

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2369

As Amended by House Committee of the Whole

Brief*

HB 2369, as amended, would amend requirements for tolled projects of the Kansas Turnpike Authority (KTA) and the Secretary of Transportation (Secretary).

KTA Requirements

The bill would remove from a definition of “project” that such project be constructed by the KTA. (Section 1)

The bill would authorize the KTA to issue revenue bonds payable solely or partly from revenues to finance turnpike projects. The bill would require the KTA, before undertaking a toll road project, to find construction of a toll expressway can be financed solely or partly through the investment of private funds in toll road revenue bonds and that such project and any indebtedness incurred for it could be financed solely or partly through tolls and other project-related income, rather than such project and indebtedness be entirely self-liquidating. (Section 2)

The KTA would be authorized to issue turnpike revenue bonds payable solely or partly from the tolls and revenues pledged for bond repayment. (Section 3) Bonds and expenses would be payable solely or partly from funds provided under the authority of statutes governing the KTA. (Section 4) [*Note:* Under continuing law, such bonds and expenses are not obligations of the State.]

*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>

The bill would amend the authority of the KTA to fix and collect tolls over each turnpike project to remove the requirement that such project be constructed by the KTA. (Section 3)

Secretary of Transportation Requirements

The bill would authorize the Secretary to study the feasibility of constructing new toll or turnpike projects and remove authority to designate existing highways or any portion of such highways as a toll or turnpike project. The bill would require a study by the Secretary of a project for its feasibility as a toll or turnpike project to determine, after consulting with local officials, that traffic volume, local contribution, or other relevant reasons make such tolling project feasible. The bill would require at least one local public meeting to review the project during the feasibility study process. The bill would require any toll or turnpike project be constructed only to add capacity to existing highways or bridges or as a new facility where such did not exist. (Section 5)

The bill would require, prior to constructing a toll project or turnpike project, the Secretary and local units of government to prepare and present a joint proposal for construction of a toll or turnpike project to the KTA and the State Finance Council. The bill would require the Secretary and local units of government to receive resolutions approving the construction from the KTA and the State Finance Council. The bill would define "local unit or units of government" and "approving" for this purpose. The bill would characterize the approvals by the State Finance Council as matters of legislative delegation and state such approvals may be given by the State Finance Council when the Legislature is in session. (Section 5)

The bill would require tolls be charged only on users of the additional capacity of the highway or bridge constructed and on all users of any new project, regardless of class, size,

or kind of traffic. The bill would require the Secretary to use toll revenue to pay for the cost of the project for which the toll was collected and would forbid the Secretary from using toll revenue for payment of costs not associated with the project for which the toll was collected. (Section 5)

The bill would remove a requirement the Secretary recommend to the Legislature the construction of a new toll project or turnpike project or designation of an existing highway or portion thereof and would authorize the Secretary to construct such toll road after meeting the proposal and approval requirements of Section 5. The bill would state the Secretary must determine such new or added capacity is feasible. (Section 6)

The bill would make technical changes.

Background

The bill was introduced by the House Committee on Appropriations at the request of Representative Proehl on behalf of the Joint Legislative Transportation Vision Task Force.

At the House Committee hearing, Representative Proehl, the Acting Secretary of Transportation (Acting Secretary), and representatives of the Kansas Contractors Association and the Kansas Society of Professional Engineers provided proponent testimony. Written-only proponent testimony was provided by representatives of the American Council of Engineering Companies of Kansas, Ash Grove Cement Company, Greater Topeka Chamber of Commerce, Kansas Economic Progress Council, Overland Park Chamber of Commerce, and the Wichita Regional Chamber of Commerce. Proponents stated certain other states' statutes do not require tolls to pay all costs, and the bill would contain checks and balances, not authorize the tolling of existing facilities, add an option for transportation infrastructure funding, require that any additional tolled facility

add capacity to the highway system, and require local consultation on any such project. The Acting Secretary requested amendments like those adopted by the Senate Committee on Transportation and included in Senate Sub. for HB 2007.

Neutral testimony was provided by a representative of the Kansas Motor Carriers Association, who stated the Association's concerns were that no existing facilities be tolled unless capacity is increased and no class of vehicles be singled out. The Chief Executive Officer of the KTA also provided neutral testimony, stating the KTA would support the bill if the proposed amendments were adopted and it was prepared to partner with the Kansas Department of Transportation (KDOT), local communities, or private stakeholders to deliver projects where tolling is found to be feasible. Written-only opponent testimony was provided by the owner of ten 24-7 Travel Stores in Kansas, who expressed concerns about ensuring local commerce is easily accessible.

The House Committee on Appropriations amended the bill to:

- Remove requirements the KTA construct a turnpike project;
- Specify the Secretary would evaluate and determine the feasibility of designating new or added capacity, rather than a portion or portions, of a highway;
- Require any toll or turnpike project add capacity or a new highway or bridge where none had existed;
- Require the Secretary and local units of government to prepare a joint proposal for a toll or turnpike project, and approval of the KTA and the State Finance Council for the project;

- Charge tolls only on users of the additional capacity;
- Require toll revenue to be used for the project for which the toll was collected and forbid use of toll revenue to pay other costs;
- Charge tolls on all users, regardless of vehicle class, size, or kind of traffic; and
- Authorize the Secretary to construct a toll road after meeting the amended requirements of KSA 68-20,120 (Section 5).

The provisions of HB 2369, as amended by the House Committee, would mirror those of Senate Sub. for HB 2007, as recommended by the Senate Committee on Transportation. [Note: The Senate Committee of the Whole made a technical amendment to Senate Sub. for HB 2007.]

The House Committee of the Whole amended the bill to authorize tolls to be a sole, in addition to a partial, source of moneys for a KTA project and to require a public meeting during the feasibility study process.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDOT indicates the bill could result in increased expenditures for feasibility studies for toll projects. Any constructed projects would require expenditures, and there would be revenue from tolls. However, KDOT is unable to estimate the fiscal effect because the number of feasibility studies and new projects is unknown. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.