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Senator Jay Emler

Kansas Senate District 35



From the Desk of Jay Scott Emler

Week of March 10 - March 14, 2008

SB 554 Brown v. Board of Education Mural:

Emphasizing the national significance of Brown v. Topeka Board of Education, SB 554 establishes a plan to commemorate the U.S. Supreme Court ruling by commissioning a mural to be painted on a wall in the Kansas State Capitol paying tribute to the decision. Plans for the mural will be submitted to the Joint Committee on Arts and Cultural Resources before January 1, 2010. The planning and painting of the Brown v. Board mural will be paid for by private donations. SB 554 passed the Senate 40-0.

SB 651 The Kansas Academy for Math and Science:

SB 651 appropriates funding for fiscal years 2009 through 2015 to the Kansas Board of Regents for the Kansas Academy for Math and Science (KAMS). KAMS is an accelerated residential program for Kansas high school juniors and seniors who are academically talented in science and mathematics. The academy will be located at Fort Hays State University and will provide an opportunity for academically talented students to work in a community of peers and to earn college credits and a high school diploma at a state educational institution. Initially it will be available to 40 Kansas students. SB 651 passed the Senate 38-1-1.

Sub SB 577 The Radon Awareness Law:

Acknowledging the possibility of unhealthy levels of the carcinogen radon in Kansas homes led to the Radon Awareness Act. Provisions included in the act require language be included in contracts for sale of residential real property notifying potential buyers that the property may contain harmful levels of radon, the potential health risks for exposure to radon and how to properly check for the presence of radon. Additionally the measure establishes the radon certification law making allowances in certain instances that radon be required to be measured and mitigated by technicians who have met state application requirements, guidelines and completed proper training. Individuals can check radon levels in their own homes by purchasing an inexpensive kit usually available at local extension offices. SB 577 passed the Senate 33 to 7.

SB 669 Kansas Virtual Schools:

SB 669 creates the Virtual School Act and gives supervision and regulation of virtual schools to the Kansas Department of Education. A virtual school involves teaching and instruction that happens with the student and the teacher in different locations, generally by use of the internet and video transmitting technologies. This measure entitles a school district to virtual school aid for each school year that a school district has a virtual school. The formula for calculating aid is multiplying the number of full-time equivalent students enrolled in the virtual school times 114.0 percent of the unweighted base state aid per pupil (including non-resident students). The bill also requires school districts to provide training to teachers who teach in virtual schools. Lastly, the bill's admonition to a school district using this innovative concept requires students to make academic progress toward the next grade level, demonstrate competence in subject matter for each class in which a student is enrolled, and continues to require students to complete state assessment tests. SB 669 has no net fiscal effect to the state. SB 669 passed the Senate 38 to 2.

HB 2692 Scrap Metal Dealers:

This bill amends the statute that defines "scrap metal" to include stainless steel as a regulated scrap metal. That amendment places scrap metal dealers who purchase stainless steel under the same requirement as other scrap metal dealers in regard to maintaining records of the persons from whom they purchase the metal. HB 2692 passed the Senate 40 - 0.

HB 2748 Tagging Big Game Turkey

HB 2748 amends two existing statutes relating to the tagging of big game and turkey. The bill:

- Requires a permittee, if also required by rules and regulation adopted by the Secretary of Wildlife and Parks, to permanently affix the carcass tag to the carcass of any wild turkey immediately after killing the wild turkey;
- Makes it unlawful to possess a carcass of a big game animal, taken in the state, unless a carcass tag, issued by the Secretary, is attached to it, in accordance with rules and regulation adopted by the Secretary;
- Makes it unlawful to possess a carcass of a wild turkey, taken in the state, unless a check station tag, if required and issued by the Secretary, is attached to it, in accordance with rules and regulations adopted by the Secretary; and
- Makes it unlawful to possess a carcass of a big game animal or wild turkey, taken within the state, unless a check station tag, if required and issued by the Secretary is attached to it, in accordance with rules and regulations adopted by the Secretary. HB 2748 passed the Senate 40 - 0.

SB 524 Fee Collection for Inmate Services

SB 524, as amended, amends state law to change the deposit of fees collected for various inmate services. Current state law stipulates that fees collected for various inmate services be deposited in the Crime Victims Compensation Fund in the Attorney General's Office. SB 524 changes the deposit of those fees into a newly created fund, the Department of Corrections Victim Assistance Fund.

The Committee also amended the bill so that the deposit of fees will only take place in FY 2009. After FY 2009, the collected fees will again be deposited in the Crime Victims Compensation Fund.

The fiscal note prepared by the Division of the Budget indicates the fiscal impact of the bill will be a reduction of approximately \$303,000 from the Crime Victims Compensation Fund and an increase of the same amount in the Department of Corrections Victim Assistance Fund. According to the fiscal note, the reduction in the Crime Victims Compensation Fund will be offset by additional Federal funds in FY 2009. SB 524 passed the Senate 40 - 0.

HB 2749 Establishing Township Reserve Funds

HB 2749 authorizes any township board with a surplus in its general fund to transfer, by resolution, up to 25 percent of general fund revenue into a township equipment reserve fund. The purpose of the equipment reserve fund is to finance the acquisition of equipment. Upon transfer, the revenue in the equipment reserve fund will not be subject to the hearing and other requirements currently in statute for taxing subdivisions' budgets. The budget will be required to show the amounts credited to, available in, and expended from the equipment reserve fund. Equipment reserve fund revenue can be invested as allowed currently for governmental subdivisions.

If the township board determines any portion of the money in the reserve fund is not needed for equipment, the board is permitted to transfer the money back into the general fund. Upon retransfer, the money again is subject to the budget requirements currently in statute for taxing subdivisions' budgets. HB 2749 passed the Senate 40 - 0.

HB 2628 Townships & Repealing Existing Sections

HB 2628 provides for the disposal of township personal property valued at \$1,000 or more. The bill:

- Establishes a procedure whereby the sale or other disposal of such property is prohibited without township board approval. Public notice is required once in a newspaper of general circulation in the township, containing specific information. The sale must be by competitive bid and must be awarded to the highest and best bidder, but the board may reject any or all bids and resubmit for a new competitive bid procedure.
- Requires a township board to establish an alternative method for disposal of personal property in lieu of the above procedure. The alternative method must contain procedures for the public notice of the sale or disposition, a description of the property to be sold, and the method of sale. The method of sale may include, but not be limited to, a number of

types of sales including fixed price, negotiated bid, sealed bid, public auction or any other method allowing public participation. HB 2628 passed the Senate 40 - 0.

HB 2660 Petroleum Products & Payment of Fees

HB 2660 amends a statute relating to the Petroleum Inspection Fee Fund. The bill decreases the amount of moneys raised by the petroleum inspection fee and transferred to the State General Fund from \$250,000 to \$100,000. In addition, the bill amends a section of law dealing with agricultural chemical (pesticide) registration to allow the Secretary of Agriculture to adopt rules and regulations to permit agricultural chemicals to be registered for a period not to exceed three years. The bill also permits the Secretary of Agriculture to charge a fee in such an amount not to exceed \$150 times the number of years for which the agricultural chemical would be registered. HB 2660 passed the Senate 38 - 0.

Sub HB 2757 Municipal Hospitals & Contracts

Sub HB 2757 amends Kansas certain statutes regarding government hospitals to allow hospital boards to enter into employment contracts for an administrator or chief operating officer of the hospital, and to allow such contracts to establish compensation as well as the terms of the agreement. Specifically, the bill provides that a hospital trustee would receive reimbursement for expenses incurred and that an itemized statement of all expenses and moneys paid be made under oath and filed with the secretary of the hospital board. SB 2757 passed the Senate 40 - 0.

Sub HB 2860 Water Rights, Appropriation & Municipalities

Sub HB 2860 prevents the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, from approving a permit to appropriate water to a beneficial use submitted by any municipality, unless the municipality acquired legal access to the proposed point of diversion:

- Prior to January 1, 2008;
- By voluntary means including, but not limited to, purchase or gift; or
- By means other than voluntary not less than 10 years prior to application for a permit.

The provisions of the bill are part of and supplemental to the Kansas Water Appropriation Act and become effective upon publication in the Kansas Register.

Sub HB 2860 failed to pass the Senate 19 -21, and was sent back to the Senate Agriculture Committee.

HB 2847 HVAC, Plumbing & Electrical Licensing

HB 2847, as amended, amends the law regarding licensing examinations for plumbing contractors, electrical contractors and heating, ventilation, and air conditioning contractors to provide for the use of standard examinations from the International Code Council (ICC), the International Association of Plumbing and Mechanical Officials (IAPMO), or Prometric, a subsidiary of Educational Testing Services. HB 2847

passed the Senate 40 - 0.

SB 267 Wildlife & Failure to Comply

SB 267 creates the new crime of failure to comply with a Wildlife and Parks citation. The new crime is defined as failure to:

- Appear before a district court in response to a citation and to pay any fine, court costs, assessments, or fees imposed in full;
- Fully pay or satisfy all fines, court costs, assessments, or fees imposed as part of a sentence of any district court for violation of the Kansas wildlife and parks laws; or
- Comply with a wildlife and parks citation as provided in law.

Failure to comply with a Wildlife and Parks citation will be a class C misdemeanor, regardless of the disposition of the original charge. Under the provisions of the bill, in addition to any other penalty, when a person fails to comply with a wildlife and parks citation or sentence for a violation of wildlife and parks laws or rules and regulations, the district court in which the person should have complied will be required to mail such person a notice stating, if the person does not appear in the district court or pay all fines, court costs, assessments, and any penalties imposed within 30 days, the Department of Wildlife and Parks will be notified to forfeit or suspend any license, permit, stamp, or other authorization issued by the Department.

Upon receiving such notice, the department will be required to notify the violator and suspend or forfeit any permit, stamp, or license held by the violator until receiving evidence of compliance from the district court.

The bill further provides, when the court notifies the Department of Wildlife and Parks of failure to comply with a citation or sentence, the court is required to assess a reinstatement fee of \$50 for each charge or sentence not satisfied, except as otherwise provided in the bill. The reinstatement fee will be in addition to any fines, court costs, assessments, other fees, or penalties arising from failure to comply with a wildlife and parks citation. The district court will be required to remit all reinstatement fees to the State Treasurer for deposit as required by present law, and the State Treasurer is required to credit all such money to the State General Fund.

The bill amends an existing statute to add "failure to comply with a Wildlife and Parks citation" to the duty of a district court judge or clerk in regard to reporting to the Department of Wildlife and Parks and specifies what is to be reported. The Senate voted 40 - 0 to concur on SB 267 as amended by the House.

SB 458 Immigration:

The Federal & State Affairs Committee approved Substitute for Senate Bill 458, which is the immigration bill. The new version includes more criminal penalties aimed at the "coyote" traffickers who transport illegal aliens into Kansas, the establishment of a new immigration enforcement division in the attorney

general's office to enforce the law, and revised provisions for penalizing businesses who knowingly hire illegal aliens. Details of the revised bill are still being digested by senators, and the measure likely will be debated on the Senate floor next week.

AMENDMENTS TO 2008 SB 458

MARCH 11, 2008

The amendments are as follows:

AMENDMENT NO. 1

1. Section 1 consists of definitions. The definitions that are necessary and appropriate are retained. Unnecessary definitions are deleted.
2. Sections 2, 3, and 4 are deleted.
3. Section 5 clarifies that an alien who is not lawfully present in the United States is not eligible to receive any state or local public benefits. The term "public benefit" is defined. It does not include reduced fees or tuition provided under current law.
4. Section 6 requires all state officials, agencies, and personnel to fully comply with and support the enforcement of federal law prohibiting the entry into, presence, or residence in the United States of aliens in violation of federal immigration law.
5. Sections 8, 9, 10, and 11 are deleted.
6. Section 12 contains standard severability provisions.
7. New Section 5 creates a new crime of "employment identity fraud." Employment identity fraud is willfully presenting to an employer false or misleading identification documents for the purpose of obtaining employment in Kansas. Employment identity fraud is a severity level 8, non-person felony.
8. New Section 6 creates the crime of "coercing employment." Coercing employment is labor or services that are performed or provided by another person and that are obtained or maintained through various illicit activities listed in the amendment. Coercing employment is a severity level 9, person felony.
9. New Section 7 provides that, if a person's presence in the United States is a violation of federal immigration laws and that person commits a crime in Kansas, the person's sentence is not subject to a suspended sentence, conditional release, community service, or probation.
10. Section 8 amends the human trafficking statute to prohibit knowingly transporting or assisting in the transporting of any person into the State of Kansas who is not lawfully present in the United States.
11. Section 12 requires a person convicted of aggravated human trafficking to register as an offender for the remainder of the person's lifetime.
12. Section 14 includes forfeiture of assets provisions. The assets of a person may be forfeited if that person is present in the United States in violation of federal immigration laws and

commits any felony. Human trafficking would also subject a person to forfeiture of assets.

AMENDMENT NO. 2

- This amendment makes it a civil offense for a business entity to knowingly engage in a pattern or practice of hiring, recruiting, or referring for a fee for employment any unauthorized alien. The Attorney General would be authorized to bring a civil suit to enforce this provision. However, no suit would be allowed against a business entity that participates in the federal E-verify system and such system raises no concerns about the prospective employee. Additionally, a business entity would have an affirmative defense if the business entity properly completed an I-9 form as required by federal law. If a business entity is determined to have violated these provisions, the district court could issue a permanent injunction against further violation. Contempt of court is the remedy for violating an injunction.

AMENDMENT NO. 3

- The amendment establishes an "Illegal Immigration Enforcement Division" within the Office of the Attorney General. That enforcement division will be responsible for the investigation and enforcement of criminal and civil prohibitions established under this bill, including existing criminal statutes relevant to unauthorized aliens.

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