



Ernestine Krehbiel
President & Editor

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March 1, 2013 – Paul Johnson

ETHICS, ELECTIONS, VOTING LEGISLATION

House Bill 2210 would prohibit a person from changing his or her party affiliation from June 1 through the time when primary elections are certified by the Secretary of State. This bill was amended in committee but not on the House floor. This bill was voted down on the House floor by a vote of 62 to 60.

House Bill 2095 creates term limits for the nine members of the Kansas Governmental Ethics Commission. Members cannot serve more than four terms – 8 years. Current members who have served more than eight years can finish the remainder of their current term but cannot be reappointed. This bill will impact 5 current members. This bill was withdrawn from the calendar and re-referred back to House Elections.

House Bill 2112 would authorize the transfer of campaign funds to a bona fide successor committee or candidacy. Existing law prohibits a state representative from transferring their campaign funds to their state senate campaign fund. Funds can also be transferred to a statewide campaign fund. What is not allowed is for a state candidate to transfer funds for a local race. This bill passed the House 95 to 29.

House Bill 2162 will require county election officials to request ballot language explainers for ballot questions from the Secretary of State or the Attorney General. These explainers will not be on the ballot itself. There will be no basis for a legal challenge because of these explainers. This bill passed the House 120 to 4.

House Bill 2314 would amend existing state lobbying laws governing what state officers, state employees and candidates for state offices can accept from special interests. Hospitality expenses would be increased from \$100 to \$500. The price of a free or discounted meal to a member of the executive branch would increase from \$25 to \$50. This bill failed 118 to 4 on the House floor.

House Bill 2354 would amend existing law to raise the fees that candidates for state & local offices, political action committees (PACs) and lobbyists pay to the Kansas Governmental Ethics Commission by approximately 30%. Civil penalties or fines from election & lobbying violations will now go to the State General Fund not to the Governmental Ethics Commission Fee Fund.

These fees will generate \$45,555 in 2014 and \$36,370 in 2015. There are real questions in 2016 as the existing fee fund is drained and the Governor continues to decrease state general funds.

Senate Bill 177 would prohibit disclosing the name of any voter who has cast a ballot from the time the ballot is cast until the final canvass. This bill would not apply to the names of advance voters. This bill would make it a voting law violation to report names of regular or provisional voters unless ordered by a court in an election contest. This bill is in response to the confusion over Representative Ann Mah's contest in Topeka. This bill passed the Senate 29 to 10.

Senate Bill 63 creates or amends sections on campaign finance and election crimes. The false impersonation of a voter will be severity level 8 – nonperson felony. The penalty for a non-citizen voting will change from a Class A misdemeanor to a severity level 7 – nonperson felony. The penalty for violating advance voting laws will change from Class C misdemeanor to severity level 9 – nonperson felony. The Secretary of State will have authority to prosecute these election/voting crimes. A senate floor amendment prohibits the Secretary of State from establishing a political action committee to contribute to other candidates. This bill passed the Senate 31 to 9.

LEGISLATIVE NOTES

The Kansas Legislature will now take off Monday March 4 and Tuesday March 5 before returning to session on March 6. The battle over the budget and taxes is still far from settled. The Senate Ways & Means Committee and the House Appropriations Committee are rushing through the Governor's budget with few substantial changes. But this assumes that certain tax revenues will be available to fund this budget. The House has yet to have a floor debate over the Governor's tax package. The Senate leadership has indicated that a Senate floor debate on tax policy will happen the week of March 11.

There have now been 229 Senate bills introduced and 389 House bills introduced. This website http://www.kslegislature.org/li/b2013_14/measures/bills/ lists all of the bills. By clicking on a certain bill, you can read what progress has been made on that bill. It lists the original form of the bill and any amendments made in committee or on the floor. Many bills have explainers listed as SN to list the key components of the bill and background on who supported or opposed the bill.

MARCH 6 - 8 COMMITTEE HEARINGS

House Elections: Wednesday March 6 at 1:30 pm in Room 281-N:

HB 2227 — Municipalities; elections; odd-numbered years; non-partisan (This bill moves local spring elections to the fall in odd-numbered years and keeps them non-partisan.)

House Federal and State Affairs:

Wednesday March 6 at 9 am in Room 346-S:

HB 2055 — Personal and Family Protection Act; public buildings; adequate security (This bill allows guns in public buildings that do not have guards and security checks. This bill has been heard and this hearing will be final action by the committee.)

Thursday March 7 at 9 am in Room 346-S:

HB 2253 — Abortion; prohibiting funding for abortion services; amending late-term abortion and woman’s-right-to-know statutes. (This bill has had hearings and this meeting will be final action by the committee.)

Friday March 8 at 9 am in Room 346-S:

HB 2054 — Community defense act; sexually oriented businesses. (This bill regulates strip clubs. This bill has had a hearing and this meeting will be final action by the committee.)

Senate Education — Thursday March 7 at 1:30 pm in Room 144-S:

SB 196 — Creating the Kansas public charter school act

Senate Natural Resources: Thursday March 7 at 8:30 am in Room 159-S:

SB 191 — Amending definitions relating to agricultural corporations and repealing certain agricultural corporation statutes. (This bill repeals corporate farming laws in Kansas. The Chairman has scheduled one hour to take testimony and pass the bill.)

CONSOLIDATED AGRICULTURE CAMPAIGN

The campaign is on to recruit confined animal feeding operations (CAFOs) to Kansas. The campaign starts with loosening the restrictions on corporate farming in Kansas. The next phase is to expand the “right to farm” laws in Kansas to make expansion of CAFOs more “reasonable” and exempt from nuisance lawsuits. The siting of CAFOs will be made easier. Environmental protection against CAFO lagoon pollution will be lessened. The monitoring and regulation of CAFOs will be reduced with certain key budgetary reductions. With cattle herds at a sixty year low and a devastating drought on pasture in Kansas, the target now is recruiting swine, poultry and large dairy operations.

Senate Bill 191 repeals the limited corporate farming restrictions Kansas has in law. These corporate restrictions apply only to the Seaboard’s and Tyson’s that want to own these CAFO operations in Kansas. There are not restrictions on family farm corporations. Under existing law, a Seaboard must have a county commission resolution or a positive vote of residents to be allowed to build a swine operation in a county. There have been some 20 counties in Kansas that voted against these swine operations. There have not been any county votes to block corporate dairies. Greeley County reversed course a few years ago and re-voted on their restriction on corporate swine operations. Seaboard is now finishing the construction of a 100,000 swine facility.

SB 191 essentially repeals the right of counties to vote on these corporate swine facilities. Corporations of any kind will be welcome along with the potential pollution and low wage employment. The quality of life in terms of odor and water pollution will be tested in many isolated, rural areas. Federal courts have negated corporate farming restriction laws in Nebraska and South Dakota, so it is probable that the Kansas Attorney General will testify that existing Kansas corporate farming law is unconstitutional so Kansas has no choice but to repeal this law.

SB 168 and HB 2292 expand existing “right to farm” laws in Kansas. Kansas was one of the first states to pass such a law in 1992. These bills expand the law so a farmer or rancher can plan on “reasonable” expansion. The courts will be the final arbitrator of what defines “nuisance” and

“reasonable” expansion. These bills put a cap on any damages. The “right to farm” protection transfers in any sale of the farm or if the farm is inherited. There were no numbers offered on the extent of nuisance lawsuits in Kansas. Missouri passed this law last year so I guess Kansas feels obligated. Storage and transfer of grains are now covered by these “right to farm” bills. SB 168 has now passed the Senate 39 to 0.

HB 2207 closes a loophole in the siting of CAFOs. Today a farmer makes application to the Kansas Department of Health & Environment to start the process to build a CAFO. It usually takes 12-18 months to do all the engineering and planning to complete the application. During this time, a neighbor can start a building project or pull in a trailer and this can conflict with the distances a CAFO must be from a dwelling. This has occurred 6-8 times in the last few years. HB 2207 states that at time of initial application, the distances are locked down so a neighbor cannot start a building site. The farmer will have 18 months (and possibly an additional 18 months) to complete the application. If uncompleted in 36 months, the restriction on neighboring land-owners is lifted. This amended bill is now Sub. for HB 2207. It passed the House 119 to 0.

HB 2501 is now a combined bill of water laws and dam inspection. One provision of this bill establishes a limited transfer of water rights that can transfer up to 4 million gallons in a single calendar year. This transfer cannot expand the existing water right and if this is a “groundwater right” the transfer cannot be over two miles. Most of these limited transfers will be for the expansion of “horizontal fracking” of oil and gas. A second provision of this bill makes it clear that the Division of Water Resources in the Kansas Department of Agriculture has no authority over a wastewater storage structure for a confined feeding facility that has been approved by KDHE and such impoundment holds less than 150 acre feet. As budgets tighten, the Kansas Department of Agriculture is forced to increase fees on the inspection and regulation of dams. Should these inspections be subsidized by general state tax dollars since this program protects the public downstream? This bill would have increased the fees but the House committee voted to rescind those fee increases. This is now Sub. for HB 2051 and it passed the House 117 to 2.

The Division of Environment within the Kansas Department of Health and Environment has been under budgetary reductions for several years. This division of Environment includes the Bureaus of Waste Management, Air, Water, Environmental Remediation, Environmental Field Services and the Health/Environment Laboratories. In 2009, this division had 551 employees whereas by 2014 the employee count will be down to 445. The Concentrated Animal Feeding Operations inspection staff has eight employees to monitor approximately 1,500 state certified facilities and 450 federally certified facilities. The entire Division of Environment budget is \$68.2 million but only \$6 million of that is State General Funds while the bulk is fee funds, federal funds and trust funding. When the Governor orders arbitrary 10% reductions, it must come from the \$6 million SGF. For the Concentrated Animal Feeding Operations staff it means a loss of \$126,000 that must be made up with less travel and contractual services to monitor CAFO’s. The Governor cut the State water Plan Fund by 10% as well so the Division of Environment sees a reduction from \$2 million to \$1.7 million for contamination remediation, source pollution, total maximum daily loads (TMDL) and watershed restoration. Kansas used to offer state grants through the Local Environmental Protection Program (LEPP) for private water well and septic system testing but the Governor vetoed the \$750,000 for 2013. One performance standard is that 62,000 public water supply samples were tested in 2012 but only 46,000 will be tested in 2013.