

STATE OF KANSAS

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SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **SB 474**, as amended by Senate Committee, on page 4, in line 8, by striking "and"; in line 9, after "(20)" by inserting "an economic impact, market and market impact study; and (21) ";

Also on page 4, also in line 9, by striking "subsections" and inserting "paragraphs"; also in line 9, by striking "(19)" and inserting "(20)"; in line 25, by striking "and"; in line 26, after "hospitality" by inserting "; and

(J) engineering, architectural, legal, consulting, accounting and other indirect costs that exceed 3% of the total STAR bond project costs";

On page 5, in line 7, by striking "or"; in line 9, after "thereto" by inserting "; or

(5) for areas which are "blighted areas" as defined by K.S.A. 12-1770a, and amendments thereto, with at least a \$50,000,000 capital investment and \$35,000,000 in projected gross annual sales and which the secretary finds the project meets the requirements in subsection (w)(2)(A) and (B)";

On page 6, following line 21, by inserting:

"Sec. 2. K.S.A. 2015 Supp. 12-17,164 is hereby amended to read as follows: 12-17,164. (a) The governing body of a city may establish one or more STAR bond projects in any area within such city or wholly outside the boundaries of such city. A STAR bond project wholly outside the boundaries of such city must be approved by the board of county commissioners by the passage of a county resolution.

The governing body of a county may establish one or more STAR bond projects in any unincorporated area of the county.

The projects shall be eligible for financing by special obligation bonds payable from revenues described by ~~subsection (a)(1)~~ of K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto.

(b) Each STAR bond project shall first be approved by the secretary, if the secretary determines that the proposed project or complex sufficiently promotes, stimulates and develops the general and economic welfare of the state as described in K.S.A. 2015 Supp. 12-17,160, and amendments thereto. The secretary, upon approving the project, may approve such financing in an amount not to exceed 50% of the total costs including all project costs and any other costs related to the project. The proceeds of such STAR bond financing may only be used to pay for incurred project costs.

(c) For a city proposing to finance a major motorsports complex pursuant to ~~subsection (a)(1)(C) or (a)(1)(E)~~ of K.S.A. 2015 Supp. 12-17,169(a)(1)(C) or (a)(1)(E), and amendments thereto, the secretary, upon approving the project, may approve such financing in an amount not to exceed 50% of the STAR bond project costs.

(d) The secretary may approve a STAR bond project located in a STAR bond project district established by a city prior to May 1, 2003.

(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.

(f) A project shall not be approved by the secretary if the market study required by K.S.A. 2015 Supp. 12-17,166(hh), and amendments thereto, indicates a substantial negative impact upon businesses in the project or complex market area or the granting of such project or complex would cause a default in the payment of any outstanding special obligation bond payable from revenues authorized pursuant to ~~subsection (a)(1)~~ of K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto.

(g) The maximum maturity of special obligation bonds payable primarily from revenues

described by ~~subsection (a)(1) of K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto, to finance STAR bond projects pursuant to this section shall not exceed 20 years.~~

(h) The secretary shall not approve any application for STAR bond project financing which is submitted by a city or county more than one year after the STAR bond project district in which the STAR bond project is located has been established. No later than July 1, 2017, the secretary shall adopt rules and regulations establishing reasonable time frames for the initiation and completion of a STAR bond project and other time frames and milestones for developers in the secretary's discretion. The secretary may provide for reasonable financial penalties for the failure to meet such time frames and milestones. For all STAR bond project districts established after July 1, 2016, the failure of a project to be completed by the deadline established by the secretary shall result in automatic and immediate reversion to the state of Kansas of title to all real estate and any improvements thereon acquired or paid with STAR bond proceeds.

(i) Prior to approving a STAR bond project plan, the secretary shall complete an internal review of the overall viability of the project, and after consulting with the secretary of revenue, an assessment and certification of the impact of the project on sales tax revenues into the state general fund. Included in this review shall be an assessment of the private financing components of the STAR bond project.

(j) The secretary may condition approval of any application for STAR bond project financing on:

(1) The state retaining a reversionary interest in any real property acquired with STAR bond proceeds; and

(2) a requirement that up to 10% of any STAR bond proceeds be placed into escrow until any conditions imposed by the secretary have been met.

(k) Prior to approving a STAR bond project plan, the secretary shall require project

developers to demonstrate private sector funding sufficient to fund 51% of the project costs. The secretary may require a reasonable portion of such funds to be placed into escrow as a condition of approving the project and that a percentage of such funds placed into escrow be forfeited to the state of Kansas as a penalty for failure to meet funding requirements set by the secretary. The secretary shall adopt rules and regulations to implement the provisions of this subsection no later than July 1, 2017.

As a condition of approving a project or the project financing, the secretary may require that the state retain a proportional carried equity interest in land and buildings to be financed by the proceeds of STAR bonds and receive a percentage of gross receipts received by the developer or developers until the STAR bonds have been repaid. The equity interest and percentage of gross receipts to be retained by the state of Kansas shall be based on the state sales and use tax portion of the funding for the project. Upon the state recovering the portion of the project financed with state sales taxes, the developer or developers shall have a right of first refusal to purchase the state's carried equity interest at a strike price or fair market value, whichever is greater. The secretary shall adopt rules and regulations to implement the provisions of this paragraph no later than July 1, 2017.

Sec. 3. K.S.A. 2015 Supp. 12-17,166 is hereby amended to read as follows: 12-17,166. (a) One or more projects may be undertaken by a city or county within an established STAR bond project district. Any city or county proposing to undertake a STAR bond project, shall prepare a STAR bond project plan in consultation with the planning commission of the city, and in consultation with the planning commission of the county, if any, if such project is located wholly outside the boundaries of the city. Any such project plan may be implemented in separate development stages.

(b) Any city or county proposing to undertake a STAR bond project within a STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, shall prepare a feasibility study. The feasibility study shall contain the following:

(1) Whether a STAR bond project's revenue and tax increment revenue and other available

revenues under K.S.A. 2015 Supp. 12-17,169, and amendments thereto, are expected to exceed or be sufficient to pay for the project costs;

(2) the effect, if any, a STAR bond project will have on any outstanding special obligation bonds payable from the revenues described in K.S.A. 2015 Supp. 12-17,169, and amendments thereto;

(3) a statement of how the jobs and taxes obtained from the STAR bond project will contribute significantly to the economic development of the state and region;

(4) visitation expectations;

(5) the unique quality of the project;

(6) economic impact study pursuant to the following requirements:

(A) The economic impact, market and market impact studies required by K.S.A. 12-17,166(b) (6), (7) and (8), and amendments thereto, shall be commissioned and directed by the secretary and conducted by an independent economic consultant selected by the secretary. Prior to the secretary initiating the process of selecting and engaging an independent economic consultant for the economic impact, market and market impact studies, the secretary and the city or county proposing to undertake the STAR bond project shall consult for the limited purpose of determining an acceptable range of fees or costs for such studies; and

(B) the secretary shall solely procure, negotiate and execute an agreement with an independent economic consultant for the purpose of performing the economic impact, market and market impact studies and shall solely make payment for services rendered by the independent economic consultant in providing such studies in accordance with such agreement. The secretary shall advise the city or county proposing to undertake the STAR bond project of costs or fees and when such costs or fees are due under the secretary's agreement with the independent economic consultant. At the secretary's request, the city or county proposing to undertake the STAR bond project shall timely pay over to the secretary the amount of such costs or fees before such costs or fees are due. The secretary

shall then make payment to the independent consultant in accordance with the secretary's agreement with the independent consultant. In the secretary's discretion, any costs or fees, including, but not limited to, costs that are not certain in time or amount, pursuant to the secretary's agreement with the independent consultant, may be paid to the independent economic consultant by the secretary and shall be reimbursed to the secretary by the city or county proposing to undertake the STAR bond project within 15 days of the secretary's payment thereof to the independent consultant. Upon approval of the STAR bond project plan, the city or county proposing to undertake the STAR bond project may recover the costs of the economic impact, market and market impact studies from the STAR bond proceeds;

(7) market study;

(8) market impact study;

(9) integration and collaboration with other resources or businesses;

(10) the quality of service and experience provided, as measured against national consumer standards for the specific target market;

(11) project accountability, measured according to best industry practices;

(12) the expected return on state and local investment that the project is anticipated to produce;

(13) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the STAR bond project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(A) The percentage of city and county sales and use taxes collected that are so committed; and

(B) the date or dates on which the city and county sales and use taxes pledged to other uses can be pledged for repayment of bonds; and

(14) an anticipated principal and interest payment schedule on the bond issue.

The failure to include all information enumerated in this subsection in the feasibility study for a

STAR bond project shall not affect the validity of bonds issued pursuant to this act.

(c) If the city or county determines the project is feasible, the project plan shall include:

(1) A summary of the feasibility study done as defined in subsection (b) of this section, and amendments thereto;

(2) a reference to the district plan established under K.S.A. 2015 Supp. 12-17,165, and amendments thereto, that identifies the project area that is set forth in the project plan that is being considered;

(3) a description and map of the project area to be redeveloped;

(4) the relocation assistance plan as described in K.S.A. 2015 Supp. 12-17,172, and amendments thereto;

(5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area;~~and~~

(6) a description of the proposed competitive bid process to be used for construction of the STAR bond project; and

(7) any other information the governing body of the city or county deems necessary to advise the public of the intent of the project plan.

(d) A copy of the STAR bond project plan prepared by a city shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the STAR bond project area. A copy of the STAR bond project plan prepared by a county shall be delivered to the board of education of any school district levying taxes on property within the STAR bond project area.

(e) Upon a finding by the planning commission that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the city, and a finding by the planning commission of the county, if any, with respect to a STAR bond project located wholly outside the

boundaries of the city, that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the county, the governing body of the city or county shall adopt a resolution stating that the city or county is considering the adoption of the STAR bond project plan. Such resolution shall:

- (1) Give notice that a public hearing will be held to consider the adoption of the STAR bond project plan and fix the date, hour and place of such public hearing;
- (2) describe the boundaries of the STAR bond project district within which the STAR bond project will be located and the date of establishment of such district;
- (3) describe the boundaries of the area proposed to be included within the STAR bond project area; and
- (4) state that the STAR bond project plan, including a summary of the feasibility study, market study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped or developed are available for inspection during regular office hours in the office of the city clerk or county clerk, respectively.

(f) (1) The date fixed for the public hearing to consider the adoption of the STAR bond project plan shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(2) A copy of the city or county resolution providing for the public hearing shall be by certified mail, return receipt requested, sent by the city to the board of county commissioners of the county and by the city or county to the board of education of any school district levying taxes on property within the proposed STAR bond project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed STAR bond project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city or county newspaper not less than one week nor more than two

weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the STAR bond project area shall be published with the resolution.

(3) At the public hearing, a representative of the city or county shall present the city's or county's proposed STAR bond project plan. Following the presentation of the STAR bond project area, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(g) The public hearing records and feasibility study shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

(h) Upon conclusion of the public hearing, the governing body may adopt the STAR bond project plan by ordinance or resolution passed upon a two-thirds vote of the members.

(i) After the adoption by the city or county governing body of a STAR bond project plan, the clerk of the city or county shall transmit a copy of the description of the land within the STAR bond project district, a copy of the ordinance or resolution adopting the plan and a map or plat indicating the boundaries of the district to the clerk, appraiser and treasurer of the county in which the district is located and to the governing bodies of the county and school district which levy taxes upon any property in the district. Such documents shall be transmitted following the adoption or modification of the plan or a revision of the plan on or before January 1 of the year in which the increment is first allocated to the taxing subdivision.

(j) If the STAR bond project plan is approved, the feasibility study shall be supplemented to include a copy of the minutes of the governing body meetings of any city or county whose bonding authority will be utilized in the STAR bond project, evidencing that a STAR bond project plan has been created, discussed and adopted by the city or county in a regularly scheduled open public meeting.

(k) Any substantial changes as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the STAR bond project plan as adopted shall be subject to a public hearing following publication of notice thereof at least twice in the official city or county newspaper.

(l) Any STAR bond project shall be completed within 20 years from the date of the approval of the STAR bond project plan, unless an earlier completion deadline is set by the secretary pursuant to K.S.A. 2015 Supp. 12-17,164, and amendments thereto. The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years.

(m) Kansas resident employees shall be given priority consideration for employment in construction projects located in a STAR bond project area.

(n) Any developer of a STAR bond project shall commence work on the project within two years from the date of adoption of the STAR bond project plan, unless an earlier project initiative deadline is set by the secretary pursuant to K.S.A. 2015 Supp. 12-17,164, and amendments thereto. Should the developer fail to commence work on the STAR bond project within the ~~two-year~~ such period, funding for such project shall cease and the developer of such project or complex shall have one year to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the ~~two-year~~ applicable period for commencement shall apply.

Sec. 4. 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:

(A) If approved by the secretary, from revenues of the city or county derived from or held in connection with the undertaking and carrying out of any STAR bond project or projects under this act including historic theater sales tax increments;

(B) from any private sources, contributions or other financial assistance from the state or

federal government;

(C) from a pledge of 100% of the tax increment revenue received by the city from any local sales and use taxes, including the city's share of any county sales tax, which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of the STAR bond project;

(D) at the option of the county in a city STAR bond project district, from a pledge of all of the tax increment revenues received by the county from any local sales and use taxes which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of a STAR bond project;

(E) in a county STAR bond project district, from a pledge of 100% of the tax increment revenue received by the county from any county sales and use tax, but excluding any portions of such taxes that are allocated to the cities in such county pursuant to K.S.A. 12-192, and amendments thereto, which are collected from taxpayers doing business within that portion of the county's STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project;

(F) from a pledge of all 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;

(G) at the option of the city or county and with approval of the secretary, from all or a portion of the transient guest tax of such city or county;

(H) at the option of the city or county and with approval of the secretary, (i) from a pledge of all or a portion of increased revenue received by the city or county from franchise fees collected from utilities and other businesses using public right-of-way within the STAR bond project district; or (ii) from a pledge of all or a portion of the revenue received by a city or county from local sales taxes or local transient guest and local use taxes; or

(I) by any combination of these methods.

The city or county may pledge such revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(2) Bonds issued under ~~paragraph (1) of this subsection (a)(1)~~ shall not be general obligations of the city or the county, nor in any event shall they give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in ~~paragraph (1) of this subsection (a)(1)~~ and such bonds shall so state on their face.

(3) Bonds issued under the provisions of ~~paragraph (1) of this subsection (a)(1)~~ shall be special obligations of the city or county and are declared to be negotiable instruments. Such bonds shall be executed by the mayor and clerk of the city or the chairperson of the board of county commissioners and the county clerk and sealed with the corporate seal of the city or county. All details pertaining to the issuance of such special obligation bonds and terms and conditions thereof shall be determined by ordinance of the city or by resolution of the county.

All special obligation bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes. Such special obligation bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such special obligation bonds shall, however, contain the following recitals: (i) The authority under which such special obligation bonds are issued; (ii) such bonds are in conformity with the provisions, restrictions and limitations thereof; and (iii) that such special obligation bonds and the interest thereon are to be paid from the money and revenue received as

provided in ~~paragraph (1) of this subsection (a)(1)~~.

(4) Any city or county issuing special obligation bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(b) (1) Subject to the provisions of ~~paragraph (2) of this subsection (b)(2)~~, any city shall have the power to issue full faith and credit tax increment bonds to finance the undertaking, establishment or redevelopment of any major motorsports complex, as defined in ~~subsection (k) of K.S.A. 2015 Supp. 12-17,162(m)~~, and amendments thereto. Such full faith and credit tax increment bonds shall be made payable, both as to principal and interest: (A) From the revenue sources identified in ~~paragraph (1) of subsection (a)(1)~~ or by any combination of these sources; and (B) subject to the provisions of ~~paragraph (2) of this subsection (b)(2)~~, from a pledge of the city's full faith and credit to use its ad valorem taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient.

(2) Except as provided in ~~paragraph (3) of this subsection (b)(3)~~, before the governing body of any city proposes to issue full faith and credit tax increment bonds as authorized by this subsection, the feasibility study required by ~~subsection (b) of K.S.A. 2015 Supp. 12-17,166(b)~~, and amendments thereto, shall demonstrate that the benefits derived from the project will exceed the cost and that the income therefrom will be sufficient to pay the costs of the project. No full faith and credit tax increment bonds shall be issued unless the governing body states in the resolution required by ~~subsection (e) of K.S.A. 2015 Supp. 12-17,166(e)~~, and amendments thereto, that it may issue such bonds to finance the proposed STAR bond project. The governing body may issue the bonds unless within 60 days following the conclusion of the public hearing on the proposed STAR bond project plan a protest petition signed by 3% of the qualified voters of the city is filed with the city clerk in accordance with the provisions of K.S.A. 25-3601 et seq., and amendments thereto. If a sufficient petition is filed, no full faith and credit tax increment bonds shall be issued until the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be

called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds in accordance with this section. No such election shall be held in the event the board of county commissioners or the board of education determines, as provided in K.S.A. 2015 Supp. 12-17,165, and amendments thereto, that the proposed STAR bond project district will have an adverse effect on the county or school district.

(3) As an alternative to ~~paragraph (2) of this subsection (b)(2)~~, any city which adopts a STAR bond project plan for a major motorsports complex, but does not state its intent to issue full faith and credit tax increment bonds in the resolution required by ~~subsection (e) of K.S.A. 2015 Supp. 12-17,166(e)~~, and amendments thereto, and has not acquired property in the STAR bond project area may issue full faith and credit tax increment bonds if the governing body of the city adopts a resolution stating its intent to issue the bonds and the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds pursuant to ~~paragraph (1) of subsection (a)(1)~~. Any project plan adopted by a city prior to the effective date of this act in accordance with K.S.A. 12-1772, and amendments thereto, shall not be invalidated by any requirements of this act.

(4) During the progress of any major motorsports complex project in which the project costs will be financed, in whole or in part, with the proceeds of full faith and credit tax increment bonds, the city may issue temporary notes in the manner provided in K.S.A. 10-123, and amendments thereto, to pay the project costs for the major motorsports complex project. Such temporary notes shall not be issued and the city shall not acquire property in the STAR bond project area until the requirements of ~~paragraph (2) or (3) of this subsection (b)(2) or (b)(3)~~, whichever is applicable, have been met.

(5) Full faith and credit tax increment bonds issued under this subsection shall be general

obligations of the city and are declared to be negotiable instruments. Such bonds shall be issued in accordance with the general bond law. All such bonds and all income or interest therefrom shall be exempt from all state taxes. The amount of the full faith and credit tax increment bonds issued and outstanding which exceeds 3% of the assessed valuation of the city shall be within the bonded debt limit applicable to such city.

(6) Any city issuing full faith and credit tax increment bonds under the provisions of this subsection may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(c) For each project financed with special obligation bonds payable from the revenues described in subsection (a)(1), the city or county shall prepare and submit to the secretary by October 1 of each year, a report describing the status of any projects within such STAR bond project area, any expenditures of the proceeds of special obligation bonds that have occurred since the last annual report and any expenditures of the proceeds of such bonds expected to occur in the future, including the amount of sales tax revenue, how such revenue has been spent, the projected amount of such revenue and the anticipated use of such revenue. The department of commerce shall compile this information and submit a report annually to the governor and the legislature by February 1 of each year.

(d) A city or county may use the proceeds of special obligation bonds or any uncommitted funds derived from sources set forth in this section to pay the bond project costs as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to implement the STAR bond project plan.

(e) With respect to a STAR bond project district established prior to January 1, 2003, for which, prior to January 1, 2003, the secretary made a finding as provided in subsection (a) ~~of this section~~ that a STAR bond project would create a major tourism area for the state, such special obligation bonds shall be payable both as to principal and interest, from a pledge of all of the revenue from any transient guest, state and local sales and use taxes collected from taxpayers as provided in

subsection (a) ~~of this section~~ whether or not revenues from such taxes are received by the city.";

On page 8, in line 27, after "12-17,162," by inserting "12-17,164, 12-17,166, 12-17,169,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the first semicolon by inserting "relating to oversight of STAR bonds by the secretary of commerce;"; in line 5, after "12-17,162," by inserting "12-17,164, 12-17,166, 12-17,169,"

Senator \_\_\_\_\_