

Memorandum

To: Shawn Mitchell, Community Bankers Association of Kansas

From: Stuart J. Little, Little Government Relations LLC

Date: November 30, 2011

Re: Legislative Update

Overview

This report follows up on a number of issues we have been watching during the 2011 legislative interim. We will update on you on the current status of the Special Committee on Financial Institutions and Insurance and the proposed statutory changes to Appraisal Management Companies in Kansas.

Special Committee on Financial Institutions and Insurance

The Special Interim Financial Institutions and Insurance Committee concluded their meetings on November 14. The Committee did not recommend the Legislature approve the Office of the State Bank Commission request to have the authority to obtain fingerprints for new bank charters, mergers, or acquisitions. The authority would apply to banks, mortgage lenders, and money transmitters. The bill from the 2011 legislative session, Senate Bill 64, is permissive and would give the OSBC authority if they chose to use it. The OSBC currently has the authority to run criminal record checks based on personal information but not fingerprints and the results only include criminal convictions in Kansas. Shawn did a great job describing the additional administrative burden this proposal would create. So, the issue should be dead for the 2012 legislative session.

Appraisal Management Companies

The Kansas Real Estate Appraisal Board (KREAB) is currently drafting legislation for the 2012 legislative session to regulate/register Appraisal Management Companies. The CBA participated in the stakeholder meetings. Dodd-Frank requires all states to pass these new requirements.

The group met in September and October and the bill may be finalized now. The conclusion of the meeting is that Dodd Frank requires appraisal management companies to be regulated if they are state chartered, if they have over 15 employees, and if they are a third-party free-standing appraisal company. It is unlikely any of these provisions will apply to any CBA member financial institutions. Shawn and Stuart attended the meeting and worked with the other financial institution groups to ensure only the large AMC's not a part of the financial institution were included in the bill. At the second meeting, there was an attempt suggested to remove the financial institutions representative from the KREAB. The proposal was defeated. When the bill is introduced during the 2012 legislative session, we will track its progress closely. Even though the proposal has been amended to meet our interests, there is no guarantee changes will not be proposed during the legislative session.

Other Activities

The Governor's office has been very active in the past month in a variety of areas.

Redistricting Committee

Every 10 years following the federal census, each state must redraw its legislative boundaries to ensure that each person is guaranteed a chance to have equal, one-person one-vote representation. As the demographics of Kansas change and rural areas lose population, urban centers pick up population. State and federal legislative districts must be redrawn. Throughout the summer and fall, a joint House and Senate legislative committee has been touring the state and taking public input on redrawing boundaries. Their hearings are complete. During the 2012 legislative session the House and Senate will have to pass maps that meet political muster, pass a potential legal challenge, and obtain the Governor's signature. There is no process in the democratic process more political and tough, and performed out of the public eye, than is redistricting. We will likely not know any final outcome until late in the 2012 session.

Medicaid Reform and State Government Reorganization

The Governor's Office has been meeting all summer coming up with a plan to revamp Medicaid and save the state millions in future Medicaid costs. The Medicaid proposal and accompanying governmental reorganization plan were unveiled on November 8. The Medicaid plan will involve issuing a request for proposal to solicit three vendors who will apply managed care to all Medicaid services. Medicaid consumers will have a choice of three plans and the new system will emphasize coordinated care, health homes, and savings through efficiencies not through provider cuts or eligibility changes. The administration projects they will save \$800 million in the next ten years. This new managed care system will change the management structure of mental health, developmental disability, substance abuse treatment, and other disabled services. Additionally, the proposal would reorganize several key functions of state government related to health care, health regulations, and juvenile crime issues.

School Finance

The Governor's Office has begun speaking about the need to write a new school finance formula. The current formula for funding the public schools began in 1992. It has survived numerous legal challenges, but budget concerns and a new philosophy in the administration are bringing the issue up for legislative debate. Some of the proposed changes might increase local school district funding responsibilities by allowing local districts to raise additional revenue through an uncapped local option budget. The proposal includes an option for counties to impose a local sales tax that would be shared with other counties who vote to impose a tax as well. The details have not been worked out and passage this year is questionable. However, the current plan on the table could have a significant impact on all public schools and the local tax base.

Budget

State revenue collections for the current fiscal year are going very well. The first four months of revenue collections since July are running 5 percent higher than anticipated, to the tune of \$66 million more than estimated. On Friday November 4, the State Consensus Revenue Estimating Group met to make the next 18-month revenue projections. The conclusions are that based on slow but steady economic recovery, and barring any additional economic problems, the State should end FY 2012, next June 30, 2012, with approximately \$318 million in an ending balance, and \$390 million at the end of FY 2013. If revenue estimates continue at this rate, the Governor and Legislature will be able to consider tax cuts or restoration of prior budget reductions. It is also worth noting that the work of the U.S. Congress super committee on debt reduction and the budget activities could have an impact in many places. If the Committee does not come to any resolution on debt reduction, there will be substantial across-the-board reductions to all discretionary spending and entitlements such as Medicaid funding to states.

A variety of other issues complicate the budget process facing the 2012 Legislature. The current year budget includes \$200 million borrowed from the State highway fund. That budget hole has to be filled. Medicaid caseload estimates for next year will require an additional \$54 million to provide services for the growth in the Medicaid population. Finally, the 1-cent state sales tax is scheduled to end at the end of FY 2013. The discussion of renewal of the sales tax will factor into the discussion of both the budget and proposed tax policy changes.

Tax Policy

There will be much discussion of changes to state tax policy. Powerful advocacy groups are organizing to support the Governor's efforts to make reductions in individual and corporate income taxes. These proposed changes could create a large budget hole. Advocates for the tax reduction position that increased growth and economic development will generate additional revenue for the state. Others suggest the proposed tax reductions will require an increase in other taxes such as sales taxes, or require the elimination of sales tax exemptions. Tax policy will be negotiated in conjunction with the budget process and will not be resolved until late in the session.

KPERS Study Committee

The KPERS Study Committee has been meeting since June. They are nearing completion of their work. A joint House and Senate Committee is studying whether all KPERS members should see a change in their retirement program. The state has to address an \$8 billion unfunded actuarial liability in the plan. The Legislature has already approved increases in employer and employee contributions beginning in 2013. One means to address the future liability is through implementing a defined contribution (401k) plan, or at the least to offer it as an option for future employees. A defined contribution plan won't fix the current liability but it will reduce future liability for new employees.

They will meet one more time in December to finalize their recommendations to the 2012 Legislature. Based on the most recent hearings, it is anticipated the Committee will recommend a two-part proposal. Keep in mind, these proposed changes will affect new employees moving forward, probably beginning in 2013 or the future benefits of current KPERS members moving forward from the implementation date. The Committee is aware they cannot adjust past benefits earned and obligations incurred. Additionally, it is unclear or undetermined yet if there will be any difference or nuances between the state employees, schools, and local government retirees. First, for KPERS members making some salary amount, currently discussed at \$40,000 (which is a large number of KPERS employees), they will have a defined benefit program the same as the current system. For higher paid KPERS members, they will have a program currently called a "stacked hybrid plan." This would provide a base of defined benefit payments and on top of that a defined contribution plan. It is likely the state defined benefit plan and the hybrid plan with the defined contribution component would be fairly closely linked to KPERS investments so all KPERS members would receive the potential benefit of KPERS investment expertise. The main issues will be whether to change the plan at all; whether to create the "stacked hybrid plan"; and at what salary level should the "stacked hybrid plan" be required--\$40,000, \$50,000? Lots of questions remain to be answered.

Wrap Up

Please let me know if you have questions.

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