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President & Editor

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2013 LEAGUE OF WOMEN VOTERS OF KANSAS E-REPORT #9

March 8, 2013 – Paul Johnson

LEGISLATIVE NOTES

Now that the Kansas Legislature has hit the midway point of the session and they had their spring break, it is time to get down to the serious issues. Serious issues, such as expanding concealed carry gun laws, further restricting abortions in Kansas, regulating strip clubs and rewriting alcohol laws to allow hard liquor at supermarkets, will now get the full attention of our lawmakers as these issues are debated in committees and probably on the floor. The abortion bill that prohibits funding for abortions, amends late-term abortion statutes and amends a woman's right-to-know statutes is **HB 2253** and has passed out of the House Federal and State Affairs committee. The gun legislation is **HB 2055**, "The Personal and Family Protection Act; public buildings; adequate security" has now passed out of the House Federal and State Affairs committee. This bill prohibits restrictions on concealed carry in public buildings unless there are security guards and scanning equipment. Regent universities are exempt for four years. The liquor bill, **HB 2206**, titled "Alcoholic beverages; expanding the privileges of retailer's licenses," was heard before the House Taxation committee on March 7. This bill allows supermarkets the ability sell the full line of alcohol spirits. The strip club bill is **HB 2054**, titled "Community defense Act; sexually oriented businesses". The House Federal and State Affairs committee will try to pass this bill out of committee today.

The taxation and budget floor battles begin in the Senate probably next Wednesday. The President of the Senate has promised that the retention of the state sales tax at 6.3% and the elimination of the mortgage interest deduction can pass the full Senate. There will be many proposed amendments, such as phasing out the mortgage interest deduction along with several other tax deductions over a few years as the state individual income tax phases out as well. The Kansas Realtors have spent \$191,000 in media advertisements to fend off the abrupt elimination of the mortgage interest deduction. This taxation bill will not fully fund the Governor's proposed 2014 budget so further reductions in state spending will be proposed. This Senate package of taxes and additional budget reductions will have to be debated and probably rejected by the House. It seems doubtful that the Senate and House can agree on taxes and the budget before the session recesses on April 6. The consensus revenue experts from the Governor's office, Kansas Legislative Research Department and three university economists will meet

on April 15 to project revenues for the next 18 months. This revenue projection will start to factor in — with better data — the Governor’s income tax reductions and its impact on finalizing a 2014 State budget during the veto session in early May. Without some agreement by the House and Senate on raising revenues, the 2014 State budget can be cobbled together by spending down ending balances and taking more from the State Highway program. Such options will not be available to balance the 2015 budget. If this revenue stalemate happens, the Governor will be back next January in his re-election year trying to solve state budgetary challenges.

Week of March 11-15

Senate Commerce — Monday, March 11 at 8:30 am in Room 548-S
Presentation on: Economic Impact of Immigration in Kansas

Senate Natural Resources — Thursday, March 14 at 8:30 am in Room 159-S

Sub HB 2501 – Water; creating limited transfer permits; dams, inspections; multi-year flex account incentive; administrative review of certain orders of the chief engineer and repealing certain statutes

Friday, March 15 at 8:30 am in Room 159-S

Sub HB 2207 — confined feeding facility separation distance established at notice of intent to construct

Senate Ways & Means — Thursday March 14 at 10:30 am in Room 548-S

SB 76 Supplemental appropriations for FY 2012, FY 2013, FY 2014 for state agencies

SB 110 Appropriations for FY 2014, FY 2015 for various state agencies

Senate Utilities — Tuesday & Wednesday March 12 & 13 at 1:30 pm in Room 548-S

HB 2201 Telecommunications; regulation by the state corporation commission and distributions from the Kansas universal service fund (AT&T deregulation bill)

House Appropriations — Monday & Tuesday March 11 & 12 at 9 am in Room 112-N

HB 2231 Appropriations for FY 2014 & FY 2015 for various state agencies

HB 2088 FY 2014 & 2015 Supplemental appropriations for certain state agencies

HB 2229 Capital improvements for various state agencies

Vision 2020 — Wednesday, March 13 at 9 am in Room 218-N

Presentations on Drinking Water Supply issues — quantity and quality: Kansas Biological Survey, Kansas Department of Agriculture’s Conservation Division

House Elections — Monday March 11 at 1:30 pm in Room 281-N

SB 63 Elections; voting crimes, penalties and prosecution

Wednesday, March 13: **HB 2227** Municipalities; elections; odd-numbered years; non-partisan

House Agriculture and Natural Resources — Monday March 11 at 3:30 pm in Room 346

SB 168 Limiting nuisance actions against certain agricultural activities

House Judiciary — Wednesday March 13 at 3:30 pm in Room 112-N

SB 124 Amending the Kansas Restraint of Trade Act

(These bills can be read at <http://www.kslegislature.org/li/> — click on bills & laws. You can listen to the Senate floor debate on taxes on Wednesday from this site.)

SENATE BILL 124 – KANSAS RESTRAINT OF TRADE ACT

SB 124 creates and amends sections of the Kansas Restraint of Trade Act (KRTA). This bill responds to a Kansas Supreme Court May 2012 ruling on *O'Brien v. Leegin Creative Leather Products, Inc.* The Court stated that the “rule of reason” of federal antitrust jurisprudence does not apply to lawsuits under the KRTA. KRTA forbids all vertical and horizontal price-fixing by two or more persons or between persons. This ruling set off alarm bells in the Kansas Legislature. The Kansas Judicial Council was asked to review this decision. Eleven attorneys were appointed and reported back with two different opinions.

<http://www.kansasjudicialcouncil.org/StudiesReports.shtml> (Report of the Antitrust Advisory Committee). In **SB 124**, the Senate Judiciary committee adopted an amendment directing that KRTA be construed in harmony with the U.S. Supreme Court decisions interpreting similar federal antitrust law, with certain exceptions. Several associations and groups, such as cooperatives, credit unions, rural electric cooperatives, were made exempt from KTRA. All damages — except for the triple damages provision — were removed. The fiscal note states that adopting a “reasonableness standard” will make antitrust cases litigated by the Attorney General more complicated and costly. Local governments who bring antitrust actions will also have increased costs.

There were several proponents including all of the major agri-business and trade associations. There were few opponents including the Kansas Cattlemen Association. The best opposition testimony came from attorney Rex Sharp of Prairie Village. He testified that “KRTA protects small, local businesses and Kansas consumers from anti-competitive practices that drive up prices and drive out Kansas-based businesses. The proposed legislation weakens KRTA and will harm Kansas consumers and businesses by permitting conduct that has been considered anti-competitive and illegal for years under current law... Kansas antitrust cases are almost always directed at out-of-state big companies and foreign multi-national companies that take advantage of Kansas businesses and consumers... The “Reasonableness” standard is actually vague and will increase litigation... Kansas has used the bright line, per se rule, to provide clear guidance to businesses and consumers, thereby reducing the need for litigation and government enforcement actions... Kansas has about 1% of the U.S. population and market. Without clear and simple-to-apply antitrust law, no one would protect 1% of the market using federal law. Litigation is too costly and risky to pursue against foreign companies and multi-nationals... The KRTA’s provisions are straight-forward, protect Kansas consumers and deter anticompetitive conduct within our State’s border.” SB 124 passed the Senate 36 to 4.

Additional item from Melinda Henderson, President LWV L/DC

March 10-16 is National Sunshine Week — an annual nationwide effort to call attention to transparency in government and freedom of information. It is a reminder to us about how important it is to make our voices heard all year long, not just on Election Day.

With everything that’s been reported in these updates, please be sure to contact your legislators with any comments and/or concerns you have about how some proposed legislation, if passed, will harm the quality of life for us “everyday” Kansans.