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NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 9, 2018

A PROPERTY TAX SHUTOUT

The House Committee on Taxation held a hearing on HB 2740 on Tuesday. The bill would increase the statewide property tax mill levy to support schools from the current 20 mills to 38 mills over a three-year period. It would supposedly raise more than \$600 million, which is the amount many think the Kansas Supreme Court will say is an “adequate” amount to support Kansas schools.

By the end of the hearing it was property tax opponents 11, proponents 0. No group or individual presented testimony in favor of the bill, while a dozen different organizations, led by agriculture-related associations, spoke in strong opposition to the bill. The committee is not expected to take any action on the measure. The hearing was a harbinger of the battles to come during the next two months as to how the legislature is going to fund any increase in the current multi-billion dollar appropriation for the state's 286 school districts.

AN ANXIOUS WEEK AHEAD

Next week will finally be the week when the long-awaited study on funding K-12 education in Kansas arrives in Topeka. Prepared by school finance expert Dr. Lori Taylor, the report will first be analyzed and discussed by the two attorneys retained by the House and Senate to oversee the development and funding of a new school finance formula. The attorneys, former state Senator Jeff King and Curt Tideman, are scheduled to make their presentation on Friday afternoon, March 16, before a joint session of the House K-12 Budget Committee and the Senate Select Committee on Education Finance. Then on Monday, March 19, Dr. Taylor will make her presentation to those same education committees.

How rapidly the development of a plan to forward to the Supreme Court will occur depends largely on how the report is received by legislators. There is no reason to believe there will be a quick consensus.

AGE IS NO OBSTACLE

The fact that increasing numbers of Americans are working beyond the customary retirement years is readily apparent in the current membership of the Kansas Legislature. During the last two or three legislative election cycles, there has been a steady increase in the number of past-age-65 people serving in the legislature. It is very likely the current membership of the legislature has the highest average age of any in Kansas history. Among the

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165 legislators elected in 2016, there are 38% who are 65 or older. Compare that percentage with the over-65 legislators 50 years ago (13%), or the 1982 legislature, where only 9% were in that category.

Does the presence of so many senior legislators today have an impact on what kind of legislation gets passed? We shall see, but in the meantime, it is apparent that age is no obstacle to winning a legislative seat in Kansas.

BILL SUMMARIES

Listed below is selected legislation which was introduced or acted on this week. Additional information on any of the bills is available by clicking on the bill number.

AGRIBUSINESS

HB 2470 – Allows a microbrewery to contract with one or more microbreweries to manufacture and transfer beer or hard cider for the microbreweries. This can be done on both an intrastate and interstate basis. Such manufacturing must stay within the current gallonage and barrel aggregate limits set for microbreweries. *(Passed by the Senate on a vote of 39-0. Awaiting further action by the House)*

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. *(Passed by the Senate on a vote of 39-0. Awaiting action by the Governor)*

BUSINESS AND ECONOMIC DEVELOPMENT

Sub for HB 2572 – Directs the Department of Commerce to develop and publish a database on the various economic development and incentive programs with \$50,000 or more in annual incentives. The information must cover multiple years and be searchable and available on the internet. *(Passed by the House. Awaiting further action by the Senate)*

HB 2765 – Creates the Elevator Safety Act, which would govern the “design, construction, operation, inspection, testing, maintenance, alteration and repair” of defined conveyance equipment. Outlines the role of the State Fire Marshall in administering the Act. Establishes a nine-member advisory board appointed by the governor. Also establishes licensure and permit fees, which are to be deposited in the elevator safety fee fund. *(Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair)*

HB 2767 – Reinstates the Kansas Enterprise Zone Act that was in effect from 2000 to 2012. Grants state income tax credits to individuals willing to invest in “qualified business facilities” located in areas other than designated metropolitan counties. *(Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair)*

FINANCIAL SERVICES

SB 283 - Imposes time restrictions for notifying the State Bank Commissioner when there is a change of control of a state-chartered bank, bank holding company, or trust company. Allows a waiver of certain notifications if the bank or trust company is under a formal corrective action. Also broadens the experience requirements for the position of Deputy Commissioner for the Banking Division. ***(Signed by the Governor. Becomes effective upon publication in the State Register later this month)***

HEALTH CARE

HB 2768 – Approaches Medicaid services in a novel way. The bill would create a Medicaid expansion fund for purposes of medical assistance eligibility determinations for adults under 65 years of age who are not pregnant and whose income does not exceed 138% of the federal poverty level. The bill would also amend the Kansas tax law (K.S.A. 2017 Supp. 79-3310) to increase taxes on cigarettes to \$1.29 per pack of 20 in order to pay for expansion

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fund. All this in just one bill. (Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.)

SB 436 – Would require that the Kansas Department of Health and Environment (KDHE) and any managed-care organization providing Medicaid services under the Kansas medical assistance program provide coverage for tobacco cessation treatments (primarily in the form of reimbursements to any participating health care providers). Under the bill, a Medicaid recipient may not be limited in the number of covered tobacco cessation attempts. (Referred to the Senate Committee on Public Health and Welfare, Sen. Vicki Schmidt, Chair)

SB 428 – Would amend K.S.A. 65-527 concerning child-care programs serving school-age children and youth, including drop-in programs. We reported on a more expansive bill, SB 305 (which also addressed drop-in programs) in our January 26, 2018, issue. SB 305 has not moved forward, perhaps due to anticipated costs. SB 428 is more narrow and essentially clarifies that a facility (often a recreation center) will qualify for drop-in program licensure even if there are environmental deficiencies posing no imminent risk to children or youth. (On March 6, 2016, the Senate Committee on Public Health and Welfare, Sen. Vicki Schmidt, Chair, has recommended the whole Senate pass the bill.)

SB 438 – Would amend Chapter 39 of the Kansas Statutes to provide that there be no requirement for prior authorization or other restriction on medications used to treat mental health illness imposed on Medicaid recipients. The only exceptions are for medications subject to guidelines developed by a mental health advisory committee appointed by the Secretary of Health and Environment. Referred to the Senate Committee on Public Health and Welfare, Sen. Vicki Schmidt, Chair)

TAXES

HB 2416 – Allows an income-tax credit for the expenditures on goods and services purchased from non-profit businesses or specified vendors which have employees who are Kansas residents with disabilities. The tax credit can be equal to 15% of the goods and services purchased. Places an annual limit on the credits to an individual and a \$5 million cap on the life of the program. (*Passed by the House on a vote of 122-0. Awaiting further action by the Senate*)

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

- Government Affairs & Public Policy Law