

SENATE BILL No. 474

By Committee on Ways and Means

2-18

Proposed amendment
March 10, 2016
Prepared by the Office of Revisor of Statutes

1 AN ACT concerning the Kansas bioscience authority; delegating authority
2 to the state finance council to oversee any sale of the Kansas bioscience
3 authority or substantially all of the authority's assets; amending K.S.A.
4 2015 Supp. 74-99b15 and repealing the existing section.
5

economic development; relating to the
STAR bond financing act; concerning

12-17,162, 12-17,171, 12-17,176 and

6 *Be it enacted by the Legislature of the State of Kansas:*

sections

7 Section 1. K.S.A. 2015 Supp. 74-99b15 is hereby amended to read as
8 follows: 74-99b15. Nothing in this act should be construed as allowing the
9 board to sell the authority or substantially all of the assets of the authority,
10 or to merge the authority with another institution, without prior legislative
11 authorization by statute. *This authorization may be provided by the state*
12 *finance council acting on this matter which is hereby characterized as a*
13 *matter of legislative delegation and subject to the guidelines prescribed in*
14 *K.S.A. 75-3711(c), and amendments thereto, except that such approval*
15 *also may be given while the legislature is in session.*

Section 1. K.S.A. 2015 Supp. 12-17,162.
Sec. 2. K.S.A. 2015 Supp. 12-17,171.
Sec. 3. K.S.A. 2015 Supp. 12-17,176.
New Sec. 4.
[See attached]

16 Sec. 2. K.S.A. 2015 Supp. 74-99b15 is hereby repealed.

12-17,162, 12-17,171, 12-17,176 and

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the Kansas register.

are

- Section 1. K.S.A. 2015 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in ~~this~~ the STAR bond financing act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:
- (a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to the operation of such facility.
 - (b) "Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.
 - (c) "De minimus" means an amount less than 15% of the land area within a STAR bond project district.
 - (d) "Developer" means any person, firm, corporation, partnership or limited liability company other than a city and other than an agency, political subdivision or instrumentality of the state.
 - (e) "Economic impact study" means a study to project the financial benefit of the project to the local, regional and state economies.
 - (f) "Eligible area" means a historic theater, major tourism area, major motorsports complex, auto race track facility, river walk canal facility, major multi-sport athletic complex, or a major commercial entertainment and tourism area as determined by the secretary.
 - (g) "Feasibility study" means a feasibility study as defined in subsection (b) of K.S.A. 2015 Supp. 12-17,166, and amendments thereto.
 - (h) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.
 - (i) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.
 - (j) "Major commercial entertainment and tourism area" means an area that may include, but not be limited to, a major multi-sport athletic complex.
 - (k) "Major motorsports complex" means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized wheelchair. Such project may include race tracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.
 - (l) "Major tourism area" means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.
 - (m) "Major multi-sport athletic complex" means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments including grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.
 - (n) "Market study" means a study to determine the ability of the project to gain market share locally, regionally and nationally and the ability of the project to gain sufficient market share to:
 - (1) Remain profitable past the term of repayment; and
 - (2) maintain status as a significant factor for travel decisions.
 - (o) "Market impact study" means a study to measure the impact of the proposed project on similar businesses in the project's market area.
 - (p) "Museum facility" means a separate newly-constructed museum building and facilities directly related and necessary to the operation thereof, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility. The

museum facility shall be owned by the state, a city, county, other political subdivision of the state or a non-profit corporation, shall be managed by the state, a city, county, other political subdivision of the state or a non-profit corporation and may not be leased to any developer and shall not be located within any retail or commercial building.

- (g) "Project" means a STAR bond project.
- (r) "Project costs" means those costs necessary to implement a STAR bond project plan, including costs incurred for:
 - (1) Acquisition of real property within the STAR bond project area;
 - (2) Payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 2015 Supp. 12-17,173, and amendments thereto;
 - (3) Site preparation including utility relocations;
 - (4) Sanitary and storm sewers and lift stations;
 - (5) Drainage conduits, channels, levees and river walk canal facilities;
 - (6) Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
 - (7) Street light fixtures, connection and facilities;
 - (8) Underground gas, water, heating and electrical services and connections located within the public right-of-way;
 - (9) Sidewalks and pedestrian underpasses or overpasses;
 - (10) Drives and driveway approaches located within the public right-of-way;
 - (11) Water mains and extensions;
 - (12) Plazas and arcades;
 - (13) Parking facilities and multilevel parking structures devoted to parking only;
 - (14) Landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities;
 - (15) Auto race track facility;
 - (16) Major multi-sport athletic complex;
 - (17) Museum facility;
 - (18) Major motorsports complex;
 - (19) Related expenses to redevelop and finance the project, except that for a STAR bond project financed with special obligation bonds payable from the revenues described in subsection (a)(1) of K.S.A. 2015 Supp. 12-17,169, and amendments thereto, such expenses shall require prior approval by the secretary of commerce; and
 - (20) Except as specified in subsections (1) through (19) above, project costs shall not include:
 - (A) Costs incurred in connection with the construction of buildings or other structures;
 - (B) Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developers or any other businesses considering locating in or located in a STAR bond project district;
 - (C) Salaries for local government employees;
 - (D) Moving expenses for employees of the businesses locating within the STAR bond project district;
 - (E) Property taxes for businesses that locate in the STAR bond project district;
 - (F) Lobbying costs;
 - (G) Any bond origination fee charged by the city or county;
 - (H) Any personal property as defined in K.S.A. 79-102, and amendments thereto; and
 - (I) Travel, entertainment and hospitality.
 - (s) "Projected market area" means any area within the state in which the project is projected to have a substantial fiscal or market impact upon businesses in such area.

- (t) "River walk canal facilities" means a canal and related water features which flow through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to, pedestrian walkways and promenades, landscaping and parking facilities.
- (u) "Sales tax and revenue" are those revenues available to finance the issuance of special obligation bonds as identified in K.S.A. 2015 Supp. 12-17,168, and amendments thereto.
- (v) "STAR bond" means a sales tax and revenue bond.
- (w) "STAR bond project" means an approved project to implement a project plan for the development of the established STAR bond project district with:
 - (1) At least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales; or
 - (2) for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds:
 - (A) The project is an eligible area as defined in subsection (f), and amendments thereto; and
 - (B) would be of regional or statewide importance; or
 - (3) is a major tourism area as defined in subsection (l), and amendments thereto; or
 - (4) is a major motorsports complex, as defined in subsection (k), and amendments thereto.
 - (x) "STAR bond project area" means the geographic area within the STAR bond project district in which there may be one or more projects.
 - (y) "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 to the secretary on or before November 1, 2007. 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 has 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 project district shall be limited to those areas being developed by the STAR bond project and any area of real property reasonably anticipated to directly benefit from the redevelopment project.
 - (z) "STAR bond project district plan" means the preliminary plan that identifies all of the proposed STAR bond project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each STAR bond project area.
 - (aa) "STAR bond project plan" means the plan adopted by a city or county for the development of a STAR bond project or projects in a STAR bond project district.
 - (bb) "Secretary" means the secretary of commerce.
 - (cc) "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the STAR bond project district plan was approved.
 - (dd) "Tax increment" means that portion of the revenue derived from state and local sales, use and transient guest tax imposed pursuant to K.S.A. 12-187 et seq., 12-1692 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within that portion of a STAR bond project district occupied by a project that is in excess of the amount of base year revenue. For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which the STAR bond project district is established. The department of revenue shall determine base year revenue by reference to the revenue collected during the base year from taxpayers doing business within the specific area in which a STAR bond project district is subsequently established. For purposes of this subsection, revenue collected from taxpayers doing business within a STAR bond project district, or within a specific area in which a STAR bond project district is subsequently established shall not include local sales and use tax revenue that is sourced to jurisdictions other than those in which the project is located.
 - (ee) "Taxpayer" means a person, corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

Sec. 2. K.S.A. 2015 Supp. 12-17,171 is hereby amended to read as follows: 12-17,171. (a) Any addition of area to the STAR bond project district, or any substantial change as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the STAR bond project district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the STAR bond project district. Any such addition of area shall be limited to real property which has not been part of another STAR bond project district.

(b) A city or county may remove real property from a STAR bond project district by an ordinance or resolution of the governing body respectively.

(c) A city or county may divide the real property in a STAR bond project district, including real property in different project areas within a STAR bond project district, into separate STAR bond project districts. Any division of real property within a STAR bond project district into more than one STAR bond project district shall be subject to the same procedure of public notice and hearing as is required for the establishment of the STAR bond project district.

(d) Subject to the provisions of subsection (a), if a city or county has undertaken a STAR bond project within a STAR bond project district, and either the city or county wishes to subsequently remove more than a de minimus amount of real property from the STAR bond project district, or the city or county wishes to subsequently divide the real property in the STAR bond project district into more than one STAR bond project district, then prior to any such removal or division the city or county must provide a feasibility study which shows that the tax revenue from the resulting STAR bond project district within which the STAR bond project is located is expected to be sufficient to pay the project costs.

(e) Removal of real property from one STAR bond project district and addition of all or a portion of that real property to another STAR bond project district may be accomplished by the adoption of an ordinance or resolution, and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under subsection (f) of K.S.A. 2015 Supp. 12-17,165, and amendments thereto, shall apply to both such removal and such addition of real property to a STAR bond project district.

Sec. 3. K.S.A. 2015 Supp. 12-17,176 is hereby amended to read as follows: 12-17,171. (a) STAR bond projects using state sales tax financing pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto, shall be audited by an independent certified public accountant annually at the expense of the city or county. The audit report shall supplement the annual report required pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto.

(b) Such audits shall determine whether bond financing obtained under K.S.A. 2015 Supp. 12-17,169, and amendments thereto, is being used only for authorized purposes. Audit results shall be reported to the house commerce, labor and economic development ~~and tourism~~ committee, the senate commerce committee, or successor committees, the governor and the secretaries of commerce and revenue during the legislative session immediately following the audit.

(c) If audit findings indicate that bond funds have been used for unauthorized or ineligible purposes, the city or county shall repay to the bond fund all such unauthorized or ineligible expenditures. Such city or county shall enter into a repayment agreement with the secretary of revenue specifying the terms of such repayment obligation.

(d) In addition to the provisions of subsection (a), annually, on or before December 31, commencing in 2016, the division of post audit shall conduct a performance audit as directed by the legislative post audit committee of all STAR bond projects using state sales tax financing pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto, to determine: (1) The current status of each STAR bond project; (2) any significant changes to each project during the previous year; (3) whether each project has complied with all requirements pursuant to the STAR bond financing act; and (4) any other issues related to STAR bond projects as determined by the legislative post audit committee. The post auditor shall compute the reasonably anticipated cost of providing the audit pursuant to this subsection, subject to review and approval of the legislative post audit committee. Upon such approval, the city or county shall pay to the division of post audit the amount approved by the legislative post audit committee. The city or county may recover the costs of the annual performance audit from the STAR bond proceeds. Audit results shall be reported to the legislative post audit committee, the house commerce, labor and economic development committee, the senate commerce committee, or successor committees, the governor, and the secretaries of commerce and revenue during the legislative session immediately following the audit.

New Sec. 4. On the effective date of this act, the provisions of section 35(g) and section 36(f) of 2016 House Substitute for Senate Bill No. 161 are hereby declared to be null and void and shall have no force and effect.