

Legislative Bulletin

End of Session Overview

Many observers like to count the number of bills passed which was a relatively low number this year at 75 (59 policy; 16 budget) and judge the success or failure of the legislative session by that number. We would caution readers against using the measure of bills passed as the yardstick of success. This year the Missouri House amended many measures onto Senate bills that came to them, often broadening the title of those Senate bills to include issues only marginally related to the original title; therefore, there were more issues passed than the total number of bills would indicate.

The process of litigating whether a subject related to the original title is typically referred to as a Hammerschmidt issue (which references the specific court case). There are plenty of those issues contained in legislation this year; the question that always remains is whether those who do not like the issues will go to the cost to attempt to litigate them.

What Did Pass

Below is a list of the bill numbers and the major issues that passed through the General Assembly.

- [House Bill 130—Transportation Network Companies](#)
- [House Bill 151—Real ID](#)
- [House Bill 153—Expert Witnesses](#)
- [House Bill 339—Tort Claims](#)
- [House Bill 452—Definition of hospital employee](#)
- [Senate Bill 8—Omnibus Transportation bill \(Propane, Log Truck, Municipal Routes, Auto hauler, Nat Gas weights\)](#)
- [Senate Bill 16—Sales tax on delivery charges](#)
- [Senate Bill 19—Labor organizations and public employees](#)
- [Senate Bill 31—Collateral source](#)
- [Senate Bill 43—Employment discrimination](#)
- [Senate Bill 66—Workers compensation](#)
- [Senate Bill 182—Project labor agreements](#)
- [Senate Bill 222—Transportation Bill \(Auto haulers\)](#)
- [Senate Bill 225—Transportation Bill \(Leased Equip Apportionment\)](#)
- [Senate Bill 329—Cummins OEM fix](#)

What Did Not Pass

Below is a short list of issues that did not pass. Some of these issues arguably could be the subjects of special session.

- Prevailing wage
- Paycheck protection
- Prescription drug monitoring program
- Restrictions on gifts from lobbyists
- Political contribution restrictions
- Utility grid modernization legislation
- Southeast Missouri smelter project.
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Transportation Issues that Did Not Pass

- Platooning (MoTA Supported)
- Independent Contractor – Employee Misclassification (MoTA Opposed)
- Tolling (MoTA Opposed)
- Weigh Station Bypass (MoTA Opposed)

Budget and State Cash Flow

With the end of the state fiscal year nearing on June 30, 2017, it is difficult to get a correct reading due to the non-payment (or holding) of income tax refunds. Refunds are a reduction to revenue and are important in determining whether the revenue estimate will be reached. To recap where things appear to stand, in May and June of 2016, \$341 million in individual income tax refunds were processed and paid by the Department of Revenue. Through May 12 of 2017, only \$16 million of individual income tax refunds were processed in May. The tax receipts at the end of May would tend to look better than they should if this non-payment of refunds continues. After making required school payments in May, the state general fund cash balance appears to potentially be below \$100 million, which is extremely low for a roughly \$9 billion annual fund. If the State does not make next year's revenue estimate, further withholdings will occur in FY 2018 and could include late withholdings in the current FY 2017 fiscal year.

Local Minimum Wage Battle Ends Senate Action

On the last day of regular session, the rumor in the lobbying community was there might be a move by Senate Republicans on the previous question (PQ) on several pieces of legislation, including HB 1194 and 1193, which would outlaw the establishment of local minimum wages, such as the \$10 an hour minimum wage for the City of St. Louis that went into effect on May 1, 2017 (that minimum wage would increase to \$11 an hour on January 1, 2018). Other bills included HB 104 dealing with the elimination of the requirement to pay prevailing wage and a couple of bills with the aluminum smelter language for southeast Missouri.

For Capitol insiders who know how toxic a PQ is to the minority Democratic party, the first question is how do you get to a second PQ after doing the first PQ. This skepticism about doing two PQ's in succession turned out to be prescient as the PQ process played out when the Senate PQ'ed HB 1194 & 1193 and ultimately third read the bill over the vociferous objections and procedural moves of Senate Democrats. Ultimately, this passage ended the 2017 legislative session for the Missouri Senate on Friday at about 5:30 p.m.

In an interesting twist, the Missouri House then took up and passed the bill but was unable to garner enough votes to pass the emergency clause. This means that the St. Louis minimum wage will stay in effect until the bill becomes law on August 28, 2017 (assuming the almost certain signature by Governor Greitens).

The PQ

The first signal that Friday afternoon would be different in the Missouri Senate actually came from the Missouri House of Representatives. Around midday on Friday, the House took up Senate Bill 22, a bill that would have committed the state to assisting homeowners with a state-funded home buyout near the West Lake landfill in north St. Louis County. After a heated debate, the bill was defeated by the Missouri House, a trigger for Senate bill sponsor Maria Chappelle-Nadal to begin a Senate filibuster as she had promised if this bill did not pass. Within minutes Senator Chappelle Nadal was up and filibustering.

After about an hour, Senator Bob Dixon laid that bill over, requiring Senator Chappelle-Nadal to yield the floor, and Senator Dan Hegeman was recognized to take up House Bill 1194 & 1193, the bill dealing with local minimum wages. He moved to PQ the bill. Normally a PQ motion is supposed to operate like a finely oiled machine, as the PQ motion is intended to immediately close debate, and then move to an immediate vote on the issue. The PQ process ultimately took almost three hours to complete.

Democrats continued to ask for motions to adjourn, then ask for verification of the roll (a verbal listing of how each Senator voted), and then ask for a reconsideration of the vote, followed by another verification of the roll. At times, Democratic Senators and a few Republican Senators were shouting at the dais and speaking loudly over one another. After the PQ motion was ultimately passed, the Senate adjourned thereby ending its legislative session prior to the 6:00 p.m. Constitutional deadline.

Senate Traditions

For those who do not come to the Capitol regularly, the tradition is that the House (with 163 members) has always been a fairly raucous place, with loud debate and at times some shouting by members at other members. The Senate (with 34 members) has always prided itself on its more formal decorum and the respect that one Senator grants to another Senator. That tradition has been waning, and in the last week of the legislative session, the tradition was on the verge of collapsing.

The debate on the minimum wage bill included discussion that called supporters of the minimum wage repeal racists, and the PQ debate was on the edge of chaotic. The confusion, noise, and lack of respect for other Senators and the presiding officer was unlike anything many have seen in the capitol.

House Committee Bill 3

Aside from the minimum wage bill passing, the other bit of melodrama near the end of the legislative session came with the passage of House Committee Bill 3, as the last piece of business in the Missouri House. HCB 3 was the measure that would sweep about \$35 million from various earmarked funds in order to avert cuts in point count for in-home and nursing home services, and also to restore 1 ½% of a rate cut for those services. The House previously had sent back to the Senate legislation that was a cleaned-up version of HCB 3 and told the Senate to pass it. However, the Senate declined to take the measure up, thus effectively killing the House plan.

At 5:55 PM Friday evening (five minutes before the Constitutional end of session at 6 p.m.), House Budget Chairman Scott Fitzpatrick reluctantly took up the bill, which he considered unconstitutional. Rather than endorsing the measure, he told members to consider their oath of office before deciding to vote for the measure. Ultimately, the bill passed by a very narrow 1-vote margin (the bill received 83 votes).

Real ID/PDMP

The fear of databases and their potential misuse if illegally accessed is rampant in certain sub-groups of the Missouri General Assembly. This fear of databases has impacted the lack of progress on two issues that deal with federal mandates—Real ID and Prescription Drug Monitoring. PDMP was initially encouraged by the U. S. Congress through special funding to set up the database on those overusing or prescribing prescription drugs. PDMP is intended to set up a database of persons receiving prescription for controlled substances such as opioids, and to also track who is prescribing those drugs in large quantities.

A watered-down version of PDMP (with a limited database) was presented in a conference report for House Bill 90, sponsored by longtime PDMP advocate Representative Holly Rehder. However, elected officials from the multitude of counties that have adopted local requirements for a PDMP database heard from their local governments that those counties/cities would prefer their current system rather than a watered-down state system. Hence, the conference report for PDMP died without a vote in the Missouri House, and Missouri continues to be the only state in the country without a PDMP.

Real ID was an even more pressing measure. Missourians already have to carry their passport or other federal identification in order to access federal facilities, such as the military bases at Fort Leonard Wood or Whiteman Air Force Base. On January 1, 2018, Missourians will be required to present their passport or other federal identification in order to board commercial air flights (since Missouri does not yet have a Real ID compliant driver's license). In the last week of session, the General assembly passed House Bill 151, sponsored by Republican Representative Kevin Corlew, which gives Missourians the option of obtaining a Real ID compliant driver's license, or maintaining a non-compliant Missouri license that will not allow them to enter federal facilities or board commercial flights. For the Real ID compliant driver's license, Missourians will have to produce three forms of identification to verify their identity. HB151 was signed by Governor Greitens on June 12th, 2017.