



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 14, 2020

WEEK FIVE OVERVIEW

Uncertainty marked week five of the 2020 Kansas Legislature. Last Friday, the House of Representatives was unable to muster the 84 votes necessary to place the abortion constitutional amendment on the August primary election ballot. Senate President Susan Wagle expressed her disappointment and frustration by saying that Medicaid expansion will not be considered in the Senate until the abortion issue is resolved. This week, the Senate Public Health and Welfare Committee delayed consideration of the Medicaid expansion proposal. The result is uncertainty relative to whether any health-related legislation will be considered this session.

House and Senate budget subcommittees have been grinding through the state budget with early-morning and lunch-hour work sessions. On Monday, the House Financial Institutions and Insurance Committee sent, without recommendation, the governor's bill to reamortize KPERS outstanding unfunded liability.

House and Senate committees heard a wide range of issues ranging from banning the sale of unpasteurized milk to raising the minimum age to possess tobacco products to 21 and banning vending-machine sales of cigarettes and flavored vaping products. Sports gaming is also under consideration. The Senate Agriculture and Natural Resources Committee held hearings on SB 300, prohibiting the sale of unpasteurized milk for human consumption and SB 308, allowing the on-farm retail sale of raw unpasteurized milk so long as certain labeling and advertising requirements are met. The House Education Committee heard testimony on childhood immunizations. The Senate Education Committee heard an update from the Dyslexia Task Force and held a hearing on SB 336, creating the Kansas Reinvest in Postsecondary Education Act.

GOVERNOR'S EROS

This week, House Committees rejected two of Governor Kelly's Executive Reorganization Orders (EROs), which were to be effective July 1 without legislative action. On Tuesday, the House Appropriations Committee rejected the ERO combining three departments into the Kansas Department of Health and Human Services. The House Energy, Utilities, and Telecommunications Committee passed to the full House its opposition to the ERO moving the Kansas Energy Office out of the KCC into a separate agency.

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On Thursday, the House General Government Budget Committee approved Gov. Laura Kelly's Executive Reorganization Order that moves the administration of the State Employee Health Plan and the State Self-Insurance Fund under the Department of Administration. The concept was recommended by a 2016 efficiency study by consulting firm Alvarez and Marsal.

TAX UPDATE

On Wednesday, the House Tax Committee passed two tax-cut bills. HB 2005 would allow individuals to itemize deductions in Kansas despite not itemizing on their federal return. The Committee further amended the bill to be effective in 2020. The House Tax Committee also approved HB 2538, increasing the standard deductions for individuals, joint filers, and heads of household that we described in last week's issue.

MAJOR DEADLINES

Today (Friday, Feb. 14) is the last day for non-exempt committee bill introductions. Wednesday, Feb. 12, was the deadline for individual bills by legislators. The result is a glut of new bills which cause eye strain as various associations, lobbyists, lawmakers, and other legislative interests delve into the details of each piece of proposed legislation.

BILL INTRODUCTIONS

TAXATION

HB 2593 – Would permit taxpayers making contributions to Kansas technical colleges (for capital improvements, deferred maintenance, or technology) on or after July 1, 2020, a tax-credit allowance against Kansas income tax. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

SB 398 – Would provide for a refundable food sales tax credit and would discontinue the nonrefundable food sales tax credit. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 400 – Would authorize Kansas counties to levy an "earnings tax" of not more than 1% per year on all individuals employed or working within such county and all resident individuals of the county who are employed or working outside the county. "Earnings tax" means a tax on salaries, wages, commissions, and other compensation. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 397 – Would amend K.S.A. 79-3602 in order to impose sales tax on digital property and subscription services. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 399 – As a companion to a pending House bill, would require marketplace facilitators (e.g., Wal-Mart, Amazon, Etsy, etc.) to collect and remit sales and compensating use tax. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2607 – Would permit property tax assessed against a person's primary residential property to be paid off on installment plans. For a taxpayer to be eligible for the installment-payment plan, the taxpayer must not have any unpaid prior-year property taxes against the property. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2626 – Would increase the standard deduction and personal exemption in calculating Kansas income tax. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2628 – Would allow individuals to itemize their deductions for Kansas income tax purposes even though they did not itemize on their Form 1040. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

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HB 2627 – Would increase the Kansas income tax credit available for expenditure intended to make a principal dwelling disability-accessible. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2616 – Would adjust the sales and compensating use tax rate on food and food ingredients. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2615 – Would replace the Board of Tax Appeals (BOTA) small-claims appeal process with a mediation procedure for certain tax appeals. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2617 – Would make income and sales tax rate adjustments for food, food ingredients, and feminine hygiene products. Referred to the Taxation, Rep. Steven Johnson, Chair.

COURTS, LAWS, AND REGULATIONS

HB 2596 – Would permit an alcoholic-liquor manufacturer to obtain a drinking-establishment license provided such establishment is within 1.5 miles of the manufacturing site and provided the establishment does not exclude the alcoholic products of other manufacturers. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

SB 378 – Would extend the period for unemployment insurance benefits eligibility to 26 weeks for the next two years. The measure is sponsored by Sen. Peterson of Wichita. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

SB 293 – As amended, would amend the Charitable Organizations and Solicitations Act to transfer responsibilities related to registration under the Act from the Secretary of State to the Attorney General. The Attorney General would be given authority to adopt rules and regulations necessary for administration of the Act. The Committee has recommended the bill be passed as amended by the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 391 – Would create the Right to Earn a Living Act. The purpose would be to minimize unnecessary occupational licensing and regulation in order to protect free enterprise. If passed, the law would require state licensing agencies or boards to justify restrictions on entry into a business or profession. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

HB 2620 – Would prohibit the use or offer of technology capable of transmitting inaccurate caller identification information. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair. A hearing has been scheduled for this matter on Feb. 18, 2020.

HB 2618 – Would establish a state-sponsored broadband grant program through the Kansas Department of Commerce to encourage deployment of broadband throughout the state. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair. A hearing has been scheduled for this matter on Feb. 13, 2020.

SB 403 – Would modify the appointment and confirmation process for nominees to the Court of Appeals. The proposal would specify that the Governor is empowered to withdraw a nominee. Referred to Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 405 – Would amend the existing law on driving under the influence. Among other things, new specifications regarding ignition interlock devices are proposed. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

HB 2606 – Would provide for filling a vacancy in the office of the State Treasurer (currently held by the Honorable Jake LaTurner (R), who is running for Congress) and Insurance Commissioner (currently held by the Honorable Vicki Schmidt (R), who is not running for a different position) by a statewide district convention. Under current law, arguably a vacancy in either post could be filled by gubernatorial appointment (i.e., filled by someone selected by

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the Honorable Laura Kelly (D)). Referred to the House Committee on Election, Rep. William Sutton, Chair. A hearing has been scheduled for this matter on Feb. 20, 2020.

SB 424 – Would amend certain provisions of the Kansas Corporation Code regarding business entities and business filing with the Secretary of State. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

SB 153 – Would amend existing law and provide for Kansas Department of Health and Environment administrative power related to responses to soil and water pollutant release, discharge, or escape. The Committee has recommended the bill be passed as amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

SB 417 – Would modify existing Kansas liquor law by authorizing the sale of alcohol by a Class A club to non-members but only during a special “event.” The term event is specifically defined. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

SB 253 – Would amend existing law concerning service of process to an individual who causes a vehicle accident in Kansas but does not maintain a Kansas license by establishing the procedures to allow a plaintiff to serve a defendant through the Secretary of State or through an adult person, not a party to the suit or office, duly qualified to serve legal process in the jurisdiction where the defendant is found. The bill would also amend the service of process statute for business entities to include limited liability partnerships. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HEALTHCARE

HB 2570 – Would limit many opioid prescriptions to a seven-day supply. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2574 – Would amend the School Sports Head Injury Prevention Act to require schools to establish concussion management teams to supervise the head-injury management process. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2579 – Would update and modify certain aspects of the Kansas prescription monitoring law. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

SB 381 – Would authorize loan assistance to medical students and residents to encourage the practice of obstetrics and gynecology in Kansas’ medically underserved areas. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Sullentrop, Chair.

SB 367 – Would prohibit behavioral health licensees from using conversion therapy on a patient. Conversion therapy means any practice or treatment that seeks to change an individual’s sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex or gender. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Sullentrop, Chair.

HB 2603 – Would make amendments to the State’s behavioral sciences professional licensing requirements. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2629 – Would require the Kansas Department of Aging and Disability Services to regulate supplemental nursing service agencies. A “supplemental nursing services agency means a person engaged for hire in the business of providing or procuring temporary employment in healthcare facilities for nurses and nurse aides.” Referred to the House Committee on Children and Seniors, Rep. Susan Concannon, Chair. A hearing has been scheduled for this matter on Feb. 20, 2020.

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HB 2630 – Would, among other things, prevent a dentist from requiring patients to agree to limit their ability to complain to the Kansas Dental Board. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2631 – Would restrict disparate treatment by pharmacy benefit managers against otherwise licensed and authorized pharmacies and pharmaceutical service providers. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair

SB 409 – Would make permanent the quality care assessment currently imposed on skilled nursing facilities as defined in K.S.A. 75-7435. Referred to the Senate Committee on Ways and Means, Sen. Carolyn McGinn, Chair.

EDUCATION

HB 2573 – Would require Kansas students to pass an American civics test in order to graduate with a high school diploma. Referred to the House Committee on Education, Rep. Steve Huebert, Chair. A hearing has been scheduled for this matter on Feb. 11, 2020.

UTILITIES

SB 393 – Would modify the Easy Connection Act and would, among other things, cause utilities to offer a customer-generator the same rate a customer would receive if the customer were not also a generator. Referred to Senate Committee on Utilities, Sen. Ty Masterson, Chair.

SB 395 – Would amend existing law to permit the exercise of eminent domain in order to conduct carbon dioxide in pipes. Referred to the Senate Committee on Utilities, Sen. Ty Masterson, Chair.

INSURANCE

HB 2598 – Would require enhanced regulation of pharmacy benefit managers (PBMs) and would require PBMs to be licensed by the Kansas Insurance Department rather than simply register with the Department. Referred to the House Committee on Insurance, Rep. Jene Vickrey, Chair.

HB 2633 – Would establish requirements for how health insurers, as defined in the Managed Care Act, must treat dental care service claims, reimbursement requests, prior authorizations, and denials. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

SB 401 – Would provide insurance coverage for hearing aids. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olson, Chair.

AGRICULTURE

HB 2623 – Would establish requirements for cleaning pollinator-friendly solar sites. Referred to the House Committee on Agriculture, Rep. Ron Highland, Chair.

HB 2622 – Would, in addition to any other legal penalty, require poachers to pay a fine to certain landowners and law enforcement agencies. Referred to the House Committee on Agriculture, Rep. Ron Highland, Chair.

HB 2669 – Would require the Kansas Secretary of Wildlife and Tourism to establish a state threatened and endangered species list modeled on similar federal law. Referred to the House Committee on Agriculture, Rep. Ron Highland, Chair. A hearing for this matter has been scheduled on Feb. 18, 2020.

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

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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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PRACTICE AREAS

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