



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 18, 2022

February 18, 2022

WEEKLY RECAP

This week, Kansas House and Senate Committees scrambled to finish hearings and passing non-exempt bills before the Feb. 24 house-of-origin deadline. The last-minute non-exempt bills recently introduced had only a one-week window to be heard and considered. Senate President Ty Masterson completed his reshuffling of Senate committees after last week's demotion and removal of three Senators from committees.

This week, two separate lawsuits were filed by the ACLU and Loud Light over the Congressional redistricting map. Additionally, the Senate Redistricting Committee announced it is ready to accept Senate map proposals. The Senate committee was informed that maps with districts with 5% population variances are constitutional.

This week, both chambers had relatively light debate calendars. On Tuesday, the Senate approved SB 200, allowing pharmacists to test and treat influenza, streptococcal pharyngitis, and urinary tract infections. The Senate also approved several changes to the insurance code for risk-based capital and updating the Captive Insurance Act. The other measure approved would update the terminology for hearing impairment to "deaf or hard of hearing." On Wednesday, the House debated House Concurrent Resolution (HCR) 5014, adding a constitutional amendment to the November ballot which allows a simple majority vote of the Legislature to overturn rules and regulations by state agencies. On Thursday, the resolution failed (80-33) to receive the necessary 84 votes. With 12 members absent due to the snow, there will be a motion on Monday to reconsider HRC 5014. It is expected to receive the necessary two-thirds vote to pass.

COMMITTEE ACTIVITY

The House Water Committee held four days of hearings on HB 2686 (mega water bill) and the committee started discussion on the bill this morning. It creates the Kansas Department of Water and Environment and includes comprehensive changes to Kansas water policy. House Water Committee Chair Rep. Ron Highland says HB 2686 is the culmination of a year's worth of discussions and concerns relative to groundwater management districts. The committee is slated for continuing discussions for Monday morning. An in-depth explanation of the bill's proposed

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changes is here.

On Tuesday, the House Transportation Committee heard HB 2609, allowing restricted driver's licensees ages 15 to drive to and from worship services for any religious organization. In addition, the committee heard HB 2628, expanding the definition of reckless driving to include operating a vehicle at a speed of 40 miles per hour or more over the posted speed limit. Kansas Highway Patrol Superintendent Herman Jones testified that this is a growing problem in Kansas and the Midwest with more than 3,200 Kansas violations last year alone – triple the number three years ago. Both bills passed the committee on Wednesday.

Senate Utilities Committee Chair Sen. Mike Thompson acknowledged this week that there was no support in his committee to advance SB 323, SB 324, and SB 353. SB 353 would have required that wind turbines be sited at least a mile or 10 times the height of the turbine from an adjacent property line. It would limit the decibel noise of the projects to levels the industry says are impossible and prohibit any shadow flicker on nonparticipating landowners' property. SB 323 would have allowed property owners to terminate their contracts with an energy company if a wind or solar project has not operated for at least three years. SB 324 would void lease agreements with landowners after five years if a certificate of site compatibility or a conditional use permit has not been issued.

The House Health and Human Services Committee conducted two days of hearings on HB 2281, implementing "988" as the suicide prevention and mental health crisis hotline in Kansas. On Thursday, the committee voted 10-5 to table HB 2463 (prohibiting changes to the Medicaid program Managed Care Organizations) until the Attorney General rules on the legality of the bill.

On Thursday, the House K-12 Education Budget Committee approved HB 2662, with a parental bill of rights giving parents more supervision over information their children are being taught. It is the first bill addressing critical race theory in either chamber to reach the floor. One amendment added on Thursday requires teachers to give advance notice if discussing issues involving sex, gender, race, or religion. The shorter Senate version is SB 496, which was heard in the Senate Education Committee on Wednesday.

The Week Ahead

Monday is the last day for non-exempt bills to be considered by committees. Tuesday through Thursday, both chambers will be on the floor debating bills to meet the Feb. 24 turnaround deadline for bills in the house of origin. The Legislature is off Friday to take a long weekend before returning to session March 1. First adjournment is April 1.

BILL INTRODUCTIONS

TAXATION

Sub. SB 318 – As recommended by the House Committee on Taxation, Rep. Adam Smith, Chair, would create a sales-tax exemption for purchases necessary to reconstruct, repair, or replace a fence used to enclose agricultural land that was damaged or destroyed by a wildfire, flood, tornado or other natural disaster occurring on or after Jan. 1, 2021.

SB 339 – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would amend law related to sales tax. The bill would contain provisions related to sales taxes on food, utilities, and separately stated delivery charges as well as sales taxes collected by movie theaters.

SB 463 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would create a credit to be applied to each remittance of sales and compensating use tax by a retailer. The credit would be equal to 1.5 percent of each remittance and limited to \$300 per month for each retailer.

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SB 464 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would eliminate the 1.0 mill Kansas Education Building Fund property tax levy and 0.5 mill State Institutions Building Fund property tax levy beginning in tax year 2023. (FYI – has already passed out of committee.)

SB 495 – Would establish the SALT Parity Act to allow pass-through entities to elect to pay state income taxes at the entity level. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 503 – Would amend the Kansas property-tax law relating to judicial tax-lien foreclosure sales, provide requirements for publication service and confirmation of sale, and expand costs included in redemption fees. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 509 – Would specifically permit refunds of sales taxes paid on certain purchases to reconstruct, repair, or replace buildings and improvements damaged by certain disasters. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HEALTHCARE

SB 168 – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would amend the Prescription Monitoring Program Act to add to the list of information a dispenser may submit to the Prescription Monitoring Program (K-TRACS), allow the State Board of Pharmacy (Board) to charge fees, amend the list of individuals to whom the Board can provide K-TRACS data, amend how data is stored outside of K-TRACS, and add one member to the K-TRACS Advisory Committee.

SB 276 – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would, among other things, prohibit blindness from being a determinant factor for denial or restriction of legal custody, residency, or parenting time when it is determined to otherwise be in the best interest of a child.

SB 387 – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would amend licensure requirements for certain professions licensed by the Behavioral Sciences Regulatory Board.

SB 489 – Would remove specific regulatory authority concerning infectious or contagious diseases from the Secretary of Health and Environment. Referred to the Senate Committee on Federal and State Affairs, Sen. Robert Olson, Chair.

SB 500 – Would permit establishment of a long-term psychiatric care facility for individuals (generally, children in continuing crisis), who do not qualify for admission to psychiatric residential treatment facilities or any state psychiatric hospital. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

SB 501 – Would require able-bodied adults without dependents to complete an employment and training program in order to receive food assistance and require state agencies to conduct cross-checks to verify public-assistance eligibility. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

SB 502 – Would move the provisions relating to licensure of maternity centers from Article 5 of Chapter 65 of the Kansas Statutes into a new Article. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

HB 2698 – Would establish a joint committee to study pharmacy workplace conditions and the impact of such conditions on patient safety. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2699 – Would exempt any skilled nursing care facilities for which the Secretary for Aging and Disability Services is appointed as receiver from such quality care assessment. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

COURTS, LAWS, AND REGULATIONS

Sub SB 34 – As recommended by the Senate Committee on Federal and State Affairs, Sen. Robert Olson, Chair, would require all rules and regulations adopted under the Rules and Regulations Filing Act to be reviewed by the agencies every five years, would establish reporting requirements for agencies, and would establish an alternative revocation procedure for certain rules and regulations.

SB 376 – As amended by the Senate Committee on Federal and State Affairs, Sen. Robert Olson, Chair, would amend the Rural Housing Incentive District Act to expand the use of bond proceeds and expand availability of loans or grants for moderate-income housing.

SB 395 – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would create law concerning the authority of Kansas Department of Wildlife and Parks to conduct surveillance on private property.

SB 434 – As recommended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would amend law in the Kansas Open Records Act.

SB 443 – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would appropriate \$332.2 million from the State General Fund to the Department of Administration in FY 2022 to pay off the remaining balance of two series of callable bonds ahead of the final maturity dates in FY 2035.

SB 505 – Would enact the Protect Home-based Work Act and would prohibit zoning regulations that are barriers to home-based work. Referred to the Senate Committee on Commerce, Sen. Renee Erickson, Chair.

SB 507 – Would continue certain exceptions to disclosure under the Kansas Open Records Act. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair.

Sub. For HB 2212 – As recommended by Senate Committee on Federal and State Affairs, Sen. Robert Olson, Chair, would enact the Kansas Housing Investor Tax Credit Act and the Kansas Affordable Housing Tax Credit Act. The bill's purpose is to bring housing investment dollars to communities lacking adequate housing, and that development of housing will complement economic development of rural and urban areas.

HB 2268 – As amended by the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair, would enact the Kansas Rural Home Loan Guarantees Act. The provisions of the Act would be administered by the Kansas Housing Resources Corporation, and loan transactions eligible for a guarantee would include the construction or renovation of a single-family home in a rural county.

HB 2688 – Would require licensed farm wineries be issued a cereal malt beverage retailer license provided the statutory requirement for beer retailers is satisfied. Referred to the House Committee on Commerce, Labor and Economic Development, Sen. Sean Tarwater, Chair.

HB 2694 – Would enact the Third-Party Litigation Financing Consumer Protection Act and would require specific regulation of litigation financing. Referred to the House Committee on Judiciary, Sen. Fred Patton, Chair.

HB 2701 – Would allow the use of bond proceeds under the Kansas Rural Housing Incentive District Act for residential vertical development and renovation of certain buildings within economically distressed urban areas. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2703 – Would amend the Kansas Employment Security Law as it relates to the employment security fund and employer contribution rates. The definition of "employment" would be amended to conform with federal law. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2704 – Would amend the Kansas Worker's Compensation law to, among other things, make notification to an injured employee by an employer or insurance carrier of changes to or termination of medical or disability benefits discretionary and provide that an employee seeking benefits waives the patient privilege which might otherwise

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prevent access to medical records and healthcare providers. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2708 – Would establish legal standards for laboratories and persons engaged in testing medical marijuana. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HB 2710 – Would allow for the increase of the percentage of alcohol per volume in domestic table and fortified wine up to 16% for table wine and 16% but not more than 20% for fortified wine. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

AGRICULTURE

SB 345 – As amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would authorize the Animal Health Commissioner to impose a civil penalty and deem a violator guilty of a class C nonperson misdemeanor for intentional and knowing violations of the requirement to have a certificate of veterinarian inspection (CVI) when transporting animals into the state.

SB 417 – As amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would establish new permit renewal fee limitations for solid-waste disposal areas and solid-waste processing facilities that are regulated by the federal standards for the disposal of coal-combustion residuals.

SB 498 – Would establish the animal facilities inspection program under the supervision of the Secretary of Agriculture. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

HB 2530 – As recommended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would prohibit the use of identifiable meat terms on the labels of meat analogs when the labels do not include proper qualifying language to indicate that such products do not contain meat.

HB 2559 – As amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would establish the Kansas Cotton Boll Weevil Act and create the Kansas Cotton Boll Weevil Program, which would be administered by a board of directors.

HB 2560 – Would extend the sunset for the Water Right Transition Assistance program from July 1, 2022, to July 1, 2030. It also extends the sunset from July 1, 2023, to July 1, 2028, for various existing fees of the Pesticide and Fertilizer Program within the Kansas Department of Agriculture. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair. The House Committee of the Whole passed the bill on final action: Yea 101, Nay 11. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

HB 2563 – As amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would create new law regarding industrial-hemp testing services and seed treated with an irritating or poisonous substance, and update laws that are administered by the Plant Protection and Weed Control Program of the Kansas Department of Agriculture.

HB 2706 – Would place specific delta-9 THC concentration limits on final hemp products. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair.

REAL ESTATE

HB 2691 – Would prohibit access restriction to the real estate Multiple Listing Service or broker's organizations based upon lawful expressions of personal beliefs in a nonprofessional setting. Referred to the House Committee on Commerce, Labor and Economic Development, Sen. Sean Tarwater, Chair.

INSURANCE

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SB 399 – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would amend the Health Care Provider Insurance Availability Act by adding a maternity center, as defined in K.S.A. 65-503, to the definition of a health care provider in the Act.

Sub. SB 400 – As recommended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would amend the Kansas Uniform Trust Code to add to the list of trust matters that could be resolved by a nonjudicial settlement agreement to increase the limit on the total value of a trust before a trustee could seek to terminate such trust as being non-economic, and to amend the definition of a “resident trust.”

HB 2510 – As recommended by the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair, would amend certain investment limitation requirements to increase the permissible investment options in equity interests and preferred stock for Kansas-domiciled life insurance companies. The bill would also correct the unlawful delegation of authority in current statutes.

UTILITIES

HB 2591 – Would repeal Kansas law which requires the Kansas Corporation Commission to transfer \$100,000 from the state general fund and \$200,000 from the conservation fee fund to the abandoned oil and gas well fund. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair. The House Committee of the Whole passed the bill: Yea 112, Nay 0. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

HB 2689 – Would limit a public utility’s cost recovery when replacing or retiring certain coal-fired electric facilities. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Blaine Finch, Chair.

HB 2696 – Would establish generation requirements for certain renewable energy facilities providing baseload generation. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Blaine Finch, Chair.

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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