

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 11, 2022

March 11, 2022

WEEKLY UPDATE

With the March 23 deadline looming for both chambers to consider non-exempt bills from the other, committees were busy trying to finish consideration of bills despite the weather. On Monday and Thursday, weather forced cancellation of some committee meetings, while other committees met virtually on Thursday. Senate President Ty Masterson announced that he would waive the rule prohibiting Senators from voting remotely on measures in committee for Thursday. Weather concerns delayed the return of some legislators on Monday and a winter storm forced cancellation of debate on the House and Senate floors Thursday and Friday. However, there was floor debate on several high-profile issues including KPERS and the convention of states. House and Senate budget committees were close to finishing their budget proposals.

On Thursday, the Senate Republican redistricting map labeled Liberty 2 was introduced in the Senate Ways and Means Committee. Under Liberty 2, the only incumbent Republican Senators in the same district are Senate Redistricting Committee Chair Sen. Rick Wilborn, R-McPherson and Sen. Mike Fagg, R-El Dorado. A new District 9 is proposed to include Sen. Tom Holland, D-Baldwin City and Sen. Beverly Gossage, R-Eudora. In the Senate Federal and State Affairs Committee Thursday, the Senate Democrats introduced their map, named the Eisenhower Plan, and the League of Women Voters map named the Bluestem Plan.

This weekend is the 2022 GOP Convention in Wichita. It will provide a forum for Republican candidates seeking statewide office. Interestingly, the convention offers GOP leaders a chance to hear from three Republican lawyers contending to succeed Derek Schmidt as attorney general.

SENATE FLOOR DEBATE AND ACTIONS

Monday, the Senate voted 33-4 to approve SB 282. As amended, the bill would create new income tax credits for graduates of certain aerospace and aviation education programs and their employers, a new income tax credit for teacher classroom supplies, increase the residential property tax exemption from the statewide school-finance levy, and would enact the Kansas Housing Investor Tax Credit Act (HITCA) and the Kansas Affordable Housing Tax

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Credit Act (AHTCA). SB 378, allowing year-round fireworks sales, failed on final action 2-34. On Monday, the Senate extended the Rural Opportunity Zone (ROZ) program for another five years. The Senate also expanded the child-care credit to small employers like limited liability companies (LLCs) and sole proprietorships. The credit will assist small employers who provide childcare or subsidize those employers' own childcare. The goal is to counter the loss of employees during the pandemic. The bill passed 32-5.

Tuesday, the Senate had a two-hour debate on Senate Substitute for HB 2279, amending provisions in the Kansas Nurse Practice Act governing the licensure of advanced practice registered nurses (APRNs). The bill proposes to allow APRNs to prescribe drugs without written physician authorization. It would also require an APRN to maintain malpractice insurance and require national certification for initial licensure as an APRN. A motion to send the bill back to committee failed 14-22. On Wednesday, the Senate passed the bill 30-7. The Senate also debated and passed two election-law bills.

Wednesday, the Senate and House each debated and passed their respective bills reducing the unfunded actuarial liability of KPERS. The House bill would assign \$1 billion of the state surplus to reduce the KPERS liability from \$4 billion to \$3 billion. The House bill also provides for benefit increases over the next three years to retirees. The House vote was 113-5. The Senate version is similar and passed 28-12. Efforts by Democrats to include a onetime 13th-month check to pensioners failed in both chambers. The bills reduce the annual interest payment on the bonds (projected to save more than \$25 million annually in interest) and projects KPERS to be fully funded by 2031.

HOUSE OF REPRESENTATIVES FLOOR ACTION

Tuesday, the House debated HCR 5027. The Resolution is directed to the US Congress in an effort to call a convention of the states. The convention proposes amendments to the US Constitution that would impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit terms for members of Congress and other officials. Thirty-four states would be required to pass this measure. Eighteen states have already passed the necessary resolution. After the Committee of the Whole debate on Tuesday, the measure passed 78-42, six votes shy of the two-thirds (84) needed to pass the resolution. After intense overnight lobbying targeting the "no" votes, HCR 5027 failed on final action Wednesday 76-43 by eight votes. Last session, a similar resolution failed in the Senate with only 21 votes (six short of the necessary 27 votes).

Wednesday, the House debated House Sub. for Sub. SB 286, which proposes to extend the expiration dates and effectiveness of provisions regarding the governmental response to COVID-19 from March 31, 2022, until Jan. 20, 2023. The extended provisions include immunity from civil liability for COVID-19 claims for businesses in substantial compliance with public health directives; expansion of telemedicine; immunity from civil liability for health care providers related to the COVID-19 public health emergency; and retroactive provisions regarding immunity from civil liability. House Majority Leader Dan Hawkins (R-Wichita) made a motion to amend HB 2620 into the bill. HB 2620 creates the crime of interference of health care services and increases the crime of assault and battery of a health care worker. The bill passed on final action 102-17.

The House also passed, 115-4, Sub for HB 2466 to promote computing knowledge. The idea is to increase the availability of computer-science education. Sub. for HB 2466 would create the Promoting Advancement in Computing Knowledge Act, the Computer Science Pre-service Educator Program, and authorize the State Board of Education to provide grants to high-quality professional learning providers. The Act would require, beginning in the 2023- 2024 school year, each high school operated by a school district to offer at least one computer-science course.

COMMITTEES

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The House Appropriations and Senate Ways and Means committees continue to make progress on assembling their respective budget proposals. The House Appropriations Committee met for three and half hours on Monday, approving budgets for corrections, higher education, and transportation.

On Monday afternoon, the Senate Education had a hearing on SB 484 (Fairness in Women's Sports Act). If enacted, SB 484 would require interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational institutions to be designated based on biological sex. More than 20 witnesses testified before time ran out. On Tuesday, the Senate Education Committee passed SB 496, called the "Parents' Bill of Rights." The bill is designed to provide more information on educational materials in the classroom and more input for parents of K-12 students.

This week, the House Insurance and Pension Committee questioned KPERS Executive Director Alan Conroy about investments in Russian securities. In late February, KPERS held a minor portion of their total international-equity portfolio in Russian stocks (total market value of \$35.9 million). The KPERS Board will comply with any state or federal requirements on future investments in Russia or divestment of Russian holdings.

Another autonomous motor vehicle bill (SB 546) was introduced this week. On Thursday, the Senate Transportation Committee heard testimony from proponents (Alliance for Automotive Innovation, Wal-Mart, Gatik, and Autonomous Vehicle Industry) saying it reflected a compromise with the various parties. Neutral or opposition testimony was provided by the League of Kansas Municipalities, Kansas Trial Lawyers, and Teamsters. The committee ran out of time and will continue the hearing on Monday.

Thursday, the Senate Assessment and Taxation Committee passed a proposed constitutional amendment requiring any new tax or tax increase bill passed by the Legislature to receive a two-thirds vote in both houses to become a law.

NEXT WEEK

Next week is the last full week of committee meetings before the March 23 deadline to consider non-exempt bills from the other chamber. Committee chairs will be juggling next week's committee schedules. Observers will be carefully listening for announcements about committee meetings and perusing their House and Senate calendars. Both the House and Senate Tax Committees have busy schedules for next week. The Senate Ways and Means Committee is expected to finalize its budget. Many committees have not finalized their schedules for next Thursday and Friday.

BILL INTRODUCTIONS

TAXATION

SB 282 – As amended by the Senate Committee of the Whole, would create new income tax credits for graduates of certain aerospace and aviation education programs and their employers for tax years 2023 through 2027, would create a new income tax credit for teacher classroom supplies, would increase the residential property tax exemption from the statewide school finance levy, and would enact the Kansas Housing Investor Tax Credit Act (HITCA) and the Kansas Affordable Housing Tax Credit Act (AHTCA).

SB 433 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would create a property tax exemption beginning in tax year 2023 for antique utility trailers used exclusively for personal use and not for the production of income.

SB 547 – Would exempt providers of broadcast satellite services and streaming services from the provisions of the Video Competition Act and would provide requirements relating to audits of video service providers. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

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SB 554 – Would amend the definition of land devoted to agricultural use for property tax purposes to include land offering agritourism and zoos. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 555 – Would modify personal property tax rules to allow for the proration of value when certain personal property is acquired or sold prior to Sept. 1 of any tax year and discontinue collection of unpaid municipal utility fees using the property tax roll. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 556 – Would provide for a Kansas income tax subtraction modification for the federal Work Opportunity Tax Credit and the Employee Retention Credit Disallowance. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2571 – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would provide, for purposes of retail sales and compensating use tax, for a deduction from the sales price of the purchase of a new or used motor vehicle in the amount of the proceeds from the sale of a used motor vehicle sold by the purchaser within 180 days of the purchase. If proceeds from the sale exceeded the purchase price, the purchaser would not owe any sales or use tax.

HB 2618 – As amended by the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair, would establish a five-year property tax exemption for city, county, and township property used for business incubator purposes in counties with a population of 40,000 or less.

HB 2735 – Would, among other things, provide three years of income tax incentives to new businesses. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

AGRICULTURE

SB 548 – Would except matters related to water rights from the advice and assistance of groundwater management districts. Referred to the Senate Committee on Agriculture and Natural Resources, Rep. Dan Kerschen, Chair.

SB 549 – Would allow certain water-right holders to withdraw from a groundwater management district under certain circumstances. Referred to the Senate Committee on Agriculture and Natural Resources, Rep. Dan Kerschen, Chair.

SB 551 – Would establish within the Kansas Department of Agriculture, the pet animal facilities inspection division to be administered by a director under the supervision of the secretary. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

HB 2531 – As further amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would allow upon approval by certain local boards, any person engaged in an agricultural activity to construct, maintain, and operate pipelines in pursuit of an agricultural activity along, upon, under, and across the right-of-way of any county or township road, as defined in law and in conformity with laws and regulations of the state and county in which the pipeline is located. "Agricultural activity" is defined in KSA 2-3203.

COURTS, LAWS, AND REGULATIONS

SB 484 – As recommended by the Senate Committee on Education, Sen. Molly Baumgardner, Chair, would create the Fairness in Women's Sports Act and require interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational institutions to be designated based on biological sex.

SB 507 – As recommended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, certain exceptions to the Kansas Open Records Act (KORA) would continue.

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SB 546 – Would provide for the use and regulation of autonomous motor vehicles and would establish the autonomous vehicle advisory committee. Referred to the Senate Committee on Transportation, Sen. Mike Petersen, Chair.

SB 552 – Would create the Modernization of Recovery Through Website Outreach Act and authorize the state treasurer to publish information regarding property to be foreclosed for delinquent taxes on the treasurer's website. Referred to the Senate Committee on Transparency and Ethics, Sen. Elaine Bowers, Chair.

Sub. For SB 101 – As amended by the House Committee of the Whole, would amend the definition of and regulate the operations of electric-assisted bicycles (e-bikes).

HB 2237 – As amended by the Senate Committee of the Whole, would amend law related to the Rural Opportunity Zone (ROZ) student-loan repayment program and the child daycare services income tax credit.

HB 2676 – As amended by the House Committee on Local Government, Rep. Kent Thompson, Chair, would authorize counties to create a Code Inspection and Enforcement Fund and expand an existing County Equipment Reserve Fund to include purchases of technology and technology services.

HB 2731 – Would advance consumer protection by further regulating online third-party marketplaces. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HEALTHCARE

SB 348 – As amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair, would exempt certain threading methods from the definition of cosmetology in law related to the licensure of cosmetologists.

HB 2733 – Would provide for the Pharmacy Benefits Manager Licensure Act, specifying regulatory and licensure rules for pharmacy benefits managers. Referred to the House Committee on Insurance and Pension, Rep. Steven Johnson, Chair.

HB 2734 – Would amend law relating to social workers and the behavioral sciences regulatory board. The bill would allow board-approved postgraduate supervised experience to count toward graduate-level supervised clinical practicum of supervised professional experience and permit current master's- and clinical-level licensees to take the addiction counselor test. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

H Sub. For Sub. SB 286 – As amended by the House Committee of the Whole, would, among other things, amend and extend the expiration dates and effectiveness of provisions regarding the governmental response to the COVID-19 pandemic.

Kansas Legislative Insights is a publication developed by the Governmental Affairs & 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 Healthcare, 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 Affairs & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com. Learn more about the authors below:

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