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LEAGUE NEWS



VOLUME 17-NUMBER 5-FEBRUARY 3, 2012

PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES

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1) Tax Lid Bill Out of Committee

The House Tax Committee worked **HB 2212** on Thursday, 2/2/12, and passed it out favorably. **HB 2212**, as reported last week, has tax lid implications. As written, the section containing the tax lid implications requires that the mill levy rate be adjusted by the governing body. This is unworkable because the county and not the city sets the mill levy. The Kansas Association of Counties, with the concurrence of the League, recommended the removal of the suspect language and amending current law to clarify that publication was required of the ordinance/resolution now required when taxes are being increased from the previous year. This amendment was presented to the Committee while the bill was being worked, however it failed on a 7 - 13 vote. The bill, in its original form, was passed out of Committee to the full House. LKM opposes **HB 2212** in its current form.

Attention Requested: Please contact your House member and ask them to oppose **HB 2212** in its current form.

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2) Alcohol in Grocery Stores to be Debated

There are two identical alcoholic liquor bills this year that would open up the market for the sale of alcoholic liquor in grocery stores and convenience stores, **SB 332** and **HB 2532**. Next week, **HB 2532** will have a hearing in the House Commerce and Economic Development Committee on Tuesday, February 7, and Wednesday, February 8. These bills would create three additional licenses for the sale of alcoholic liquor, which could be sold in grocery stores and convenience stores. A Class C license would allow the sale of any type of alcoholic liquor, Class B the sale of wine and strong beer, and Class A the sale of strong beer. The total number of Class C licenses will be limited for three years to the number in existence on July 1, 2012. In the interim, however, a vendor will be able to obtain a Class A or B license. Those wanting to sell all alcoholic liquor, Class C, could purchase an existing license from a licensee in the same county as the proposed premises to be licensed.

Currently cities have control over the regulation of cereal malt beverage (CMB) and the enforcement of those laws. Because the market for CMB will diminish if this law is adopted, cities will not control the beverages sold in grocery stores and convenience stores, taking away the ability to address problems through regulatory action. The Division of Alcoholic Beverage Control would be the agency taking the regulatory action. This is one concern regarding the bill. The second is the loss of sales tax revenue, since alcoholic liquor is not subject to sales tax as is CMB. As written, however, three percent of the state liquor taxes collected would go into a local CMB sales tax fund to be distributed to cities and counties, pursuant to a formula, with the regular sales tax distribution. This would likely offset any reduction in sales tax revenue due to the reduction in the sale of CMB.

As the bills are currently written, LKM will submit written testimony as a neutral party, supporting the inclusion of the Local CMB Sales Tax Fund as written. If that fund would be changed to be subject to appropriation and not a pass-through revenue source, LKM would oppose the bill. Cities with concerns should begin contacting their legislators with input on these bills.

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3) Summary Publication Proposal to be Heard

The League of Kansas Municipalities and the Kansas Press Association have reached agreement on the issue of publishing ordinances in the official city newspaper. Under the agreement, cities would no longer have to publish ordinances in their entirety, but could, as an alternative, publish a summary under the following conditions:

In lieu of full publication of an ordinance pursuant to this section, a city may opt to publish a summary of the ordinance so long as : 1) the publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the office of the city clerk; 2) the city attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient; and 3) the publication contains the city's official website address where a reproduction of the original ordinance is available for a minimum of one week following the summary publication in the newspaper.

This proposal is being considered in House Local Government Committee next Tuesday, February 7th.

Action Requested: If your city would like to reduce what it spends annually in ordinance publication, please submit written testimony in support of this agreement to members of the House Local Government Committee.

House Local Government Committee Contacts:

Chair

Rep. Steve Huebert, steve.huebert@house.ks.gov , 296-1754

Vice Chair

Rep. Joe Seiwert, joe.seiwert@house.ks.gov , 296-7647

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Rep. Ann Mah, joe.seiwert@house.ks.gov , 296-7668

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Rep. Rick Billinger, joe.seiwert@house.ks.gov , 296-7659

Rep. Sydney Carlin, joe.seiwert@house.ks.gov , 296-7657

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Rep. Tom Sloan, joe.seiwert@house.ks.gov , 296-7654

Rep. Ron Worley, joe.seiwert@house.ks.gov , 296-7649

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4) Other Tax Committee Actions

The House Tax Committee also took action on **HB 2287** during the Thursday, 2/2/12, meeting. **HB 2287** is the sales tax holiday bill which would amend current sales tax

exemption law to exempt certain purchases of school supplies, computers, and clothing, as defined within the bill for a "long weekend" in early August of each year. The intent of the bill is to permit low income taxpayers to purchase "qualified items" in preparation for return to school without incurring sales tax. At the initial hearing, LKM opposed the tax holiday because of our long standing objection to legislation that narrows the sales tax base.

The action taken by the committee resulted in the bill being amended to include a provision to allow cities and counties to opt out of the sales tax holiday (i.e. continue to collect local option sales tax). There were also numerous technical corrections needed on the bill. This resulted in final committee action being tabled until the committee could see a hard copy of the revised bill, House Sub. **HB 2287**. By including the opt out language for local option sales tax, the committee has created a situation that would put Kansas out of compliance with the Streamlined Sales Tax Act and jeopardize the collection of about \$32 million in sales tax on remote internet and catalogue sales. We will continue to monitor and report on this matter.

In a rare move, both the Senate and House Tax Committees held hearings on identical bills on the same day. **SB 317** and **HB 2501** (now S. Sub. **SB 317** and H. Sub. **HB 2501**) would legislatively reverse an opinion issued January 13, 2012 by the Kansas Court of Tax Appeals on a complex matter arising in Montgomery County.

Briefly, the Montgomery County case was brought by a corporate taxpayer that owns and operates a fertilizer manufacturing plant located in Coffeyville. The issue in the case was whether "trade fixtures" should be classified as real property or personal property for the purposes of taxation. The distinction is if classified as real property the trade fixtures would be taxed at fair market value. If classified as personal property they would either be taxed at their depreciated value or their 20% depreciated residuary value, or, if purchased after June 30, 2006, the effective date of the M & E exemption, they would be exempt from property tax. In this case the COTA found in favor of the county and held that trade fixtures should be treated as real property and taxed at their fair market value.

If either bill were to become law and all trade fixtures were to be treated as personal property, the statewide property tax base could take a substantial hit. In Montgomery County alone, it is estimated that the assessed valuation would have decreased by \$76,000,000 if COTA had held for the taxpayer. This does not include any reduction in assessed valuation from other industries in the county.

Both tax committees expressed a real interest in the bill. The Senate Committee requested more information from the parties, staff and the Department of Revenue on the possible effect of the bill on other industries and manufactures. The House Committee did not ask for any additional information. While neither committee has said when they may work their respective bill, it is believed that either or both committees could work their respective bill as early as late next week or early in the week of February 13th.

SB 317/HB2501 have the potential to significantly erode the property tax base. They are

being supported by the State Chamber of Commerce, many local chambers, and a large number of manufacturer associations.

Please talk with you county appraisers and see how they are approaching this matter and let the League know. Also, if you have information on how your city/county may be impacted with such a change, the League would like to receive this as well. This is a significant piece of legislation. We will keep you advised.

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5) KPERS Update

The House Pensions and Benefits Committee and the Senate KPERS Select Committee met several times this week to discuss the plan recommended by the KPERS Study Commission this interim. See [HB 2545](#) and [SB 338](#). Here is a recap of the bills before the legislature.

Background

In early May 2011, the legislature passed Senate Sub. for [HB 2194](#). Under this bill, an employer's contribution toward KPERS would increase by 0.9% on January 1, 2014; by 1.0% on January 1, 2015; by 1.1% on January 1, 2016; and by 1.2% on January 1, 2017.

Moreover, subject to IRS approval, KPERS members would be provided two options. Tier 1 members could choose to increase their KPERS contributions from 4% to 6%. In return, their multiplier would increase from 1.75 to 1.85 for those years of increased employee contributions. This option would be the default if a Tier 1 member fails to choose an option. Contributions would increase to 5% on January 1, 2014 and to 6% on January 1, 2015. Or tier 1 members could choose to continue contributing at a 4% rate. Members choosing this option, however, would see a reduction in their multiplier from 1.75 to 1.4 for future years of service. Tier 2 members would continue to contribute 6% of their salary toward KPERS. But they must choose between keeping their 1.75 multiplier and losing their COLA or keeping their COLA and lowering their multiplier to 1.4 for future years of service. The first option would be the default option if none is chosen.

Senate Sub. for [HB 2194](#) also established a 13-member KPERS Study Commission to analyze the benefits of different retirement plans and to make recommendations in a bill to the legislature based on its research. The commission met for ten days during the interim and issued its final report on December 31, 2011. A copy of the report can be found [here](#).

The commission's report makes it clear that all KPERS members will see changes to their plan. Vested employees as of January 1, 2014 would fall under the changes established in Senate Sub. for [HB 2194](#), as described above. Unvested employees and new hires as of January 1, 2014 would fall under a new hybrid plan that would go into effect on January

1, 2014. The hybrid plan would be part cash balance plan, part defined contribution plan.

The cash balance part of the plan would contain only employer contributions. The contribution would be based on an employee's years of service. Employees would receive a 1% match of their salary for the first year of service. The match would then increase .5% for every year of employment up to 5% after eight years of service. Employees would not direct the investment of these funds; investments would mirror KPERS funds investments. A 0% interest rate would be guaranteed. This means an employee would receive the principal balance of the fund (their employer's contributions) even if the investments lost money.

The defined contribution part of the plan would contain employee contributions. Employees would be required to put 6% of their salary into this plan and would direct 100% of the investments.

What Happens Next?

Unlike any other legislation, in order for the changes outlined in Senate Sub. for **HB 2194** to go into effect, a dual voting trigger must be met this legislative session. First, a Committee of the Whole of one chamber must vote on the bill recommended by the KPERS Study Commission. Second, a committee of another chamber must also vote on the KPERS Study Commission bill. This means that if the House as a chamber votes on the KPERS Study Commission bill and the KPERS Select Senate Committee votes on the KPERS Study Commission bill, the changes in Senate Sub. for **HB 2194** will go into effect. Or vice versa, if the Senate as a whole votes on the KPERS Study Commission bill and the House Pensions and Benefits Committee votes on the same bill, Senate Sub. for **HB 2194** will be triggered. A positive vote on the KPERS Study Commission bill is not required. The only way for the KPERS Study Commission bill to pass is if both houses pass it and it is approved by the governor.

Needless to say, it is difficult to predict what will happen with these bills. KPERS meetings are occurring daily. Everything could still change at a moment's notice. We will keep you up to date as it does.

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6) Reapportionment Maps Considered

The redistricting process continues to draw a lot of attention from across the state. This week the House Committee on Redistricting introduced **HB 2606**, which will establish the state House districts. The map currently proposed dissolves one rural district each in southwest, central, and southeast Kansas, and adds three districts to the Kansas City area. That map can be viewed [here](#).

The Senate Committee on Reapportionment continued working on **SB 344**, which will set

the U.S. congressional districts. Several Senators presented different maps this week, but only one received enough support to be introduced on the floor. That map moves Manhattan from the 2nd District to the 1st District, and expands the 4th District several counties west. It can be viewed [here](#).

The House will continue discussing the state House districts next week. The Senate will begin discussing the state Senate districts. LKM will continue to monitor all of the redistricting meetings and keep cities updated.

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7) Upcoming Hearings

Legislative Activities-February 6-10, 2012

Monday, February 6

Time	Committee	Location	Bill No.	Topic	Activity
9:00	H, E	546-S	HB 2437	Relating to voting; proof of United States citizenship-Opponents	Hearing
	H, PB	142-S	HB 2545	Enacting the Kansas public employees retirement system act of 2014	Presentation
9:30	S, Ju	548-S	SB 322	Court fees and costs; judicial branch surcharge fund	Hearing
	S, LG	159-S	SB 348	An act concerning property appraisal and taxation	Hearing
	S, LG	159-S	SB 346	An act dealing with delinquent taxes judicial foreclosure	Possible Action
10:30	S, WM	548-S	SB 336	Adjutant general; funding for disasters; creating the disaster reimbursement fund; insurance fees and premium taxes; KUSF	Hearing
1:30	H, CED	DSOB 785	HB 2244	Continuing education for plumbing, electrical and mechanical licensees	Hearing
	H, FSA	346-S	HB 2550	Alcoholic beverages; prohibition against reduced price of drinks during certain times of the day	Hearing
3:30	H, JU	346-S	HB 2521	Imposition of civil penalties for alcohol and tobacco violations	Hearing

Tuesday, February 7

Time	Committee	Location	Bill No.	Topic	Activity
8:30	S, Ag	159-S	SB 148	SB 148 Reference SB 272 Concerning water; relating to administrative division of water right; fee; multi-year flex accounts; amending K.S.A 2011 Supp. 82a736 and repealing the existing section	Hearing and Possible Action
	S, Tr	152-S	SR 1805	Roads and highways; livable streets	Final Action
9:30	S, LG	159-S	SB 341	Cities; dissolution because of environment buyout	Hearing

1:30	H, CED	DSOB 785	<u>HB 2532</u>	Creating classes of licenses to sell alcoholic beverages at retail; fees, term and eligibility: Proponents and neutral testimony only	Hearing
	H, FSA	346-S	<u>HB 2474</u>	Alcoholic liquor; class A private clubs; veterans organizations	Hearing
3:30	H, LG	144-S	<u>HB 2166</u>	Kim Winn, League of Kansas Municipalities and Richard Gannon, Kansas Press Association HB 2166-Municipalities; pertaining to using the internet for official publications	Hearing
	H, LG	144-S	<u>HB 2548</u>	Property taxation, delinquent taxes; poverty affidavits, partial payment	Hearing
4:15	S, KPERS	DSOB 784	<u>SB 338</u>	Investment options on the defined contribution plan	Presentation and Discussion

Wednesday, February 8

Time	Committee	Location	Bill No.	Topic	Activity
8:30	S, Tr	152-S		Update on passenger rail funding	Update
9:00	H, EUT	DSOB 785	<u>HB 2588</u>	Water districts and the issuance of revenue bonds	Hearing
9:30	S, EE	159-S	<u>SB 333</u>	Elections; petition circulators; qualifications changed	Hearing
10:30	S, FSA	144-S	<u>SB 358</u>	Alcoholic beverages; authorizing tastings by manufacturer licensees	Hearing
	S, FSA	144-S	<u>SB 277</u>	Creating the class of "microdistillery" in the Kansas Liquor Control Act	Hearing
	S, FSA	144-S	<u>SB 340</u>	Alcoholic liquor; class A private clubs; veterans organizations	Hearing
1:30	H, CED	DSOB 785	<u>HB 2532</u>	Creating classes of licenses to sell alcoholic beverages at retail; fees, term and eligibility: Opponent's testimony only	Hearing
3:30	H, GE	546-S		Transparency Update on KansasOpenGov.org, Dave Trabert, Kansas Policy Institute	Update
	H, Ju	346-S	<u>HB 2549</u>	Preservation of government records by public officials, including e-mail and texting	Hearing
	H, Tax	DSOB 783	<u>HB 2560</u>	Reduction of income tax rates for individuals and determination of income, income tax credits, sales tax rate of 6.3%, severance tax exemptions, homestead property tax refunds and food sales tax refunds: Proponents and Neutral	Hearing
4:15	S, KPERS	DSOB 784	<u>SB 338</u>	Non-vested employees	Presentation and Discussion

Thursday, February 9

Time	Committee	Location	Bill No.	Topic	Activity
9:30	S, Ju	548-S	<u>SB 285</u>	Mis-classification of employees; penalty	Hearing
3:30	H, Ju	346-S	<u>HB 2569</u>	Legislative review of exceptions to disclosure to public records	Hearing
	H, LG	144-S	<u>HB 2555</u>	Recreation commissions; joint district recreation systems; changes	Hearing
	H, Tax	DSOB 783	<u>HB 2560</u>	Reduction of income tax rates for individuals and determination of income, income tax credits, sales tax rate of 6.3%, severance tax exemptions,	Hearing

				homestead property tax refunds and food sales tax refunds: Opponents	
4:15	S, KPERS	DSOB 784	<u>SB 338</u>	Stakeholder testimony	Presentation and Discussion
Friday, February 10					
Time	Committee	Location	Bill No.	Topic	Activity
9:30	S, Ju	548-S	<u>SB 285</u>	Court fees and costs; judicial branch surcharge fund	Action
	S, JU	548-S	<u>SB 283</u>	Sheriffs, civil process fees	Action
1:30	H, CED	DSOB 785	<u>HB 2592</u>	Public policy; certain city ordinances and county resolutions declared void	Hearing
	H, CED	DSOB 785	<u>HB 2561</u>	Extension of the STAR bonds financing act sunset provision regarding STAR bond projects	Hearing
3:30	H, Tax	DSOB 783	<u>HB 2560</u>	Reduction of income tax rates for individuals and determination of income, income tax credits, sales tax rate of 6.3%, severance tax exemptions, homestead property tax refunds and food sales tax refunds	Possible Continuation of Hearing

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8) Upcoming MLAs

February's MLA, Ethics, will be in Lakin on February 10th, Herington on February 11th, and Gardner on February 24th. This four-credit core course will offer participants an overview of the law as it relates to local government ethics and will offer strategies that your city can follow to encourage ethical behavior. For more information and registration, please click [here](#).

March's MLA, Finance Planning and Policy Concepts, will be the first webinar offered through the MLA program on Friday March 16th and Saturday March 31st. This course will offer participants a better understanding of municipal finance issues in Kansas. Finance Planning and Policy Concepts has been designed to complement the themes covered in the core MLA municipal finance class. Prior participation in Municipal Finance not required. For more information and registration, please click [here](#).

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9) Reserve Your 2012 LKM Conference Hotel Today

The League of Kansas Municipalities invites you to participate in our Annual Conference October 6-8, 2012. Conference hotel accommodations and reservations are now available. Click [here](#) for more information.

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