



Legislative Post Audit Performance Audit Report Highlights

Highlights

Sales Tax and Revenue Bonds: Evaluating the Heartland Park STAR Bond Project

Report Highlights

March 2015 • R-15-004

Summary of Legislator Concerns

Legislators have expressed concern that the recent proposal by the City of Topeka to purchase Heartland Park shifts the burden of bond repayment from the local government to the state and fails to meet other provisions of state law.

Background Information

STAR bonds allow local governments to use future sales tax revenue to pay current redevelopment costs.

In 2006, the City of Topeka issued \$10.4 million in full faith and credit STAR bonds to make improvements to the Heartland Park racetrack. The full faith and credit backing made the city responsible for debt service payments in the event the sales tax increment revenue was not enough to pay off the bonds.

The original Heartland Park STAR bond district did not generate enough sales tax revenue to retire the bonds, so the city is seeking to amend the 2005 project to raise additional revenue and keep the racetrack out of foreclosure.

QUESTION 1: Does the City of Topeka's Proposal to Purchase Heartland Park Meet the Intent of the STAR Bond Financing Act and Its Requirements?

- We evaluated eight areas of the City of Topeka's current proposal to purchase Heartland Park and expand the STAR bond district, and we found that all eight areas appeared to meet the requirements of the STAR Bond Financing Act.
 - **Purpose of the current proposal** - The current proposal is to retain Heartland Park rather than develop or expand the park.
 - Issue: Concerns have been raised about whether it is appropriate to treat the current proposal as an amendment to the original Heartland Park project. Concerns have also been raised that the current proposal is not an allowable use of STAR bonds because it does not involve the creation or expansion of a new project.
 - Conclusion: Amending the original STAR bond project plan appears to meet the requirements of the law, although it is not clear the Legislature envisioned using the bonds to save an existing attraction.
 - **Use of the STAR bond proceeds** - The current proposal is to spend the additional STAR bond proceeds on acquiring clear title to the park, which involved buying the current operator's reversionary interest and paying off debt obligations.
 - Issue: Concerns have been raised that purchasing the reversionary interest in Heartland Park is not an allowable use of STAR bond proceeds.
 - Conclusion: Using STAR bonds to purchase the reversionary interest and secure clear title to the park appears to meet the requirements of the law.
 - **Economic impact of the current proposal** - The current proposal must demonstrate that the project benefits the local and state economies.
 - Issue: Concerns have been raised about whether the two studies submitted as part of the current proposal accurately reflect the economic activity generated by the park.
 - Conclusion: The current proposal includes a study of Heartland Park's economic impact that appears to meet the requirements of the law, although we noted some concerns about the studies submitted. For example, the studies do not represent an independent assessment of the proposal's economic impact and additional problems with the methodology suggest the most recent report significantly overstates the park's impact.

➤ **Expansion of the district boundaries** - The current proposal is to expand the boundaries of the original STAR bond district to capture additional revenue for repaying the original and new bonds.

- Issue: Concerns have been raised about whether a STAR bond district can be expanded and for what reasons.
- Conclusion: Expanding the boundaries of an existing STAR bond district appears to meet the requirements of the law. With the expanded boundaries, the district will capture sales tax revenues that are not related to activity at Heartland Park. However, our rough estimates of the park's economic impact suggest that the foregone tax revenues from within the expanded district will be offset by the total taxes generated on race weekends.

➤ **Base year for sales tax increment calculations** - The current proposal uses 2005 as the base year for sales tax increment calculations.

- Issue: Concerns have been raised about whether 2005 or 2013 is the appropriate base year for determining the sales tax increment revenue.
- Conclusion: Using 2005 as the base year for sales tax increment calculations appears to meet the requirements of the law, although those requirements are not as clear now as they were in 2005.

➤ **Financial solvency of the current proposal** - The current proposal must demonstrate that it will generate enough sales tax increment revenue to retire the STAR bonds associated with the original project and proposed amendment.

- Issue: Concerns have been raised about whether the current proposal to expand the STAR bond district will generate enough sales tax revenue to pay off the STAR bond debt. That is because the original STAR bond district has not generated enough sales tax to cover debt service costs.
- Conclusion: The current proposal includes an analysis of the expanded STAR bond district's ability to pay off bond debt, which appears to meet the requirements of the law. We reviewed the city's financial analysis and found that the city's calculations and assumptions about a 1% annual growth rate were reasonable. We also found that recent increases in state sales tax rates would account for 8%, or about \$4 million, of the state sales tax revenue generated by the expanded district.

➤ **Share of project costs paid for with STAR bonds** - The current proposal must demonstrate that the amount of additional STAR bonds will be less than 50% of total additional costs.

- Issue: Concerns have been raised that the additional STAR bonds make up more than 50% of the additional project costs.
- Conclusion: The city's current proposal appears to meet the requirement that STAR bonds do not finance more than 50% of the total costs of the project, although we noted some concerns about the statute. Primarily, if the new park operator does not invest an additional \$5 million in improvements to the park, the law does not have a provision that would require the city to pay any amount back to the state.

If approved, the City of Topeka will issue \$5 million in STAR bonds to purchase the current operator's future reversionary interest in the property, and will also expand the original district to encompass existing businesses along a seven-mile stretch of Topeka Boulevard.

The Department of Commerce gave preliminary approval of the current proposal in September 2014. As of the time of this report, the department had not given final approval.

Additionally, as of February 2015, the current proposal was on hold due to a legal challenge by Topeka citizens. A citizen's group organized a petition drive to put the proposed purchase of Heartland Park to a citywide vote. The petition was subsequently challenged by the city and appealed by the petitioner. As of the time of this report, the Court of Appeals had not issued its final ruling.

- **Selling or leasing Heartland Park to a third party** - The current proposal includes selling or leasing the park to a third party after acquiring it.
 - Issue: Concerns have been raised that statutes prohibit STAR bond financing to be used for purchasing or constructing property and then selling that property to a third party.
 - Conclusion: Selling or leasing Heartland Park to a third party appears to meet the requirements of the law. Current statutes do not explicitly allow or prohibit the use of STAR bonds for buildings sold to a third party. In 2005, the law prohibited STAR bonds from being used in such way, but Heartland Park was given a statutory exemption.

SUMMARY OF RECOMMENDATIONS

- We made several recommendations for the Legislature to consider that would strengthen and clarify the requirements of the STAR Bond Financing Act.

AGENCY RESPONSE

- Department of Commerce and City of Topeka officials generally agreed with the report's findings and conclusions.

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