



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 24, 2022

February 24, 2022

TURNAROUND WEEK

On Monday, Feb. 21, the Kansas House of Representatives passed a motion to reconsider its action on HCR 5014, adding a constitutional amendment concerning legislative oversight of administrative rules and regulations by state agencies. The House passed the measure with the necessary two-thirds vote; 85-29. Last week, HCR 5014 failed with only 80 votes.

On Tuesday, the House debated 30 relatively non-controversial bills and the Senate debated more than 20 measures. The House debated “no-knock” search warrants by law enforcement for an hour. The chamber rejected an amendment 85-34 to outlaw surprise searches. The Senate mulled over the authority of the Kansas Department of Wildlife and Parks to place cameras on private land to monitor wildlife and illegal hunting. The Senate approved the filming with the permission of the property owner. The Senate did approve higher penalties for so-called “porch pirates” who steal packages from front doors and porches.

On Wednesday, the House debated only two measures and voted on the 30 measures debated on Tuesday and the two bills debated on Wednesday morning before adjourning until March 1. The House overwhelmingly passed (97-24) House Concurrent Resolution 5022, This places a constitutional amendment on the November ballot establishing that sheriffs stand for election every four years and that they could only be removed from office only through legal action by a recall vote in the county or by the state attorney general. The constitutional amendment stems from a dispute in Johnson County about oversight of the sheriff’s department.

On Wednesday, the Senate debated 12 bills including SB 453, requiring unlicensed adult care home employees to have training. Among the Senate Judiciary Committee bills on General Orders were SB 141: modernizing the Kansas Uniform Directed Trust Act; SB 150: Defining and prohibiting certain deceptive lawsuit advertising practices and restricting the use or disclosure of protected health information to solicit individuals for legal services; and SB 483: increasing penalties for crimes of theft and criminal damage to ATMs. The Senate Federal and State Affairs Committee had several measures on the debate calendar including SB 382, concerning real estate brokers and issuing cease-and-desist orders by the Kansas Real Estate Commission. The Senate debated and passed SB 493,

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prohibiting cities and counties from the regulation of plastic and other containers. The Senate approach to rules and regulations differs from the House constitutional amendment approach, with Senate Sub for SB 34 requiring the review of rules and regulations every five years.

MONDAY COMMITTEES

On Monday, the House Health and Human Services Committee heard HB 2498, concerning childhood immunizations, that prohibited the Secretary of Health and Environment from requiring a COVID-19 vaccine to attend a childcare facility or a school. A motion to suspend the rules and vote on the bill failed. The committee had an additional meeting at 5 pm to discuss HB 2463 (Medicaid managed-care contracts) which was tabled last week on a 10-5 vote pending an opinion from the Attorney General. Last week, the committee wanted a nonbinding AG opinion on whether it was legal for the state to award a no-bid, no-questions-asked contract extension to the Managed Care Organizations (MCOs). On Monday, the committee voted to take the bill off the table and approved (9-6) compromise language delaying the contract-bidding process for the Medicaid managed-care contracts for one year. Questions were raised about the legality, whether the Centers for Medicare & Medicaid Services (CMS) would approve the change and who sponsored the bill. HB 2463 holds an unusual distinction in that there were no proponents for it during the House Health and Human Services Committee hearing.

The House Water Committee continued discussion on HB 2686, the mega water bill. House Chair Rep. Ron Highland announced he was preparing to remove the section regarding groundwater management district elections and would be asking for an interim committee to study the issue. There was some interest in not placing all the environment issues into the new agency but to target only the water/environment. The Chair announced committee members should get their amendments ready for next Tuesday, March 1.

The House Insurance and Pension Committee discussed two bills: HB 2612 authorizes a self-funded cost-of-living adjustment retirement benefit option for KPERs, and after discussion, no action was taken; SB 199, providing for short-term, limited-duration health plans, was approved after a motion to table failed 7-8. This bill is nearly identical to one Governor Laura Kelly vetoed last year.

Monday morning, the Senate Public Health and Welfare Committee held a hearing on advanced practice registered nurses' scope of practice. The committee struck the contents of HB 2279 and inserted SB 454, amending the advanced practice registered scope of practice to permit the prescribing of controlled substances with a supervising physician. The Senate Sub for HB 2279 passed. The committee also approved SB 453, requiring unlicensed employees of adult care homes to successfully complete training courses.

BLESSING OF THE BILLS

If a non-exempt bill did not meet the House of Origin deadline, it is dead for this session, right? Not necessarily; there are always options. One approach is the option of getting leadership in either chamber to bless a bill by sending it to an exempt committee (Appropriations, Federal and State Affairs or a tax committee, for example) to keep it alive for further consideration. On Wednesday, the Senate blessed eight bills by referral to an exempt committee. The subjects ranged from education (SB 455, allowing K-12 students to transfer to any school district in the state; SB 484, the Fairness in Women's Sports Act; and SB 496, the Parents' Bill of Rights for K-12, to requiring employment and training to receive food assistance for public assistance (SB 501).

The House leadership blessed more than 30 bills with subjects ranging from education, elections, foster care, health care, insurance, KPERs, and meat labeling to worker's compensation. There were more than 12 tax bills pending on the House debate calendar and more than 15 on the Senate calendar. Further consideration of tax policy will be delayed until later in the session when the fiscal impact can be calculated.

NEXT WEEK

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The Legislature returns on Tuesday, March 1, to consider bills from the other chamber. Next month, we will get our first glimpse of the proposed redistricting maps for the House and Senate. The Senate Redistricting Committee has already solicited input and requests for new maps before turnaround. The House of Representatives map will be more complicated, with 125 seats and many of the current districts losing population. Before leaving town on Wednesday, the Legislative Coordinating Council hired legal counsel to protect the Legislature in upcoming lawsuits challenging the redistricting of the four congressional districts. The vote was along party lines.

Next week, the Kansas Department of Revenue will release the February revenue numbers, which will have the attention of the budget committees. If the unnamed company related to the APEX (Attracting Powerful Economic Expansion) bill accepts the bid from Kansas next month, it may change the dialogue on tax policy this session. APEX's \$1.2 billion price tag for the economic incentives made some legislators wary about the size of other tax cuts.

BILL INTRODUCTIONS

TAXATION

SB 519 – Would increase the standard deduction for Kansas state income-tax purposes. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. The Committee has recommended the bill be passed.

HB 2186 – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would permit certain qualified corporation income taxpayers to elect to use only the sales factor to apportion their income to Kansas for tax purposes.

HB 2711 – Would reduce the rate of sales and compensating use taxes on all sales and further reduce the rate on sales of food and food ingredients. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair. A hearing has been scheduled on the matter for March 2.

COURTS, LAW, AND REGULATIONS

SB 141 – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would enact the Kansas Uniform Directed Trust Act to govern directed trusts and amend certain provisions of the Kansas Uniform Trust Code accordingly.

SB 199 – As amended by the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair, would amend law in the insurance code governing specially designed policies and short-term policies.

HB 2219 – As amended by the Senate Committee on Commerce, Sen. Renee Erickson, Chair, would create the Kansas Targeted Employment Act, which would establish a tax credit for employers who employ Kansas residents with developmental disabilities. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair. The House Committee of the Whole passed the bill on final action: Yea, 123; Nay, 1.

HB 2714 – Would prohibit workplace discrimination and other forms of discrimination based on an individual's COVID-19 vaccination status. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HEALTHCARE

Sub. for SB 286 – As recommended by the House Committee on Judiciary, Rep. Fred Patton, Chair, would extend the expiration dates for certain governmental responses to the COVID-19 pandemic from March 31, 2022, until Jan. 20, 2023.

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SB 531 – Would create the Massage Therapist Licensure Act, providing for the regulation and licensing of massage therapists. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

Sub. for HB 2279 – As recommended by the Senate Committee on Public Health and Welfare, Rep. Richard Hilderbrand, Chair, would amend law in the Kansas Nurse Practice Act relating to advanced practice registered nurses.

Sub. For HB 2463 – Would prohibit changes to the state medical assistance program (KanCare) beginning on the effective date of the bill through Jan. 1, 2025. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the substitute bill be passed and was referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2524 – As amended by the House Committee on Children and Seniors, Rep. Susan Concannon, Chair, would regulate supplemental nursing services agencies by establishing certain requirements and place certain prohibitions on supplemental nursing services agency billing practices.

UTILITIES

SB 518 – Would, among other things, enact the Kansas Reliable Energy Investment Protection Act and require that a state agency cannot enter into a contract with a company for goods or services unless the contract contains a written verification that the company does not and will not boycott energy companies during the term of the contract. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, 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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PRACTICE AREAS

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