

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 249**

As Amended by House Committee of the Whole

**Brief\***

House Sub. for SB 249 would prohibit any state agency or affiliated corporate entity from engaging in the following actions unless authorized by an appropriations bill or other act of the Legislature or the State Finance Council:

- Borrowing money on the credit of the State;
- Contracting any indebtedness on the credit of State, except those redeemed within 90 days;
- Issuing bonds;
- Acquiring real estate by gift, devise, or bequest that is part of a public-private partnership;
- Contracting with a third party to construct or maintain a state facility if the amount is \$2.0 million or more;
- Expending funds to construct, maintain, or improve a state facility if the amount is \$2.0 million or more;
- Pledging as collateral any state-owned institution, facility, property, or future rental stream;
- Entering into any lease obligation for which the annual liability is \$1.0 million or more or the term is greater than five years; and

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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>

- Leasing state-owned property to a private entity at less than fair market value.

The bill would allow the State Finance Council to approve actions described above (but not appropriate funds) for actions if the total cost is \$5.0 million or less. If the amount in question is between \$5.0 million and \$25.0 million, the agency would be required to first notify the State Building Advisory Commission (SBAC) and the Joint Committee on State Building Construction (JCSBC) more than 30 days prior to the request to the State Finance Council. In the event the SBAC or JCSBC include the request on its agenda, the state agency would be prohibited from requesting approval from the State Finance Council until after the meeting. The agency would then need approval of the State Finance Council. The State Finance Council would not have the authority to approve actions barred above for which the expenditures would be \$25.0 million or more.

The bill would exempt certain entities and types of projects, including the Kansas Department of Transportation; the University of Kansas Hospital Authority; information technology projects; routine maintenance activities; refinancing that is debt neutral or negative; borrowing for the Unemployment Insurance Trust Fund; the Master Lease Purchase Program; special events with lease agreement for less than one year in duration; a state university's investing agents, alumni associations or athletic corporations; and the issuance of bonds by the Kansas Development Finance Authority (KDFA) for non-State entities.

The bill also would create a Commission on Public-Private Partnership Building Projects to develop recommendations for the Legislature concerning when such partnerships are appropriate, the selection process for awarding partnerships, and other key features. The Commission would be composed of members of the Legislature, the Executive Branch, and the private sector. The Commission's report would be due by December 31, 2016, after which the Commission would dissolve.

The bill would require the Kansas Development Finance Authority to report its activities monthly to the members of the State Finance Council and of the JCSBC. The bill would prohibit the Authority from issuing bonds for activities and projects of the State unless specifically approved by the State Finance Council or the Legislature. The bill further would prohibit the Authority from issuing bonds under the Secretary of Administration's own statutory authority.

The bill would provide *per diem*, subsistence, and travel compensation to members of Commission on Public-Private Partnership Building Projects.

The bill would be in effect upon publication in the *Kansas Register*.

## **Background**

The substitute bill would include amended contents of HB 2703. SB 249, as introduced, would have added an exemption to the competitive bid process for vehicle repairs.

House Sub. for SB 249 was amended by the House Committee of the Whole to exempt a state university's investing agents, alumni associations, or athletic corporations and transactions among them and to exempt the issuance of bonds by KDFA for non-State entities. The bill also was amended to provide *per diem*, subsistence, and travel compensation to members of the Commission on Public-Private Partnership Building Projects.

## ***HB 2703 Background***

Americans for Prosperity provided written testimony as a proponent of the original bill. The organization stated it supported additional legislative oversight over the creation of new State debt.

The Secretary of Administration and the Board of Regents president testified neutrally to the original bill. The Secretary stated she supported the aims of the bill, however, she had concerns the original bill would require State Finance Council oversight of routine maintenance and the SBAC would have to increase the frequency of its meetings. The President of the Board of Regents encouraged the Legislature to create a commission to study this issue prior to passing the bill. Wichita State University, the Kansas Department of Transportation, and Kansas State University provided written neutral testimony on the bill.

Opponents to the original bill included the American Institute of Architects and Turner Construction in written testimony.

The House Appropriations Committee amended the bill to clarify that the provisions restrict affiliated entities to state agencies in addition to state agencies; to exempt routine debt service of less than 90 days; to expand the oversight to leases of more than \$1.0 million or 5 years; to add minority party members to the Commission on Public-Private Partnership Building Projects; to require oversight of leases to private entities at less than fair market value; and to add a variety of exceptions to the oversight requirements. The House Appropriations Committee replaced the contents of SB 249 and recommended a substitute bill be adopted. The substitute bill contains the provisions of HB 2703, as introduced, with the amendments described above.

According to the fiscal note on HB 2703, as introduced, there would be no fiscal effect on state agencies from the enactment of the bill. The fiscal note did acknowledge requiring the Kansas Development Finance Authority to provide monthly reports to the State Finance Council and the JCSBC might require additional resources. There is no fiscal note available on the bill as amended.