



Community Bankers Association of Kansas Legislative Update

April 21, 2017

Overview

The House and Senate adjourned April 7th at the conclusion of the 2017 regular session. Many bills have passed and multiple policy bills have carried over until the veto session. Most significantly, neither the House nor the Senate has resolved the revenue or budget situation. Additionally, a school finance funding formula and the money to fund it has not yet passed out of a committee. There is much work to be done when they return for the veto/wrap up session on May 1.

Following is a general overview of the end of the regular session and a more detailed summary and update of financial institutions legislation.

Big Picture Issues

Budgets

The House and Senate, after failed attempts, passed the current budget year rescission bill. The final plan uses the Pooled Money Investment Board principle and interest to fund the current year without cuts. Regarding the budget for the next two fiscal years, the Senate has passed a bill, but the House has not. Both chambers' bills have rejected many of the Governor's recommendation such as consolidating school district health plans, delaying KPERS payments, and securitizing the Master Tobacco Settlement dollars the state receives. Both budget bills, without a tax plan, exceed revenues by about \$500 million annually. The budget bills do not contain any new funding for the K-12 school finance formula that will eventually pass. When they return for the veto session they will have new consensus revenue estimates and perhaps more direction on a tax policy. They will need to raise taxes during the veto session.

Revenue

Recently, both the House and Senate explored flat tax proposals to address the revenue shortfall. The House Tax committee approved a bill that would impose a 4.6 percent personal income tax rate for all filers. The bill raised \$850 million over the next two years. The Senate on April 6th debated a 4.6 percent flat tax that had the backing of the Governor. The bill went down to massive defeat and the regular session concluded without a tax plan passing either chamber.

Keep in mind as we near the end of the session, the Senate and House both sent the Governor a tax bill that he vetoed, the House overrode, but the Senate sustained. That bill or something like it will reappear and pass during the veto session. Sub for House Bill 2178 included the following:

- Repeals the LLC and small business income tax exemption, create three income tax rates (2.7%, 5.25%, 5.4%,) and restore all medical deductions and all provisions retroactive to 1/1/17.
- Passed House 76-48, passed Senate 22-18. Governor vetoed 2/22. House overrode 85-40, Senate failed 24-16, both on 2/22.

The bill eliminated the “march to zero” and the “ratchet” provision in 2019 that would begin capping the growth in state government at 2 percent and all future revenue over that rate would be used to reduce other taxes. After the failure of the “flat tax” the final plan will look very similar to this bill.

School finance

In school finance news, the House K-12 Education Budget committee has finalized a formula bill that is almost identical to the old formula. Despite committee efforts to add more funding, the bill will increase K-12 funding \$150 million per year for the next five years, for a total increase of \$750 million. The bill remains in committee until the veto session when it may be further modified. The Senate school finance committee did not meet in the last weeks and appears to be waiting to see the House's bill before proceeding with a formula of its own.

Currently, the House education plan retains the current 20 mills statewide property tax levy as well as the current law provisions regarding the local option budget. At this point it is unlikely there will be substantial changes to the property taxes related to school finance.

Status of Financial Institutions Legislation

Some issues will carry forward into the veto session, but the great majority of legislation that has not passed at least one chamber is dead for this session, but can see action in 2018. At this point in the session, conference committee agreements between chambers have dealt with most of our bills.

Bill texts, bill histories, and valuable legislative summaries can be found on the Legislature's official website: http://www.kslegislature.org/li/b2017_18/asures/bills/

You will find the highlight of bills divided into three categories: *Bills Sent to the Governor*, *Bills That Are Still Possible*, and *Bills That Are Likely Dead for This Session*.

Bills Sent to the Governor

Senate Bill 20 final Conference Committee Report. Includes the following bills SB 20, SB 21, SB 18, SB 67, SB 87:

Senate Bill 20: Amending the State Banking Code

- SB 20 would amend the Kansas Banking Code. The bill would update language concerning a bank's investment in foreign bonds to clarify the amount cannot exceed one percent of the bank's capital stock and surplus; amend language relating to lending limits to provide an exemption for segregated deposits; and make other clarifying language updates technical in nature. Additionally, the bill would require any bank or trust company owning tangible property to insure that property against loss. Finally, the bill would require banks and trust companies to record minutes of annual stockholders' meetings and detail any action taken by the stockholders, including the election of directors.

Senate Bill 18: Amending Kansas Mortgage Business Act

- Application procedural updates including abandoned license termination and renewal process; accounting procedures other than GAAP allowed.

Senate Bill 21: Amending Kansas Money Transmitter Act

- Defines money transmitter "service provider"; renewal date requirements; procedures to determine incomplete application.
- The bill would add a definition of "service provider" to mean any person providing services specified in continuing law (those that have a written agreement with banks, building and loan associations, savings and loan associations, savings banks, or credit unions to provide for receipt and delivery of funds, network access, processing, clearance, or settlement services in support of money transmission activities) used by an exempt entity or its agent to provide money transmission services to the exempt entity's customers. The definition specifies a service provider does not contract with the customers of an exempt entity on its own or on behalf of an exempt entity or agent.
- Finally, the bill would authorize the State Bank Commissioner (Commissioner) to determine the completeness of any application submitted under the KMTA.

Senate Bill 67: Granting state chartered banks the power to purchase historical renovation tax credits.

- Under current law, state chartered banks are allowed to use the Historic Preservation Tax Credit to offset their privilege tax liability by renovating a historic building that they own. SB 67 would amend the State Banking Code to allow state chartered banks to buy the Historic Preservation Tax Credit on the secondary market. The bill would limit state chartered banks from purchasing and holding tax credits that exceed 25.0 percent of their total of capital stock, surplus, undivided profits, allowance for loan and lease losses, capital notes and debentures, and reserve for contingencies.

Senate Bill 87: Amend Kansas credit services organization act.

- Primarily language and statutory updates since law not updated since 2004.
- Provides variety of requirements for enhanced reporting including specifics on debt management plans, records maintenance, restrictions and limitations on fees and guarantees of satisfaction, and providing broad authority of OSBC to review books.

Senate Bill 65: Allowing creditor sales of repossessed alcoholic liquors pledged as collateral.

- The bill would allow a creditor lawfully entitled to alcoholic liquors pledged as collateral for a loan, with prior written authorization from the Director of Alcoholic Beverage Control (ABC) Division of the Kansas Department of Revenue (KDOR), to take possession of the alcoholic liquors and conduct a sale of that collateral to a distributor or other licensee in order to satisfy any debt owed to the creditor. The bill would authorize the Director to require a detailed inventory, or any other necessary information, to ensure the safe storage, handling, and transfer of the alcoholic liquor. Finally, the bill would require the proceeds from any sale, including a sheriff's sale under continuing law, to go to the creditor in satisfaction of any debt owed, with the remaining proceeds returned to the debtor.
- Passed Senate without amendments 40-0, and House 118-0. To Governor.

Senate Bill 66: Mid-term appointments of state bank board members.

- Fixes appointment procedure situation where partial fulfillment of a term counts toward the two-term limit to serve on the board.
- Passed Senate without amendments 40-0 and House 117-1.
- Governor approved 3/28/17.

House Bill 2110: Requiring Nonresident Trust Entity Applicants to Prove That Their Home State Authorizes Kansas Trust Entities.

- Requires home state of out of state trust entities to authorize Kansas trusts to work in that home state.
- Passed House 122-0 and Senate 40-0.
- Governor Approved on 4/7/17.

Senate Bill 63: Enacting the Revised Uniform Fiduciary Access to Digital Assets Act.

- Judicial Council requested bill; technical updates recommended by Uniform Law Commission to reflect new technology.
- The Act would authorize access to digital assets by four common types of fiduciaries. Specifically, the Act would apply to:
 - A fiduciary acting under a will or power of attorney; a personal representative acting for a decedent; a guardianship or conservatorship; or a trustee acting under a trust created before, all created on, or after July 1, 2017.
- The bill would apply to a custodian of a digital asset if the user resides in Kansas or resided in Kansas at the time of the user's death. "Custodian" would be defined as a person that carries, maintains, processes, receives, or stores a user's digital assets. The bill allows a "user," defined as a person with an account with a custodian, to use an online tool to direct the custodian to disclose to a designated recipient or not disclose some or all of the user's digital assets, including the content of electronic communications.
- Passed House 120-0 and Senate 40-0.

- Governor approved 4/4/17.

Senate Sub. for Sub. for House Bill 2052. Current fiscal year budget bill.

- Current year budget bill. Rather than budget cuts, as the Governor recommended, it adds language to transfer funding from the Treasurer’s Unclaimed Property Fund in KPERs to the State General Fund to guarantee a \$50.0 million ending balance in FY 2017, with the remainder to be transferred in FY 2018. The total to be transferred will be \$317.0 million over two years. It is to be paid back in six equal yearly increments starting in FY 2019.
- Passed House 108-15 and Senate 30-10. Awaiting Governor approval.

Bills That Are Still Possible

Senate Bill 23: Abolish Securities Commissioner and make it a division under Insurance Commissioner.

- SB 23, as amended, would establish the Office of the Securities Commissioner of Kansas as a division under the jurisdiction of the Insurance Commissioner and amend law by consolidating certain prosecutorial functions of the Attorney General.
- SB 23 would also amend provisions of the Kansas Mortgage Business Act, the Kansas Uniform Securities Act, the Insurance Code, the Workers Compensation Act, Employment Security Law, and law generally referred to as the Loan Brokers Act to transfer certain functions to the Attorney General.
- Bill is in House Judiciary and Senate Financial Institutions conference Committee.

Senate Bill 147: Income Tax.

- One of several tax plans. Has not passed the Senate.
- Retroactive to 1/1/17 repeal small business exemption; increase income tax rates from 2.6% to 3.0% and 4.6% to 4.9%; removes “ratchet” reducing future taxes as state revenues surpass 2.0% growth; restore all exemptions removed in 2012.
- Bill remains in Senate Tax Committee.

House Bill 2023: Income Tax.

- One of several tax plans. Has not passed the House.
- Retroactive to 1/1/17 repeal small business exemption.
- Bill remains in House Tax Committee.

House Sub. for House Bill 2178. Income Tax.

- Repeals the LLC and small business income tax exemption, creates three income tax rates (2.7%, 5.25%, 5.4%,) and restores all medical deductions and all provisions retroactive to 1/1/17.
- Passed House 76-48, passed Senate 22-18. Governor vetoed 2/22. House overrode 85-40, Senate failed 24-16, both on 2/22.
- This bill was retroactive on individual income tax rate increases and the Governor specified this provision as his opposition. Something very similar to this bill will be run and passed during the veto session.

Bills That Are Likely Dead for This Session

House Bill 2051: Enacting the Kansas innovation zone act and reinstating the Kansas enterprise zone act.

- Create the Kansas Innovation Zone Program and would partially reinstate the Business and Job Development Tax Credit. The Act would provide start-up funding grants to business incubator programs operating at educational institutions to develop and support new business growth in targeted industries within the business incubator’s innovation zone.
- Creates individual and business income tax credits for qualified participants in zones.
- In House Commerce, Labor, and Economic Development. No hearing.

House Bill 2127: Transfer-on-death deeds; lapsing or vesting of ownership in grantee beneficiary.

- Amends the Kansas Probate Code to permit a real estate transfer to a qualified offspring, progeny, or lineal descendant of a deceased beneficiary when no alternative beneficiary has been named on the deed and the beneficiary dies prior to the owner. This provision would apply under the following circumstances: 1. The deceased beneficiary is a spouse, lineal descendant or other relative of the owner by blood or adoption; 2. The deceased beneficiary leaves issue surviving the record owner; and 3. The transfer of real estate would have vested in the beneficiary, if the beneficiary had survived the owner. If the following circumstances could not be identified, a transfer would lapse when the beneficiary dies prior to the owner; the beneficiary's interest in the real estate was not specifically made contingent on the beneficiary surviving the owner; and there is no eligible alternative beneficiary designated on the deed. The provisions of HB 2127 would apply only to owners who die on or after July 1, 2017.
- Hearing held in House Judiciary 2/1. Bill remains in Committee.

House Bill 2267 and Senate Bill 234: Amending certain consumer loan transactions.

- Limitations and caps on consumer loans at 36 percent per annum; modifies term requirements of consumer loans; limits loans to one per term; disclosure of payment terms; caps size of loan based on consumer verified monthly income; extensive reporting requirements.
- House Bill 2267 introduced on 2/2 and no hearing set in House Financial Institutions and Pensions.
- Bill was "blessed" and will be available for action in the House after turnaround.
- Senate Bill 234 introduced March 30, no hearing scheduled.

Wrap Up

The House and Senate budget committees return on April 27th for preliminary budget work and the full Legislature returns on May 1. The wrap up session can take days or weeks. Given the amount of work to be done, it looks like weeks. Please let us know if you have questions.

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