract with federal government agencies, governmental entities of any state, and private not-for-profit corporations for the performance of data processing services and training.

Conference Committee Action

In Conference Committee, the House conferees agreed to the Senate amendments to the bill, with the following revisions:

- Amended the Wyandotte County project limitation to no more than \$308,000,000 of STAR bonds without prior approval by the Secretary of Revenue and the Secretary of Commerce; however, bonds issued solely for the purpose of refunding STAR bonds would not count against the cap; all STAR bonds would require approval of both the Secretary of the Department of Commerce and the Secretary of the Department of Revenue prior to issuance.
- Added that bond origination fees paid to the city would not be allowed from STAR bond proceeds;
- Changed related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with STAR bonds, such expenses would require approval by the Secretary of Commerce to read prior approval by the Secretary of Commerce.

Background

As introduced, the bill amended TIF statutes to add “major motorsports complex” to the definition of a “major commercial entertainment and tourism area”. The House Committee amended the bill to narrow the projects allowed by the bill by making a “major motorsports complex” a separate type of project eligible for STAR bond financing. The Committee further amended the bill to add planning, reporting and approval requirements for the project.

Proponents appearing on the bill included representatives of Heartland Park Topeka, the Topeka Chamber of Commerce, Sports Car Club of America and the City of Topeka. The Department of Revenue and Department of Commerce appeared as neutral parties. No opponents testified on the bill.

The Senate Committee amended in provisions of Substitute for HB 2012 into the bill. The original HB 2012 was developed by the Joint Committee on Economic Development. The substitute bill incorporates the amendments requested in the Legislative Post Audit Study of STAR Bonds. In addition, amendments were added at the request of the Kansas Department of Revenue, Kansas Department of Commerce, and bond counsels representing several Kansas cities. The Senate Committee also reduced the amount of bond authority for the Unified Government of Wyandotte County to \$305.0 million from

\$310.0 million and required both secretaries of Commerce and Revenue to approve any STAR bond issuance above \$228.0 million; changed the reporting process for STAR bond projects; and required an independent CPA audit instead of Legislative Post Audit of every STAR bond project. The Senate Committee also added a provision for the Secretary to contract with other entities for the performance of data processing services and training. This amendment was requested by the Department of Commerce to comply with existing contracts for workforce reporting requirements.

The Senate Committee of the Whole amended the bill to limit the amount of STAR bonds that could be issued for the major motorsports complex to 50 percent of the redevelopment project costs.

The fiscal note on the original HB 2144 indicates that the fiscal impact of the bill could be absorbed within the current resources of the Department of Revenue and the Department of Commerce.