



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 23, 2018

JUST WIN, BABY!

That is the famous line attributed to Al Davis, the one-time owner of the Oakland Raiders. He was referring to NFL football, but the same line could be used concerning the office of governor in Kansas. No age, residency, or educational restrictions hamper gubernatorial candidates here in the Sunflower State, so anyone from anywhere can become governor if he or she just wins the general election. The same no-restrictions situation also applies to the offices of Lt. Governor, Attorney General, State Treasurer, and Insurance Commissioner.

Several individuals, including some high school students and non-Kansans, took advantage of the situation this year and announced they plan to run for governor, but the hefty filing fee will likely discourage most of them from actually getting their name on the ballot. Rep. Blake Carpenter (R-Derby) introduced a bill (**HB 2539**) earlier in this session that would impose both age (18) and residency (4 years) requirements on candidates in all of these statewide offices.

The House approved the measure by a wide margin (94-28) this week, but not before removing the residency requirement and adding a provision that candidates for Attorney General must be licensed to practice law within the state. If passed by the Senate and signed by the governor, the bill would not become effective until after the 2018 elections.

A BLIZZARD OF BILLS

The Kansas House and Senate approved more bills in three days this week than in all the previous weeks of this session combined. The reason was the first major deadline of the session. All non-exempt bills had to clear the “house of origin” by yesterday if they are to be considered for the remainder of the session. Bills introduced in certain committees such as Federal and State Affairs, Appropriations, and Taxation are exempt from any deadlines.

There will be a brief legislative recess starting today. The House and Senate will reconvene next Wednesday, Feb. 28, 2018. The “heavy lifting” part of the session will begin in March as the Supreme Court-imposed deadlines for resolving the school finance crisis draw ever closer. A preliminary hearing featuring Dr. Lori Taylor, one of the school finance experts hired by the legislature to work on a new finance formula, will be held in the capitol today. A final report is to be completed by March 15, 2018.

BILL SUMMARIES

Listed below are selected bills which were introduced or passed this week. Additional information on any of the bills can be accessed by clicking on the bill number.

AGRIBUSINESS

HB 2478 – Empowers the Secretary of Agriculture to impose late fees for various licenses, permits, certificates, or registrations. Changes certain license renewal dates. *(Passed by the House on a vote of 102-15. Referred to the Senate Committee on Agriculture and Natural Resources, Senator Dan Kerschen, Chair)*

HB 2583 - Creates the Noxious Weed Act which empowers the Kansas Secretary of Agriculture to make an emergency declaration of noxious weeds in certain situations. Establishes a noxious weed advisory committee with enumerated powers and duties. Makes it unlawful to knowingly sell or transport noxious weeds. Once a noxious weed is identified, it is declared to be a noxious weed in all counties. Specifies the powers and duties of county commissions to carry out the various provisions of the Act. *(Passed by the House on a vote of 101-16. Referred to the Senate Committee on Agriculture and Natural Resources, Senator Dan Kerschen, Chair)*

BUSINESS AND ECONOMIC DEVELOPMENT

SB 427 - Amends the Kansas Expanded Lottery Act to allow a vote concerning electronic gaming machines at horse and greyhound racetracks in certain counties. Also expands the state debtor setoff program. Creates the Kansas Horse Council Fund and two additional repayment funds. (Referred to the Senate Committee on Federal and State Affairs, Senator Bud Estes, Chair)

SB 429 – Moves the enforcement date for several sections of the Scrap Metal Theft Reduction Act from January 1, 2019 to January 1, 2020. (Referred to the Senate Committee on Federal and State Affairs, Senator Bud Estes, Chair)

HB 2482 – Amends the period of time when the sale of alcoholic liquor is prohibited in any public venue, club or drinking establishment to 2-6 a.m. Currently that period is 2-9 a.m. Also allows farm wineries, microbreweries, and micro-distilleries to sell between 6 a.m. and midnight on any day. *(Passed by the Senate on a vote of 35-5. Awaiting further action by the House)*

FINANCIAL SERVICES

HB 2580 – Prohibits a consumer reporting agency from charging a fee “for placing, temporarily lifting or removing each security freeze.” *(Passed by the House on a vote of 117-0. Awaiting action by the Senate)*

HEALTH CARE

SB 217 – This bill has a long procedural history back to its introduction in the Senate in March of 2017. The bill was referred to the House Committee on Health and Human Services and carried over to the 2018 session, when a hearing was held in January. Both the Senate and House Committees have amended the bill. Basically, the bill updates certain statutes referencing the Kansas Department for Aging and Disability Services (KDADS) necessitated by Executive Recognition Order 41 (which consolidates the financing arm of Medicaid in the Kansas Department of Health and Environment Division of Health Care Finance). The Senate Committee adopted an amendment to update references in the statute to replace the term “mentally retarded and other handicapped persons” with “individuals with intellectual or other disabilities.” The ERO also renames the former Department on Aging as the Kansas Department for Aging and Disability Services, moves all disability waiver and mental health services from the Department of Social and Rehabilitation Services to KDADS, and renames the Department of Social and Rehabilitation Services as the Department of Children and Families. *(Passed by the House on a vote of 118-0. Placed in a House/Senate conference committee, Senator Vicki Schmidt, Chair)*

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HB 2501 – The bill would create in the State Treasury the Health Occupations Credentialing Fee Fund (Fee Fund) to be administered by the Secretary for Aging and Disability Services. Fees collected under provisions of the Adult Care Home Licensure Act, Dietitians Licensing Act, Operator Registration Act, and the act regulating speech-language pathologists and audiologists would be deposited into the Fee Fund instead of the State General Fund (SGF). KDADS has testified in support of the bill, stating that the dedicated Fee Fund would provide revenue for additional employees to meet current and future work requirements, for modernization and for operations. *(Passed by the House on a vote of 122-0. Referred to the Senate Committee on Public Health and Welfare, Senator Vicki Schmidt, Chair)*

HB 2549 – First reported in our February 2 (2018) issue and now heavily amended by the House Committee on Health and Human Services, the bill removes the references to Larned State Hospital and Osawatomie State Hospital, and simply refers to appropriate facilities for misdemeanor and felony cases where commitment of a defendant for psychiatric or psychological examination and report to the court for a trial competency determination is warranted. *(Passed by the House on a vote of 117-0. Awaiting further action by the Senate)*

HB 2590 – First reported in our February 2 (2018) issue, the bill, as amended, would change the law related to the State Long-Term Care Ombudsman Program. The bill is intended to update existing law and better align Kansas law with applicable federal laws. *(Passed by the House on a vote of 117-0. Awaiting further action by the Senate)*

HB 2674 – Originally reported in our February 9 (2018) issue and as amended by the House Committee on Health and Human Services, the bill now provides “*inter alia* nothing in the Kansas Telemedicine Act shall be construed to authorize the delivery of any abortion procedure via telemedicine.” Otherwise, the bill provides for the practice of telemedicine in Kansas. The bill would define telemedicine, including telehealth, as the delivery of health care services or consultations while the patient is at an originating site and the physician or licensed mental health professional is at a distant site. The bill specifies that the same requirements for patient privacy and confidentiality under HIPAA that apply to health care services delivered in-person would also apply to applicable telemedicine care. The bill would apply to any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, or health maintenance organization amended or renewed on or after January 1, 2019. *(Passed by the House on a vote of 117-0. Awaiting action by the Senate)*

INSURANCE

SB 348 – As amended by the Senate Committee on Financial Institutions and Insurance, the bill, originally reported in our February 2 (2018) issue, now provides the same electronic delivery advantages to a non-profit dental services corporation as was originally provided only to health benefit plans in the bill as originally introduced. Generally, the bill would amend the Electronic Notices and Documents Act of the Kansas Insurance Code to provide that a health plan may, without prior consent, utilize electronic delivery as its standard method to send the explanation of benefits and policy to a party, including the federally required summary of benefit and coverage documents, as long as printed documents are readily available. *(Passed by the Senate on a vote of 39-0. Referred to the House Committee on Insurance, Rep. Jene Vickery, Chair)*

STATE GOVERNMENT

SB 394 – Extends the lobbying requirements currently applying only to the legislative branch of state government to the executive and judicial branches. Specifies circumstances when the lobbying requirements would not apply to executive or judicial situations. *(Passed by the Senate on a vote of 40-0. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair)*

HB 2362 – A carry-over bill from the 2017 session which establishes the Alcoholic Beverage Control Modernization Fee of \$30 for each new license application and \$10 for license renewals. Also establishes a modernization fund

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where all modernization fees must be deposited. Eliminates the 2022 sunset provision for the modernization fee thus making it a permanent fee. *(Passed by the Senate on a vote of 37-3. Awaiting further action by the House)*

HB 2597 – Designates Sedgwick County as an urban county thus allowing legislation to be enacted that applies exclusively to that county. *(Passed by the House on a vote of 121-1. Referred to the Senate Committee on Ethics, Elections and Local Government, Senator Elaine Bowers, Chair)*

HB 2600 – Allows the Secretary of Health and Human Services to impose higher annual fees for various categories of radiation protection services and to also impose an additional annual fee on “non-contiguous sites” where radioactive material is stored or used. *(Passed by the House on a vote of 106-16. Awaiting action by the Senate)*

HB 2752 – Creates the Kansas Sports Wagering Act which must mesh with the Kansas Lottery Act and the Kansas Expanded Lottery Act. Allows the Kansas Lottery to offer sports wagering at specified locations and also allows a lottery gaming facility manager or racetrack gaming facility manager to enter into a contract with the Kansas Lottery to conduct sports wagering. *(Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair)*

TAXES

SB 430 – Starting in 2018, tax credits available to taxpayers under the High Performance Incentive Program (HPIP) are extended to 25 years if certain limitations are met. *(Referred to the Senate Committee on Assessment and Taxation, Senator Caryn Tyson, Chair)*

HB 2488 – Amends the definition of “special fuels” so “motor-vehicle fuels” can be taxed at \$0.24 per gallon rather than the special fuels rate of \$0.26. *(Passed by the House on a vote of 121-0. Referred to the Senate Committee on Assessment and Taxation, Senator Caryn Tyson, Chair)*

HB 2753 – Requires the Commissioner of Insurance, the Secretary of Commerce and the Secretary of Revenue to make annual reports to the legislature concerning specified tax credits, economic development programs, and state tax exemptions. *(Referred to the House Committee on Taxation, Rep. Steve Johnson, Chair)*

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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Jim Maag and James P. "Jim" Rankin are co-editors of Foulston Siefkin's Kansas Legislative Insights. Jim Maag, a non-lawyer Governmental Affairs Consultant to Foulston Siefkin's Governmental Relations & Public Policy Practice Group, provides legislative monitoring and lobbying services for our governmental relations clients. Mr. Maag has had a distinguished career in governmental matters and banking, most recently serving as President of the Kansas Bankers Association. He has been involved in the Kansas legislative process for more than four decades as a legislator, administrator or lobbyist. As a partner at Foulston Siefkin, Mr. Rankin's practice focuses on employee benefits law relating to public, private, governmental, and tax-exempt organizations. A large part of his work involves insurance regulatory and compliance issues in many industries, including health care. Mr. Rankin has been selected by peers for inclusion in *The Best Lawyers in America*[®] and the Missouri & Kansas *Super Lawyers*[®] list. He is the firm's representative with State Law Resources, Inc., a national network of independent law firms selected for their expertise in administrative, regulatory, and government relations at the state and federal level.

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PRACTICE AREAS

- Governmental Affairs & Public Policy Law