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NEWSLETTERS

KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 23, 2024

TURNAROUND WEEK

Tuesday was the deadline for committees to finalize action on non-exempt bills. After two days of floor action on Wednesday and Thursday, the turnaround week ended Thursday at 5 p.m. with the House adjournment. A wide range of bills were approved with the vast majority being non-controversial and passing by large margins. The House only killed three measures. Non-exempt bills not passed by Feb. 24 will be dead for this session. The only exception is that some non-exempt bills were blessed by referral to a non-exempt committee (i.e., Appropriations, Federal and State Affairs, Tax Committees). Wednesday and Thursday, both chambers were on the floor all day. Legislators will return on Wednesday, Feb. 28 to begin the second half of the session.

HOUSE VETO OVERRIDE FAILS

The deadline for considering an override of Gov. Kelly's tax package veto (HB 2284) was this week. The focus has been on efforts to find one vote in the Kansas Senate to reach the necessary 27 votes (two-thirds). Recently, rumors have been circulating that the House vote would be close. Tuesday, the House failed to muster the necessary 84 votes (two-thirds) to override the veto. The vote was 81-42. Both parties are supportive of most of the provisions of HB 2284. The 5.25% flat tax continues to be the point of contention. In an election year, tax relief will continue to be among the highest priorities for this session. We expect negotiations to resume after the Legislature returns from the turnaround break.

HOUSE FLOOR ACTION

This week the House of Representatives completed its debated calendar with relatively little controversy and concluded its work by late Thursday afternoon. One of the most significant pieces of legislation was Sub HB 2570 concerning the Employment Security Law and unemployment taxes. House Committee on Commerce, Labor, and Economic Development Chair Rep. Sean Tarwater noted this bill represented months of hard work and commended the committee and all parties involved. It passed 97-23.

During debate on HB 2596 concerning controlled substances and adding/removing certain substances in schedules I, II, IV and V of the Uniform Controlled Substances Act, Wichita Rep. Silas Miller proposed removing marijuana from schedule I. Under Kansas law and the DEA, marijuana is defined as a schedule I drug, which is considered to be devoid of medical use and high risk for substance use disorders. The motion failed.

The House debated several election bills and recommended Sub HB 2512, as amended. Sub HB 2512 would amend provisions of election law pertaining to advance in-person voting. The bill would permit county election officers to provide for advance in-person voting on the Saturday or Sunday preceding the election and would require county election offices to provide at least four hours for advance in-person voting on the Saturday preceding the election. [Note: Current law states county election officers may allow advance in-person voting on the Saturday preceding the election.] Beginning on and after Jan. 1, 2025, the bill would provide that advance in-person voting must end no later than 7:00 p.m. on the Sunday preceding the election. Rep. Vic Miller, D-Topeka successfully added an amendment to authorize a county election officer to allow in-person voting until 12:00 noon on the Monday before an election for any person for good cause. The bill passed 97-25.

HB 2516 generated some healthy discussion. It would change the number of signatures required for nomination petitions for independent candidates for statewide office from 5,000 signatures to at least two percent of the total vote cast for all candidates for the office of governor in the state in the last preceding general election. This would be more than 20,000 signatures based on the 2022 gubernatorial election. On final action it passed 68-52.

The House passed more than 60 bills and rejected three bills. The House rejected HB 2591 exempting the Kansas Corporation Commission from a portion of the state's Open Meetings Act by a vote of 38-82.

The House also rejected HB 2523 concerning driver's licenses, farm permits, and allowing farm permit holders, beginning at age 15, to drive to and from religious activities held by any religious organization. After a comment that the wording seemed to be anti-agriculture, it failed on a vote of 48-72.

The third bill rejected was HB 2637 relating to rural emergency hospital licensure and expanding eligibility to facilities that meet criteria between January 2015 and December 2020. The vote was: Yea: 58; Nay: 62.

SENATE FLOOR ACTION

The Senate calendar had many non-controversial measures on their calendar. Among the noteworthy bills passed was SB 430, reforming and updating the Workers' Compensation Act. The Act represents the hard work of all the stakeholders who came together to reach this compromise legislation. The bill addresses coverage under the Workers Compensation Act, notices, benefits, liability limitations, definitions, evidentiary standards, hearings, admission of evidence, procedures, settlements, and other matters. The bill would also provide coverage for members of the Kansas National Guard under the Workers Compensation Act and limit reduction to awards for functional impairment on the basis of preexisting impairment.

Thursday, the Kansas Senate approved a bill tripling the amount of money that goes toward keeping up public airports, which are increasingly coping with deteriorating runways, taxiways, and aprons. The Senate voted 36-4 to pass the legislation, which increases grant funding for the state's 109 public airports from $5 million per year to $15 million per year. A recent report by the Kansas Department of Transportation identified $1.3 billion in overall needs for the state airport network over 10 years, along with $589.6 million in available funding from all sources – a difference of $743.8 million. The report concluded the state needs $33 million more a year to bring airport pavement up to satisfactory condition without accounting for other airport needs across the state.

This week the Senate Public Health Committee finalized legislation addressing COVID-19 issues from the pandemic. Senate Health Chair Sen. Beverly Gossage noted SB 391 addresses directives issued in the past by KDHE secretary and some public health officers that were overreaching. She stressed the bill affirms the right of

patients to direct their health care at medical facilities and would eliminate the state health secretary's authority to issue directives amid outbreaks of infectious disease. The bill passed 23-17.

HOUSE MEMBER RESIGNS

This week State Rep. Owen Donohoe, R-Shawnee, announced his resignation effective March 13. He represents House District 39 in Johnson County. Republican precinct committee person will elect his successor. He previously served in the House from 2007 to 2012.

PRESIDENTIAL PREFERENCE PRIMARY

The March Presidential Preference Primary is less than a month away. Feb. 20 was the deadline for registering or updating voter registration information. The Secretary of State's website notes that Feb. 28 is the first day of advance voting. The primary is Tuesday, March 18.

BILL INTRODUCTIONS

COURTS, LAWS, AND REGULATIONS

SB 525: TECHNOLOGY. This bill, introduced by the Senate Committee on Federal and State Affairs, would create the Protection Against Deep Fakes Act to provide a cause of action for damages arising from the use of generative artificial intelligence to create an image or likeness of another person in an obscene manner without such person's consent. This bill has been referred to the Senate Committee on Judiciary chaired by Sen. Kellie Warren.

HB 2812: FINANCIAL INSTITUTIONS. This bill, introduced by the House Committee on Appropriations relates to the Kansas Mortgage Business Act and the Uniform Consumer Credit Code pertaining to certain definitions and terms contained therein and would modify consumer loan finance charge and repayment terms, record requirements, credit card surcharge, and the definition of earnings and days increase. The bill would also increase the threshold for certain consumer loans and leases, address origination fees for non-real estate transactions, clarify license requirements to make supervised loans, exempt supervised loan license form filing notification, and transfer mortgage provisions contained in the Uniform Consumer Credit Code to the Kansas Mortgage Business Act; clarifying entities exempt for licensing. This bill has been referred to the House Committee chaired by Rep. Nick Hoheisel.

SUBSTITUTE FOR HB 2598: REAL ESTATE TRANSACTIONS. This bill, introduced by the House Committee on Commerce, Labor, and Economic Development, would authorize the Kansas Real Estate Commission to issue cease-and-desist orders, prohibit dealing in assignable contracts for the purchase or sale of or options on real estate or improvements thereon for certain residential housing, and would regulate contract for deed transactions and provide that such prohibited dealing in assignable contracts and certain deceptive actions pertaining to such contract for deed transactions are violations of the Consumer Protection Act. The House Committee on Commerce, Labor, and Economic Development chaired by Rep. Sean Tarwater recommended passage of this substitute bill.

TAXATION

HB 2804: TAXATION. This bill, introduced by the House Committee on Taxation, would provide for the Preceptor Income Tax Incentive Act and would establish a credit for physicians and physician assistants that serve as a community-based faculty preceptor by providing personalized instruction, training, and supervision for students. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith.

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UTILITIES

SB 517: ENERGY. This bill, introduced by the Senate Committee on Federal and State Affairs, relates to the reliability of electric generation facilities, would provide guidelines for decommissioning of certain electric generation facilities, and would require a utility to replace a closed or decommissioned facility with an equivalent amount of reliable and readily dispatchable electric generation**.** This bill has been referred to the Senate Committee on Utilities chaired by Sen. Michael Fagg.

HEALTHCARE AND INSURANCE

SB 518: INSURANCE. This bill, introduced by the Senate Committee on Ways and Means, relates to complex rehabilitation technology, establishing coverage and reimbursement, therefore, provides for the formation of a complex rehabilitation technology reimbursement task force, creates the Complex Rehabilitation Technology Coverage Act and directs the commissioner of insurance to adopt rules and regulations. This bill has been referred to the Senate Committee on Public Health and Welfare chaired by Sen. Beverly Gossage.

HB 2809: HEALTHCARE. This bill, introduced by the House Committee on Federal and State Affairs, creates the Every Mom Matters Act and would establish the Every Mom Matters Program in the Department of Health and Environment, requiring the state treasurer to contract with eligible organizations to provide information and support services to pregnant women and parents considering adoption. This bill has been referred to the House Committee on Federal and State Affairs chaired by Rep. Will Carpenter.

HB 2810: INSURANCE. This bill, introduced by the House Committee on Federal and State Affairs, relates to the Kansas Life and Health Insurance Guaranty Association, including health maintenance organizations as members of insurers therein and would broaden the assessment base for long-term care insolvencies. This bill has been referred to the House Committee on Insurance chaired by Rep. William Sutton.

BILL TRACKING HISTORY

A history of the bills we are tracking as of Feb. 22, 2024, can be found here.

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 and periodically when the Legislature is not in 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, C. Edward Watson, II, at 316.291.9589 or cewatson@foulston.com. Learn more about the authors below:

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