This Week in Topeka

Overland Park Chamber

Business, Economic Development & Local Government News
from the Legislative Session Week of February 6-10, 2017

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The fifth week of the session was a busy one, with more committee hearings on a number bills along with more staff briefings as the pace continued to be faster than one typically expects at this point in the session; however, we also experienced an episode of "hurry up and wait," a condition generally reserved for much later in the session.

Taxes and Budget. We found out it's very difficult, if not impossible, to talk about one without the other; at least that proved to be the case in the Senate. It looked like we were set for a lengthy debate on the Senate floor on taxes and a possible fix for the FY17 budget hole, very unusual for this early in a legislative session to be taking up such weighty issues, but the plan to consider several bills was scuttled Thursday morning shortly before the debate was to begin.

To set the Senate stage, the Assessment and Taxation Committee kicked out two tax bills, SB147 and Sub for SB97. SB147, being referred to by some as the "Senate leadership's bill," contained to primary provisions. One, it would increase the current two individual income tax bracket rates each by 0.3% to 3% and 4.9% beginning on January 1, 2018; and, two, it would repeal the pass-through, non-wage business income tax exemption (the so-called LLC loophole) effective retroactively as of January 1, 2017. The fiscal note on this bill projected revenue increases of $288 million for FY18 and $372 million for FY19 when the full effect of the individual income tax increases would be realized. It would also repeal the income tax exclusion for low income earners, $5,000 for single filers and $12,500 for joint filers.

Sub for SB97 provided a more comprehensive plan and included the following:

- Repeal of the pass-through, non-wage business income tax exemption retroactively as of January 1, 2017;
- Replace the two individual income tax brackets with a single bracket at a rate of 3.9% effective as of January 1, 2018;

- Reinstate the individual itemized deduction for medical expenses at 100% effective January 1, 2017;
- Repeal the income tax exclusion for low income earners, $5,000 for single filers and $12,500 for joint filers; and
- Effective January 1, 2018, reduce the state sales tax on food from 6.5% to 5.5%, and provide that in subsequent tax years in which the state's revenue increases by 1% or more over the previous year, the food sales tax rate would be further reduced by 0.2%.

The preliminary estimate was that this plan would increase the state's revenue in the range of $600 – 650 million.

Also on tap for the Thursday debate was SB27 which partially addressed the $320 million FY17 revenue shortfall by cutting K-12 funding by 5%, raising approximately $128 million (and costing Blue Valley $4.56 million, Shawnee Mission $6.2 million and Olathe $6.35 million) and cutting higher education funding by an additional 3%, raising approximately $23 million. Also in the bill was a postponement of the state's $90 million fourth quarter KPERS payment.

And, finally, SB115 would have directed KPERS to liquidate $100 million in the pooled money investment fund it manages and send that to the state general fund.

It appears Senate leadership decided it did not have 21 votes (a majority of the 40 senators) to pass the budget cuts. A 3% cut in K-12 was floated with little success, so shortly before the 8:00 am session was to begin on Thursday, it was canceled, and leadership issued a statement that nothing (I assume that meant new tax plans) would be considered until the budget shortfall was addressed.

On the other side of the Capitol, the House Taxation Committee was hard at work putting together its own new tax plan. Chairman Steven Johnson polled his committee to try to get an idea where its members stood on several components that might be included in a new plan. There seemed to be the most support for a plan that would increase revenue in the $580-700 million range, retain a progressive income tax system (as opposed to flat rate, single bracket tax), repeal the pass through non-wage business income tax exemption, restore individual itemized deductions, and repeal the "glide path to zero" eliminating the state income tax altogether.

On Thursday afternoon, the committee began the serious work on its plan by starting with HB2178 as the framework, amending and passing it out to the full House on a vote of 13-9. It was pretty evident that this vote did not provide the strong endorsement supporters had hoped for, a fact reinforced by Chairman Johnson asking the committee to approve the introduction of a new bill that would contain provisions identical to those in HB2178 that could be used by the committee to further craft another tax plan in the event that HB2178 did not survive consideration by the full House.

The main provisions of HB2178 include the following, all effective retroactively as of January 1, 2017:

- Reinstate a third individual income tax bracket, setting rates at 2.7% for income up to $15,000 ($30,000 for joint filers), 4.6% for income between $15,000 and $50,000 ($30,000 and $100,000 for joint filers), and 5.45% for income over $50,000 ($100,000 for joint filers), all three rates being less than the rates in effect prior to the 2012 tax cuts;
- Repeal the pass through non-wage business income tax exemption;
- Repeal the glide path to zero; and
- Reinstate the individual itemized deduction for medical expenses at 100%.

Although the Department of Revenue had not completed its fiscal note for HB2178, it is expected that it would raise between $500-600 million.

Economic Development. The week of February 13 is setting up as an important one for economic development, particularly for several development, recruiting and retention incentives. Upon adjournment of the Senate on Thursday, the Assessment and Taxation Committee met at the rail to allow Sen. Jim Denning to introduce a handful of conceptual bills, among them three bills that would impose a three year moratorium on each of the following incentive programs – PEAK, HPIP and STAR bonds. The bills have not yet been drafted, they will likely be available early in the week, so we cannot yet disclose in any more detail what the intent is here. The Alvarez & Marsal efficiency study commissioned by the legislature also discussed the benefits of those programs. If there are specific issues or concerns with the operation of the three programs, it seems that the better way to respond is to address them with specificity rather than simply shelving programs that certainly seem to have been much more successful in providing an economic boost to the Kansas economy than the 2012 tax cuts. An informational briefing on all three programs is scheduled for Friday in the Senate Assessment and Taxation Committee.

Interestingly, also on Friday, the House Appropriations Committee has set a hearing on HB2184 which would extend the pending sunset on STAR bonds for a period of five years ending in 2022.

K-12 School Finance. And for those of you still wondering, no, the Supreme Court has not issued its opinion on the adequacy question in the *Gannon* school funding case.

Upcoming events:

Legislative Breakfast Series. The next breakfast in the **Johnson County Public Policy Council's series** will be this Saturday, **February 18**, at the DoubleTree Hotel. Members of the Johnson County Delegation scheduled to participate on the panel that morning are Sen. Pat Pettey and Reps. Linda Gallagher, Cindy Holscher, Jan Kessinger, Patty Markley and Jarrod Ousley.

Public Policy and Advocacy Committee Meeting. The next meeting of this committee will be noon-1:30 p.m. on Friday, **March 10**, at the Overland Park Chamber office.

Registration information for both events can be found at www.opchamber.org.