

# FOULSTON

ATTORNEYS AT LAW

NEWSLETTERS



## KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 16, 2018

### CHICKEN TRACKS

During almost every legislative session, a controversial issue arises that wasn't even contemplated a few months earlier. This session, that issue involved chickens – lots and lots of chickens. When food giant Tyson announced last summer that the company planned to build a large chicken-raising/processing operation near Tonganoxie, it expected to be met with shouts of joy at the prospect of a thousand or more jobs being created in the community. Instead, the announcement encountered stiff opposition (“No Tyson in Tongy”). So much so that the poultry powerhouse announced it was abandoning plans for that location and looking for alternative sites.

The issue then spilled over into the legislative session, with bills introduced that would put certain environmental and building restrictions on such operations. There were spirited debates in both the House and Senate centering on economic development vs. environmental concerns. In the end, compromises were reached that made the bill ( **SB 405** – see below) basically pro-poultry.

The bill ultimately passed both houses by comfortable margins and is currently awaiting Governor Colyer's signature. It was a classic example of how a local issue can quickly flare up into a statewide controversy. Only time will tell whether the legislation passed will solve the problem of local resistance to these large projects.

### BASKETBALL VS. SCHOOL FINANCE

Legislators have a real challenge today. On one hand, they are interested in how their teams are faring in the NCAA men's basketball tournament now underway, while on the other hand, they are extremely interested in the details of a school finance study done by Dr. Lori Taylor. The study is being reviewed this afternoon before select House and Senate education committees by two attorneys retained by the Legislature – former state Senator Jeff King and Curt Tideman.

This study will be a key document in the process of developing a school finance plan to present to the Kansas Supreme Court by April 30. Millions – maybe hundreds of millions – of state tax dollars are at stake. State aid to school districts throughout the state already absorbs more than half of the revenues in the State General Fund (SGF) each year. In past rulings, the Supreme Court has indicated that it is still insufficient and is not being distributed in an equal manner.

# FOULSTON

ATTORNEYS AT LAW

Dr. Taylor will appear before those same education committees on Monday to discuss the results of her study.

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

## AGRIBUSINESS

**SB 405** – Establishes requirements for building or expansion of a concentrated animal feeding operation (CAFO). Requires registration with the Kansas Department of Health and Environment (KDHE) if the facility has an animal unit capacity of 300 or more. Also establishes an animal unit measurement calculation for chicken facilities and requires operators of a chicken facility using a dry-manure waste system to obtain a federal permit if 125,000 or more broilers or 82,000 or more laying hens are confined. *(Passed by the House on a vote of 84-37. Awaiting action by the Governor)*

**HB 2502** – Requires cereal malt beverage (CMB) licensees to collect state and local sales taxes (rather than the liquor enforcement tax) on the sale of 6.0 percent beer when that becomes permissible on April, 1, 2019. Empowers the Director of Alcoholic Beverage Control (ABC) to impose fines of \$1,000 or less for violations of the Kansas Cereal Malt Beverage Act. Also requires the Director of ABC to do a market impact study of 6.0 percent beer by 2027. ***(Signed by the Governor. Becomes effective on July, 1, 2018)***

## BUSINESS AND ECONOMIC DEVELOPMENT

**HB 2476** – Amends the alcoholic beverage statutes to include a definition of “alcoholic candy” as any candy or other confectionary product with an alcohol content greater than 1% alcohol by volume. Businesses must have a liquor license to sell such candy. Also allows a microbrewery licensee to sell – for consumption off the licensed premises – beer manufactured by the licensee and placed in containers of a specified size. Identification labels are required on the containers. *(Passed by the Senate on a vote of 38-2. Awaiting further action by the House)*

**HB 2775** – Creates a joint legislative transportation vision task force composed of legislators, individuals appointed by legislative leadership, and representatives of various associations and companies. Specifies who is to serve on the designated task force subcommittees and what issues the subcommittees shall consider. The task force must submit a report and recommendations to the full Legislature by January, 31, 2019. (Referred to the House Committee on Transportation, Rep. Richard Proehl, Chair)

## FINANCIAL SERVICES

**SB 335** – Brings state savings and loan associations and savings banks under the state banking code and repeals the savings and loan code. Grants specified powers to mutual state banks and to the service corporation of a savings and loan association or savings bank. Alters the process for conversion to a state bank or a national bank. Allows banks to invest in bonds, securities, or other “evidences of indebtedness” up to 15% of the bank’s capital stock and surplus. *(Passed by the House on a vote of 122-1. Awaiting further action by the Senate)*

## HEALTH CARE

**HB 2106** – Originally introduced during the 2017 Legislature, the bill, as now amended, would authorize the Secretary of Aging and Disability Services (Secretary) to grant a treatment facility licensed by the Secretary under the Alcohol or Other Drug Addiction Treatment Act and also accredited by the Commission on Accreditation of Rehabilitation Services, The Joint Commission, the Council on Accreditation, or another national accrediting body approved by the Kansas Department for Aging and Disability Services (KDADS), a license renewal based on such accreditation. The Secretary’s grants would be referred to as “deemed status”. An accredited treatment facility that loses accreditation would be required to notify KDADS immediately. The bill also provides for inspection of accredited treatment facilities to determine compliance. *(Passed by House on a vote of 121-0. Awaiting action by the Governor)*

# FOULSTON

ATTORNEYS AT LAW

**Sub for HB 2427** – The substitute bill represents a carryover measure from the 2017 Session. As now amended, the substitute bill would create and amend law related to qualifications for employment at adult care homes, hospitals, and home health agencies. The substitute bill would require the Kansas Department for Aging and Disability Services (KDADS) to perform fingerprint-based background checks on persons working in adult care homes. Current law provides that persons convicted of certain crimes (e.g., capital murder; rape) as an adult, or adjudicated as a juvenile, may not be employed at an adult care home. However, current law allows an adult care home to employ persons convicted of certain listed crimes if six or more years have elapsed since the applicant satisfied his or her sentence (e.g., mistreatment of a confined person; and unlawful administration of a substance). (On March 12, 2018, the House Committee on Federal and State Affairs, Rep. John Barker, Chair, filed a report recommending passage of the substitute bill.)

## INSURANCE

**SB 267** – Would update the statutorily referenced risk-based capital instructions promulgated by the National Association of Insurance Commissioners (NAIC) as of December 31, 2017. We reported on this measure in our February 2, 2018, issue. Current law references instructions promulgated as of December 31, 2016. The risk-based capital instructions ensure that each domestic insurance company has the minimum amount of capital to support overall business operations. (The bill passed the Senate - Yea: 30; Nay: 0. On March 13, 2018, the bill passed the House on final action - Yea: 119; Nay: 0)

**HB 2469** – As amended, the bill would prohibit local units of government from imposing restrictions or enforcing local licensing or registration ordinances on insurance claims-handling operations during any catastrophic event threatening life or property. The bill would require insurers to notify the city or county prior to establishing a claims-handling operation. We reported on the bill in our January 19, 2018, issue. A political subdivision would not be prohibited from exercising its police power when necessary. The bill defines “claims-handling operations” as including, but not limited to, the establishment of a base of operations on a temporary basis, not to exceed six months, by an insurer within a disaster area. The idea is to create a more streamlined approach to setting up temporary claims processing facilities during times of catastrophic loss. (As amended, the bill passed the House in February - Yea: 123; Nay: 0. On March 14, 2018, the bill passed the Senate on the Consent calendar - Yea: 40; Nay: 0.)

## STATE GOVERNMENT

**SCR 1613** – Amends Article 14 of the Kansas Constitution to allow the people “to propose and enact or reject amendments to the constitution by initiative, independent of the legislature.” Would also allow the people to propose and enact or reject laws by initiative, independent of the Legislature. Would also allow a referendum, with certain exceptions, on bills enacted by the Legislature. (Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, 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 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 House on a vote of 111-10. Awaiting action by the Governor*)

## TAXES

**SB 444** – Reduces the state sales tax on food and food ingredients to 4% starting on July 1, 2019, and to 2% starting on July 1, 2020. Transfers 17.4% of the sales tax receipts to the state highway fund during the period of January 1, 2019, to December 31, 2019, and 18.295% of such receipts to the state highway fund starting on January 1, 2020. (Referred to the Senate Committee on Assessment and Taxation, Senator Caryn Tyson, Chair)

# FOULSTON

ATTORNEYS AT LAW

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](mailto:jrankin@foulston.com).

---

## KANSAS LEGISLATIVE INSIGHTS EDITORS



**Jim Maag**  
[jmaag1@cox.net](mailto:jmaag1@cox.net)  
785.806.3472



**James P. Rankin**  
[jrankin@foulston.com](mailto:jrankin@foulston.com) | View Bio  
785.233.3600

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*<sup>®</sup> and the Missouri & Kansas *Super Lawyers*<sup>®</sup> 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.

---

*This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.*

## PRACTICE AREAS

---

- Government Affairs & Public Policy Law