



**2022 Kansas Legislative Session  
Weekly Legislative & Regulatory Update  
Week 12**

**At a Glance**

- New House district maps revealed
- Series of tax bills receive hearings
- Steaming Services & Water update
- Energy Update

**Looking Ahead**

- 21- 23 March – On Floor All Day
- 23 March – Last Day for non-exempt bills in either chamber
- 28 March – 1 April – Conference Committees meet
- 1 April – Projected First Adjournment
- 25 April – Veto Session Begins

**Week 12**

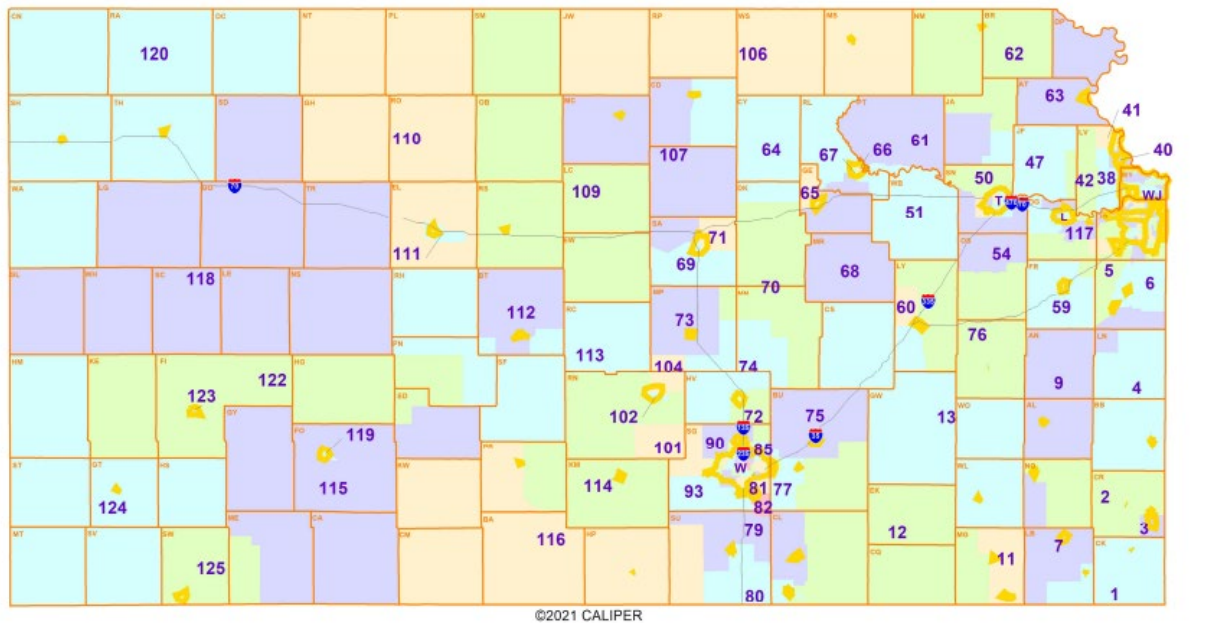
This week will be abbreviated as lawmakers will be working on the Floor in both the House and Senate chambers Monday, Tuesday and Wednesday. Some conference committees will be called this week. Lawmakers will return next Monday to Topeka for what will be a full and heavy week of conference committees and floor debate as the session approaches First Adjournment. There is still a considerable amount of work to be done including finalizing the new House, Senate and Congressional district maps, the budget which could include a substantial KPERs infusion, debate on some sort of tax package and a bevy of other issues that want or need action before the key April 1<sup>st</sup> deadline.

The Legislature will take a several week hiatus and return to Topeka in late April for what is referred to as the Veto or Wrap-Up Session. Sometimes it is a Veto Session when lawmakers return for 5-7 days to finalize a few outstanding issues and then take up any vetoes coming from the Governor. Other years, the April return is more of a Wrap-up session which we have seen in recent years, last more than a month. Given that it is an election year for House seats and all Statewide offices, lawmakers will want to return to their districts to start campaigning in their newly minted districts. A protracted Veto/Wrap up session is not anticipated.

**Redistricting**

The Free State 3c map was unveiled Friday afternoon in the House. Earlier proposed House district maps had been released earlier in the week. The main difference in the Free State 3 c map is the it shifts the 117<sup>th</sup> district to eastern Kansas by having the surrounding

legislative districts, all with population decline pick up portions of HD 117. The 108<sup>th</sup> district which was in Ellsworth and Saline counties was shifted east to Johnson County in this map, but in the previously released maps. The Senate map is still pending.



The Congressional map known as Ad Astra 2 is pending in District Court. The Attorney General did ask for expedited review by the Kansas Supreme Court but the Court said the case needed to be vetted in the lower courts first.

## Tax

The Senate Assessment and Taxation Committee had a very busy day on Thursday. The Committee met from 9:30am to the 11:00a to debate a suite of bills then reconvened from noon to 1:30p. There was an additional session later in the afternoon targeted specifically to repealing the property tax exemption for renewable energy, but the effort failed. The House shell bill that was going to be the vehicle to expediate the legislative process to repeal the property tax exemption related to technical and community college and tax breaks for charitable giving. That bill did advance from the committee. The noon hour session featured a dizzying amount of movement of bills. Between 23 and 25 bills were moved out of committee on Thursday. Senate bills were combined and inserted into old House bills, the contents of Senate bills were striped to add new language – some of which had never received a hearing – other bills were added to Senate shells because the original bill stalled out before the Senate and a second bite at the apple was wanted. One of the bills that passed created a new 4.5% flat for all tax brackets.

Legislation to lower the food sales tax is still pending before both chambers. It is unlikely the food sales tax moves to 0%. It is more likely it will be reduced from 6.5% to perhaps 3.5% or thereabout. The overall state sales tax may be reduced as well. There is still a \$1 billion projected infusion to KPERS and the X factor for the budget and tax package is the outcome of the APEX project – will it come to Kansas or opt for Tulsa, Oklahoma? If easter Kansas, the

economic package approved for project would have an impact on the state's balance sheet over the next three years.

Legislation that has been percolating for several years stemming from a disagreement in Atchison County received a hearing in the House Tax Committee on Thursday. The bill would have statewide implications and would undue the long-standing city/county sales tax sharing formula that is in statute. The Senate took up a similar bill and there are Senators inclined to support the measure.

## **Water**

Senate Agriculture and Natural Resources held a hearing on Senate Bills 548 and 549 last week. SB 548 is the "administrative fix", clarifying and affirming that the Groundwater Management Districts (GMDs) do not have a role in individual water rights. Senate Bill 549 would allow any beneficial use that is not irrigation the opportunity to "opt out" of a GMD, including its fees, assessments, and rules and regulations.

SB 548 and SB 549 emerged late in session as a response to the broader water bill (HB 2686) that had been crafted in the House and later defeated after two years of work from the House Water Committee. That bill had a more expansive look at water issues, including a full reorganization of state water agencies, increased scrutiny on GMDs including a change in how their boards are elected, and increased water fees statewide.

For groups looking at relief from GMD2 in South Central Kansas, the failure of HB 2686 precipitated the need for more tailored legislation to address the GMD2 problem, and SBs 548 and 549 were born late in session and introduced in Senate Federal and State Affairs since it was an exempt committee and could still have introductions of new bills. The hearing Monday was a reflection of the growing disconnect between municipal interests in GMD2 and the agricultural interests that currently dominate the GMD2 board. Proponents for the bill included the Kansas Municipal Utilities, the city of Hays, REAP, the city of Wichita, and numerous other municipalities in South Central Kansas that submitted written testimony. Opponents included Kansas Farm Bureau, and GMDs 2, 3, 4, and 5.

Typical of late-session hearings on difficult topics, the committee was taken aback at the complicated topic. Most members seemed sympathetic to the problems of municipalities but urged the proponents and opponents to "get together and find a solution". Part of the other problem was that Senate hearings are one hour long, and so if two bills are combined into a one-day hearing with multiple conferees on both sides, it makes for a compressed conversation. As it stands, there is little chance of these bills moving this session, but the committee and legislature was put on notice that something needs to change moving forward. There is already talk of the "GMD issue" becoming an interim committee for further study, and these issues will likely return in force next session.

## **Steaming Services**

The Senate Federal & State Affairs Committee held a hearing on SB 547, which would codify into statute that steaming services are not subject to franchise fees imposed by municipalities.

The bill was requested after a city in Kansas sought to impose franchise fees on streaming services. The matter is now in the courts. The proponent of the bill was from a law firm representing specifically Dish and Direct TV. He advocated that the bill simply restates current practice which is that streaming services, which do not have infrastructure in the public right of way, should not be charged a franchise fee. The proponent suggested that municipalities could begin imposing fees on all different platforms so customers could see a large pancaking of new fees assessed on all platforms if this bill is not passed. The League opposed the bill alongside the Rural Telecommunications carriers and the Cable Telecommunication Association of Kansas. Many cities provided written opposition testimony as well. Opponents advocated that this bill was introduced late in session – it was – and that the changes proposed in the bill could actually serve as the unraveling of the long-standing regulatory framework related to right-of-way management, franchises, infrastructure build out and associated maintenance fees. There was a healthy number of questions from committee members. It was repeatedly suggested that a comprehensive look at the existing framework might be in order since the last time one was done was in the early 2000s when technology looked, felt and operated much differently. The Chairman is interested in advancing the bill he stated in the committee discussion but would follow the will of the committee. The bill did not advance last week however SB 547 is pending in a committee exempt from legislative deadlines.

### **Coal-Combustion Residual Rule & Energy Matters**

Evergy, Kansas City Board of Public Utilities and Sunflower requested introduction of legislation that would allow the three generating utilities with operating coal units to modestly increase KDHE imposed fees on themselves to retain the CCR rule compliance program at the state level rather than with the federal government. SB 417 had a hearing in the House Energy & Utilities Committee on Thursday, March 10 and passed the Committee on Tuesday, March 15<sup>th</sup>. The bill will be taken up on the House floor Monday, March 21<sup>st</sup>.

Senator Mike Thompson (R-Shawnee) introduced eight separate pieces of legislation this ranging direct targeting renewable energy – both new development and operating projects.

1. SB 323 – landowner contracts
2. SB 324 – contracting process and county interaction
3. SB 325 – statewide zoning, protest petition
4. SB 349 – sound/lighting/health effects, setbacks
5. SB 374 – property tax exemption repeal
6. SB 381 – non-participating landowner compensation formula
7. SB 383 – solar siting
8. SB 478 – light mitigation technologies

**SB 323** and **324** failed after receiving a hearing in Senate Utilities. **SB 325** received two-days of hearing in the Senate Local Government Committee and then was not debated further. **SB 349** failed in Senate Utilities – the Chairman delivered a speech at the conclusion of a hearing announcing that SB 349 did not have the votes to make it out of committee, but that he was not deterred. He would continue on to fight on behalf of aggrieved landowners and counties. **SB 381** and **SB 383** did not receive a hearing in advanced of a critical legislative deadline. **SB 478**,

was blessed and thus exempt from legislative deadlines, did receive a hearing albeit one day. The industry was given 12 minutes to speak on a piece of legislation that would have imposed a selection process whereby county commissioners would select light mitigation technologies to be installed on projects – both new and operating projects. The fiscal impacts of SB 478, largely due to the provisions of the bill requiring existing wind farms to implement light mitigation technologies is somewhere between \$60 - \$100M not to mention ongoing annual maintenance costs of approximately \$100,000 per project. Cost recovery elements were not included in the bill. There were additional provisions of the bill that were problematic in implementation chiefly because light mitigation technology is still being refined with new technology being tested regularly – not to mention that the decision to install light mitigation technologies on new or existing wind farms is in the purview of the Federal Aviation Administration (FAA). The Chairman hoped to rush the bill through Committee and across the Senate floor within 24 hours and to the House Energy & Utilities Committee in a couple of days. A letter commitment was provided to House and Senate leadership and the House and Senate Utilities Committee members that legislation would be drafted over the interim to address light mitigation technology and a role for the state to play – similar to North Dakota’s legislation passed in 2017 and amended in 2019.

SB 374 repeals the property tax exemption for renewable energy. The bill received a hearing in Senate Tax on Tuesday, March 15<sup>th</sup> and was worked by the Committee on Thursday, March 17<sup>th</sup>. While not getting into all the details of the day, it was one for the books. After three separate votes, legislation repealing the property tax exemption and creating an asymmetric tax paradigm for energy generation and transmission was defeated.

### **Looking Ahead**

This will be a fast-paced week with lawmakers seeking to move initiatives out of committee or perhaps to bottle up a few from moving.

As always, please call/email or text anytime with questions! We are here to help!

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