 Legislative Update - June 10, 2020

And then, there was a special session…

Since the turn of the century, there have been three special sessions for the Kansas Legislature. In 2005, the legislature returned to Topeka to deal with school finance. In 2013, the topic was the “Hard 50” law that had been declared unconstitutional by the Supreme Court of the United States. In 2016, the topic was again school finance.

Prior to 2005, the last special sessions had been in the 1980s, when the state highway plan (1987) and property tax (1989) were the topics.

Action from Sine Die

At the close of the 2020 legislative session, the legislature passed several bills, including:

S Sub for HB 2054 which would have amended the emergency management statutes, as well as addressed several issues related to the COVID-19 crisis and recovery.

S Sub for HB2137 which would amend the Scrap Metal Theft Reduction Act to remove the requirement that scrap metal dealers photograph the vehicle in which a junk vehicle or other regulated scrap metal property is delivered. The bill would also continue several exceptions to the Kansas Open Records Act.

S Sub for HB2585 which would create and amend law relating to a tax exemption for and the tracking and collection of state and federal income tax by certain public utilities, and would create law related to the authority of the Kansas Corporation Commission (KCC) to regulate electric public utility rates to allow contract and discounted rates for certain facilities. The KCC would be authorized to approve such rates notwithstanding provisions governing its power to require utilities to establish just and reasonable rates to maintain efficient and sufficient electric service and to prohibit variations from established rate schedules.

S Sub for HB2034 which would amend law related to court orders for restitution by criminal defendant.

S Sub for HB2619 which would enact law to establish the Kansas Economic Recovery Loan Deposit Program; would amend law governing linked deposit programs and related investment procedures; would amend field-of-membership requirements placed on state-chartered credit unions to increase the permissible geographic area for a credit union’s field of membership; and would permit national banking associations, state
banks, trust companies, and savings and loan associations, for all taxable years commencing after December 31, 2021, to deduct from net income the net interest income received from qualified agricultural real estate loans and the net interest income received from single family residence loans to the extent such interest is included in the Kansas taxable income of a corporation.

HB2702 which would establish new notice and public hearing requirements for certain taxing subdivisions, prohibit certain real property valuation increases. Further, the act provides a one-time delay in the deadline for payment of property taxes, enacts the Taxpayer Protection Act, extends certain income and privilege tax filing and payment deadlines, authorizes county treasurers to establish partial payments and establish payment plans for all property taxes, and provides for county discretion in handling de minimis property tax penalty charges. With the enactment of this legislation, the current statewide Property Tax Lid will cease to exist in 2021.

HB2246 which would amend and enact new law pertaining to the oversight, regulation, programming, and authority of various state agencies, including:

- Kansas Insurance Department
- Kansas Department of Health & Environment
- University of Kansas Medical Center
- Wichita State University

HB2510 which would amend law related to the provision of free ACT exams for Kansas high school students, concurrent and dual enrollment for high school students, and the authority of healing arts school clinics to provide healing arts services. The bill would also require the creation of a foster care report card and would establish the Kansas Promise Scholarship Act. The bill would also authorize the sale of land by Kansas State University in Saline County.

S Sub for HB2018 which would amend the Kansas Video Competition Act to prohibit municipalities from imposing additional requirements for the deployment of micro-wireless facilities in the public right-of-way and to allow a municipality to require compliance with certain standards.

On May 26, 2020, Governor Kelly vetoed HB 2054 and called for a special session of the legislature, set to begin on June 3, 2020. Days later, on June 1, Governor Kelly approved S Sub for HB 2137, S Sub for HB 2585, HB 2246, S Sub for HB 2018, and S Sub for HB 2034. Governor Kelly vetoed S Sub for HB 2619, HB 2702, and HB 2510 that same day.

Because this was to be a special session, there was not an opportunity to override any vetoes by the governor. As such, any legislation to be proposed would have to be new legislation.
The legislature returned to Topeka on June 3, 2020 with an unclear set of tasks before them. Unlike previous special sessions, there was not a definite piece of legislation that they were returning to focus on. While the disaster declaration and emergency management statutes were at the forefront, that did not mean that the legislature could not or would not take up other pieces of legislation.

Adding to the intrigue, there was a potential judicial confirmation for Carl Folsom to the state appellate court. Mr. Folsom has extensive experience as a public defender at both the state and federal level here in Kansas. He was not confirmed, as some members of the Senate committee cited concern with some of the clients he represented as a public defender, as well as concern that he had only practiced criminal law, while the appellate court hears both criminal and civil cases.

Meanwhile, the Senate Tax committee revived the language from S Sub for HB 2702 and placed it in SB 4 during the special session. In all, the Senate introduced nine bills during the special session. The House introduced 22.

While these 31 bills were introduced, only one bill was actually worked on the floor in both chambers – HB 2016. The other 30 bills all died at the close of the special session.

HB 2016 was a compromise position on S Sub for HB 2054 that had been negotiated between the governor and leadership in the House and Senate. HB 2016 outlines how Coronavirus relief funds would be appropriated, as well as making changes to the emergency management statutes. Of interest to counties, the bill extended the original (March 12, 2020) disaster declaration of Governor Kelly, while also prohibiting the governor from declaring any new COVID-19 related disasters without a specific application to the State Finance Council (SFC) and such action is approved by an affirmative vote of at least six legislative members of the SFC.

The bill allows the Board of County Commissioners of any county to issue an order relating to public health that contains provisions that are less stringent than the provisions of a statewide executive order issued by the governor. Such an order would need to include findings that the Board 1) consulted with the local health officer or other local health officials; 2) determined that implementation of the full scope of provisions in the governor’s executive order is not necessary to protect the public health and safety of the county; and 3) other relevant findings to support the decision of the County Commission.

The bill allows any state of local disaster emergency declaration to be reviewed, amended, or revoked by the Board of County Commissioners or the governing body of the city, respectively, at a meeting of the governing body. It also allows any order issued by the county health officer, including orders issued as a result of an executive order of the governor, and orders on behalf of a county regarding the remediation of any infectious disease, to be reviewed, amended, or revoked by the Board of County Commissioners of the county affected by such order at a meeting of the board.
The bill requires that local health officers work with first responder agencies operating in the county to share information indicating where a person testing positive for - or under quarantine or isolation due to - COVID-19 resides or can be expected to be present. This information would not be subject to KORA.

The bill would also prevent the governor from closing schools without the affirmation of the State Board of Education, creates certain liability protections for some businesses and creates a Contact Tracing Privacy Act that would make contact tracing records not subject to disclosure under KORA. The act does make contact tracing optional meaning that individuals may choose to not participate in contact tracing.

The bill has several sections related directly to adult care homes and hospitals which should be reviewed if your county has county adult care home or county hospital.

Finally, the bill validates remote notary acts performed during the crisis while personal appearance requirements are suspended, as well as validating or codifying several of the earlier executive orders relating to telemedicine, alcohol sales, remote court proceedings and unemployment compensation.

No other bills were taken up prior to the close of the special session.

Other Resources

For current information on things happening in the Legislature, follow KAC on Twitter: @KansasCounties and @JayHallKS

Information on the Kansas Legislature, such as daily calendars, audio links and bill text can be found here: www.kslegislature.org

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

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.kslegreasearch.org under the Publications tab by searching the 2019 Summary of Legislation and 2019 Legislative Highlights.