

SESSION OF 2003

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2208**

As Agreed to April 4, 2003

Brief *

Senate Sub. for HB 2208 would amend tax increment financing (TIF) law to provide statewide authority for sales tax and revenue (STAR) bonds to be used for special bond projects of regional or statewide importance. The bill would define a special bond project as a project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues. The bill would include in this definition projects located outside of metropolitan statistical areas, which have been found by the Secretary of Commerce to be in an eligible area under TIF law and of regional or statewide importance. The bill would specifically exclude a project including a gambling casino from the definition of special bond project.

The bill would modify current law as it relates to areas eligible for TIF to include a major commercial entertainment and tourism area as determined by the Secretary of Commerce and Housing. The bill also would include a major multi-sport athletic complex in the definition of major commercial entertainment and tourism area.

Under the bill, river walk canal facilities would be included in the list of redevelopment project costs which could be financed by STAR bonds.

The bill would allow for the governing body of a city to establish one or more special bond projects in any area in the city. Under the bill, special bond projects would be eligible for financing by special obligation STAR bonds. However, each special bond project would be required to be approved by the Secretary of Commerce, based on the required feasibility study, prior to utilizing STAR bond financing.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org/kldr>

This could include a special bond project located in a redevelopment district established by a city prior to the effective date of the act. If the project plan involves a redevelopment project in Wichita including an arena, a vote of the citizens of Wichita would be necessary before the Secretary could approve the special bond project for STAR bond eligibility. A special bond project could not be approved by the Secretary if the required marketing study indicates a substantial negative impact on existing businesses in the projected market area or if granting the special bond project would cause a default in the payment of any outstanding STAR bonds.

The bill requires that 100 percent of local sales taxes be pledged to fund the special obligation bonds except for those amounts committed to other use by election of voters prior to the effective date of the act.

A provision is included in the bill which would prohibit a business from benefitting from TIF law if it relocates from an area in Kansas and within 50 miles of the major commercial, entertainment, and tourism area.

Under the bill, the maximum maturity of special obligation STAR bonds could not exceed 20 years.

The bill would set out procedures for undertaking a special bond project, including the requirements for preparing a project plan, holding a hearing on the plan, and the adoption of the project plan. Under the bill, any project would be required to be completed within 20 years from the date of the approval of the project plan. One of the required components of the project plan would be a feasibility study showing whether a special bond project's benefits and tax increment revenue and other financing are expected to exceed or be sufficient to pay for the special bond and the effect, if any, the special bond project will have on any outstanding STAR bonds. Another component of the project plan would be a marketing study conducted to examine the impact of the special bond project upon similar businesses in the projected market area.

The developer of a special bond project would be required to commence work on the project within two years from the date of adoption of the project plan. If the developer does not commence work on the project within the two-year period, funding for the project would cease and the developer would have one year to appeal to the Secretary of Commerce and Housing for reapproval of the project.

If the project is reapproved, the two-year period for commencement would apply.

The bill requires that Kansas resident employees be given priority consideration for employment in construction projects located in a special bond project area.

The bill would allow the State Treasurer to place state sales tax increment moneys from taxpayers doing business with entities financed by a special bond project into the City Bond Finance Fund.

The bill would require Kansas, Inc. to include an analysis of STAR bonds in that agency's annual report on the cost effectiveness of economic development tax exemptions and credits.

The STAR bond authority provided for special bond projects under the bill would sunset on July 1, 2007.

The bill would be effective upon publication in the *Kansas Register*.

Background

The House Committee held a hearing on HB 2208, at which time testimony was offered by Representative Larry Campbell, Representative Tom Klein, and representatives of Wichita Downtown Development, the Wichita City Council, the Wichita Chamber of Commerce, the Delano Neighborhood Association, the Wichita Convention and Visitors Bureau, the Business Investment Group (BIG), the City of Olathe, the Kansas League of Municipalities, the Olathe Chamber of Commerce, the Kansas AFL-CIO, and Cabela's.

The House Committee voted to make the following three amendments to the bill:

- ! Correct a technical error in the description of the boundary of the major commercial, entertainment, and tourism area;
- ! Add a provision requiring that cities pledge local sales tax increments to fund the bonds if state sales taxes are used; and Clarify that sales taxes from "new" taxpayers doing business within the major commercial, entertainment, and tourism area were to be captured to pay off the bonds.

The House Committee of the Whole amended the bill by adding the provision which was originally proposed by the House Committee to require that cities pledge local sales tax increments to fund the bonds if state sales taxes are used. The House Committee of the Whole also amended the bill by altering the boundaries of the major commercial, entertainment, and tourism area; and by adding a provision requiring any redevelopment project plan which includes an arena to be subject to approval by a vote of the citizens of Wichita prior to approval by the Secretary of Commerce and Housing.

The Senate Committee adopted a substitute bill containing the contents of SB 235, as amended by the Senate Committee of the Whole. The Senate Committee further modified the provisions of SB 235 to:

- ! Include river walk canal facilities in the list of redevelopment project costs which could be financed by STAR bonds;
- ! Define river walk canal facilities;
- ! Allow for the Secretary of Commerce to approve the use of STAR bonds for a special bond project located in a redevelopment district established by a city prior to the effective date of the act;
- ! Provide that a special bond project could not be approved by the Secretary if the required marketing study indicates a substantial negative impact on existing businesses in the projected market area;
- ! Provide that the ratio of state tax dollars to local tax dollars dedicated to repayment of the special obligation bonds could not exceed a ratio of 3 to 1;
- ! Provide that an entity financed as a special bond project would be deemed to have nexus in Kansas for purposes of administering the state retailers sales tax and compensating use tax and clarify that taxes collected from any remote sale of an entity financed as a special bond project would not be pledged for the repayment of the STAR bonds;

- ! Reduce the maximum maturity of special obligation STAR bonds from a possible 30 years to 20 years;
- ! Require Kansas, Inc. to include an analysis of STAR bonds in that agency's annual report on the cost effectiveness or economic development tax exemptions and credits; and
- ! Change the effective date of the bill from publication in the statute book to publication in the *Kansas Register*.

The Conference Committee met simultaneously on SB 235 and Senate Sub. for HB 2208, both of which pertain to STAR bonds. The Conference Committee agreement includes components of both bills. Changes from Senate Sub. for HB 2208 as it passed the Senate include the following:

- ! The addition of a provision including a major multi-sport athletic complex in the definition of major commercial entertainment and tourism area.
- ! The addition of language requiring that the approval of STAR bond funding by the Secretary of Commerce and Housing be based on the required feasibility study.
- ! The addition of a provision stating that if the project plan involves a redevelopment project in Wichita including an arena, a vote of the citizens of Wichita would be necessary before the Secretary could approve the special bond project for STAR bond eligibility.
- ! The addition of a provision preventing that the Secretary of Commerce and Housing from approving STAR bond funding if granting the special bond project would cause a default in the payment of any outstanding STAR bonds.
- ! The addition of language requiring that 100 percent of local sales taxes be pledged to fund the special obligation bonds except for those amount committed to other use by election of voters prior to the effective date of the act.
- ! The addition of language expanding the requirements for the feasibility study to include the effect, if any, the special bond project will have on any outstanding STAR bonds.

- ! The addition of a provision requiring that the developer of a special bond project commence work on the project within two years from the date of adoption of the project plan and a definition of the term “commence work.”
- ! The addition of a provision requiring that Kansas resident employees be given priority consideration for employment in construction projects located in a special bond project area.
- ! The addition of a provision placing a sunset of July 1, 2007 on the STAR bond authority for special bond projects.
- ! The deletion of language providing that the ratio of state tax dollars to local tax dollars dedicated to repayment of the special obligation bonds could not exceed a ratio of 3 to 1.
- ! The deletion of language providing that an entity financed as a special bond project would be deemed to have nexus in Kansas for purposes of administering the state retailers sales tax and compensating use tax and clarify that taxes collected from any remote sale of an entity financed as a special bond project would not be pledged for the repayment of the STAR bonds.

The fiscal note on the bill, as introduced, reports that a portion of sales and use tax revenue from businesses located in a redevelopment district in the major commercial, entertainment, and tourism area would be diverted from cities, counties, and the state to repay the STAR bonds for up to 30 years. The Division of the Budget also notes that state and local governments may experience increased tax revenues generated from the project after the bonds are paid off. However, the fiscal note did not provide specific dollar amounts associated with the predicted decrease and later increase of revenues associated with the bill. Information reflecting the fiscal impact of Conference Committee changes was not available upon publication of this Conference Committee Report.