

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 28, 2020

WEEK SEVEN OVERVIEW

This week was devoted to floor debate ahead of the House of Origin deadline on Thursday. Monday was the last day for committees to meet to complete their work on non-exempt bills for possible consideration and floor debate.

On Monday, the Senate Commerce Committee amended and approved the Substitute for SB 366, which would shorten the period of time required for various licensing bodies to issue registrations, certifications, and licenses (credentials) to allow a “military service member” (term would be redefined by the bill) and a “military spouse” (term is currently defined by law) to lawfully engage in their respective occupations in Kansas. The bill also would expedite licensing bodies’ procedures for any individual intending to live and work in Kansas.

This week, the House Appropriations Committee introduced HB 2728 requiring the Department of Administration to raze the Docking State Office building. Legislators have been exploring various options to address the future of the aging office building.

HOUSE FLOOR DEBATE

On Tuesday, the House debated Gov. Laura Kelly’s proposed 25-year re-amortization of the Kansas Public Employee Retirement System (KPERS) shortfall. The House Financial Institutions and Pensions Committee passed the bill to the House floor without recommendation. The House rejected her refinance plan but retained her proposal for a \$268 million payback this fiscal year for previous years’ shortfalls in the appropriations process. Some House members did acknowledge that refinancing would be necessary in the future.

The House Republican leadership proposed the creation of the First-time Home Buyer Account Act. HB 2516 permits parents or others to reduce their Kansas taxable income by contributions of up to \$3,000 for singles and \$6,000 for married couples to create a first-time home buyer savings account. The goal is help retain Kansas youth in the state by helping them purchase a home. The House passed the bill on final action on Wednesday. It passed the House 123-2.

The House debated bills on Tuesday and Wednesday completing their work on Wednesday.

SENATE DEBATE

On Wednesday, the Senate debated sports gaming for more than four hours and passed SB 283 on a 23-15 vote with two abstentions. The bill represented two years of wrangling over the issue. The state-owned casinos could expand their offerings to include sports gaming with the state getting 7.5% of the profits and 10% of the profits for bets placed online. The Senate adopted an amendment by Senate President Susan Wagle to divert 2% of the revenue into a state fund dedicated to treating gambling addiction. Wagle shared that 54,000 Kansans have a gambling problem. The House is working on their own sport gaming bill.

The Kansas Senate approved a bill requiring specific text be printed on container labels of unpasteurized goat or cow milk and on raw-milk dairy products sold directly from producers to consumers. In response to public health concerns raised by the Kansas Department of Agriculture, the Senate voted 37-3 to require dairy farmers engaged in on-farm retail sale of unprocessed milk to include a label reading, "This product contains raw milk that is not pasteurized."

After hearing from the supporters of the square dance and the polka, the Senate Federal and State Affairs Committee performed a two-step. The committee designated *both* the polka and the square dance as official state dances of Kansas.

Many of the bills debated on Thursday were non-controversial. The Senate approved a measure to require the reporting on the graduation rates for foster children to provide a reference for future policy discussion.

HOUSE OF ORIGIN DEBATE

Thursday was the House of Origin deadline for non-exempt bills to pass from their originating chamber. Does that mean all those bills that did not pass are officially dead? Not necessarily. It is a relatively common practice for the House and Senate leadership to bless some non-exempt bills by referring them to a *non-exempt* committee (e.g., Federal and State Affairs Committees, Tax Committees, Appropriations or Ways and Means) for further consideration. This year the House blessed 30 bills, but the Senate failed to bless any bills.

NEXT WEEK

The Legislature will take a three-day recess starting Friday and return next Wednesday to resume work. Early next week, the Kansas Department of Revenue will release the monthly revenue report, which will be viewed with interest by legislators trying to determine budget and tax policy. There are only five weeks left in the regular Session which concludes on April 3. The veto session starts April 27.

BILL INTRODUCTIONS

HEALTHCARE

SB 464 – Would amend Chapter 40 to require (effective Jan. 1, 2021) every group or individual insurance plan to ensure that benefits for breast cancer diagnostics are not less favorable than breast cancer screening. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olson, Chair.

SB 463 – Would impose specific requirements for the use of portable x-ray systems. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Sullentrop, Chair.

SB 475 – Would enhance legal protections for healthcare providers declining to participate in services which violate their conscience. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Sullentrop, Chair.

TAXATION

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SB 462 – Would prohibit the Kansas Department of Revenue from disclosing virtually any and all sales and use tax information to taxing officials of other states. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 460 – Would raise the dollar amounts for sales tax collection thresholds as they relate to the filing deadline for certain returns. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2726 – Would extend the date when corporate tax returns must be filed with the Kansas Department of Revenue. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2727 – Would impose a “pay-go” rule beginning in 2020 in the Kansas Legislature regarding sales tax exemptions. The proposal specifically states that for any legislative enactment establishing an exemption from the Kansas retailers’ sales tax on or after Jan. 1, 2021, such enactment shall either: (1) repeal an existing exemption with an equal or greater fiscal liability to the state; or (2) suspend an existing exemption with an equal or greater fiscal liability to the state for the duration of time that the enacted exemption is to remain in effect. Also, the proposal would impose Kansas sales tax on barber shops, beauty salons, and other personal services effective in 2021. Also, the proposal would impose sales tax on certain services “named by law” prior to 2021. Finally, the bill would allow sales tax exemptions for two specific tax-exempt entities. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

SB 309 – Would place the legal burden of proof on county appraisers in certain property tax appeals. Currently, a taxpayer has the option to appeal any summary decision or full and complete opinion of the Board of Tax Appeals (BOTA) allowing for a new trial with the district court. SB 309 would place the burden of proof on the county appraiser to initiate the production of evidence demonstrating the validity of the valuation or classification of residential or commercial property before the district court. Predictably, the counties have criticized the measure given the likelihood more taxpayers would pursue appeals and county costs would go up. The Committee has recommended the bill be passed by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 294 – As amended by the Senate Committee of the Whole, would establish new notice and public hearing requirements for certain taxing subdivisions prior to property tax increases above a revenue-neutral rate beginning in 2021. The bill would not apply to school districts or to any taxing subdivisions receiving less than \$5,000 annually in property taxes. The bill passed the Senate on emergency final action as amended; Yea: 39, Nay: 0.

COURTS, LAWS, AND REGULATIONS

SB 465 – Would modify the amount of net electronic gaming machine income derived from machines at racetrack gaming facilities to be allocated to lottery act funds. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

SB 467 – Would create a statewide alert system for missing military members. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

SB 468 – Would invest the state fire marshal with law enforcement powers and would require an investigation of fire related deaths. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

SB 469 – Would impose a civil fine for operating a childcare facility without a license. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 42 – Would define “rebate” for purposes of the Real Estate Brokers’ and Salespersons’ License Act to mean the return of all or any real estate purchases price, whether by cash or cash equivalent (which could include gift cards, prepaid credit cards, or other similar items of value) which is agreed to between a licensee and client or customer before closing and is contingent upon the transaction closing. A rebate also would include the return of all or part of a licensee’s commission or compensation to a client that would have the purpose of affecting the price specified in

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the closing statement. The Act currently prohibits the use of rebates in a real estate transaction. We reported on this measure when it was first introduced during the 2019 Session. The bill passed the Senate on emergency final action as amended; Yea: 40, Nay: 0.

SB 251 – As amended by the Senate Committee on Commerce, would change the finalizing requirements annual reports currently required to be filed with the Secretary of State by business entities to a biennial business entity information report, beginning in 2022. Business entities formed in even-numbered years would be required to file reports in even-numbered years, and business entities filed in odd-numbered years would be required to file reports in odd-numbered years. The bill passed the Senate on emergency final action as amended; Yea: 39, Nay: 0.

SB 474 – Would permit student athletes to receive compensation for the use of their name, likeness or athletic reputation, provided 15 other states adopt similar legislation. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair. A hearing has been scheduled for this matter on Mar. 4, 2020.

Sub for SB 366 – Would expand and expedite Kansas state licensure issuance time frames for military service members and other individuals intending to live and work in Kansas. Seemingly, almost all licensing bodies for trades and professions are covered except as to members of the legal profession. The Committee has recommended the substitute bill be passed by the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

SB 473 – Would expand the Low-Income Family Postsecondary Savings Account Incentive Program to include military service members and veterans. The measure would allow charitable organizations to contribute to a family postsecondary education account, subject to restrictions. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair.

Sub for SB 238 – Would amend field of membership requirements placed on state-chartered credit unions to increase the permissible geographic area for a credit union's field of membership. Also, the bill would permit banks to deduct from net income the net interest income received from business loans attributable to Kansas and the net interest income received from single family residence loans to the extent such interest is included in the Kansas taxable income. The Committee has recommended the substitute bill be passed by the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olson, Chair.

HB 2730 – Would create a blanket sales tax exemption for all Kansas charitable organizations, provided they are exempt from federal income sales tax under Code § 501(c)(3). Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

INSURANCE

HB 2053 – As amended, would modify the Kansas Insurance Code provision applicable to short term limited duration health policies. The bill would amend the definition to specify that such a policy would be one having a policy period of less than 12 months but that offers renewal or extension periods up to a maximum policy period of 36 months total in duration. The bill would also require insurance companies issuing STLD health insurance to include a modified Affordable Care Act warning about coverage exclusions. The Committee has recommended the bill be passed as amended by the House Committee on Insurance, Rep. Jene Vickrey, Chair.

Sub for HB 2598 – Would provide for enhanced regulation of pharmacy benefit managers (PBMs) and would enforce Kansas Insurance Department' licensing requirements on PBMs. The Committee has recommended the substitute bill be passed by the House Committee on Insurance, Rep. Jene Vickrey, Chair.

UTILITIES

Sub for SB 126 – As amended by the Senate Committee of the Whole, would, in hopes of reducing utility rates, create and amend law relating to the tracking and collection of state and federal income tax by certain public utilities. The will would exempt the following utilities from Kansas income tax for tax years ending on or after Dec.

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31, 2021: every electric and natural gas public utility, as defined in law, that is subject to rate regulation by the KCC; and any utility that is a cooperative, as defined in law, or owned by one or more cooperatives. The bill passed the Senate on emergency final action as amended; Yea: 40, Nay: 0.

HB 2585 – As amended by the House Committee on Energy, Utilities and Telecommunication, would exempt from the definition of “public utility” the marketing and sale of electricity purchased through a retail electric supplier for the purpose of providing electric vehicle charging services to an end user. The bill passed the House on emergency final action as amended; Yea: 123, Nay: 2.

SB 339 – As amended by the Senate Committee of the Whole, would allow Kansas Corporation Commission (KCC) to allow contract and discounted rates (economic development) for certain facilities. The idea is to encourage the KCC to approve such rates notwithstanding provisions governing the KCC's power to require utilities to establish just and reasonable rates to maintain efficient and sufficient electric service and to prohibit variations from established rate schedules. The idea was developed by Evergy and other business groups as a means of enhancing the competitiveness of Kansas companies. The bill passed the Senate on emergency final action as amended; Yea: 39, Nay: 0.

Kansas Legislative Insights is a publication developed by the Governmental Relations & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving health care, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate & construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Relations & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com.

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PRACTICE AREAS

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