

SESSION OF 2013

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2234**

As Agreed to April 5, 2013

Brief*

HB 2234 would name the Secretary of Transportation (Secretary) the director of operations of the Kansas Turnpike Authority (KTA). The director of operations would be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained, or operated by the Authority, and the director or the director's designee would have such powers as are necessary to carry out those responsibilities. This provision would expire July 1, 2016.

The bill would provide that the KTA could not use KTA toll or other revenue in ways other than those established in current law: maintaining, repairing and operating turnpike projects; paying principal and interest on bonds and creating reserves for the same; fixing and collecting tolls; and entering into certain types of contracts.

The bill would change authority for contracting between KTA and the Kansas Department of Transportation (KDOT) for three years. The bill would add an effective date of July 1, 2016, to provisions in current law regarding contracting between the KTA and KDOT (generally, allowing KTA to contract with KDOT for use of KDOT resources for certain types of work related to KTA projects).

In a new section, the bill would state the KTA would retain its separate identity, powers, and duties as an

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instrumentality of the state; however, the bill in this new section would require that duplication of effort, facilities, and equipment between KDOT and the KTA be minimized in operation and maintenance of turnpikes and highways in the state. The KTA and the Secretary would be authorized to take actions including the temporary transfer of personnel, property and equipment from the KTA to the Secretary and from the Secretary to the KTA. Further, the bill would require the integrity of the bonded indebtedness be maintained through the actions of the KTA. The provisions of this new section would expire July 1, 2016.

The bill also would repeal a number of statutes specific to certain turnpike projects and a statute authorizing KDOT to sell certain land in Pottawatomie County.

Conference Committee Action

The second Conference Committee removed several House and Senate amendments to the bill and made additional changes. The bill approved by the Conference Committee varied from the bill, as introduced, in the following ways:

- Removed a provision naming the Secretary as chairperson of the Authority;
- Replaced a provision naming the Secretary as chief executive officer of the Authority with a provision naming the Secretary as the Authority's director of operations until July 1, 2016; the responsibilities of the director of operations are the same as those proposed for the chief executive officer;
- Added a provision stating the Authority shall not use toll or other revenue for any purposes other than those in current law;

- Separated provisions related to contracting between the KTA and KDOT into two sections. One section in current law would be amended to state it would be in effect on and after July 1, 2016. The other, a new section, would be in effect until July 1, 2016. The new section would incorporate the amendments proposed in the original bill with these exceptions: the KTA would not be under the management of KDOT; any transfer of personnel, property, and equipment could be from the Secretary to the Authority as well as from the Authority to the Secretary; and any such transfer would be temporary;
- Included the repeal of an additional statute, as proposed in HB 2145; and
- Changed the effective date from publication in the *Kansas Register* to publication in the statute book.

Background

The statutes that would be repealed by the bill generally address the same topics as the KTA statutes to be retained, such as authorization to construct, maintain, repair, and operate “modern express highways”; authority to acquire property for such highways; authority to issue turnpike revenue bonds; authority to fix and collect tolls; and requirements to keep each turnpike project in good condition and repair. However, there are differences in some statutes on the same topic. Statutes that would be repealed generally deal with specific projects either completed or not built, such as an authorized project east from Winfield, and with specific feasibility studies. The additional statute to be repealed, from HB 2145, authorized the sale of land in Pottawatomie County in 1978.

Statutes would continue to specify that KTA revenue bonds are not a debt of the state or any political subdivision

and indebtedness will be self-financing. The bill would make no changes to statutes related to contracts for policing on the turnpike by the Kansas Highway Patrol or to law that authorizes the Secretary to study the feasibility of new toll highways.

In the House Committee on Transportation, proponent testimony was received from Mike King, Secretary of Transportation. The Secretary stated the changes would allow both agencies to increase efficiencies in operations and administrative functions and would allow the Secretary to use the turnpike as an economic development tool. He also said a single voice for transportation in Kansas would be an advantage and the bill would allow assets to be more easily shared. He stated most of the estimated savings of \$15 million each year for the first two years would be from reducing redundant assets and sharing administrative tasks and the estimate was based on knowledge of KTA assets and percentages of savings KDOT had found in operations during his tenure. Written proponent testimony from Senator Mike Petersen suggested an amendment to place the KTA “within” rather than “under the management of” KDOT.

The House Committee received opponent testimony from the Chairperson of the KTA, from a representative of the Kansas Motor Carriers Association (KMCA), and from a private citizen. The KTA Chairperson stated the proposal has not been studied, there was no opportunity for KTA discussion, the potential savings were not identified, current law allows shared responsibilities, the bill could affect KTA bond costs, the bill would expand government, and the proposal would politicize the KTA. The KMCA representative said the Association was concerned the turnpike would be subjected to state bureaucracy and could become less attractive to motor carriers with higher tolls, and it was concerned by the potential for unintended consequences; he cited an article from the Reason Foundation comparing the potential consequences of the bill to consequences of similar turnpike governance changes in other states. The private citizen’s concerns included the potential to divert turnpike

funds to other purposes. The KTA and KDOT provided information to the House Committee on Transportation regarding salaries paid to their employees.

The House Committee on Transportation amended the bill to retain the current governance of the KTA by removing provisions that would have made the Secretary the chief executive officer and chairperson of the KTA. The bill as introduced also would have specified the responsibilities of the chief executive officer (a position not mentioned in current statutes) – daily administration of KTA toll roads, bridges, structures, and facilities – and would have given the chief executive officer or such officer's designee the powers necessary to carry out those responsibilities. Under current law (which would not have been changed by the bill as amended by the House Committee), the chairperson is elected by the KTA's five members: two members appointed by the Governor, the Secretary, the chairperson of the Senate Transportation Committee, and a member of the House Transportation Committee appointed by the Speaker. Committee amendments also removed a provision that would have placed the KTA under KDOT management; added a requirement that any transfer of personnel, property or equipment be temporary; added that any temporary transfer could be from the Secretary to the KTA as well as from the KTA to the Secretary; changed the effective date from publication in the *Kansas Register* to publication in the statute book; and made technical changes.

The House Committee of the Whole amended the bill to remove "other resources" from the assets the Secretary and the KTA would be authorized to provide to each other under contract, leaving personnel and equipment. It also amended the bill to specify that such contracts could be for construction, operation, and maintenance of projects not to exceed ten miles which connect the turnpike to the highways of the state, rather than for construction, operation, and maintenance of highways of the state.

The Senate Committee heard opponent testimony from the KTA Chairperson, from a representative of the KMCA,

and from a private citizen. The Senate Committee amended the bill to delete all House Committee on Transportation and House Committee of the Whole amendments and to add a two-year sunset provision to the bill. In addition, the Committee added provisions which formerly had been contained in 2013 HB 2145, concerning repeal of a 1978 statute authorizing KDOT to sell certain land in Pottawatomie County. HB 2145 was introduced at the request of the Office of the Repealer. A KDOT representative testified the land sale had taken place and the statute was no longer necessary.

The Senate Committee of the Whole amended the bill to delete provisions which placed the KTA under the management of KDOT, and to delete authority for KDOT to charge the KTA up to \$250,000 at any one time for personnel, equipment, engineering, geological work, soils testing, or materials testing for toll projects. The Senate Committee of the Whole amendments also moved the sunset date of certain provisions included in the bill from July 1, 2015, to July 1, 2016, and provided that no KTA tolls could be used for purposes other than those included in current law.

The fiscal note from the Division of the Budget on the original HB 2234 states *The FY 2014 Governor's Budget Report* recommends transfers from the State Highway Fund to the State General Fund of \$15.0 million in both FY 2014 and FY 2015, for savings from merging the operations. The fiscal note submitted by the Division of the Budget on HB 2145 indicated the bill had no fiscal impact.

turnpike, KDOT, bonds, highways, repeal

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