

Memorandum

TO: The Honorable Marvin KleeB, Chair
House Committee on Taxation

FROM: Korb W. Maxwell

SUBJECT: H.B. 2738

DATE: March 23, 2016

Mr. Chairman, Members of the Committee: Thank you for the opportunity to appear today before your committee to rise in favor of HB 2738. We appreciate the time and effort of the Chair and Committee to seriously study the issue of STAR Bond reform and to hold hearings on the subject. We believe HB 2738 is good public policy that will allow critical reforms to occur in the STAR Bond procedure, legislative oversight, and the substance of the program to address any legislative concerns while still allowing the program to continue so that we can create first class regional and national attractions for the State of Kansas that drive tourism and consumer spending. That said, we ask the Chair and Committee to consider the following amendments to HB 2738. Such recommended revisions to HB 2738 can be found in **Exhibit A** attached hereto.

The first amendment is to K.S.A. 12-17,162(cc), which addresses district overlays. Inclusion of the raw ground adjacent to the Sporting KC stadium in a new STAR Bond district is critical to the future of the American Royal project. A hotel and convention center is planned for development upon that parcel in order to generate revenue to repay STAR Bond debt service for the American Royal project. Absolutely no base revenues from any other STAR Bond district will be transferred to pay STAR Bond debt service for the American Royal project—only new revenue from the hotel and convention center created by the activity of the American Royal. Further, the hotel will be entirely privately financed and the convention center will be financed by the Unified Government—neither will be financed from STAR Bond proceeds. Lastly, in order to move forward with the American Royal project the date restriction in this provision must be moved forward in time for only a matter of months. We recommend July 1, 2016 as the trigger date for the restriction.

The second amendment we propose within HB 2738 is to K.S.A. 12-17,164(e). We understand the intent of legislators to enhance the statutory “anti-poaching” language and want to work with the legislative body to address those concerns. However, the current language as drafted is overbroad and creates a blanket prohibition with unintended consequences. First, concerns regarding incentivizing existing businesses to relocate to STAR bond districts should be addressed by focusing the restriction to businesses relocated to land or immediately adjacent to infrastructure financed by STAR bonds. This revision drives to the heart of the issue: preventing developers from incentivizing businesses to relocate to the district through use of STAR Bond financing. In its current form, HB 2738 would instead create a cloud on title to property owners and businesses that are simply located in a STAR Bond but that have not received any STAR Bond benefits. Further, the current language penalizes small Kansas communities seeking to utilize STAR Bonds to revitalize their downtowns. In particular, the

pending STAR Bond project in Salina will be killed by this prohibition as new and relocated businesses to the revitalized Salina downtown area will be the engine driving repayment of STAR Bond debt service for that project. As such, we have offered language in **Exhibit A** protecting the ability of these small businesses to move near infrastructure financed by STAR Bond to allow the Salina project, and others like it, to move forward.

The final amendment is to K.S.A. 12-17,169(a)(1)(F). We do not disagree in concept with the stair-stepped matching of state sales tax revenues with city and county sales tax revenues. Our proposed revision merely seeks to clarify which taxes are included within such local sales taxes pledged to repayment of STAR bond debt service. The statutory cites in our amended language refer to the city and county sales taxes pledge to STAR bond repayment pursuant to the STAR Bond Act, as well as add-on sales taxes produced by Community Improvement Districts and Transportation Development Districts. Although as practioners and representing developers across the State we can make these local match provisions work, we would note we believe given the tax structure and political realities of Sedgwick County this may put projects in that area at a competitive disadvantage when trying to employ STAR Bonds in that community.

Based on the above, we recommend that H.B. 2738 be amended with the suggested language contained in **Exhibit A**. I am happy to stand for any questions you may have.

Respectfully submitted,

Korb W. Maxwell

Exhibit A
PROPOSED REVISIONS TO HB 2738

ISSUE #1: OVERLAYS

CURRENT HB 2738 BILL LANGUAGE:

Sec. 2. K.S.A. 2015 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

~~(y)~~ (cc) “STAR bond project district” means the specific area declared to be an eligible area as determined by the secretary in which the city or county may develop one or more STAR bond projects. A STAR bond project district includes a redevelopment district, as defined in K.S.A. 12-1770a, and amendments thereto, created prior to the effective date of this act for the Wichita Waterwalk project in Wichita, Kansas, provided, the city creating such redevelopment district submits an application for approval for STAR bond financing to the secretary on or before July 31, 2007, and receives a final letter of determination from the secretary approving or disapproving the request for STAR bond financing on or before November 1, 2007. *A STAR bond project district includes a blighted urban area redevelopment district, as defined in subsection (p). No STAR bond project district shall include real property which has been part of another STAR bond project district unless such STAR bond project and STAR bond project district have been approved by the secretary of commerce pursuant to K.S.A. 2015 Supp. 12-17,164 and 12-17,165, and amendments thereto, prior to March 1, 2016. A STAR bond district shall be limited to those areas being developed by the STAR bond project and any areas reasonably anticipated to directly benefit from the STAR bond project.*

SUGGESTED AMENDMENTS TO CURRENT HB 2738 BILL LANGUAGE (in bold, italics, strike-through and all caps)

Sec. 2. K.S.A. 2015 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

~~(y)~~ (cc) “STAR bond project district” means the specific area declared to be an eligible area as determined by the secretary in which the city or county may develop one or more STAR bond projects. A STAR bond project district includes a redevelopment district, as defined in K.S.A. 12-1770a, and amendments thereto, created prior to the effective date of this act for the Wichita Waterwalk project in Wichita, Kansas, provided, the city creating such redevelopment district submits an application for approval for STAR bond financing to the secretary on or before July 31, 2007, and receives a final letter of determination from the secretary approving or disapproving the request for STAR bond financing on or before November 1, 2007. *A STAR bond project district includes a blighted urban area redevelopment district, as defined in subsection (p). No STAR bond project district shall include real property which has been part of another STAR bond project district unless such ~~STAR bond project and STAR bond project district~~ have been approved by the secretary of commerce pursuant to K.S.A. 2015 Supp. 12-17,164 and 12-17,165, and amendments thereto, prior to ~~MARCH~~ **JULY** 1, 2016. A STAR bond*

district shall be limited to those areas being developed by the STAR bond project and any areas reasonably anticipated to directly benefit from the STAR bond project.

ISSUE #2: RELOCATION

CURRENT HB 2738 BILL LANGUAGE:

Sec. 4. K.S.A. 2015 Supp. 12-17,164 is hereby amended to read as follows: 12-17,164.

(e) ~~A project shall not be granted to any business that proposes to relocate its business from another area of the state into such city or county, for the purpose of consideration for a STAR bond project provided by K.S.A. 2015 Supp. 12-17,160 et seq., and amendments thereto~~ *For a period of five years from the date the STAR bonds are sold, no business, other than a business owned by the developer or in which the developer has a majority ownership, may relocate its business to a STAR bond project district, unless the business to be relocated is located more than 50 miles from the proposed relocation site. The foregoing does not apply to any businesses located outside the state of Kansas. The Kansas sales taxes available to the STAR bond project from any business relocating into a STAR bond project district shall be limited to the tax increment as determined by K.S.A. 12-17,162(hh), and amendments thereto.*

SUGGESTED AMENDMENTS TO CURRENT HB 2738 BILL LANGUAGE (in bold, italics, strike through and all caps)

Sec. 4. K.S.A. 2015 Supp. 12-17,164 is hereby amended to read as follows: 12-17,164.

(e) ~~A project shall not be granted to any business that proposes to relocate its business from another area of the state into such city or county, for the purpose of consideration for a STAR bond project provided by K.S.A. 2015 Supp. 12-17,160 et seq., and amendments thereto~~ *For a period of five **THREE** years from the date the ~~STAR bonds are sold~~ **STAR BOND PROJECT DISTRICT IS ESTABLISHED**, no business **OCCUPYING RETAIL SPACE IN EXCESS OF 15,000 SQUARE FEET**, other than a business owned by the developer or in which the developer has a majority ownership, may relocate its business ~~to a STAR bond project district~~ **TO LAND FINANCED BY STAR BONDS OR IMMEDIATELY ADJACENT TO PUBLIC ACCESS INFRASTRUCTURE FINANCED BY STAR BONDS** unless the business to be relocated is located more than 50 miles from the proposed relocation site. The foregoing does not apply to any businesses located outside the state of Kansas. The Kansas sales taxes available to the STAR bond project from any business **OCCUPYING RETAIL SPACE IN EXCESS OF 15,000 SQUARE FEET** relocating **FROM WITHIN THE STATE OF KANSAS AND WITHIN 50 MILES FROM THE PROPOSED RELOCATION SITE** into a STAR bond project district **WITHIN SUCH THREE YEAR PERIOD** shall be limited to the tax increment as determined by KSA 12-17,162(hh).*

ISSUE #3: STATE MATCHING

CURRENT HB 2738 BILL LANGUAGE:

Sec. 7. K.S.A. 2015 Supp. 12-17,169 is hereby amended to read as follows: 12-17,169.
(a) (1) Any city or county shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any STAR bond project in accordance with the provisions of this act. Such special obligation bonds shall be made payable, both as to principal and interest:

(F) from a pledge of all *or a portion* of the tax increment revenue received from any state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond project district occupied by a STAR bond project, *except that for any STAR bond project district established and approved by the secretary on or after July 1, 2016, such tax increment shall not include any sales tax revenue from retail automobile dealers;*

(i) *for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2017, and before July 1, 2018, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than six times the aggregate amount of city and county tax revenue pledged to the STAR bond project;*

(ii) *for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2018, and before July 1, 2019, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than five times the aggregate amount of city and county tax revenue pledged to the STAR bond project;*

(iii) *for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2019, and before July 1, 2020, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than four times the aggregate amount of city and county tax revenue pledged to the STAR bond project; and*

(iv) *for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2020, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than three times the aggregate amount of city and county tax revenue pledged to the STAR bond project;*

SUGGESTED AMENDMENTS TO CURRENT HB 2738 BILL LANGUAGE (in bold, italics, and all caps)

Sec. 7. K.S.A. 2015 Supp. 12-17,169 is hereby amended to read as follows: 12-17,169.

(a)(1) Any city or county shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any STAR bond project in accordance with the provisions of this act. Such special obligation bonds shall be made payable, both as to principal and interest:

(F) from a pledge of all *or a portion* of the tax increment revenue received from any state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond project district occupied by a STAR bond project, ~~excluding any sales tax revenue from retail automotive dealers. For any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, after December 31, 2020, the pledge of state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than 1.5 times the aggregate amount of city and county tax revenue pledged to the STAR bond project;~~ except that for any STAR bond project district established and approved by the secretary on or after July 1, 2016, such tax increment shall not include any sales tax revenue from retail automobile dealers;

(i) for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2017, and before July 1, 2018, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than six times the aggregate amount of city and county tax revenue pledged to the STAR bond project **PURSUANT TO SUBSECTIONS (a)(1)(A)-(E) and (F)-(I), K.S.A. 12-6a26 ET SEQ. AND K.S.A. 12-17,140 ET SEQ.;**

(ii) for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2018, and before July 1, 2019, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than five times the aggregate amount of city and county tax revenue pledged to the STAR bond project **PURSUANT TO SUBSECTIONS (a)(1)(A)-(E) and (F)-(I), K.S.A. 12-6a26 ET SEQ. AND K.S.A. 12-17,140 ET SEQ.;**

(iii) for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2019, and before July 1, 2020, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than four times the aggregate amount of city and county tax revenue pledged to the STAR bond project **PURSUANT TO SUBSECTIONS (a)(1)(A)-(E) and (F)-(I), K.S.A. 12-6a26 ET SEQ. AND K.S.A. 12-17,140 ET SEQ.;** and

(iv) for any STAR bond project whose STAR bond project district was established and approved by the secretary pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, on or after July 1, 2020, the pledge of annual state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond district shall be limited to an amount no greater than three times the aggregate amount of city and county tax revenue pledged

*to the STAR bond project **PURSUANT TO SUBSECTIONS (a)(1)(A)-(E) and (F)-(I), K.S.A. 12-6a26 ET SEQ. AND K.S.A. 12-17,140 ET SEQ.***