

# Legislative Bulletin



March 2017 – Missouri Trucking Association

Issue #2

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## **Spring Break Begins**

Legislators are off for Spring Break until Monday, March 27<sup>th</sup>. When they return, they will have 7 weeks until the end of session, but because of a Constitutional mandate only 6 weeks to finalize the budget.

## **The House Chamber Marks 100 Years**

100 years ago, on March 16, 1917, the 49<sup>th</sup> General Assembly of Missouri met for the first time in the Capitol. The building was yet unfinished – House Speaker Drake Watson presided from a temporarily constructed dais, and the members of the body sat on the floor in “camp chairs.”

According to the Jefferson City Post-Tribune, “*Oratory flowed freely.*” The March 16, 1917 edition reported: “*The orators of the General Assembly were immensely pleased with the new capitol and the quarter for future legislatures. They talked and talked and then some. It was a pleasant affair all around.*”

## **Senate Committee Hears Highway Bill**

On March 16, 2017, the Senate Transportation, Infrastructure and Public Safety Committee heard SB 457, which creates a new funding source for Interstate 70 re-construction and maintenance. The measure, sponsored by Senator Bill Eigel (R-Weldon Spring), would take up to eight percent of the state’s sales tax and use taxes, and place the money in the Interstate 70 Improvement Fund. The bill also allocates two percent of state sales and use tax funds into the state road fund. In addition, the legislation removes state responsibility for many rural highways, and places those roads back under the control of each county the road may lie in.

Many would say this idea is not a new funding source, but rather a re-allocation of state General Revenue dollars. Several senators on the committee took issue with the legislation, saying that General Revenue money has no place in the funding of highways, as it would lead to too much politicizing of road construction, because the General Assembly has the authority to earmark all money in the General Fund. Instead, they would like to see an increase in the state fuel tax, as those monies are controlled strictly by the Missouri Transportation Commission.

Also speaking against the measure were representatives from the Missouri Association of Counties, and the County Commissioners Association. They say it would be impossible for most counties in the state, especially the smallest, to take back maintenance responsibility of rural or “letter routes”. No vote was taken on the bill, and it isn’t expected the measure will gain any momentum.

## **Property Tax Apportionment**

SB 311, sponsored by Sen Jay Wasson (R-Nixa) was heard by the Senate Transportation, Infrastructure and Public Safety Committee on March 9, 2017 and was reported to the Senate last week and is on the Formal Calendar for Perfection. SB 311 adds clarifying language to allow the assessed valuation of any tractor or trailer owned by a corporation and used in interjurisdictional commerce to be apportioned for Missouri property taxes based on the miles traveled in Missouri. This concept is not a new one, as all counties in MO, except recently for St Louis County, have been allowing this apportionment for years. After several administrative attempts at solving this issue for a

MoTA member, SB 311 and HB 835, sponsored by Rep Bart Korman (R-High Hill) were filed to amend the current statutes to clarify the use of supporting documents for the apportionment. HB 835 has not received a committee hearing to date.

### **Platooning**

Bills to allow commercial vehicles to follow closer than 300 feet are continuing to make slow progress in the legislature. [HB 108](#) sponsored by Rep Charlie Davis (R-Webb City) and [SB 243](#) sponsored by Sen Dan Hegeman (R-Cosby) are both working through their respective legislative bodies. HB 108 is currently in the House Rules-Administrative Oversight committee, and SB 243 is on the Senate Formal Calendar to be Perfected.

### **Independent Contractor Employee Classification:**

In a repeat of the previous week, [HB 356](#), which allows taxpayers to classify individuals as independent contractors under certain circumstances via safe harbor clauses rendered by the IRS, saw no movement again last week and remains in the House Rules Committee.

### **Workers' Compensation Legislation:**

[SB 66](#), which deals with maximum medical improvement guidelines, saw no movement last week in the House and is still awaiting assignment to committee. [SB 113](#), which modifies the law relating to an employer's ability to discharge an injured worker, remains in the House as it is also awaiting assignment to committee.

[HB 289](#), which allows shareholders of certain S Corporations to reject Workers' Compensation, has been assigned to the Senate Small Business and Industry Committee. No hearing date has been set.

### **Consent Bills Sail Through**

As is the custom before the legislative spring break, both the House and Senate attempted to clear their respective calendars of consent bills. A consent bill, by legislative definition, is a bill that is non-controversial in nature, has no cost to the state or political subdivision, and does not have a penalty provision. A penalty provision is where an act is made to be illegal, and the offending person or entity faces a fine or jail time. Typically, a consent bill seeks to do things like name a memorial highway after someone, establish something like a state tree or other state symbol, or establish some type of special motor vehicle license plate. Thirteen consent bills made their way through the Senate last week, with a handful more progressing through the House.

### **Senate Temporary Delay on Uber Bill**

The so-called Uber bill (House Bill 130, sponsored by Representative Kirk Matthews) took more time than anticipated when it was again taken up for perfection in the Senate on Thursday, March 9. The bill ran into delaying tactics two weeks ago from Senators Rob Schaaf (wants statewide managed care stopped), Maria Chappelle-Nadal (wants action on St. Louis County landfill) and Paul Wieland (is concerned about insurance on Uber type services).

Last week the bill remained on the Senate Informal Calendar of House Bills for Third Reading. There are still seven weeks left in the legislative session, so the bill is still poised for a positive outcome.

### **Gubernatorial Appointments**

It was anticipated that on Thursday of last week the Gubernatorial Appointments reports from two weeks ago and last week would be approved by the entire Senate, thereby confirming the appointments made in those reports. That action did not occur on Thursday, with Majority Floor Leader Mike Kehoe advising the Senate that he would likely take up those appointments on March 30, 2017. The three appointees to the University of Missouri Board of Curators therefore will not be

confirmed until that time, and the same applies to the appointees who were heard in the Senate Gubernatorial Appointments on Wednesday, March 15.

### **Expert Witness Bill Passes**

As the legislative focus on labor organizations and tort issues continues, this week the Missouri Senate passed House Bill 153, sponsored by Representative Kevin Corlew, which deals with expert witnesses. The bill was not amended, and is now Truly Agreed and Finally Passed. It is now headed to Governor Greitens for his likely signature.

### **Paycheck Protection Encounters Delay in Missouri Senate**

The State Senate devoted nearly eight hours of debate time over a two-day period this week on House Bill 251, sponsored by Jered Taylor (R-Nixa). The bill would require public employee labor unions to get annual written consent from members for deduction of union dues, and also yearly consent for the use of any dues or fees for political purposes. In addition, all public employee unions would be required to report all constitution and by-law information, as well as many financial records of the organization and its officers and their spouses to the Missouri Department of Labor. Those reports would then be accessible by the public. Attached to the underlying bill was a measure that establishes a procedure for public employee union decertification.

The debate, which covered parts of Tuesday and Wednesday, pitted Senator Bob Onder (R-Lake St. Louis), who is the Senate handler of the bill, against all Senate Democrats and a handful of Republicans. As the clock neared the midnight hour on Wednesday, it was obvious no compromise could be reached, and the bill was laid over to the informal calendar. It is unclear when the measure may be brought up for additional consideration.

While it is still likely that this bill will ultimately pass, some believe that the delay occurred due to the issue of whether police and firefighters are covered by the provision. In the bills with this subject matter from the 2016 legislative session, police and firefighters were carved out of the provision. In HB 251, they are carved in.

### **Overview of 2015 Missouri Tax Data from Federal Return Data**

Good things come to those who wait, or so they say. The data for Missouri taxpayers from federal individual tax return data is typically available very, very late for budget watchers. The data is intriguing, even though the 2015 tax year data was not posted to the University of Missouri EPARC site until March 6, 2017 (This is not EPARC's fault. They have to wait to get the data from the feds). Here are a few nuggets from the data:

- Wages and salaries for Missouri were \$101.3 billion in tax year 2008, but after the Great Recession did not get back to \$101.5 billion until tax year 2014. In tax year 2015 the category rose to \$105.8 billion, a 4.4% increase.
- Interest income for Missouri income tax returns in 2008 was \$3.6 billion, but in tax year 2015 it was only \$0.8 billion.
- Income from dividends in tax year 2008 was \$3.6 billion, but only \$2.8 billion in tax year 2015.
- Taxable income for Missourians from capital gains was \$9 billion in tax year 2007 (the peak year) but only \$4.4 billion in tax year 2014, and \$4.6 billion in tax year 2015.
- The population is aging. Missouri income from Social Security in tax year 2008 was \$9.1 billion, while in tax year 2015 it was \$12.0 billion.
- In the aggregate, total adjusted gross income for Missouri individual income taxpayers was \$140.8 billion in tax year 2008, \$138.7 billion in tax year 2014, and \$144.3 billion in tax year 2015.

In summary, Missouri, for the most part, has barely returned to the income levels reported to the federal government prior to the Great Recession, which in part accounts for the current budgetary doldrums.

### **Galloway to Audit Tax Refund Timeliness**

Budget hawks watching the state budget have spoken previously about the probable cash flow problems that the State will encounter when the \$500 million of cash flow borrowing from the Budget Reserve Fund is repaid on May 15, 2017.

One cash flow tool utilized by prior administrations is the holding of income tax refunds. The ability of the Greitens administration to utilize this tool may be impacted by the announcement that State Auditor Nicole Galloway's office will begin an audit of the timeliness of the processing of tax refunds.

### **House Budget Recommendations**

The gloomy state financial situation is still looming, and legislators are working through how to handle incorporating cuts to services and programs to ensure a balanced budget remains intact. Governor Nixon began by making \$200 million in funding withhold from the FY2017 Budget. Governor Greitens had to follow those footsteps during his first week in office with an additional \$140 million in funding withhold. The House Budget Committee is currently working through the drafting process to craft its version of the Fiscal Year 2018 Budget by the leadership of House Budget Chairman Scott Fitzpatrick (R – Shell Knob).

On March 15, 2017, Chairman Fitzpatrick released the tracking sheets for his budget recommendations, which will eventually become substitute bills for the Governor's budget recommendations. The committee substitutes lay the groundwork for the committee to begin the mark-up process once they return from Spring Break the week of March 27<sup>th</sup>. The mark-up process allows the 40-committee members to offer decreasing and corresponding increasing amendments to any line item within the Fiscal Year 2018 state-operating budget. Current indications are that mark-up will occur on Tuesday, March 28. There were some pretty good surprises in the recommendations. Those surprises include:

- Full funding of the K-12 school formula, adding \$37 million GR and \$44.9 million total
- Restoring school transportation, costing \$36 million GR
- A new K-12 School Broadband program, costing \$6 million GR
- The state aid add-on for foster children educated in local public schools outside of their normal residence was completely eliminated (\$3.3 million GR, \$11.1 million total)
- Most higher education institutions had their cut of 9% from the Governor reduced to 6.58%

None of the Medicaid cost to continue requests for FY 2018 were funded; staff has said that this cut of \$282 million was not spent, but will require the MoHealthnet Division to request any needed funding in the supplemental budget. Word is that Chairman Fitzpatrick believes he was burned by the FY 2016 large Medicaid supplemental and FY 2017 cost to continue

- There are two big fund switches from GR to earmarked funds. About \$30 million in managed care appropriations are shifted to tobacco settlement funds. The circuit breaker funds that are budgeted based upon the passage of HCB 3 are allocated primarily to in-home care and nursing care appropriations

Given the timeframe that the House is operating on, it is likely that the Senate Appropriations Committee will begin discussing its budget recommendations before the House Bills reach them.

## **HCB 3 – Circuit Breaker**

HCB 3, relating to the circuit breaker tax credit on rent for seniors/disabled, was perfected on Wednesday, and third read by the narrow vote of 85-72-1 on Thursday. The vote on HCB 3 was definitely not an easy vote for legislators, primarily because the vote could be characterized as taking away a roughly \$500 tax credit from the seniors and disabled who are renters, even though the savings are earmarked for healthcare services for the elderly and disabled.

This bill, after passing on an 85-72-1 vote on Thursday, now goes to the Missouri Senate, where it may run into some difficulty. It is important to note that the House budget assumes this bill ultimately becomes law, and therefore has “booked” over \$50 million in reduced expenditures based on its assumed passage. Failure to pass this bill by the Missouri Senate opens a corresponding \$50 million fiscal hole in the House budget plan.

## **Charter Schools**

In a long and many times heated debate on Wednesday evening, the House of Representatives gave their approval to an education reform bill that will expand charter schools throughout the state. The measure garnered just one more vote than necessary to pass, and now moves to the Senate where it faces an uphill battle.

Should the bill make it to the Governor’s desk, it would allow for charter schools to expand into many other areas of the state without district approval. Opponents of the bill say that charter schools haven’t had the greatest success rate in urban districts where current law allows them to operate. They also say there is a lack of accountability, as the charter schools don’t have to meet the same standards as public school districts.

House Speaker Todd Richardson and other backers of the bill stated the measure would bring more accountability because it allows the Department of Education to refuse to renew a charter school if it doesn’t meet certain standards. There is also a provision in the bill that won’t allow more charter schools to open if the General Assembly doesn’t fully fund the state school formula.

## **Halfway Point for GOP Priorities**

The Governor and House and Senate leadership laid out a large agenda of priorities they intended to pass this year; ethics reform, labor reform, judicial reform, tort reform, regulations reform, venue reform and education. One priority has been signed into law and several are close to the finish line. This week the House cleared their calendar working on Consent bills, perfecting and third reading several others, including the expansion of Charter Schools. The Senate worked long hours on controversial issues, which has been the theme in the Senate this year, including collateral source rule, expert witness and paycheck protection.

## **Status of GOP Priorities**

### **Right to Work**

[Senate Bill 19](#), Sen. Dan Brown (R-Rolla) Signed into law on February 6<sup>th</sup>.

### **Prevailing Wage**

[Senate Bill 20](#), Sen. Dan Brown (R-Rolla) Senate Informal Calendar.

[House Bill 78](#), Rep. Joe Don McGaugh (R-Carrollton) referred to House Rules Committee.

[House Bill 309](#), Rep. Charlie Davis (R-Joplin) hearing held and referred to House Rules Committee.

[House Bill 104](#), Rep. Warren Love (R-Osceola) debated and laid over on House Perfection Calendar.

## **Paycheck Protection**

[Senate Bill 21](#), Sen. Dan Brown (R-Rolla) Senate Informal Calendar.

[House Bill 251](#), Rep. Jered Taylor (R-Nixa) debated in Senate and placed on Informal Calendar.

## **Project Labor Agreement**

[Senate Bill 182](#), Sen. Bob Oder (R-Lake St. Louis) Second read in House.

[House Bill 126](#), Rep. Rob Vescovo (R-Arnold) referred to Senate General Laws Committee.

## **Ethics**

[House Bill 60](#), Rep. Justin Alferman (R-Hannibal) hearing held in Senate.

[Senate Bill 305](#), Sen. Mike Kehoe (R-Jefferson City) hearing held in Senate.

## **Collateral Source**

[House Bill 95](#), Rep. Joe Don McGaugh (R-Carrollton) debated in Senate and placed on Informal Calendar.

[Senate Bill 31](#), Sen. Ed Emery (R-Barton) second read in House.

## **Expert Witness**

[House Bill 153](#), Rep. Kevin Corlew (R-Kansas City) Truly Agreed and Finally Passed.

[Senate Bill 200](#), Sen. Doug Libla (R-Poplar Bluff) Senate Bills for Perfection Calendar.

## **Education Savings Accounts**

[Senate Bill 32](#), Sen. Ed Emery (R-Lamar) Senate Bills for Perfection Calendar.

## **Charter Schools**

[House Bill 634](#), Rep. Rebecca Roeber (R-Lee's Summit) passed House and sent to Senate.

## **Venue**

[Senate Bill 258](#), [Senate Bill 259](#), [Senate Bill 260](#), [Senate Bill 261](#), [Senate Bill 262](#) Sen. Brian Munzlinger (R-Lewis) Senate Bills for Perfection Calendar.

[House Bill 459](#), [House Bill 463](#), Rep. Glen Kolkmeyer (R-Odessa) House Bills for Perfection Calendar

[House Bill 460](#), [House Bill 461](#), [House Bill 462](#), hearing held in Senate.

## **Merchandising Practice**

[Senate Bill 5](#), Sen. Ron Richard (R-Joplin) Senate Informal Calendar.

## **Discrimination**

[Senate Bill 43](#), Sen. Gary Romine (R-Farmington) second read in House.

## **Regulations**

[House Bill 480, 272, 413 & 609](#), Rep. Robert Ross (R-Yukon) referred to Senate Professional Registration Committee.

## **Unemployment Compensation**

[House Bill 288](#), Rep. Scott Fitzpatrick (R-Shell Knob) referred to Senate Small Business and Industry Committee.

## **Arbitration Agreements**

[Senate Bill 45](#), Sen. Gary Romine (R-Farmington) hearing held and referred to House Rules Committee.