

Newsletter – May 24, 2018

The 2018 Regular Session is complete. The 2018 First Special Session has begun to consider whether Governor Greitens should be impeached.

The 2018 legislative session was historic for the number of large issues that are on the verge of becoming law. The leadership of the House and the Senate were particularly effective in maintaining control of the process and pushing big issues.

Term limits will raise their head in the November elections, as the House of Representatives will have another very large class due to the eight-year cycle that impacts the House dramatically (term limits began in 1994, so large classes occurred in 2002, 2010, and now 2018 election cycles).

Below are highlights of some of the bills passed in the 2018 Session.

2018 Legislative Session Re-cap

The Second Regular Session of the 99th General Assembly has officially ended and many would suggest it was one of the more successful sessions in recent memory in terms of passing meaningful legislation including: paycheck protection, prevailing wage, capping tuition of public higher education institutions, two tax cut bills, overhauling the state employee's merit pay system, a public vote on a fuel tax to support transportation funding, 911 tax for cell phones and regulatory changes to promote infrastructure investment in the energy grid.

The impressive productivity of this 2018 session is all the more surprising given that all of these successes came amidst the backdrop of the scandal gripping the Greitens administration and the real possibility that the Governor could be impeached by a Republican led General Assembly.

Overall, there were 125 bills that were Truly Agreed to and Finally Passed this session out of a total of 2,069 bills (excluding budget bills and resolutions) introduced, a success rate of 6%.

If you are interested, here is a link to all bills that were Totally Agreed to and Finally Passed this session: <https://house.mo.gov/LegislationSP.aspx?report=billlist>.

Governor Greitens' Problems

The Judge in the invasion of privacy case against Governor Greitens in the City of St. Louis has approved Jackson County Prosecutor Jean Peters-Baker as the new special prosecutor in the case. Judge Rex Burlison also ordered that St. Louis Circuit Attorney Kim Gardner have no additional involvement with the case.

Peters-Baker is a former State Representative, and her appointment signals that the invasion of privacy issue in St. Louis is not dead.

Private Sexual Images

With the impending potential impeachment of Governor Greitens, the issue of so-called "revenge porn" was ripe for action by the Missouri General Assembly, and that action was taken with House Bill 1558 being truly agreed and finally passed.

The bill provides penalties for the nonconsensual release of private sexual images, and makes it a crime to threaten the release of such material.

This bill, as will all other bills that were truly agreed and finally passed, will make its way to the Governor for signature or veto. It will be interesting to see how Governor Greitens responds to this legislation when it hits his desk.

RIP State Merit System

Senate Bill 1007, the repeal of the State Merit System, was sponsored by Senate Majority Floor Leader Mike Kehoe, and was truly agreed and finally passed in the last week of session.

While the Merit System for state personnel in theory was a good idea, in practice it did not effectively work. The process of identifying candidates through a review of resumes and testing for certain positions became a bureaucratic roadblock to hiring. It seems unlikely this change will open the doors to widespread patronage at every agency.

Historic Tax Credits

Senate Bill 590, sponsored by Senator Dan Hegeman, attempted to lower the caps on historic preservation tax credits. The bill was truly agreed and finally passed, and the bill set an annual cap for the basic program of \$90 million, while also setting up a separate allocation of \$30 million for projects located in a qualified census tract, which is defined as a census tract with more than 20% poverty level.

The bill also modifies the Historic Credit by requiring the Department of Economic Development to consider additional factors in determining whether the credit is awarded, including the projected net fiscal benefit, the overall size and quality of the project, the level of economic distress in the area, and the input from local elected officials.

Low Income Housing Tax Credits

It has not been a good last six months for those involved in the low-income housing tax credit program. Last December the new appointees by Governor Greitens to the Missouri Housing Development Commission failed to approve a Qualified Allocation Plan for 2018, which effectively closed the door on new low-income housing state credits for 2018.

Many in the low-income development community had hoped for some kind of deal in the 2018 legislative session, but those hopes were dashed in the last week of the session. In fact, the House Budget Committee voted to approve no low-income tax credit authorizations in their final meeting on tax credits.

Once this program has been dormant for a year or more, it will be difficult to revive. However, the fiscal relief from the termination will be a long time coming, as the low-income credits pay out over a ten-year period.

Tort Reform

The major issues that proponents of tort reform focused on this legislation session, dealt with joinder and venue and as a result of several negotiations in the senate that impacted the movement of other pieces of legislation, these two issues did not make it across the finish line. Expect tort issues to be front and center in the next session.

Motor Vehicle Use Tax

The ability of local municipalities and counties to consider ballot language for a motor vehicle use tax was extended from 2018 to 2022.

In-Home Services

House Bill 1350, sponsored by Representative Cody Smith, was also truly agreed and finally passed. The bill attempts to add uniformity to the background checks process for in-home services workers and workers for other provider groups.

Individual Income Tax

The House took up and gave final approval to House Bill 2540, a slimmed-down version of tax reform for the individual income tax. The bill basically was rewritten with a Senate Substitute to trade off the current limited deductibility of federal income taxes for a .4% reduction in the top tax rate. The bill on its own is relatively revenue neutral.

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A problem for some tax policy critics is that the bill left intact about a half a billion in future tax cuts authorized by Senate Bill 509 in 2014.

Corporate Income Tax Bill

A bill that is not revenue neutral for state revenues has the strange process in passing Senate Bill 884, as a replacement for the bill originally passed by the Senate, Senate Bill 674. In the House hearing two weeks ago on SB 674, it was discovered that the fiscal note on the bill was incorrect by about \$55 million in revenue loss.

Yet SB 674 was placed on the calendar, with the possibility of rejecting the House Committee Substitute and adopting the Senate-passed bill, incorrect fiscal note and all. This would have created a situation where the budget for next fiscal year would have lost significant revenue.

SB 884 ended up with a trade-off of requiring single factor sales for C-Corporations and utilizing that money to fund a reduction in the top corporate income tax rate to 4%. Some would suggest that the bill, which will kick in on January 1, 2020, will cost General Revenue about \$30 million annually.

MODOT Transportation Tax To The Ballot

In a surprise move, the Missouri House on Friday passed House Bill 1460, which includes placing a phased-in (over 4 years) ten cent increase to the motor fuel tax to help fund transportation. The final vote was 88-60. This issue will be on the November General Election ballot.

Higher Ed Bill Passes

The General Assembly gave final approval to SB 807 (Senator Wasson), which had a number of issues dealing with higher education. Language in the legislation allows for tuition increases at public institutions of higher education of up to 5% in years when the core appropriations are cut.

FRA Bill Passes

The Missouri House of Representatives truly agreed to and finally passed Senate Bill 775, which extends the health care provider taxes by one year. The measure, sponsored by Senator Dan Brown, did not contain a proposed managed care organization tax in the final version. The one year reauthorization means that this issue will be considered again in the 2019 legislative session.

Utility Investment Incentive Bill Approved

After an extraordinarily long period of close to a decade or more of considering legislation that modernizes Missouri's utility regulatory structure and incentivizes utility investment in grid modernization, the General Assembly this week passed Senate Bill 564, sponsored by Senate Utilities Chairman Ed Emery. The bill's passage will likely portend a 2019 session where this critical issue is likely off the table.

Paycheck Protection

The Missouri Senate truly agreed and finally passed the so-called paycheck protection bill, House Bill 1413, which would eliminate mandatory collection of certain labor union dues. The House sponsor was Representative Jered Taylor.

Prevailing Wage

Also receiving final approval was a bill by Representative Jeff Justus, House Bill 1729, that significantly rewrites the laws regarding the requirement to pay prevailing wages on public construction projects.

Accessing House and Senate Bill Copies Electronically

To view House and Senate bill versions online, follow the link <http://www.house.mo.gov/billcentral.aspx>, and type in “HB” or “SB” followed by the appropriate bill number (such as HB1008) to access a summary, history, etc., of each individual bill.