

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on January 17, 2006 in Room 123-S of the Capitol.

All members were present except:
Senator Reitz-excused

Committee staff present:
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Others attending:
See attached list.

Chairperson Brownlee opened the meeting indicating there would be a bill introduction by Marlee Carpenter reforming preexisting conditions for a workers compensation bill. **Senator Emler made a motion to introduce the bill. Senator Jordan seconded. Motion carried.**

Chairperson Brownlee noted that there would be a discussion of STAR Bonds in an informational format and then introduced Secretary Fricke, Secretary of Commerce, and thanked him for appearing before the Senate Commerce Committee.

Secretary Fricke thanked the committee for the opportunity to talk about STAR Bonds and said that he was pleased to say that Kansas has experienced job growth and more Kansans are working today than in any other month in our state's history. Secretary Fricke offered written testimony. (Attachment 1) He expressed his pride in the Department of Commerce and their part in making an impact on Kansas economy with involvement in such projects as Capital One, Farmer Insurance Group, InfoNxx and retention projects which he felt the committee was familiar with such as Applebees as well as Spirit Aerosystems. The Department of Commerce has a variety of tools that are well known to help the economy grow. One of these is the sales tax and revenue STAR Bonds, which are a powerful financing tool intended to promote the development of major tourism efforts in Kansas as well as stimulate the Kansas economy. As you know, the legislature has by statute delegated to the Secretary of Commerce the authority to determine whether the issuance of STAR Bonds to help finance proposed projects should be approved or not approved. Subject to approval they can be utilized by any city in Kansas to finance the development of major commercial entertainment and tourism areas. STAR Bonds may finance costs necessary to implement the redevelopment project plan including land acquisition, site preparation, landscaping, parking and other infrastructure. STAR bonds may not be used to pay fees and commissions to consultants who represent businesses considering locating in a redevelopment district, salaries for local government employees, lobbying costs, property taxes for businesses that locate in the redevelopment district or moving expenses for those businesses' employees. State and local sales tax revenues collected from taxpayers doing business within the redevelopment district are used to retire STAR Bonds.

For proposed projects located within a Metropolitan Statistical Area, Kansas law requires \$50 million in capital investment and \$50 million of projected gross annual sales. For projects proposed to be located outside of a Metropolitan Statistical Area, the proposed project must be located in an eligible area and be of regional or statewide importance.

The statutory procedure for launching a project begins locally with establishment of a redevelopment district through a resolution and hearing process, development of a special bond project plan including a feasibility study which also involves a resolution and hearing process. Following the public hearing the governing body may adopt the project plan by ordinance passed upon a two-thirds vote.

First, to be an eligible area for STAR Bond financing purposes, a proposed project must be a major commercial entertainment and tourism area as determined by the Secretary. Second, the Secretary determines that a proposed project sufficiently promotes, stimulates and develops the general and economic welfare of the State. Third, certain expenses incurred to redevelop and finance redevelopment projects require prior

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approval of the Secretary in order to be reimbursed with STAR Bond proceeds.

STAR Bonds have been used to help finance the Kansas Speedway and Village West Tourism District in Wyandotte County and Kansas City, Kansas. Schlitterbahn Vacation Village project east of I-435 was also approved as a STAR Bond project. Schlitterbahn will be before the committee tomorrow to present their project. Abilene, Edwardsville, Hutchinson, Manhattan, Olathe, Overland Park, Topeka and Wichita have submitted projects. Abilene, Hutchinson and Topeka have been preliminarily determined as eligible for STAR Bond financing; the other proposed projects were subsequently withdrawn.

Opening the floor for questioning, Senator Brownlee noted that Secretary Fricke had with him the Rules and Regulations regarding STAR Bonds and asked when they went into effect. Secretary Fricke stated they have not been formally adopted; they are waiting for approval from the Attorney General. However, they are the Rules and Regs that they have been operating under for the last year. When asked what the time frame was after a public hearing for the rules to go into effect Secretary Fricke stated it depended on whether a revision is required after public comments are received. If so, they must go through the Department of Administration for approval, the Attorney General's office for their approval and once that is accomplished they are approval by the Secretary of State's office.

Senator Wysong asked if it was true that there was a maximum on STAR Bonds to be issued anytime by the state and the answer is no. Outside of the new water park, are there any other Wyandotte County projects that are interested in STAR Bonds. Secretary Fricke responded that they had not been officially notified of any projects. Senator Wysong inquired of the Chair if there would have to be a vote in the committee or on the floor or does the Secretary and his office make that determination and the response was the Secretary.

Senator Schodorf inquired about the Wichita project and was told it was Waterwalk which was withdrawn. No STAR Bonds are being received even though the project is being developed due to the fact that there have been no requests. When the project was before the Committee a few years ago, was it before the Senate or just the delegation? Senator Emler stated initially it started in the House as a Wichita specific project but the bill that the Senate approved was one that would create a pattern that would work for the entire state. What happens when a project such as Waterwalk is submitted and they change the plan would they have to return to get approval again. Secretary Fricke stated while Commerce is very open and receptive to discussing with the community ideas and concepts, if any changes are made after the approval those changes must be approved before the project is finalized.

Senator Barone asked Secretary Fricke if the Schlitterbahn project was approved using the present Rules and Regulations. Secretary Fricke stated it was. Senator Barone stated he felt that this was putting the cart before the horse approving a project before the Rules and Reg were approved. Secretary Fricke stated that the Rules and Regs are proposed and are waiting for the signature of the Attorney General. Secretary Fricke stated that the Rules and Regs had been shared with everyone extensively and most of the developers and projects are aware of what the proposed Rules and Regs are. Secretary Fricke stated he felt the proposed Rules and Regs are consistent with the Statutes and would he would be reluctant to hold up a project because they had not been signed by the Attorney General yet. Senator Barone asked if STAR Bonds for Schlitterbahn would negatively impact Worlds of Fun. Secretary Fricke stated that Senator Barone must be referring to a newspaper article where a reporter made that assumption. He also stated he did not have knowledge on what the impact would be on Worlds of Fun, but the Schlitterbahn people spoke with the Great Wolf Lodge and the Lodge stated they will welcome the competition as it would generate more traffic. Senator Barone noted there were also press releases concerning a major furniture closing in the Kansas City metro area and wondered if Nebraska Furniture Mart had anything to do with that. Senator Barone stated he felt that when one company gets a major tax break while putting others in financial trouble it creates a situation that should be carefully examined. Senator Barone asked if Schlitterbahn would be able to go forward without STAR Bonds. Secretary Fricke stated that the Schlitterbahn people could respond to that question tomorrow when they give their presentation to the Committee. Secretary Fricke did say they are like any other business, looking for incentives to locate. Senator Barone stated that we should look at any attraction which competes with existing attractions very carefully. Secretary Fricke agreed.

Senator Brownlee commented on the Rules and Regs. The Statute was passed in 2004 authorizing Rules and Regs now a year later there is still no finality.

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Senator Jordan did share that the Joint Committee on Economic Development looked at the Rules and Regs and wanted to comment on Senator Barone's comments on competition. Senator Jordan stated that is the reason for the market study in the Statute and the need to look very closely at unfair advantages and that would be part of the review process. Secretary Fricke stated that land purchased with STAR bond funding should only be used for the developed and approved project. He also stated excess land that allows the developer to profit using STAR bonds is not the intent of the STAR bond legislation. Secretary Fricke stated the Village West is considering shrinking the redevelopment district in the Village West area for that very reason.

Senator Wysong noted that he had heard that the Schlitterbahn water park would help Worlds of Fun and Oceans of Fun.

Senator Brownlee asked if there was additional criteria in the Statute that governs STAR Bonds that relates to the decision making that cities might not be aware of. Secretary Fricke said no, that all criteria used was published and made available to all communities and was also on the web-site.

Chairperson Brownlee asked for an update on projects that have been presented to the Department of Commerce for STAR bond approval. Secretary Fricke felt the Hutchinson project is moving rapidly and is in the final stage of their market study; the Manhattan project is moving and should become a reality, and the Abilene project would also become a reality. He also stated that Overland Park had a very good project but withdrew due to lack of mutual agreement with developers.

Chairperson Brownlee asked if the Statute was adequate for small communities. Secretary Fricke thought that between the statute and proposed Rules and Regs it is.

Chairman Brownlee asked if Hutchinson had enough sales tax generation in their area and the response was yes and the district will support the small amount of STAR Bonds they are looking for. A major portion of the Salt Mine Museum is financed locally through contributions.

Senator Emler asked about the Abilene project with the projection that the project is for the whole town and is there a projection that they would draw I-70 traffic. The detailed market study is not complete and they make sure that the study is done by a reputable firm.

Chairperson Brownlee thanked Secretary Fricke for his presentation to the committee.

Chairperson Brownlee asked John Yearly with the Department of Commerce to briefly walk the committee through the proposed Rules and Regs. (Attachment 2) Mr. Yearly stated that Rules and Regs are meant to define things that are not clearly defined in the Statute. Mr. Yearly reviewed the proposed Rules and Regs with the Committee.

A question from Senator Wysong asked for further detail on the bond trustee. Does each project have a trustee? Mr. Yearly stated It is a function of a bank or financial institution and yes, there is one for each project. Their role is to pay the monies collected. Mr. Yearly stated he did not know how the bond trustee is selected.

Senator Kelly inquired about induced expenditure. Regarding the Hutchinson project, there being no expectation of money from the Salt Mine project so a larger area was created, is this already an established area. How do you set up a baseline for induced expenditure? Mr. Yearly said there would be a history of sales tax generated. There is not a defined time period as a base to look at. Mr. Yearly also stated this is different from TIF financing; however, you would look at employment and sales tax generation in that district. Senator Kelly felt that consistent criteria needed to be established regardless of where projects are located.

Senator Kelly also asked what happened if deadlines are not met. Mr. Yearly responded that under the legislation the maximum bond repayment is 20 years so the bond holders, if the repayment is going slow, they would have that period of time in which they would get all the sales tax generated within that district. Outside of that, the legal remedy the bond holders have is very limited.

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Senator Brownlee stated for example, Hutchinson might have more sales in restaurants, hotels, etc. so their baseline would be taken on whatever is included and the additional sales tax is what they apply to STAR Bonds. Mr. Yearly responded in the negative, stating that those types of things would be looked at to determine the impact of the project. The Statute requires that the collection of sales tax in the district is collected from the date that the district is established and the STAR Bonds are issued and approved. It is not a collection above that baseline, it is all the sales tax. Chairperson Brownlee asked where we ended up on Heartland Park; did we not take the additional sales tax in addition to existing sales tax?. Mr. Yearly said that it would take all the sales tax as well.

Senator Barone asked if expanded districts take all the sales tax then the city and state take a hit. Mr. Yearly said yes, the use of STAR Bonds for projects like Hutchinson in which the state and local government give up tax revenues. It is not the intention to lose in the long-run since there should be an increase in overall revenues.

Chairperson Brownlee asked Secretary Fricke about his committee which helped with these decisions. Secretary Fricke stated he has an advisory committee made up of a variety of folks, which provide advise and direction only. They do not vote.

Senator Barone asked if the marketing studies were public information. Secretary Fricke stated that after they had been submitted they are public information.

Meeting adjourned at 9:30 a.m. with the next scheduled meeting for January 18, 2006 at 8:30 a.m. in room 123S.