

Legislative Update May 22, 2020

How do you summarize a legislative session that began with a bipartisan agreement for Medicaid Expansion (that never went anywhere) and a bid to amend the Constitution (that also failed), was paused for a day to celebrate a Super Bowl win, then interrupted by a global health crisis before finally concluding in a one day whirlwind? And how do you summarize that one-day whirlwind when it nearly lasts for a full 24-hour day? Well, see below.

For a review of common legislative terms, please refer to the “Common Legislative Terms” list on the www.KansasCounties.org website in the “Services” Tab under “Legislative,” or bookmark: <http://www.kansascounties.org/services/legislative/common-legislative-terms.pdf/view> .

Summaries of all legislation passed during the 2019 session can be found at www.kslegresearch.org under the Publications tab by searching the 2019 Summary of Legislation and 2019 Legislative Highlights.

Leading Up to Sine Die

In the weeks leading up to Sine Die, the legislature had several meetings. Both the House and Senate Tax committees held meetings, as well as both the House and Senate Judiciary committee.

Several issues were up for debate. At the forefront for counties were two main issues:

- The fate of SB 294, which is the notice and hearing requirement for local budgets
- Second half property tax payments due on May 11, 2020

A third critical issue was added with a desire from some legislators to review the Emergency Management Act. While it was not clear what actions would be taken, because the Emergency Management Act has a broad effect on counties, any action taken is of interest to counties. However, there was no language to review prior to the committee work. The Senate Judiciary committee did hold two all day hearings, but with no language to debate, the hearings were more focused on the desire to reopen Kansas than on the policy portion of the debate.

The House Tax committee amended SB 294 by pushing the implementation date from January 1, 2021 to January 1, 2022. This change means that the budgets being worked on at the county level currently would not be affected by this legislation. However, the Senate did not change this date, instead the Senate committee opted to remove the contents of HB 2118 (previously a bill that would have provided tax credits for aerospace and aviation program graduates and their employers) and replace them with SB 294. This bill was amended in the following ways.

- The certification date for local budgets was moved to September 20 (the bill previously had August 25).
- County clerks are now required to send out all notices in one consolidated notice (this was previously optional).
- All public hearings must now be held by September 10 rather than September 15.

The committee also added the contents of SB 295, which prohibits property values from increasing based solely on normal repair or maintenance.

Finally, the committee added a provision that created a grace period for property tax penalties and interest until August 10, and prohibits counties from publishing the delinquent tax roll until after September 1.

The Senate committee also did a “gut and go” on HB 2466, replacing its contents with a bill to codify the change in this year’s income tax deadline (moved from April 15 to July 15 to match the Federal deadline). According to an answer to a question in committee, the Department of Revenue had not reviewed this language.

The final Senate “gut and go” was S Sub for HB 2490. This bill was previously a corporate tax bill. Those provisions were removed and replaced by seven different Senate bills. They were:

- SB 242, which was originally a tax abatement for agricultural property destroyed or substantially destroyed by a natural disaster. Current law already allows this abatement for residential property.
- SB 262, which changes the time to request a full opinion from the Board of Tax Appeals.
- SB 264, which allows a county appraiser that was fired by a county to be removed from the approved list of county appraisers, subject to a notice and hearing by PVD.
- SB 265, which allows electronic notice from BOTA if requested by the party.
- SB 272, which prevents property valuations from increasing as a result of an appeal.
- SB 297, which requires appraisers to comply with the uniform standards of professional appraisal practice; and
- SB 309, which places the burden of proof on the county appraiser in an appeal before the district court. This bill would also allow BOTA members to serve for up to 180 days after the expiration of their term if a replacement has not been appointed.

Sine Die

With only one day to get through all of their business, the Legislature returned to Topeka on Thursday, May 21. Adding to the pressure is the legitimate question of whether legislation passed after 11:59 p.m. on May 21 would be valid, as that would trickle into a second “day.”

The Senate went onto General Orders (the portion of the process where each bill is heard and debated, with opportunity to provide amendments, support or opposition to the bill). Meanwhile, the House took up a handful of procedural motions. Due to COVID-19, the House was voting in smaller groups (roughly 20 in each group). As such, the voting process for each motion, which had to be taken on roll call, was taking 15 minutes or more. Because the day’s session is time restricted, this longer voting process will necessarily limit the total volume of legislation that the

House is capable of considering. Simply voting on 10 different bills will require no less than two hours. Add any debate or questions at all, and the time quickly adds up.

Frustrations boiled over before noon in the House with some Senators saying they would stifle debate on any bill that came before the Senate. While this ultimately did not come to fruition, the Senate did abandon General Orders after completing only eight bills, opting to send all other bills to conference committee. This maneuver ended opportunity for most members to offer amendments on any bill.

Some legislation was passed prior to moving to conference. This included:

- S Sub for HB 2137, which made a change to the requirements for scrap metal dealers and also made some of the provisions of the Kansas Open Record Act that would have otherwise expired permanent.
- S Sub for HB 2585, which dealt with public utility taxation and rates.
- S Sub for HB 2034, which brought Kansas law into line with a Kansas Supreme Court decision that avoided nullifying most court orders for restitution
- S Sub for HB 2619, which created an economic recovery loan deposit program for banks and credit unions

Not all of this legislation passed the House prior to midnight, however.

While this should have sped things up without completed negotiations on any of the key legislation still pending, Conference committees for Judiciary, Tax, Education and Budget all began their work in the late afternoon and early evening. This late start on negotiations pushed Sine Die well into the early morning hours of May 22, as the House did not start working on most of the Conference Committee Reports (CCRs) until after midnight.

This created an interesting legal situation. For much of the day, there had been a question as to whether or not Sine Die could cross the midnight threshold. However, the House voted to suspend the "Midnight Rule" well before 9 p.m. That rule prohibits legislative business from being conducted between the hours of 12 a.m. and 8 p.m. It was created after a representative was killed in a car accident while driving home after a late night legislative session the previous evening. Suspending this rule allowed the House to take up the items as they were sent over from the Senate. It does not answer the question of whether Sine Die can extend beyond one calendar day.

In addition to getting tired, the other challenge as the legislative day trudged on was getting information on what was actually contained in each piece of legislation. While general concepts were discussed, I am not sure many people actually saw the language of the legislation. Most votes were conducted based solely on the bill brief or conference committee report brief, as well as the explanations from members.

Ultimately, the House and Senate both passed a Conference Committee report for HB 2702. This report contained the Senate versions of SB 294 and SB 295, plus allowing a grace period for penalties and interest on second half taxes until August 10, 2020. It also included the provisions previously included in HB 2466 as amended, which aligned the Kansas income tax with the Federal date for 2020 (July 15), as well as provisions to allow county treasurers to set

up partial payments and payment plans, as well as enacting the Taxpayer Protection Act for income tax filers.

The House and Senate also passed an enormous COVID-19 package after sunrise. Yes, after sunrise on *Friday* morning, May 22. The CCR for HB 2054 includes the following:

- Telemedicine extensions
- Unemployment insurance provisions (including the additional \$600 in Federal unemployment funds)
- Requiring the Kansas Department of Aging and Disability Services to complete inspections of senior care facilities to determine if they have proper infection control procedures, as well as adequate PPE.
- Removing HIPAA liability for health officers to allow them to share information about individuals that are quarantined or isolated as a result of COVID-19 with first responders.
- Putting the CARES Act funding under the authority of the State Finance Council, requiring a process for any funds to be drawn down from that fund (in addition to existing Federal requirements for those funds).
- Restricting the governor's ability to declare future emergencies related to COVID-19 without legislative approval.

Other CCRs included HB 2246, which encompasses several bills requested by the Kansas Insurance Department, including bills on the Healthcare Access Improvement Program, the KU Med Center Cancer Center Research Account, and bonding authority for Wichita State; and HB 2510, which included education provisions including ACT exams, foster care report cards, and the sale of land in Saline County by K-State.

It is unclear what the governor will do when this legislation comes to her desk. Since this legislation was passed at Sine Die, it is unclear what mechanism the legislature could utilize to override any veto if the governor were to exercise that power.

Other Resources

For daily information on items happening in the Kansas Legislature, follow @KansasCounties and @JayHallKS on Twitter.

You can find information on the Kansas Legislature, such as daily calendars, audio links and bill text at www.kslegislature.org.

2020 Kansas Legislative deadlines can be found at:
www.kslegislature.org/li/documents/2020_deadline_card.pdf