

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 1:30 on April 27, 2004 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Legislative Research Department
Renaë Jefferies, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Fulva Seufert, Secretary

Conferees appearing before the committee:

Secretary Joan Wagon, Department of Revenue
Matt Jordan, Legislative Liaison, Department of Commerce
Roger A. Seymour, Landlord in Manhattan, Kansas
Lyle Butler, President and CEO, Manhattan Area Chamber of Commerce
Mike Taylor, Public Relations Director, Unified Government Public Relations, Kansas City, KS
Mayor Carlos Mayans, City of Wichita, Kansas
Tom Docking, Wichita Downtown Business Community
Michael Wilkes, City Manager, City of Olathe
Steve Graham, Red Development
Tim McKee, Vice President of Economic Development, Olathe Chamber of Commerce
John Peterson, Private Developer, City of Overland Park
Joe L. Norton, Gilmore and Bell, Attorneys at Law (answered questions only)
Bob Brown, Rolling Hills Zoo and Museum
Senator Derek Schmidt
Representative Deena Horst (written only)
Paul A. Sasse, City Manager, Independence (written only)
Bob Corkins, Director, Freestate Center
Marlee Carpenter, Vice President Government Relations, Kansas Chamber (written only)

Others attending:

See Attached List.

Chairman Wilk gave a review of the intent of this additional meeting, and said that tentatively there would be a follow-up meeting on Wednesday, April 28, 2004, at 1:30 p.m.

The Chair asked Ms. Kathie Sparks, Legislative Research Department, to brief the Committee on **SB 395**.

SB 395 - Payment sources of sales tax revenue bonds

Ms. Sparks provided a Supplemental Note on **Senate Bill No. 395** to all committee members, and said that **SB 395** amends the tax increment financing law to allow any redevelopment district established prior to January 1, 2003, to continue to receive transient guest, sales and use taxes from taxpayers, whether or not revenues from such taxes are received by the city. Ms. Sparks also reported the bill would allow the Department of Revenue to do the following:

- Release sales, use and excise tax license certificate information, but not the license number issued by KDOR.
- Publish reports showing state or local tax revenue distributions by city, county, or number and type of business.
- Provide cities and counties report on their local sales and use tax collections and allow city clerks, county clerks, and treasurers to release that information to their staff for the purpose of verifying distributions and for generating estimates. (Attachment 1)

Chairman Wilk asked Ms. Helen Pedigo, Office of the Revisor of Statutes, to give a history of STAR Bonds. Ms. Pedigo presented a complete history of this legislation. (Attachment 2) Ms. Pedigo emphasized that

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legislation passed in 2003 amended the TIF law to provide statewide authority for STAR bonds to be used for special bond projects of regional or statewide importance. The legislation requires 100 percent of local sales tax 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 this Act. Additional action was needed due to a recently published Kansas Attorney General Opinion, Number 2004-6, which states that redevelopment project costs may include costs incurred in construction of buildings or structures as long as those buildings or structures are not owned by or leased to a developer. At the present there appears to be no difference between the definition of "redevelopment project costs" relating to a special bond project and those costs related to other types of TIF financing.

The Chair recognized Secretary Joan Wagon, Department of Revenue, who gave an in depth explanation of the changing of the distribution of the money, but explained that destination sourcing was not changed. Secretary Wagon reported that the department tracks the STAR bond revenue which is both the state and local sales tax and then transfers it directly to the STAR bonds trustee. She further stated that **SB 395** as introduced was intended to amend K.S.A. 12-1774 to ensure that all local tax revenues generated from a business within the redevelopment district regardless of whether the revenues are from sales tax on sales of items delivered to a location outside the district or not. Secretary Wagon said that the Senate Commerce Committee intended to narrow the K.S.A. 12-1774 amendment limiting its effect only to the dedication of local taxes for payment of STAR bonds issued for a redevelopment district established prior to January 1, 2003 regardless of sourcing. Redevelopment districts established after January 1, 2003, would only receive local revenues within the redevelopment district for payment of STAR bonds. (Attachment 3)

The Chair recognized Matt Jordan, Legislative Liaison, Department of Commerce, who presented testimony to clarify the use of STAR bonds in Kansas. Mr. Jordan said that the Act clearly states this financing cannot be used for a building leased to or owned by a developer. He said that the Commerce Department needs direction as to whether or not this is the policy that was intended when the legislation was enacted. The Department would also like the legislation amended to clearly provide the Secretary with the ability and responsibility to promulgate rules and regulations. (Attachment 4)

Chairman Wilk announced the opening of the Public Hearing on **SB 395**. Because there were so many conferees and five major cities represented, the Chair said each city would be allocated 20 minutes which would include testimony and questions and answers. The cities represented were Manhattan, Wichita, Olathe, Kansas City, and Salina.

The Chair welcomed Mr. Roger A. Seymour, landlord in Manhattan, Kansas, who said he was in support of any effort a community could make to improve itself, but he said he did have a problem with the mechanism for financing the development using STAR bonds. He specifically mentioned his objection to the widespread use of eminent domain. He proposed elimination of the use of eminent domain for STAR bond projects. He also stated objections to the following:

- ◆ Language protecting businesses and tenants, but not landlords
- ◆ Unavailability of suitable properties for reinvestment
- ◆ Language allowing environmental contamination cleanup at the expense of the entire district

Mr. Seymour also suggested proposed solutions to the above-mentioned problems. (Attachment 5)

Chairman Wilk recognized Mr. Lyle Butler, President and CEO of the Manhattan Area Chamber of Commerce, who commented that Mr. Ron Fehr, City Manager, was also with him. Mr. Butler spoke in support of the current STAR bond legislation, and said Manhattan has plans to submit an application for evaluation which they envision bears a positive return not only to Manhattan, but to the State as well. His testimony included reasons for Manhattan wanting to revitalize and redevelop the core or downtown within Manhattan. Recently the City approved a Conceptual Master Plan for the downtown area that would create a diverse mix of retail, housing, office, hotel, restaurant, and entertainment. Since the enactment of the STAR bond legislation, their project has grown into a potential \$170 million revitalization effort with the focus of a retail anchor and establishment of the framework and attraction pieces that will provide tourism dollars on a national and international basis. (Attachment 6)

Chairman Wilk welcomed Mr. Mike Taylor, Public Relations Director, Unified Government Public Relations, Kansas City, Kansas, who spoke in support of **SB 395**. Mr. Taylor said the Unified Government of Wyandotte

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County does support the original intent of **SB 395** because it will correct a situation which changed the rules in the middle of the game. He stressed that the change would allow the bonds to be repaid sooner and would allow state and local government to reap the full benefits created by the Kansas Speedway and Village West. His testimony highlighted the economic impacts of the STAR bond district in Wyandotte County. ([Attachment 7](#))

During questions, Representative Boyer asked about the total value of the bonds, Representative Huntington inquired about the museum part of Cabelas, and Representative O'Malley asked for clarification of the quarter-cent sales tax.

The Chair next welcomed Mayor Carlos Mayans, City of Wichita, who supported the amendments to **SB 395** which would permit the City of Wichita to use STAR bonds as part of their important economic development known as the Wichita WaterWalk Project. Mayor Mayans reported that the Village West project in Wyandotte County needs **SB 395** to correct an unforeseen situation that threatens the financial structure of their STAR bonds. He said that Wichita also has a similar situation that **SB 395** will fix their unforeseen problem, too. This is because they need to be able to use STAR bonds to finance the construction of the building for the destination retailer. The city will own the building and in turn lease it to the retailer with no purchase option. ([Attachment 8](#))

Chairman Wilk recognized Mr. Tom Docking, representing the Wichita downtown business community, who spoke in support of **SB 395**. Mr. Docking asked the committee to support the amendments to **SB 395** that will allow Wichita to use Sales Tax and Revenue (STAR) bonds to secure a destination retailer that will serve as an anchor for their development. ([Attachment 9](#))

The Chair welcomed Mr. Michael Wilkes, who read the testimony of Michael Copeland, Mayor of Olathe, Kansas. The testimony stated that the STAR bond project in Olathe has been in the works for several years and they need STAR bonds to construct a city-owned destination arena. Mr. Copeland's testimony said that the Olathe project is ready to move forward and will generate millions of dollars for Kansas as well as create hundreds of jobs. He urged the committee to not change the rules as they are about to cross the finish line. ([Attachment 10](#))

The Chair recognized Mr. Steve Graham, Red Development, who provided no written testimony, but offered several brief comments. Mr. Graham said that the specifics of **SB 395** advocate for fairness of the state law. He said anything that is applied to any area should be applied to all areas of the state. He also asked that the statewide applicability of STAR bonds be left as is, but if specific tweaks are added that it be applied to all areas of the state. Representative Carlin asked about the size of the arena which Mr. Graham said would be approximately 9,000 seats and would be a mini version of big arenas across the country.

Chairman Wilk announced that the Committee would take a 15 minute break and reconvene at 3:50 p.m.

The Chair reconvened the meeting at 3:50 p.m., and welcomed Mr. Tim McKee, Vice President of Economic Development, Olathe Chamber of Commerce, who spoke in support of **SB 395**. He urged the Committee to allow the current STAR bond legislation to remain as written and to not jeopardize projects that are almost a year into their planning. He praised Kansas for being on the cutting edge of unique financing and incentives. He reminded the members that once the bonds are retired, the lion's share of new tax revenue will go directly to the Kansas state treasury. Mr. McKee said that jobs and the revenue are being created without raising taxes which he believes is far better, and STAR bonds is the perfect tool to do this. ([Attachment 11](#))

Chairman Wilk welcomed Mr. John Peterson, private developer representing the City of Overland Park, Kansas, who said they did not take a position for or against **SB 395**, but stressed the importance of treating all parties fairly if the committee should decide to alter the allowable uses of STAR bonds. He said all municipalities should have an even playing field when working on STAR bond projects. ([Attachment 12](#))

The Chair recognized Mr. Bob Brown, Rolling Hills Zoo and Museum, who presented testimony written by Mr. Joe L. Norton of Gilmore & Bell, Attorneys at Law. The testimony included proposed legislation which would amend certain provisions of the K.S.A. 12-1770 *et seq.*, the Kansas Tax Increment Financing Act (TIF Act). ([Attachment 13](#))

Mr. Joe Norton addressed Representative Burroughs' question as to why the amendment includes all the

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language listing exhibition, amusements, theater, concessions, souvenir facilities, visitor information center, parking facilities, signage, hotels, motels, restaurants, and retail facilities. Mr. Gary Anderson of Gilmore & Bell bond attorneys responded that it was written in narrow fashion that counties are usually reluctant to approve.

The Chair recognized Senator Schmidt who said he had no written testimony, but wanted to present the other side of the coin. He said no one wanted any more ornaments on the tree, but he addressed the reason for his floor amendment. Senator Schmidt said the original bill posed a concern in Wyandotte County. He said if that's a good approach for Wyandotte, it should be expanded to be inclusive. Then when the legislature changed the rules as to how sales tax is collected, it has hurt.

Chairman Wilk acknowledged the presence of Representative Beggs in the audience and asked if he wanted to contribute any comments. Representative Carol Beggs said that he did not, but was enjoying observing the Committee in action. The Chair also called the Committee's attention to the submitted written testimony of Representative Deena Horst. ([Attachment 14](#))

The Chair called the Committee's attention to the written testimony submitted by Mr. Paul A. Sasse, City Manager, Independence, Kansas. Mr. Sasse's testimony spoke to his concern that when the voters in Independence voted for improvements to city owned facilities such as a new aquatic park, expansion of their Carnegie Library and renovation of their Memorial Hall and Civic Center, they did so with the belief that all costs would be funded by local option sales taxes. However, now based on recent changes in State statutes, the City may be required to pay a portion of the debt service on the outstanding bonds with ad valorem tax dollars. Mr. Sasse's testimony requests the legislature to adopt **SB 395** as amended and include cities the size of Independence. ([Attachment 15](#))

The Chair recognized Mr. Bob Corkins, Director of the Freestate Center, who spoke in opposition to **SB 395**. Mr. Corkins said that **SB 395** would give relief from the new sourcing rule, but only for a small number of retailers. He asked the Committee to not fix the rule just for a privileged few, but to fix it for everybody. As a compromise, he asked the Committee to consider delaying the destination-sourcing rule indefinitely for all merchants. ([Attachment 16](#))

Chairman Wilk called the Committee's attention to the written testimony of Marlee Carpenter, Vice President Government Relations, The Kansas Chamber, who said the Kansas Chamber has no opposition to the underlying issue in **SB 395**, but believes that releasing confidential taxpayer information is not good public policy and urged that the provisions of **SB 477** be removed from **SB 395**. ([Attachment 17](#))

The Chair called on Representative Carlin who read written testimony of Virginia Perbeck concerning eminent domain. ([Attachment 18](#))

Chairman Wilk asked if there were any additional persons wishing to testify, and seeing none, closed the Public Hearing on **SB 395**.

The Chair reopened the question and answer session for **SB 395**. Numerous questions were asked and answers were presented.

The meeting adjourned at 5:10 p.m. Chairman Wilk announced that the Committee would reconvene at 1:30 p.m. on Wednesday, April 28, 2004, in Room 313-S.