Veto Session Finishes

The legislature returned on Monday, May 3 and ended early in the morning on Saturday, May 8 to finalize their veto session. Below is a listing of issues we are watching with municipal impacts.

**COVID-19 Small Business Relief Act** - The amended contents of SB 286 were placed into SB 273 and passed by both Chambers during veto session. This bill would create the COVID-19 Small Business Relief Act for businesses with 50 or fewer full-time employees who had specific damages due to government shutdown orders. While this bill has numerous implications for counties, the only cities that would face potential liability are those who issued orders placing restrictions on business that were stricter than the county in response to COVID-19. Face masks ordinances are not considered a restriction unless the ordinance is still in place May 31, 2021. Restrictions include occupancy limitations, limitations on periods of operations, or exertion by the governmental entity of other significant control on businesses resources or functionality related to COVID-19. A business aggrieved by the State, County, or City order could file for reimbursement of specific enumerated losses not already reimbursed by other governmental aid at the state, local, or federal level. The claim would then go to the Claims against the State Committee where the State, County, or City affected could argue while the judgement was in error. Finally the Legislative Coordinating Council would have final approval authority over all claims. The State of Kansas would be required to encumber 25% of its American Rescue Funds (ARP) to pay out these potential claims. Counties would be required to encumber 35% of its ARP funds to pay out potential claims and any city with an order restricting business (other than face mask ordinances before 5/31/21) would have to encumber 35% of its funds to pay out potential claims. If your city did not issue orders, there is no requirement to encumber funds. If your city issued orders related to COVID-19 that were identical to the county orders, it is likely that the city would need to encumber 35% of ARP funds but would face no liability for paying out claims. Beginning April 1, 2023 all remaining encumbered funds could be spent in any manner consistent with Treasury Guidance. The language is slightly ambiguous and the city will need to work with its city attorney on whether funds would need to be encumbered based on its particular circumstances. Initial Treasury Guidance on ARP Funds appear to state that the State cannot require specific uses of a city or a county’s ARP money. However, there are possible advantages to participating in the program for a city or county to consider when deciding how to proceed in light of Treasury Guidance primarily that any business that requests reimbursement under this program is barred from filing any other kind of takings suit for damages. The Governor has 10 days from receiving the bill to decide whether to veto the legislation.

We are beginning our preparations for the 2021 League Annual Conference, scheduled for October 9 through 11 in Topeka.

At this time, it is our intent to hold an in-person conference with possible modifications. Visit our event web page for updates on the Annual Conference.

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Property Tax Omnibus Bill (HB 2313) - On Friday, the Senate attempted to pass the conference report on HB 2313 loaded with free property taxes for private gyms, a rebate program for business that were impacted by shutdowns, and a new rebate program for senior citizens and disabled veterans. The conference committee report was rejected by the Senate 11-27. The bill was returned to conference committee and stripped of most of the controversial pieces of the bill. The revised bill, effective January 1, 2022, passed early Saturday morning now requires that if a county or city orders a business to close or “restricts” the business because of a declared disaster that the city or county must reimburse 1/365 of the business's taxes for each day closed. The bill also extended the 20 mills that school districts are required to levy for their general fund. In addition, the bill calls for a post-audit study on governments and not-for-profits competing for-profit companies. The bill also allows national guardsmen to have two tax exempt vehicle tags.

Mega Tax Bill (SB 50) - This legislation became law without the Governor’s signature when the House overrode the Governor’s veto 84-39 and the Senate overrode the veto 30-10. The bill made modifications to how sales and compensating use taxes are collected from out of state retailers. Marketplace facilitators are defined by the act to include entities that contract with sellers to facilitate the sale of products or lodgings through a physical or electronic marketplace operated, owned, or otherwise controlled by the entity and either directly or indirectly collect the payment from the purchaser and transmit all or part of the payment to the seller. The definition excludes platforms that exclusively provide advertising services, principally provide payment processing, or are a certain type of commodity futures trading organization. These facilitators are required to collect and remit sales and compensating use tax beginning July 1, 2021. Such entities with annual gross receipts from sales sourced into Kansas in excess of $100,000 are subject to the requirement, which also applies to out-of-state retailers with annual receipts from sales sourced into Kansas exceeding $100,000. The bill further clarifies that, in addition to state and local sales and use tax, marketplace facilitators also are responsible for collecting and remitting local transient guest taxes beginning January 1, 2022, and certain prepaid wireless 911 fees beginning April 1, 2022.

Countywide Sales Tax - SB 87, legislation related to the redistribution of the Countywide Sales Tax, stayed below the line. The bill is now dead for this session, but could be considered when the legislature returns in January.

Changes to State Liquor Law - A Conference Committee Report making significant changes to State liquor laws was adopted by both chambers of the legislature last week. Among these changes were a handful of provisions that the League was tracking closely were put into this piece of legislation. Notably, HB 2137 includes modifications to the allowable start time for Sunday sales of alcoholic liquor and cereal malt beverage, allowing cities to pass ordinances permitting sales starting not earlier than 9:00 a.m. Additionally, the bill removed provisions prohibiting the sale of alcoholic liquor on the “summer holidays” of Memorial Day, Independence Day, and Labor Day. The bill also made modifications to licensing requirements, removing the residency requirement for licensure in an effort to comply with the Constitution following the U.S. Supreme Court's decision in Tennessee Wine. Further, this bill removes provisions preventing the spouses of law enforcement officers from obtaining a liquor license and makes provision for those holding licenses or temporary permits to sell liquor by the drink to also sell CMB. The bill would also allow for any person holding a license as a manufacturer to be issued one drinking establishment license, provided that the licensed premises are separate, but not more than two miles away from each other. The sunset on the provision allowing for alcohol to go was also removed from state law, making permanent a change from last year allowing the removal of alcoholic liquor from licensed premises, provided that they are packaged and sealed as required by state law.

The League will have a legislative wrap-up article in the July edition of the Kansas Government Journal.
Leadership Summit & Kansas Mayors Conference

The KMA Conference and Leadership Summit will be offered June 18 and 19 in Lawrence, Kansas. We will be following any Douglas County/City of Lawrence rules and regulations that may be still in place at the time of the event.

The keynote speaker for this event is Holly Hoffman, a former star of hit reality TV show "Survivor." Holly is a professional motivational speaker and the author of Your Winner Within and Write Yourself a Note. Holly inspires her audiences to take opportunities and focus on attitude, determination, confidence, desire, and perseverance.

Additional topics and the schedule of events will be announced soon. Friday’s sessions will begin with the Kansas Mayors Association portion at 1:30 p.m., and also include a general session for all attendees featuring Holly Hoffman. Saturday’s sessions will conclude no later than 2:30 p.m. We hope you will join us for this event.

Visit our website for more information.