

2015 LEAGUE OF WOMEN VOTERS OF KANSAS E-REPORT #16

Paul Johnson – May 8, 2015

TAX AND BUDGET BATTLES

Time marches on in this veto session while the tax and budget battles sharpen. Various trial tax balloons are floated and most are quickly shot down. The conservatives and the Kansas Chamber call for more drastic budget reductions that are not reflected in the Governor's budget amendments or the budget package assembled by the Senate and the House. The revenue crisis for 2016 continues at \$400 to \$500 million. The Senate Assessment and Taxation committee resorted to passing one small piece of the Governor's tax package as a vehicle on the Senate floor next week to add significant revenue increases through amendments. All the while, the state budget and the budget for the judicial branch are put on hold until the revenue picture is resolved. The veto session continues to lengthen and may well last the full month of May.

The House Taxation committee continues to look at tax proposals. One bill would raise the state sales tax from 6.15% to 6.5% and keep all the new revenues for the State General Fund (SGF) without a portion going to the Highway Fund. One bill would increase the fuel tax by 5 cents a gallon and redirect the same amount of sales tax going to the Highway Fund back to the SGF. There is now a bill to roll back and modify the elimination of business income tax for 283,000 limited liability corporations (LLC's). This proposal would generate \$232 million in revenues for 2016 and \$176 million for 2017. New data has come from the Kansas Department of Revenue showing that the 2,274 business filers with non-wage income over \$500,000 are seeing an average tax benefit of \$38,310 thus costing the State \$87.1 million annually. 3,800 business filers with incomes from \$250,000 to \$500,000 realized an average tax savings of \$9,207 costing Kansas \$35 million. 53% of the filers (176,920) had business income from zero to \$25,000 and saved an average of \$158 costing Kansas \$28 million.

A recent report for 2015 by The Institute on Taxation and Economic Policy: *Who Pays: A Distributional Analysis of the Tax Systems in all Fifty States* (the fifth edition of the report) lists Kansas as the ninth most regressive state regarding state and local tax systems. This report targets taxes as share of income by

income for non-elderly residents. In Kansas, the poorest 20% pays 11.1%, the middle 60% pay 9.2%, while the top 1% pay 3.6%. Four of the top 10 most regressive states do not levy a personal income tax – Florida, South Dakota, Texas and Washington. Sales and excise taxes are very regressive. Poor families pay almost eight times more of their incomes in these taxes than the best-off families, and middle-income families pay more than five times the rate of the wealthy. Because food is one of the largest expenses for low-income families, taxing food is particularly regressive; five of the ten most regressive states tax food at the state or local level. Kansas has the nation's second highest sales tax on food, trailing only Mississippi. On average, poor homeowners and renters pay more of their incomes in property taxes than do any other income group – and the wealthiest taxpayers pay the least. One-third of Kansas' 1.2 million households are renters and two years ago renters were eliminated from receiving any Homestead Property Tax refund. The Senate Assessment and Taxation committee passed a bill removing the \$20,000 residential property valuation exemption to the 20 mil school funding levy thus raising property taxes by \$47.

The real political and policy discussions are going on behind closed doors. Only select special interests are at the table. Procedural games are played to put these 'closed to the public' proposals into bills that have passed one chamber so the debate can be controlled on the floor. Conference committees of three House and three Senate members start crafting the final product but if the Democrats will not go along than a second conference committee is appointed allowing just the four Republicans to finish the conference report that cannot be amended on the floor of either chamber. Hard ball politics is coming. Unless the more regressive taxes of sales and property are increased, the final result will be greater cuts to education, social services and natural resources.

RENEWABLE ENERGY PORTFOLIO STANDARD (RPS) CHANGE

Opponents of clean energy along with the Governor finally leveraged the Kansas Legislature to change the RPS of 20% renewable energy by 2020 from a mandate to a 'goal'. Threatened with paying property taxes and possibly an excise tax on wind production, the wind energy industry agreed to this bill – **House Sub. for SB 91** – in exchange for limiting property taxes to new wind farms and no excise tax. While Kansans for Clean Energy fought the good fight for three years to defend the RPS, this proposal was brokered behind closed doors with the commercial wind industry, the Governor and his fossil fuel backers absent any environmentalists or public interest advocates at the table. As the

budget deficit worsens, good luck holding a promise that renewable energy will not be taxed heavily in 2016.

Kansas has already met the 20% RPS goal five years early with more low-cost wind power to come online later this year. For 2014, the American Wind Energy Association reported that wind energy in Kansas provided 21.7% of all electricity generated in the state. Kansas has 20 wind farms totaling 2,967 MW's and seven more under construction totaling another 872 MW's. Kansas is only behind Texas, California and Iowa in wind capacity. The wind industry has created 12,000 jobs and attracted \$8 billion in investments. Setting a 20% goal when Kansas is already at 21.7% is political theatre. The opponents to the RPS cry out for a 'free market'. Today's 'free market' does not account for external costs such as greenhouse gases or mercury from coal. Wind energy does not pollute. Today's 'free market' does not put a value on saved water and wind energy does not waste water. This RPS battle may be over but the next battle comes this summer with the Westar rate case that proposes to significantly increase the electric rates for residential homes with solar panels.

KANSAS ENVIRONMENTAL LAW

Senate Bill 52 would amend water law to permit augmentation, multi-year flex account (MYFA) changes and public water supply storage rates while creating law regarding consideration of conservation measures. In terms of augmentation, the bill is limited to the Rattlesnake Creek Sub-basin allowing water right holders to utilize augmentation for the replacement in time, location and quantity of water that was unlawfully diverted from senior water right holders, if the replacement water is available and offered voluntarily. MYFA is a voluntary, five-year term permit allowing a water right holder the ability to adjust water use over five years but not exceed the base water right. This bill allows a MYFA holder to change place of use by a certain percent and allows a rollover of quantities of unused water in a second MYFA. The bill requires by law that the Chief Engineer in the Kansas Department of Agriculture give due consideration to water management or conservation measures previously implemented by a water right holder when implementing further limitations on a water right.

House Bill 2061 permits the Division of Conservation of the Kansas Department of Agriculture to take action necessary to restore, establish, enhance and protect natural resources with conservation easements for the purpose of compensatory mitigation required under Section 404 of the Federal Clean Water Act. This new authority would permit acceptance, purchase or other acquisition of conservation

easements on behalf of watershed districts for the purpose of protecting compensatory mitigation sites.

LEGISLATIVE CHALLENGES

Beyond grappling with the budget and taxes, there are a few other controversial bills in play for next week. **House Bill 2104** is the election bill to move spring elections to the fall, fill vacancies on election ballots and eliminate the presidential preference primary in Kansas. The second conference committee has been appointed so only four votes are needed to send the bill to an up or down floor vote. **Senate Bill 34** creates or amends laws related to election crimes, prosecution of those crimes, and election definitions. This bill gives the Secretary of State the authority to prosecute election crimes. After passing the Senate 23-17, the House Judiciary committee finally held a hearing and voted it out of committee. It was the last bill on General Orders on Thursday but was the only bill not debated. It is unclear if the votes are there to pass the bill or whether there will be a long debate on this bill. **House Sub. for HB 2200** is the bill to change local liquor laws by allowing convenience stores and grocery stores to sell hard liquor with a county vote. The bill has been voted out of committee and is sitting on General Orders. **House Bill 2365** is the judicial branch budget along with some policy changes. The House has more money in this budget than the Senate's version so a conference committee will be necessary. **House Bill 2233** established the procedure for developing and submitting a state plan to the EPA to comply with the proposed federal Clean Power Plan. The Senate made major changes to this House bill so a conference committee will start meeting on Monday to reconcile differences.