SESSION OF 2019

CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2223

As Agreed to April 4, 2019

Brief*

HB 2223 would:

- Require certain analyses and reporting of economic development incentive programs, which would be done by:
  - The Legislative Division of Post Audit (LPA); and
  - The Department of Commerce (Department); and
- Extend the maximum maturity on bonds issued to finance projects under the Kansas Rural Housing Incentive District Act.

Legislative Division of Post Audit

The bill, in part, would amend the Legislative Post Audit Act to authorize the Legislative Post Audit Committee (Committee) to conduct a systematic and comprehensive review, analysis, and evaluation of each "economic development incentive program," as that term would be defined by the bill, every three years.

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*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at http://www.kslegislature.org/klrd

Subject to appropriation and as directed by the Committee, the Post Auditor would include in each evaluation:

- A description of the economic development incentive program, including its history and goals;
- A literature review of the effectiveness of the incentive program, including an inventory of similar programs in other states;
- An estimate of the economic and fiscal impact of the incentive program, which could include:
    - The extent to which the incentive program changed business behavior;
    - The results of the incentive program on the Kansas economy, including direct and indirect impacts and negative effect on Kansas businesses;
    - A comparison with other incentive programs or economic development policies;
    - An assessment of whether the State can afford the incentive program;
    - An assessment of the incentive program's design and administration;
    - An assessment of whether the incentive program's goals are achieved;
    - Recommendations that would allow for the incentive program to be more easily or conclusively evaluated in the future;
    - A "return on investment calculation," as that term would be defined by the bill;
    - Methodology and assumptions used in the evaluation and a critique of multiplier methodologies; and

- An analysis of significant opportunity costs; and

- Any other information the Committee would deem necessary to assess the effectiveness of the incentive program.

Confidential information would be redacted from any audit report.

The bill would not be construed to limit the Legislature's oversight of economic development incentive programs.

Department of Commerce

The Department would establish a database for the purpose of disclosing information on economic development incentive programs, which would be defined to include certain income tax credits and locally-granted property tax exemptions in addition to various programs administered directly by the Department, including the Job Creation Program Fund and the Economic Development Initiatives Fund (EDIF).

Relative to economic development incentives, the Department would be required to provide data on most programs providing more than $50,000 in annual incentives and make such information available to the public in a digital format. The bill would require such information to be available for multiple years and be searchable and available on the Internet *via* the Department's website. The database would contain names and addresses of "recipients," as that term would be defined by the bill, receiving Sales Tax and Revenue (STAR) Bond benefits, as well as names of principals and officers for each STAR Bond project developer; annual amount of incentives claimed and distributed to each recipient; and qualification criteria for each economic development program, including the number of jobs created or amount of capital investments made. The bill would require

additional descriptive information to include the history of each program; its purpose and goals; current applications; the program cost and return on investment (ROI), including assumptions used to calculate ROI; annual reports; and the amount of incentives by county. However, information on the economic development incentive programs would not be disclosed if such disclosure would violate any federal law or confidentiality provisions of agreements executed prior to July 1, 2019, or if the Secretary of Commerce determined the disclosure would be detrimental to an incentive program or a project, including a STAR Bond project. In the latter case, the bill would require the Secretary of Commerce to submit a written report to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce any information that was not disclosed and the reasons for nondisclosure. That report, along with any associated testimony or committee discussion, would be made exempt from the open meeting and record laws; this provision would sunset on July 1, 2024.

Taxpayer confidentiality provisions would be modified to allow the Secretary of Revenue to disclose certain income and privilege tax credit information to the Department, except that certain social and domestic tax credits would be excluded from the bill's provisions, including adoption credits, earned income tax credits, food sales tax credits, child and dependent care tax credits, and homestead property tax refund credits.

Starting in the 2020 Session, the Secretary of Commerce would be required to make annual oral presentations to the Legislative Post Audit Committee, the House Committee on Commerce, Labor and Economic Development, and the Senate Committee on Commerce regarding incentive programs and their economic impact.

Kansas Rural Housing Incentive District Act

The bill would extend the maximum maturity on bonds issued to finance projects under the Kansas Rural Housing Incentive District Act from 15 years to 25 years. The governing body of cities or counties would be allowed to extend the maximum period for individual projects authorized under the Act from 15 years to 25 years.

Conference Committee Action

The Conference Committee agreed to delete the contents of HB 2223, as amended by the Senate Committee on Federal and State Affairs, which would have revised certain permits authorized by the Liquor Control Act, and to insert the contents of HB 2006, as amended by the House Committee of the Whole, pertaining to the evaluation of economic development incentives. The Conference Committee agreed to amend the bill further to:

- Revise the content of the evaluations conducted by LPA;
- Specify the EDIF as a fund subject to evaluation;
- Define "recipient" to include "enterprise," as that term would be defined by the bill, to include certain persons who have declared bankruptcy or been a party to a failed economic development project;
- Specify the Department must post the information *via* the agency's website;
- Require the Secretary of Commerce to make oral presentations to certain legislative standing committees;
- Require the Secretary of Commerce to report to the House Committee on Commerce, Labor and

Economic Development and the Senate Committee on Commerce the reason for nondisclosure of certain information, which would be exempt from the open meeting and record laws and which would sunset on July 1, 2024;

- Include the contents of HB 2147, which would revise the maximum maturity of bonds issued under the Kansas Rural Housing Incentive District Act;

- Specify the Legislature retains oversight of economic development initiatives programs; and

- Insert the contents of HB 2147, as amended by the House Committee of the Whole.

Background

The following provides the background on HB 2006, as amended by the Senate Committee on Commerce.

Prior to recommending the bill be passed as amended, the Senate Committee on Commerce added the language found in HB 2147, which would pertain to the Kansas Rural Housing Incentive District Act, as amended by the House Committee of the Whole. The following is the background of both bills.

HB 2006 (Evaluations and Transparency)

HB 2006 was introduced by Representative Williams, who was a proponent during the hearing of the House Committee on Commerce, Labor and Economic Development, stating the bill would provide for a more open and taxpayer-focused government. Other proponents included representatives from the Kansas Policy Institute, a

Johnson County commissioner representing himself, and a member of the public.

Representatives from the Kansas Chamber and the Kansas Economic Development Alliance spoke in opposition to the bill, expressing concern the information published online would not be useful and could reveal confidential information. Opponent written-only testimony was provided by various chambers of commerce.

The House Committee amended the bill to:

- Authorize LPA to conduct evaluations [*Note:* The Conference Committee retained this amendment.];
- Define economic development funds, in particular the Job Creation Fund, to mean economic development incentive programs [*Note:* The Conference Committee retained this amendment.]; and
- Clarify when certain information may not be disclosed. [*Note:* The Conference Committee retained this amendment.]

The House Committee of the Whole amended the bill to revise the schedule that economic development program analyses would be performed by the LPA from every two years to three years. [*Note:* The Conference Committee retained this amendment.]

During the Senate Committee on Commerce hearing, Representative Williams, a member of the public, and representatives of Americans for Prosperity-Kansas and the Kansas Chamber spoke in favor of the bill. Representatives of the Kansas Policy Institute, the Kansas Economic Development Alliance, and the chambers of commerce of Olathe and Overland Park provided written-only proponent testimony.

The Post Auditor, a professor of economics from the University of Kansas, and a representative of the Pew Charitable Trusts provided neutral testimony.

No opponent testimony was provided.

The Senate Committee amended the bill to:

- Revise the content of the evaluations conducted by LPA [*Note:* The Conference Committee added this amendment.];
- Specify the EDIF as a fund subject to evaluation [*Note:* The Conference Committee added this amendment.];
- Define "recipient" to include "enterprise," as that term would be defined by the bill, to include certain persons who have declared bankruptcy or been a party to a failed economic development project [*Note:* The Conference Committee added this amendment.];
- Specify the Department must post the information *via* the agency's website [*Note*: The Conference Committee added this amendment.];
- Delete language that would have granted the Secretary of Commerce discretion to not disclose certain information online [*Note:* The Conference Committee did not add this amendment.];
- Require the Secretary of Commerce to make oral presentations to certain legislative standing committees [*Note:* The Conference Committee added this amendment.]; and
- Specify the Legislature retains oversight of economic development initiatives programs. [*Note:*

The Conference Committee added this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2006, as introduced, the Department estimates it would need an additional 1.0 full-time equivalent (FTE) position and $59,813 from the State General Fund (SGF) for salaries and wages in FY 2019 to collect and report the information required in the bill. For FY 2020 and subsequent years, the Department would require an additional 0.6 FTE position and $44,550 from the SGF for salaries and wages. No estimate was available at the time of the House Committee's actions for the costs that would be incurred by LPA.

HB 2147 (Kansas Rural Housing Incentive District Act)

HB 2147 was introduced by the House Committee on Commerce, Labor and Economic Development at the request of Representative Tarwater on behalf of the Kansas Association of Realtors.

In the House Committee hearing, a representative of the Kansas Association of Realtors and a real estate broker spoke in favor of the bill, explaining the Kansas Rural Housing Incentive District Act, which was enacted in 1998, provides a means for cities and counties to financially assist developers in building housing in rural communities. By extending the maturity of the bonds, proponents contended, more housing projects will become financially viable and encourage affordable new housing.

No opponent or neutral testimony was provided.

The House Committee of the Whole amended the bill to extend the length of time for cities' or counties' project plans from 15 years to 25 years. [*Note:* The Conference Committee added this amendment.]

In the Senate Committee on Commerce hearing, a representative of the Kansas Association of Realtors and a real estate broker spoke in favor of the bill, explaining the Kansas Rural Housing Incentive District Act, which was enacted in 1998, provides a means for cities and counties to financially assist developers in building housing in rural communities. By extending the maturity of the bonds, proponents contended, more housing projects will become financially viable and encourage affordable new housing.

No opponent or neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2147, as introduced, in consultation with the Kansas Association of Counties and the League of Kansas Municipalities, there would be a negligible fiscal effect on local governments.

economic development; incentive; evaluation; rural housing; commerce; bonds

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