

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 14

As Recommended by Senate Committee on
Judiciary

Brief*

SB 14 would amend law regarding the governmental response to the coronavirus disease 2019 (COVID-19) pandemic in Kansas, as follows. The bill would be in effect upon publication in the *Kansas Register*.

***Ratification and Extension of State of Disaster
Emergency (Section 3)***

The bill would amend the statute ratifying and continuing the COVID-19-related state of disaster emergency declared by the Governor on March 12, 2020, to reflect the September 15, 2020, ratification and continuation of the state of disaster emergency by 2020 Special Session HB 2016 and subsequent extensions and continuations by the State Finance Council, and would ratify and continue in existence the state of disaster emergency until March 31, 2021. The bill also would amend this statute to extend from 2020 through 2021 a provision prohibiting the Governor from proclaiming any new state of disaster emergency related to the COVID-19 health emergency without approval by at least six legislative members of the State Finance Council.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Extension of Provisions

The bill would amend statutory provisions regarding the following to extend their expiration from January 26, 2021, until March 31, 2021:

- Removal of alcohol from premises of a licensed club or drinking establishment (Section 1);
- In the section of the Kansas Emergency Management Act (KEMA) governing declaration of a state of disaster emergency, provisions regarding extension of the COVID-19 state of disaster emergency when the Legislature is not in session by application of the Governor to the State Finance Council (Section 2). This section also would be amended to permit this procedure when the Legislature is adjourned during session for three or more days;
- In the section of KEMA governing powers of the Governor during a state of disaster emergency (Section 4), extending provisions regarding the powers of the Governor and boards of county commissioners enacted in 2020 Special Session HB 2016. [Note: This section appears to make substantive amendments to the statute. However, these apparent substantive amendments reflect current statutory language and appear as amendments only to continue the current language beyond the original January 26, 2021, expiration date.] Effective March 31, 2021, the bill (in Section 5) would return this section to the version effective before enactment of 2020 Special Session HB 2016, removing the amendments made by 2020 Special Session HB 2016 and this bill;
- Telemedicine (Section 7);

- Temporary emergency licensure by the State Board of Healing Arts (Section 8);
- Temporary licensure measures for additional health care providers (Section 9); and
- Business immunity from liability for a COVID-19 claim (Section 10).

Closure or Cessation of Business Activity (Section 6)

The bill would amend the KEMA statute limiting the Governor's closure or cessation of business activity by limiting its application to a state of disaster related to the COVID-19 public health emergency.

Under current law, this statute prohibits the Governor from ordering the closure or cessation of any for-profit or non-profit business or commercial activity for more than 15 days, requires the Governor to consult with the State Finance Council prior to issuing such an order, and requires approval of six legislative members of the State Finance Council for additional closure or cessation beyond 15 days. The bill would amend these provisions to instead prohibit the Governor from issuing an order that substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic, business, or commercial activity, whether for-profit or not-for-profit.

The expiration date of this statute also would be extended from January 26, 2021, until March 31, 2021.

Background

As passed by the 2020 Legislature, Senate Sub. for HB 2054 created and amended law and made appropriations in

response to the 2020 COVID-19 pandemic in Kansas. Among the contents of the bill were provisions requiring Legislative Coordinating Council approval of expenditures from federal COVID-19 relief funds, ratification of state of disaster emergencies declared in response to the COVID-19 pandemic, additional legislative oversight in the KEMA, limitations on certain actions by or powers of the Governor in KEMA, additional authority for boards of county commissioners, liability limitations for health care professionals and businesses, and codification of elements of various executive orders issued in response to the COVID-19 pandemic.

On May 26, 2020, the Governor vetoed Senate Sub. for HB 2054, citing certain changes to KEMA, the requirements for approval of expenditures from federal COVID-19 relief funds, and the liability limitations contained in the bill as policy provisions she could not support.

The same day, the Governor issued a proclamation calling the Legislature into Special Session, beginning June 3, 2020, “to extend the state of disaster emergency and to enact appropriate amendments to the [KEMA] so as to provide for emergency response to the effects of the COVID-19 pandemic.”

The Legislative Coordinating Council authorized meetings of the House and Senate Committees on Judiciary to review portions of Senate Sub. for HB 2054. On June 2, 2020, the House and Senate Committees on Judiciary held informational hearings on the status of negotiations between legislative leadership and the Governor’s Office, including a draft bill based upon the negotiations. The draft bill, based upon 2020 Regular Session Senate Sub. for HB 2054, would have modified or added a number of provisions, including:

- Oversight of Coronavirus Relief Fund moneys (modified);

- KEMA additions and amendments related to state of disaster emergencies and the Governor's powers (modified);
- Authority of local officials (modified);
- Requiring State Board of Education approval for school closure (added);
- The Liability Protection Act (modified);
- The Privacy Act (added); and
- Duties of the Kansas Department for Aging and Disability Services regarding adult care homes (modified).

Background information on Senate Sub. for HB 2054 may be found in the conference committee report brief for that bill.

During the 2020 Special Session, the Legislature passed HB 2016, based upon the language in the draft bill and further negotiations. The Governor signed HB 2016 into law on June 8, 2020. Multiple provisions in or amendments made by HB 2016 are set to expire on January 26, 2021, and in some cases the statutory language will revert to the language effective prior to the enactment of HB 2016.

SB 14 was introduced by the 2021 Senate Committee on Judiciary at the request of Senator Warren.

Senate Committee on Judiciary

In the Senate Committee hearing on January 12 and 13, 2021, **proponents** of the bill included representatives of Centura Health, Kansas Association of Nurse Anesthetists, Kansas Chamber, Kansas Hospital Association, Kansas Justice Institute, Kansas Medical Society, Kansas Policy Institute, Kansas Restaurant and Hospitality Association,

League of Kansas Municipalities, and National Federation of Independent Business. Representatives of Americans for Prosperity, Fuel True (formally known as Petroleum Marketers and Convenience Store Association of Kansas), Greater Kansas City Chamber of Commerce, Kansas Advanced Practice Nurses Association, Kansas Agribusiness Retailers Association, Kansas Association of Counties, Kansas Cooperative Council, Kansas Grain and Feed Association, Kansas Wine and Spirits Wholesalers Association, Interhab, National Council of State Boards of Nursing, Overland Park Chamber of Commerce, and Renew Kansas Biofuels Association provided written-only proponent testimony. Representatives of the Kansas State Board of Healing Arts and Sierra Club – Kansas Chapter testified as neutral conferees on the bill. A private citizen testified as an **opponent** of the bill.

[*Note:* On January 13, 2021, the Senate Committee voted to add a statement of legislative intent to its minutes regarding the bill’s application to certain health care professionals.]

Fiscal Information

No fiscal note was available when the Senate Committee took action on the bill.

COVID-19; telemedicine; temporary emergency licensure for healthcare professionals; Kansas Emergency Management Act; sale of alcoholic liquor; business liability