

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 124**

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

House Sub. for SB 124 would supplement, amend, and reauthorize the Sales Tax and Revenue (STAR) Bonds program (program).

Restriction on Financial Benefits

The bill would state that no state or local government official shall be employed by a STAR Bond project developer or manager through direct employment or through work as an independent contractor.

The bill would define a “state or local government official” as:

- A member of the Legislature;
- An appointed or elected official or officer of a state agency, office, board, commission, authority, or institution; and
- An appointed or elected official, officer, or member of the governmental authority of a city, county, township, school district, special district, board, or commission.

*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>

Definitions

The bill would add “major business facility” to the list of terms defined as “eligible areas” for the program. A “major business facility” would be defined as a significant business headquarters or office building that is designed to draw a substantial number of new visitors to Kansas. The term “substantial” would not be defined. The bill would require major business facilities to meet sales tax increment revenue requirements established by the Secretary of Commerce (Secretary) independent of associated retail businesses located in the STAR bond project district and to agree to provide visitor tracking data, including aggregate visitor residence zip code data to the Secretary.

The bill would also add the term “rural redevelopment project” to the list of eligible costs for which a STAR Bond project could expend funds. A “rural redevelopment project” would be defined as a project that is not in a city with a population of more than 50,000; has regional importance; has a minimum of \$3.0 million in capital investment; and would enhance the quality of life in the community and region. The bill would not define what is considered an enhancement of quality of life for the community and region.

The definition of “STAR Bond project district” would be amended to state if a project is in a metropolitan statistical area, as defined by the federal Office of Management and Budget, then the district must be a contiguous parcel of real estate.

The bill would amend the definition of “commence work” to require the work to be done pursuant to an approved plan of construction. The bill would amend the definition of “developer” to include, for reporting purposes, the names of the owners, partners, officers, or principals of the developer.

Eligibility

The bill would alter the eligibility requirements for a project under the program by increasing the minimum required capital investment and projected gross annual sales amounts from \$50.0 million each to \$75.0 million each or \$40.0 million each if the project is in a metropolitan area with a population between 50,000 and 75,000 and the project is deemed of high value by the Secretary. It would also include rural redevelopment projects, as defined in the bill, as being eligible to utilize the program.

Project Proposal

The bill would clarify and expand requirements that must be fulfilled prior to consideration or approval of a project under the program.

A city or county wishing to propose a project would be required to first have a feasibility study conducted by one or more consultants. The bill would require these consultants to be selected and approved by the Secretary, and the costs paid by the developer, city, or county in question. The bill would also give the Secretary control and oversight over the scope of the project. The Secretary would also be allowed to establish a list of preapproved consultants and preapproved study parameters and methods.

The “visitation expectations” element of the proposal would be required to contain a plan detailing how the project’s number of visitors would be tracked and reported to the Secretary on a yearly basis. The plan would require the reporting of visitor zip code data to the Secretary in an aggregate manner without personal identifying information.

The bill would require the economic impact portion of a feasibility study for a STAR bond project to include the anticipated effects of the project on the regional and statewide economies.

The bill would also require a net return on investment analysis; a summary of community involvement, participation, and support for the project; and a full disclosure of all federal, state, and local tax incentives applicable to the STAR bond district be included in the proposal. The information concerning tax incentives would also be required to be provided at the public hearing considering the adoption of the STAR bond project plan.

The bill would add rural redevelopment projects to the program for areas outside cities with a population of at least 50,000. Rural redevelopment projects would have a capital investment floor of \$3.0 million and allow for vertical building and rehabilitation. Rural redevelopment projects would not be required to issue General Obligation Bonds, but could finance projects from sales tax revenues annually up to \$10.0 million.

The bill would require that the resolution and ordinance required upon a city or county establishing a STAR bond project district include a description of all federal, state, and local tax incentives applicable to the STAR bond district and any business located in the district.

The bill would clarify that a developer would have one year to resubmit a project to the Secretary if the developer has not commenced work on the project within two years of approval of the STAR bond project plan.

Financing

Rural redevelopment projects would not be required to issue special obligation bonds unless the amount to be financed exceeds \$10.0 million for each project.

The bill would also state all projects established after July 1, 2021, with existing sales tax revenue would be allowed to pledge only 90.0 percent of new state sales tax collections in excess of the existing base sales tax revenue.

Reporting and Website Links

The bill would require the annual STAR bond report provided by the Department of Commerce to the Legislature to include information on gross annual sales, gross annual sales projected pursuant to the STAR bond project plan and feasibility study, and gross annual sales required to meet bond debt service requirements and other expenses. The report would also be required to include visitor tracking plan data, including zip code residence data and a description of all federal, state and local tax incentives applicable within the STAR bond district or to any business located in the district.

The bill would require cities, counties, and developers to provide all information requested by the Secretary for the Department of Commerce Economic Development Incentive Program Database.

The bill would require cities and counties who have websites to include on the first page of their websites notice for the public hearing to consider the establishment of a STAR bond district, the ordinance or resolution, including the STAR bond project district plan and legal description of the district, and any information concerning public hearing records and feasibility studies for STAR bond projects. Additionally, the bill would require direct links to information for each STAR bond project within the Department of Commerce Economic Development Incentive Program Database.

Sale of Land

Any transfer of ownership in real property acquired with the proceeds of STAR Bonds under the program would require authorization from the Secretary and, while STAR bonds remain outstanding, the disclosure of the sale price and the name of the purchaser and any individual owner, partner, officer, or principal of the purchaser.

Sunset

The program would be authorized until July 1, 2026.

Background

The bill was introduced by the Senate Committee on Commerce at the request of the Department of Commerce.

Senate Committee on Commerce

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Department of Commerce, the Greater Kansas City Chamber of Commerce, the League of Kansas Municipalities, the Overland Park Chamber of Commerce, and Polsinelli Law Firm. Written-only **proponent** testimony was provided by representatives of the City of Dodge City, the City of Manhattan, the City of Olathe, the City of Overland Park, the Olathe Chamber of Commerce, and the Travel Industry Association of Kansas, and by one private citizen. The proponents generally stated the program has led to significant projects and development, and the changes contained in the bill would make the program more viable in rural areas and a better tool overall.

Opponent testimony was provided by representatives of Americans for Prosperity–Kansas and the Kansas Policy Institute. The opponents generally stated the program leads to an unfair advantage for businesses receiving the incentives. They also stated the bill would expand the program into areas that do not directly generate sales tax revenue, such as offices, medical facilities, and rural projects.

Senate Committee of the Whole

The Senate Committee amended the bill to include a prohibition on state and local government officials' financial benefit, directly or indirectly, from STAR Bond projects.

House Committee on Commerce, Labor, and Economic Development

In the House Committee hearing, **proponent** testimony was provided by the Mayor of Goddard, Kansas, and representatives of the Kansas Department of Commerce, the League of Kansas Municipalities, the Overland Park Chamber of Commerce, Polsinelli, the Unified Government of Wyandotte County, and the Wichita Regional Chamber of Commerce. **Proponents** indicated changes made by the bill would help to limit projects to those that will have the highest economic impact and improve the effectiveness of the program.

Written-only **proponent** testimony was provided by representatives of the City of Olathe, the City of Overland Park, the City of Wichita, the Olathe Chamber of Commerce, and the Travel Industry Association of Kansas.

Opponent testimony was provided by a representative of Americans for Prosperity, Kansas, who stated the program creates an unfair advantage for a few privileged businesses and developers while imposing costs on other businesses and taxpayers.

Written-only **opponent** testimony was provided by a representative of the Kansas Policy Institute

No additional testimony was provided.

The House Committee recommended the bill as a substitute bill, after amending the bill to:

- Modify the prohibition against government officials benefiting from STAR bond projects by limiting prohibition to employment;
- Exclude associated businesses from sales tax increases for business headquarters projects;

- Make metropolitan areas with a population between 50,000 and 75,000 eligible for projects, subject to certain conditions;
- Modify the definition of “rural redevelopment projects” by replacing reference to Metropolitan Statistical Area with an area with a population over 50,000;
- Modify the definition of “major business facility” by:
 - Requiring such facilities to meet sales tax increment revenue requirements independent of associated retail businesses; and
 - Limiting such facilities to those that have agreed to provide visitor tracking data;
- Modify the definition of “developer” to include the names of owners, partners, officers or principals;
- Clarify the definition of “commence work”;
- Clarify language requiring tax increment revenue to be used in repayment of bonds;
- Clarify requirements and procedures for submission of project plans;
- Require businesses to provide aggregated visitor residence data, and to address this in the feasibility study;
- Require applicable tax incentive information to be included in the proposal, public hearing, and city resolution and ordinance;
- Require the disclosure of the sale price and names of any transferee and their owners, partners, officers or principals in all required reports;
- Require the following to be published online;

- Notice of public hearings, and records of the public hearing and feasibility study; and
- Incentive data required to be collected pursuant to KSA 2020 Supp. 74-50,227;
- Require reports to the Legislature to include:
 - Gross annual sales;
 - Gross annual sales projected pursuant to the STAR bond project plan and feasibility study;
 - Gross annual sales required to meet bond debt service requirements and other expenses;
 - A description of the data gathered pursuant to the visitor tracking plan, including, but not limited to, zip code residence data;
 - A description of all applicable tax incentives that apply within the STAR bond district or to any business located in the district; and
- Require the annual report to the Governor to include a description of applicable tax incentives.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Commerce states there would be no fiscal effect on agency operations. The agency does indicate the bill would increase future tax revenues from all new projects under the program. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Commerce; economic development; STAR Bonds