

SESSION OF 2007

**SUPPLEMENTAL NOTE ON  
SUBSTITUTE FOR SUBSTITUTE FOR  
SENATE BILL NO. 316**

As Amended by House Committee of the Whole

**Brief\***

Substitute for Substitute for SB 316 would place the statutes for sales tax and revenue (STAR) bonds and tax increment financing (TIF) in separate statutes in law. Under current law, both STAR bonds and TIF are found in one set of statutes. In addition, the bill would make the following changes to STAR bonds and TIF law.

**Sales Tax and Revenue (STAR) Bonds**

- The bill would allow counties to initiate STAR bond applications and projects when the project is wholly outside the boundaries of a city. Under current law for projects wholly outside the boundaries of a city, the county commissioners must pass a resolution approving the project and the city files the applications and initiates the bonds for the project.
- The bill would require any city or county to pledge 100 percent of the incremental revenue received by the city or county from any local sales and use taxes, including the city's or county's share of any county sales tax (depending on which entity is issuing the bonds) except for the amount committed to other uses by election of voters or pledged to bond repayment prior to the approval of the project. Under current law, the pledge is 100 percent of the revenue received by the city and county sales taxes for the project except for amounts committed to other uses by

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

election of voters or pledged to bond repayment prior to the approval of the project.

- The bill would allow the Major Motorsports Complex in Shawnee County to issue full faith and credit bonds for a STAR bond project.
- The bill would allow the Secretary of Commerce the discretion to allow the use of state and local transient guest and use tax increments or franchise fees collected from utilities and other businesses using public rights-of-way within the project district to be pledged for principal and interest repayment of the bonds. Under current law, state and local transient guest and use taxes generated within the project district are pledged for principal and interest repayment of the bonds.
- The bill would require that when property is taken by a city or county with the eminent domain statute, the compensation would be 200 percent as required by the eminent domain statute. Under current law, the eminent domain statute requirement is 200 percent. In addition, the city would be required to pay an additional 25 percent on top of the eminent domain requirement.
- The bill would require that if no ordinance or resolution is passed by the city or county within 30 days from the conclusion of the public hearing, then the STAR bond project district or bioscience development district would not be established. Current law is silent if a district is not adopted by the governing body of a city.
- The bill would allow a city that created a redevelopment district as defined in the TIF Act, in an eligible area that was approved for STAR bonds prior to the effective date of this Act could, by ordinance, elect to have the provisions of this Act applicable to those redevelopment districts.

- The bill would extend the STAR bond statutes until July 1, 2012. Under current law, the STAR bond statutes sunset on July 1, 2007.
- The bill would make the following changes to definitions:
  - STAR bond project would mean an approved project to implement a project plan for the development of the established STAR bond project district with:
    - At least a \$50.0 million capital investment and \$50.0 million in projected gross annual sales; or (current law)
    - For areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds the project is an eligible area as defined in the bill and would be of regional or statewide importance; or (current law)
    - Is a major tourism area as defined in the bill; or (current law)
    - Is a major motorsports complex, as defined in the bill. (new)
  - River walk canal facilities would mean a canal and related water features which flows 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. Under current law, the definition includes “located adjacent to a river.”
  - Tax increment would mean that portion of the revenue derived from state and local sales, use and transient guest tax imposed, collected from taxpayers doing business within the portion of a project district occupied by a STAR bond project that is in excess of

the amount of base year revenue. The base year would be the 12-month period immediately prior to the month in which the STAR bond project district is established, or the 12-month period prior to the month in which a redevelopment district, as defined in the Tax Increment Financing (TIF) Act, was established, that is later approved as a STAR bond project district, provided, such redevelopment district was established on or after July 1, 2002. The Department of Revenue would 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, or approved for an existing redevelopment district under the TIF Act, provided such redevelopment district as defined in the TIF Act was established on or after July 1, 2002. In addition, the local sales and use tax revenue source to another jurisdiction would not be included. Under current law, the statute has no definition of tax increment.

- Major multi-sport athletic complex would mean an area 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. Under current law, the definition ends after the second sentence above after “developments.”
- Museum facility would mean a separate newly-constructed museum building and facilities directly related and necessary to the operation, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly

related to the operation of the facility. The museum facility would be owned by the state, a city, county, other political subdivision of the state or a nonprofit corporation and could not be leased to any developer and could not be located within any retail or commercial building.

- Project costs would be amended by adding multilevel parking structures devoted to parking only.
- Project costs also would be amended to include auto race track facility, major multi-sport athletic complex , museum facility and major motorsports complex.
- Project costs would not include:
  - Costs incurred in connection with the construction of buildings or other structures. Under current law, costs include those incurred in connection with the construction of buildings or other structures, to be owned by or leased to a developer; however, the project costs shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility;
  - Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developer or any other businesses considering locating in or located in a redevelopment district. Under current law, fees, commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a STAR bond project district;
  - Moving expenses for employees of the businesses locating within the redevelopment district (current law);

- Property taxes for businesses that locate in the redevelopment district (current law);
  - Lobbying costs (current law);
  - Any bond origination fee charged by a city or county (current law);
  - Any personal property as defined in KSA 79-102 (current law); and
  - Travel, entertainment, and hospitality (new exclusion).
- The bill would amend the county's and the local school board's authority to prevent a STAR bond project by stating that the provisions that allow a county or school district to stop a project would not apply if the redevelopment project plan or the bioscience development project plan provides that ad valorem property tax revenues of the county or the school district levying taxes would not be adversely impacted.
  - The bill would remove the provisions that allow for a bioscience development district and project with approval of the Kansas Bioscience Authority.
  - The bill would define "STAR bond project district" to mean the geographic area within the STAR bond project district in which there may be one or more projects and any development district, as defined in the TIF Act, created prior to the effective date of this act for which the Secretary approves one or more STAR bond projects.

#### **Tax Increment Financing (TIF)**

- The bill would add intermodal transportation areas to the list of eligible areas. Under current law, eligible area means a blighted area, conservation area, enterprise

zone, major tourism area or a major commercial entertainment and tourism area or bioscience development area.

- The bill would define an intermodal transportation area to mean an area of not less than 800 acres to be developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations.
- The bill would permit redevelopment project costs for intermodal transportation area to include the acquisition of land for, and the construction and installation of, publicly-owned infrastructure improvements which serve an intermodal transportation area but may be located outside of the district.
- The bill would define feasibility study to mean:
  - A study which shows whether a redevelopment project's or bioscience development project's benefits and tax increment revenue and other available revenues are expected to exceed or be sufficient to pay for the redevelopment or bioscience development project costs; and (current law)
  - The effect, if any, the redevelopment project costs or bioscience development project would have on any outstanding special obligation bonds payable from sales tax revenues. (current law)
  - For a redevelopment project or bioscience project financed by bonds payable from sales tax revenues the feasibility study must also include:
    - A statement of how the taxes obtained from the project will contribute significantly to the economic

development of the jurisdiction in which the project is located, (new)

- 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 redevelopment project. If a portion of local sales and use taxes are so committed, the applicant would also include: the percentage of sales and use taxes collected that are so committed; and the date or dates on which the local sales and use taxes pledged to other uses can be pledged for repayment of special obligation bonds; (current law) and
  - an anticipated principal and interest payment schedule on the bonds.
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- The bill would define museum facility as a separate newly-constructed museum building and facilities directly related and necessary to the operation, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to the operation of the facility. The museum facility would be owned by the state, a city, county, other political subdivision of the state or a nonprofit corporation and could not be leased to any developer and could not be located within any retail or commercial building.
  - The bill would define major multi-sport athletic complex as an area 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.

Under current law, the definition ends after the second sentence above after “developments.”

- The bill would remove the definition of major motorsports complex.
- The bill would remove the auto racetrack facility description and limits.
- The bill would allow for project costs to include multi-level parking facilities. Under current law, the allowable is only parking facilities.
- Project costs would be amended by adding an incubator project, such costs also would include wet lab equipment including hoods, lab tables, heavy water equipment and all such other equipment found to be necessary or appropriate for a commercial incubator wet lab facility by the city or county in its resolution establishing such redevelopment district or a bioscience development district.
- Project costs also would be amended to include auto race track facility, major multi-sport athletic complex , museum facility and major motorsports complex.
- Redevelopment project costs could be incurred either within or outside of the redevelopment district so long as such redevelopment project costs were identified in the redevelopment project plan.
  - Project costs would not include:
    - Costs incurred in connection with the construction of buildings or other structures. Under current law, costs incurred in connection with the construction of buildings or other structures, to be owned by or leased to a developer; however, the project costs shall include costs incurred in connection with the construction of buildings or other structures to be

owned or leased to a developer which includes an auto race track facility;

- Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developer or any other businesses considering locating in or located in a redevelopment district. Under current law, fees, commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a STAR bond project district;
  - Moving expenses for employees of the businesses locating within the redevelopment district (current law);
  - Property taxes for businesses that locate in the redevelopment district (current law);
  - Lobbying costs (current law);
  - Any bond origination fee charged by a city or county (current law);
  - Any personal property as defined in KSA 79-102 (current law); and
  - Travel, entertainment, and hospitality (new exclusion).
- The bill would amend the county's and the local school board's authority to prevent a TIF bond project by stating that the provisions that allow a county or school district to stop a project would not apply if the redevelopment project plan or the bioscience development project plan provides that ad valorem property tax revenues of the county or the school district levying taxes would not be adversely impacted.

- The bill would allow cities to issue special obligation bonds, with the approval of the Kansas Bioscience Authority, in a bioscience development district. Under current law, special obligation bonds can be issued only in a redevelopment district.
- The bill would allow any city issuing special obligation bonds or full faith and credit tax increment bonds may be refunded. Under current law, only special obligation bonds could be refunded.
- The bill would allow any city that created a redevelopment district or a bioscience development district prior to the effective date of the Act could, by ordinance, elect to have the provisions of this Act applicable to the redevelopment district or bioscience development district.
- The bill would require that when property is taken by a city or county with eminent domain statute, the compensation would be 200 percent as required by the eminent domain statute. Under current law, the eminent domain statute requirement is 200 percent. In addition, the city would be required to pay an additional 25 percent on top of the eminent domain requirement.

## **Background**

The bill was originally requested by the Joint Committee on Economic Development to place the STAR Bond and TIF statutes in separate sections of law. During the hearing on SB 316, the representative of the Department of Commerce requested four changes in the STAR bond statute, making STAR Bonds available to counties, funding source changes, sales tax increments and a 50 percent limit on project costs; the representative of the Schlitterbahn Project requested the change in definition of the river walk canal facilities; the representatives of the cities of Lenexa, Wichita, Overland Park, and Mission requested that multi-level parking facilities be added to project costs; the representatives of the City of

Gardner requested the intermodal changes to the TIF statutes and the representatives from the City of Olathe requested that 50 percent of the STAR bond proceeds could be used for buildings and structures so long as 50 percent of the project was not being financed with STAR bonds.

In addition, a representative of the League of Kansas Municipalities appeared as a proponent for the bill.

The Senate Committee amended Sub. for SB 316 as follows:

### **STAR Bonds**

- Deleted “retail” from the allowed costs in the definition of multi-sport athletic complex;
- Added the provision that if no ordinance or resolution is passed by the city or county within 30 days from the conclusion of the public hearing, then such STAR bond project district or bioscience development district shall not be established;
- Deleted the additional 25 percent compensation for property owners above the required 200 percent compensation payments when property is taken by eminent domain;

### **TIF**

- Added the provision that a multi-level parking facility may be owned or leased to a developer under redevelopment project costs; and
- Made a technical correction.

The House Committee amended Substitute for Sub. for SB 316 as follows:

## **STAR Bonds**

- Allowed the major motorsports complex in Shawnee County to issue full faith and credit bonds for a STAR bond project;
- Allowed a city that created a redevelopment district as defined in the TIF Act in an eligible area that was approved for STAR bonds could by ordinance elect to have the provisions of the new Act applicable to those redevelopment districts;
- Added a definition of museum facility;
- Added museum facility and major motorsports complex to the allowable project costs;
- Removed the provisions that allowed for a bioscience development district and project with approval of the Kansas Bioscience Authority;
- Removed the requirement that no additional bonds could be issued after July 1, 2007, for any STAR bond project approved prior to July 1, 2007 and this requirement would not apply to the Manhattan and Schlitterbahn project;
- Amended the provisions that a city that created a redevelopment district in an eligible area that was approved for STAR bonds prior to the effective date of this act for the projects in Manhattan and Schlitterbahn, now applies to all STAR bond projects;
- Provided additional eminent domain technical clean up;
- Provided additional technical corrections.

## **TIF**

- Required that the feasibility study include a statement of how the taxes obtained from the project would contribute

significantly to the economic development of the jurisdiction in which the project is located;

- Added a definition of museum facility;
- Added the identical definition of major multi-sport athletic complex as is provided under the STAR bond's statute;
- Removed the definition of a major motorsports complex;
- Removed the auto racetrack facility description and limits;
- Added major multi-sport athletic complex and museum facility to the list of allowable project costs;
- Conformed the list of not allowable project costs to the STAR bonds statute;
- Added the provisions that project costs could be incurred either within or outside the redevelopment district;
- Added full faith and credit tax increment bonds that could be refunded;
- Added that a city could by ordinance elect to have the provisions of this Act applicable to prior redevelopment districts or bioscience districts;
- Provided additional eminent domain technical clean up;
- Provided additional technical corrections.

The House Committee of the Whole amended the bill as follows:

- Added to the definition of tax increment the provisions that the 12-month period prior to the month in which a redevelopment district, as defined in TIF Act, was established, that is later approved as a STAR bond project

district, provided, such redevelopment district was established on or after July 1, 2002;

- The bill would define “STAR bond project district” to mean the geographic area within the STAR bond project district in which there may be one or more projects and any development district, as defined in the TIF Act, created prior to the effective date of this act for which the Secretary approves one or more STAR bond projects.

The fiscal note on the original bill indicates that enactment of the bill would not have a fiscal effect.