

This Week  **in Topeka**
Overland Park Chamber

*Business, Economic Development & Local Government News
from the Legislative Session Week of January 29-February 2, 2018*

Written by Tom Robinett, Vice President of Public Policy and Advocacy

The Fourth Week of the 2018 session continues to see little substantive activity as legislative committees are still receiving briefings on various issues likely to be considered later, although we did see hearings on several bills; there were even a few bills on General Orders on the House floor.

New Governor Colyer announced he would address a joint session of the legislature at 3:00 p.m. on Wednesday, February 7. It will be interesting to see how much of his promised “new tone” will be evident and what, if any, new information and new ideas he may present to the legislature for addressing some of the big issues of this session. In particular, everyone is anxiously awaiting his thoughts on K-12 school finance, wondering how his approach might differ from that of former Governor Brownback in his State of the State Address last month.

Economic Development. The Department of Commerce delivered its annual update on **STAR bonds** to the Senate Commerce Committee. In that presentation, the Committee was reminded this year represents the tenth anniversary of the STAR bond program in Kansas, with eleven active projects and five approved projects with the bonds for those projects yet to be issued. In the opinion of the Department, most STAR bond projects are doing well to relatively well, with at least a couple trending upward. The Department recognized the proliferation of online shopping almost certainly will make STAR bond projects more difficult in the future.

Of more interest in that Committee meeting was a related discussion concerning several proposed changes to the program that are being included in a bill being drafted and expected to be introduced in the next week or so. Among those possible changes are:

- An attempt to reduce cannibalism of existing businesses within a yet undefined radius of the STAR bond district by same or similar businesses already existing outside the

district (from the discussion, it appeared that of most concern were big box stores; e.g., Lowe's, Menard's, Home Depot, etc.);

- Excluding the cost of landscaping of a project from permitted costs;
- While the requirement that feasibility studies be done for all proposed projects, and the developer seeking approval of the project will continue to pay for the study, the Department of Commerce, and not the developer, will commission the studies;
- More input from local tourism officials will be required; and
- The local investment in a project (whether by local sales tax or, in those localities that do not have a local sales tax, the payment for infrastructure or other amenities associated with the project) must be proportional to the state's sales tax investment.

Sales Tax on Groceries. The Senate Commerce Committee also held a hearing on SCR1604, a resolution to amend the state's constitution by reducing the state sales tax rate on groceries from its current 6.5% to 4% on July 1, 2019 and then to 2% on July 1, 2020 and thereafter. Kansas is one of only fourteen states that impose any sales tax on groceries, one of seven that charge at the full tax rate, and has the second highest rate in the nation. The catch here is the fiscal note, the annual cost to the state of reducing the sales tax on groceries. The Department of Revenue estimates that cost to be \$152.6 million (\$128 million to the state general fund) in FY2020, and \$293.9 million (\$246.4 million to the state general fund) in FY2021. However, an economist from Wichita State University suggested there could be expected a 9% increase in grocery sales for every 1% reduction in the sales tax. It is important to remember that local units of government impose their own sales tax on groceries, and such a proposed reduction by the state would have no effect on those rates.

Since this proposal is for a constitutional amendment, passage will require a 2/3 majority vote in both the Senate and House followed by a simple majority approval in the 2018 general election. The guess here is that the votes are not there in the legislature to meet the 2/3 requirement; however, it will not be surprising to see some proposed reduction included in one or more other tax bills considered during this session.

Transportation Task Force. The Senate Ways and Means Committee worked **SB285**, a bill discussed in last week's report, that would establish a joint legislative task force to begin work on a new long-range highway/transportation program. Several amendments were proposed and passed by the Committee, expanding the membership of the task force, including one additional member appointed by each of the following:

- The International Association of Sheet Metal, Air, Rail and Transportation Workers;
- The Kansas Asphalt Paving Association;

- The Petroleum Marketers and Convenience Store Association of Kansas; and
- The Portland Cement Association.

The bill also was amended so Economic Lifelines would appoint two (rather than one as provided in the original language) and to stipulate that those members should be divided to represent urban and rural economic development interests.

These amendments were not controversial, except a couple of Committee members wondered if the increase in the total membership of the task force from 24 to 29 might make its workings a bit cumbersome. Expect the bill to be sent to the full Senate next week.

Sales Taxes on Services. In last week's report, I mentioned a hearing on **HB2491** was scheduled. This bill proposed to require that sales tax be charged on the mere installation of appliances and electronic products. The Chamber presented testimony in opposition to this bill, based on our 2018 legislative position that states, in part, that "[t]he Chamber opposes any change in tax law that would apply a sales tax on professional or personal services thereby negatively impacting our competitiveness with neighboring states. A comprehensive review of tax exemptions should include careful consideration of the economic development and employment consequences of eliminating such exemptions as well as establishment of criteria for the granting of exemptions that considers those instances in which products and services that governmental agencies would be required to provide if not available through exempt organizations." Opposition testimony also was submitted by other chambers, including the Kansas Chamber. I heard from a representative of the Kansas Department of Revenue, the proponent for this bill, as did several other opponents asking if we would be interested in a meeting to discuss why the DOR asked for the bill and why we opposed it. We agreed and are waiting for a meeting to be scheduled. In the meantime, the hearing on this bill has been pulled from the House Taxation Committee's agenda. Another guess – this proposal does not have much of a future.

Online Sales Tax. The House Taxation and Senate Assessment and Taxation Committees held a joint meeting to participate in a conference call with representatives of the South Dakota Attorney General's office concerning the South Dakota lawsuit now before the United States Supreme Court that seeks to overturn current law that allows a state to require a business to remit taxes on sales made within the state only if that business has a physical presence in the state and meets a couple of other stated requirements. Kansas legislators were told South Dakota expects oral arguments will be scheduled in April and a June decision is likely. Kansas has submitted an *amicus* brief in support of the South Dakota position and is in close contact with the South Dakota Attorney General. In response to a question from a committee member, we were told it would be a beneficial show of support for the Kansas

Legislature to enact legislation similar to that being challenged in South Dakota, something that seems to have a good possibility of happening.

How much is being lost by way of many vendors not collecting and remitting sales tax on their online sales? The Government Accounting Office has offered an estimate of as much as \$13 billion nationally each year. Kansas estimates are in the \$100-150 million range. This is not a tax increase or even a taxability issue; it is simply a question of who is responsible to collect and remit taxes that are already due and payable. The Chamber supports this effort.

Guns and Concealed Carry. HB2402 was up on General Orders in the House. As it hit the House floor, the bill would primarily have recognized concealed carry permits issued by other states, as long as the holder acted in accordance with Kansas law while in the state. It came as no surprise several amendments were offered.

First was a proposal to lower the age required to obtain a concealed carry permit from 21 to 18; that amendment passed 82-42.

The second proposal would exempt post-secondary institutions from the requirement to allow concealed carry on campus buildings and public areas without adequate security and signage provided by the institution. The Chamber has supported this effort, but, unfortunately, it failed on a vote of 53-69.

Third came an amendment to allow post-secondary institutions to require a concealed carry permit to carry a concealed gun on campus (under current law, a permit is not needed). The Chamber supported this amendment under the rationale of “making a bad law better,” and it passed, 70-52.

The bill ultimately was passed, as amended, on final action by a vote of 76-44.

And, finally, for all you early risers, on a final action vote of 75-47, the House passed HB2482 allowing establishments to begin selling liquor by the drink at 6:00 a.m. (currently, you have to wait until 9:00 a.m.). The bill was sent on to the Senate where it was referred to the Senate Commerce Committee. No word yet on any activity scheduled there.

Upcoming Events. This year’s first meeting of the **Public Policy and Advocacy Committee** will be from noon until 1:30 pm this **Friday, February 9** at the Chamber. We have invited Sen. Julia Lynn and Rep. Melissa Rooker to attend and update us on activity at the Capitol.

Registration information for the meeting can be found at www.opchamber.org.

The second breakfast in the **Johnson County Public Policy Council’s legislative breakfast series** is from 7:30-9:00 a.m. on **February 17** at the DoubleTree by Hilton. Guest legislators scheduled are Senator Pat Pettey and Representatives Linda Gallagher, Patty Markley, John

Resman, and Jerry Stogsdill. Other breakfasts will be **March 24** and **May 19**. To register for any of these breakfasts, [click here](#).