This Week in Topeka

Overland Park Chamber

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

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Economic Development. In a bit of a surprise last week, the Senate Assessment and Taxation Committee scheduled hearings on two economic development bills that would impact the Promoting Employment Across Kansas (PEAK) program on Thursday, less than two days after the bills were introduced and copies made available. The PEAK program allows the Secretary of Commerce to approve the application of certain companies to retain up to 95% of the withholding tax on wages at or above the county median wage otherwise payable to the state for new jobs created by those companies.

SB222 would impose a one-year moratorium on the PEAK program. SB223 would terminate the program's availability for expansion or retention of existing Kansas companies and require that any company considering relocating to Kansas and applying for PEAK benefits must be at least 250 miles away. We testified against both bills, emphasizing the benefits and the excellent return on investment realized from the PEAK program. We were joined by the Department of Commerce and many other chambers of commerce and economic development organizations across the state in opposing the bills.

Also concerning economic development, the Senate Commerce Committee has continued its informational briefings on STAR bonds and has a briefing by the Department of Commerce on the High Performance Incentive Program (HPIP) set for Tuesday. The STAR bonds program is scheduled to sunset on June 30 of this year. The House has a bill sitting in its Appropriations Committee that would extend that sunset until 2022, likely waiting on the Senate to decide whether it wants to simply extend the date or work on making some modifications to the law, such as tightening up (or at least better defining) the criteria for establishing a STAR bond district and providing for additional legislative oversight of the program. At a minimum, expect the program to be extended before the legislative session ends. Additional study could take place in an interim over the summer, especially if taxes, budgets and school finance occupy most of the legislators' time.

Taxes. In a bit of a "why?" move, SB175, the Governor's tax plan, was brought to the Senate floor for debate with no chance of passage. That bill would raise about $200 million per year over the next two years by increasing the tax on cigarettes by $1.00 per pack, doubling the liquor enforcement tax from 8% to 16%, freezing the bottom personal income tax rate at 2.7% (it was scheduled to drop to 2.6% in 2018), increasing the annual reporting fees for for-profit businesses from $40 to $200, and taxing passive income received from rents and royalties. After dividing the question and defeating several individual parts on the bill on voice votes, the bill was killed by a 37-1 vote, sending the intended message to the Governor.

The word is that the House will let the Senate take the lead now in working a tax bill (or bills), preferring to wait and react to what the Senate is able to pass. It appears SB192 is next up and will get a hearing in the Senate Assessment and Taxation Committee on Tuesday. SB192 is very similar to the tax plan the Governor just vetoed (HB2178), the primary difference being that the reinstated third tax bracket would be at a rate of 6.1% (instead of 5.45% under HB2178). The tax changes proposed by SB192 would again be effective retroactively as of January 1, 2017, a sticking point for some in the Senate and the stated basis for their unwillingness to vote to override the Governor's veto. SB192 would raise approximately $578.5 million in FY2018 and $440.5 million in FY2019. Don't be surprised if the Senate committee strips out the retroactivity provision before sending the bill to the full Senate, looking for other ways to fill the last $100 million or so of the budget gap that would be left with a January 1, 2018 effective date.

Transportation. There were several developments last week regarding funding of highway infrastructure. First, the House Appropriations Committee approved its Transportation and Public Safety Subcommittee's recommendation to increase KDOT's bonding authority by $400 million, seeing this as a necessary move in difficult financial times to provide $200 million to KDOT in each of the next two fiscal years, largely for maintenance purposes.

Also last week, two bills were introduced that would increase the fuel tax, adding money to the KDOT highway fund that is constitutionally protected and cannot be swept into the state general fund by the legislature. SB224 would increase the fuel tax by $0.05 per gallon, raising approximately $100 million annually; HB2382 calls for a $0.11 per gallon increase, adding about $200 million to the highway fund each year. The Chamber has communicated with our Johnson County delegation that we could support a fuel tax increase along the line of the proposed Senate bill, believing that the House proposal is too large of an increase all at once, particularly with other tax increases certain to be enacted this session.

Property Tax Lid. There are two bills, SB167 and HB2376, both dealing with the property tax lid enacted in 2015 and both to have a hearing next during the week of March 13. As you remember, in its efforts to gain votes needed to pass the budget in 2015, the legislature added a provision to the budget bill that prohibits any political subdivision in the state (which is defined to include counties, cities, school districts, community colleges or other taxing entity that receives more than $1,000 per year in property tax revenue from funding any portion of their budgets with funds from a property tax increase whether resulting from a mill levy increase or a property valuation increase) in excess of the consumer price index without first submitting the property tax increase to a popular vote for approval. The Chamber strongly opposed that intrusion into the authority of local units of government and continues to oppose the lid.

SB167 would simply repeal the lid while HB2376 replaces the automatic requirement for a popular vote with a protest petition process, allowing an election if a petition signed by at least 10% of the total vote cast in such city or county, as the case may be, in the immediately preceding general election for president is filed within 21 days after the governing body publishes notice that it intends to budget property tax revenues in excess of the lid amount.

The Chamber will support both bills, preferring the simple full repeal, but understanding that political realities are such that the change to a protest petition as provided in the House version is the bill that has a real chance of passing.

K-12 School Finance. As previously discussed, thus far much of the work on school finance has occurred in the House K-12 Budget Committee, where word is that the chairman of that committee, Rep. Larry Campbell, wants to finish crafting a bill and pass it out to the full House by March 17. It is expected that HB2270, the primary authors of which are Rep. Melissa Rooker and Sen. Laura Kelly, will be used as the basis for crafting a bill acceptable to the K-12 Budget Committee.

On the other side of the Capitol, Senate President Wagle appointed a Senate Select Committee on Education Finance, chaired by Majority Leader Jim Denning. The other members of the Committee are Sen. Carolyn McGinn, Vice Chair (who is also the Chair of Ways and Means Committee); Sen. Anthony Hensley, Ranking Minority; Sen. Molly Baumgardner (who is also the Chair of the Education Committee); and Sens. Barbara Bollier, Bud Estes, Dan Goddard, Dan Kerschen and Pat Pettey.

It's Back! TABOR Constitutional Amendment. Finally, under the heading of bad ideas that just don't seem to go away, the Senate Assessment and Taxation Committee has scheduled a hearing on SCR1602, which calls for a constitutional amendment to enact spending and revenue limitations on the legislature, what is commonly referred to as TABOR, or the taxpayer bill of rights. Since this is a proposal for a constitutional amendment, it requires a 2/3 supermajority in both the House and Senate to pass and then be subject to a general election in order to become law.

SCR1602 requires a 2/3 vote of the legislature to pass any tax increases or extensions of existing taxes, it sets specific state spending caps that may only be exceeded if approved by a majority in a general election, limits state borrowing, and requires that excess state revenues at the end of a fiscal year be transferred to the budget stabilization fund or used for prepayment of state debt.

At first glance, some of these ideas may seem like good ones. However, in practice, they are slow, cumbersome, unrealistic and costly, tying the hands of our elected officials, preventing them from doing the jobs we elected them to do; failing to allow for funding of new priorities embraced by the public and the need to respond to new federal mandates; disregarding actual, real-life increases in the cost of maintaining public infrastructures, services and facilities, tying the operational costs to artificial spending caps.

The state of Colorado enacted a TABOR amendment to its constitution in 1992. After seeing the results of its provisions nearly bankrupting its college and university system, while hindering the ability of the state government to provide needed and desired services, the voters repealed many of the requirements in 2005. This type of legislation has been vigorously opposed by the Chamber for years because it is diametrically opposed to our basic, long-standing belief that governance should be, and is best when, as close to the people as possible and that the responsibility and authority to appropriate and spend funds should lie with our elected legislators; we will continue to impose these proposals that infringe upon these principles.

Upcoming events:

Legislative Breakfast Series. The third and final breakfast in the **Johnson County Public Policy Council's series** will be Saturday, **March 25**, at the DoubleTree Hotel. Members of the Johnson County Delegation scheduled to participate on the panel are Sens. Barbara Bollier and Julia Lynn and Reps. Stephanie Clayton, Erin Davis, Nancy Lusk and Brett Parker.

Public Policy and Advocacy Committee Meeting. The next meeting of this committee will be noon-1:30 p.m. on Friday, **April 14**, at the Overland Park Chamber office.

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