

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 366**

As Agreed to April 29, 2016

**Brief\***

SB 366 would prohibit cities, counties, and other political subdivisions from enacting or enforcing policies pertaining to price control of real estate, labor work schedules, and nutrition labeling. The bill also would restrict cities and counties from administering residential rental property inspections if certain conditions are not met.

***Price Control of Real Estate***

Political subdivisions would be prohibited from enacting, maintaining, or enforcing an ordinance or resolution that would control the purchase price agreed upon between the parties to a transaction of privately owned residential or commercial property. Continuing law contains a similar prohibition regarding the amount of rent charged for a lease of residential or commercial property. The bill would not impair the right of a property owner from entering into a voluntary agreement with a political subdivision that would affect the amounts of rent charged or purchase price in return for grants or incentives provided by the political subdivision to the owner. Political subdivisions would not be allowed to condition the issuance of permits to an owner of private property on any requirements that would have the effect of controlling the amount of rent charged or purchase price.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

### ***Labor Work Schedules***

Cities, counties, and local units of government would be prohibited from affecting the work schedules of private sector employees, unless required by state or federal law. Existing ordinances enacted by cities pertaining to work schedules would become void under current law. However, the existing policies of counties and local units of government would not become void. Also under current law, cities, counties, and local units of government are prohibited from enacting or enforcing policies regarding private sector employees' leave, compensation, or other benefits. The law allows for an exception regarding economic development programs of state or local governments.

### ***Nutrition Labeling***

The regulation of food nutrition information and consumer incentive items served with food or nonalcoholic beverages sold at restaurants, retail food establishments, or vending machines would be reserved to the Legislature. The State and "political subdivisions," as that term would be defined by the bill, would be prohibited from establishing or enforcing policies pertaining to:

- "Food nutrition" or "consumer incentive items," as those terms would be defined by the bill;
- A license or permit issued on condition of food nutrition information or food-based health disparities;
- The restriction of food service operations based upon food nutrition information or consumer incentive items; and
- The locations where food is grown, distributed, sold, or served.

The bill would not be interpreted so as to become more restrictive than federal law or regulation affecting nutrition labeling. The food service facilities of political subdivisions would be exempt from the bill, provided the political subdivision's policies do not restrict another entity. The bill would not be construed as limiting the zoning authority of political subdivisions. Political subdivisions would be allowed to create and promulgate nutritional information in accordance with dietary guidelines established by the U.S. Department of Agriculture (USDA), provided the information would not be contained in a law or ordinance restricting any other entity.

### ***Residential Rental Property Inspections***

A city or county would be prohibited from establishing or enforcing a residential property licensing policy that requires periodic interior inspections unless the lawful, resident occupant gives consent. Lawful occupants could request their residential property be inspected by the city or county, as applicable. A city or county would not be prohibited from reviewing plans and conducting construction or final occupancy inspection as required by building permits.

### **Conference Committee Action**

The Conference Committee agreed to:

- Retain the provisions of House Sub. for SB 366, pertaining to real estate price controls; and
- Add the language found in:
  - HB 2576, pertaining to labor work schedules;
  - HB 2595, as amended by the House Committee of the Whole, pertaining to nutrition labeling; and

- HB 2665, as amended by the House Committee on Commerce, Labor and Economic Development, pertaining to residential rental property inspections; and
- Amend the bill further with language to:
  - Allow for certain city or county inspections related to construction;
  - Clarify political subdivisions could participate in food assistance programs operated in accordance with USDA guidelines; and
  - Prohibit political subdivisions from issuing permits to private property owners on conditions that would have the effect of controlling rents or sales prices.

## **Background**

The following is the background of House Sub. for SB 366, HB 2576, HB 2595, and HB 2665.

### ***House Sub. for SB 366***

The bill was introduced by the Senate Committee on Commerce.

Representatives of the Kansas Association of Realtors, the Kansas Building Industry Association, and Americans for Prosperity provided testimony at the hearing before the House Committee on Commerce, Labor and Economic Development in support of the bill, stating the bill would prohibit inclusionary zoning. Representatives of the cities of Ottawa and Lawrence and the League of Kansas Municipalities spoke in opposition of the bill, explaining the legislation could erode local government control. A representative the Kansas House Association provided neutral testimony, explaining the bill could adversely affect the supply of affordable housing.

The House Committee of the Whole amended the bill to allow for voluntary agreements between property owners and political subdivisions. [*Note:* The Conference Committee report includes this provision.]

The fiscal note provided by the Division of the Budget indicated the bill, as introduced, would have no fiscal effect.

### **HB 2576**

During the hearing before the House Committee on Commerce, Labor and Economic Development, representatives from the Kansas Restaurant and Hospitality Association, the National Federation of Independent Business, and the Kansas Chamber of Commerce spoke in favor the bill, stating changes to work schedules, if imposed on private employers, should be decided at the state level to avoid the potential for disparate, inflexible policies between communities.

Representatives from the League of Kansas Municipalities and the Kansas AFL-CIO spoke in opposition to the bill, expressing concern the legislation could erode local policy-making control.

According to the fiscal note prepared by the Division of the Budget, the bill would have not fiscal effect on state government. The fiscal effect on cities and counties was not known.

### **HB 2595**

The bill was introduced by the House Committee on Appropriations.

During the hearing before the House Committee on Commerce, Labor and Economic Development, representatives from the Kansas Department of Agriculture (Department); Americans for Prosperity; Kansas Beverage

Association; Kansas Chamber of Commerce; Kansas Livestock Association; Mid American Merchandising Association; and various agriculture associations testified in favor of the bill. According to the representative from the Department, the bill would encourage uniform food labeling across the state and country. Other proponents noted a trend in communities in other states to regulate the dissemination of food nutrition information.

Representatives from the American Cancer Society; American Heart Association; Kansas Association of School Boards; Kansas Farmers Union; Kansas Rural Center; League of Kansas Municipalities; Unified Government of Wyandotte County and Kansas City, Kansas; and various civic groups and foundations testified in opposition to the bill. Representatives of the local units of government expressed concern the bill would preempt local control, including zoning ordinances. Other opponents stated consumers want nutritional information in order to make healthy food choices.

The House Committee amended the bill to provide an exemption for food service facilities owned by political subdivisions.

The House Committee of the Whole amended the bill to:

- Clarify the zoning authority of political subdivisions would not be affected; and
- Allow political subdivisions to promulgate nutritional information, provided the information is not used to restrict any other entity.

[*Note:* The Conference Committee report includes the above provisions.]

According to the fiscal note prepared by the Division of the Budget on the original bill, in consultation with the Department, the Kansas Association of Counties, and the League of Kansas Municipalities, the bill would have no fiscal

effect on the state or counties. It is unknown what the fiscal effect on municipalities would be.

### **HB 2665**

During the hearing before the House Committee on Commerce, Labor and Economic Development, Representative Schwab and representatives of the Associated Landlords of Kansas, Association of Realtors, Kansas Policy Institute, and individuals owning property spoke in favor of the bill. Proponents stated the bill would protect the rights of tenants to refuse routine intrusions into their homes; local governments could establish rental licensing programs as long as the conditions of the bill are met.

Representatives from the Unified Government of Wyandotte County and Kansas City, Kansas; the cities of Mission, Hutchinson, Prairie Village, Fairway, Lenexa, Lawrence, and Overland Park; various civic groups; the Kansas Association of Code Enforcement; the League of Kansas Municipalities; and private individuals spoke in opposition to the bill. Opponents expressed concern the bill would erode local control. Opponents also noted the bill would not delineate between interior and exterior searches and would affect commercial property inspections.

The House Committee amended the bill to:

- Specify the bill would apply to:
  - The licensing of residential rather than rental property;
  - Lawful occupants rather than tenants; and
  - Interior inspections;
- Delete the requirements for a city or county to:
  - Obtain a search warrant; and

- Give notice to the property owner; and
- Delete provisions that would have:
  - Voided certain licensing policies; and
  - Prevented inspections when a tenant was subject of an eviction proceeding.

[*Note:* The Conference Committee report includes the above provisions.]

According to the fiscal note prepared by the Division of the Budget, in consultation with the Kansas League of Municipalities and the Kansas Association of Counties, the bill, as introduced, may increase counties' expenditures for purposes of obtaining search warrants.

local government; regulation; inspection; real estate; rental property; nutrition labeling; labor

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