

Associated Industries of Missouri 2015 Legislative Report



Tumultuous final days mark end of legislative session

One thing all veteran state legislative watchers agree on when talking about the last days of the 2015 legislative session: they've never seen anything like it.

Filibusters, shut downs, scandal, power transfers, the final week of the Missouri legislative session condensed at least a year's worth of intrigue into five days.

Warnings of what was to come actually started the Friday before the start of the final week. Senate Democrats, opponents of Right to Work legislation on the Senate calendar, began slowing down debates on other legislation, trying to run down the legislative clock on Right to Work.

But upon adjournment on Friday, Senate Floor Leader, Sen. Ron Richard (R-Joplin) said the first bill his chamber would go to on during the final week of the legislative session would be the Right to Work bill, House Bill 116.

After a Senate committee okayed the bill for final debate on Monday evening, the Senate began its debate on HB 116 on Tuesday morning. For more than eight hours, Senate Democrats filibustered the bill.

Early in the evening, Republicans exercised a rarely-used motion in the Senate to cut off debate and bring the Right to Work bill to a vote. By a 21-13 margin, the bill

passed the Senate, moving back to the House which passed the legislation on to the Governor on Wednesday.

Meanwhile, back in the Senate, Democrats, viewing the motion to cut off debate as circumventing their right to stop legislation, began serious stall tactics designed to stop all business before the body.

For two days, usually two of the busiest days of a state legislative session, the Senate did no business. With no legislation moving in the Senate, the House spent most of its Wednesday and Thursday in limbo as well.

But House Republicans were dealing with their own issues. On Wednesday, the Kansas City Star published a story about Speaker of the House Rep. John Diehl (R-Town and Country) exchanging sexually flirtatious text messages with a college freshman House intern. After a day and night of meetings, Diehl apologized to his caucus, but said he would stay on as Speaker.

The pressure on Diehl to resign amped-up on Thursday when a couple of Republican House members, including Rep. Mark Parkinson (R-St. Charles), drafted letters asking the Speaker to resign. By early afternoon, Diehl stepped down not only from his post as Speaker, but also from his seat in the House.

Republicans acted quickly to replace Diehl, nominating House Floor Leader, Rep. Todd Richardson (R-Poplar Bluff) for the position of Speaker. On Friday, the House elected Richardson Speaker with a voice vote.

Friday also marked the return of the Senate. When business before the body stopped, the Senate was set to debate a bill that would activate taxes used to draw down federal funds that pay the bulk of the state's Medicaid program.

Senate Democrats filibustered to begin the day on the last day of session, but eventually allowed the Federal Reimbursement Allowance extension bill to go to a vote and it was adopted.

Then, in an unusual move, the Senate adjourned shortly after 3:00 on the last day of session, leaving the House to finish the people's work on many legislative issues.



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Missouri House provides important legislative victories on the last day as Missouri Senate adjourns early

After a couple of legislative sessions fighting for and passing major tax cuts for individuals and businesses alike, the 2015 legislative session may have been more subdued, but provided some important victories nonetheless.

House Bill 116 prohibits an employer from requiring a person

tem and will result in lower wages for workers in Missouri. Governor Nixon has also been very critical of the bill and is expected to veto it.

Senate Bill 210, a bill extending the expiration dates of federal reimbursement allowance taxes, was passed by the Senate prior to

House Bill 514 allows state tax increment financing districts to be used to re-purpose massive abandoned automotive plants in the St. Louis suburbs.

The bill also includes a \$12-million expansion in the cap on a tax increment financing plan that would help keep the Geo-spatial



Photo by Tim Bommel

to become a member of a labor organization as a condition or continuation of employment. Dubbed “Right to Work,” the legislation gives employees the right to choose union representation in a workplace should they feel it necessary. The bill gives Missouri employers a chance to compete with most of the states that border Missouri that are also Right to Work states. It also would put Missouri in the running for even more manufacturing expansion, as most foreign-based manufacturers will not locate in states that are not Right to Work.

Labor organizations say the bill weakens the organized labor sys-

adjourning shortly after 3:00 on the final day of the legislative session (the session’s constitutional deadline is 6:00 p.m.). Such taxes are used to help draw down federal Medicaid dollars. The House also passed the bill, sending the bill to the Governor.

Despite a lack of action on the part of the Senate, which only passed the Right to Work bill and federal reimbursement allowance extension bill in the entire final week of the legislative session, the Missouri House showed it could function and passed many bills benefiting employers on the final day of session.

Intelligence Center in St. Louis. The current center employs more than 2,000 people. The federal government is currently looking at the possibility of moving the center out of St. Louis.

Legislation that passed the General Assembly on several occasions last year, only to be vetoed at every turn by Governor Nixon is now law. Senate Bill 19 clarifies for the Department of Revenue language on tax apportionment.

The somewhat complicated subject matter is of utmost importance for businesses that have customers outside of Missouri. The bill arrived on the governor’s desk

in time for him to make a decision with enough votes in both the House and Senate to override a possible veto. But the governor signed the bill, and the language in the bill will be law August 28, 2015.

Tax issues were at the forefront of AIM-supported bills that made it across the finish line in 2015. House Bill 517 and 754 includes several issues. The bill states that mandatory gratuities at restaurants are not subject to sales tax. It also requires the Department of Revenue to pay interest on tax overpayments not refunded in 45 days. Currently, interest on such refunds aren't required until 90 days have passed.

The bill prevents DOR from using unreasonable methods to estimate tip income for withholding tax purposes.

Among other issues, the bill also allows a taxpayer to claim a credit or a refund after the period of limitations expires, and allows a seller to advertise that sales taxes are assumed or absorbed into the price of an item.

House Bill 384, signed by the governor, provides for an amnesty period for delinquent unpaid state taxes. Beyond that, the bill includes language that creates an Office of Taxpayer Advocate to work with taxpayers and the Department of Revenue to resolve disputes.

HB 384 also creates the Study Commission on State Tax Policy to study the state tax structure, identify its strengths and weaknesses and investigate ways to improve tax policy.

Caps on non economic damages returned to state law when Governor Nixon signed Senate Bill 239 into law. It will limit non-economic damages in medical malpractice lawsuits.

The new law limits awards for pain and suffering in most personal injury cases arising from medical procedures to \$400,000. In catastrophic injuries, the limit would be \$700,000. The measure also would raise the existing cap on wrongful death cases from \$350,000 to \$700,000.

And House Bill 92, Senate Bill 142 and Senate Bill 445 include some important pieces of environmental legislation. The bills change the state law on "waters of the state", seeking to circumvent the EPA's expanded definition of such waters that are under the jurisdiction of the Missouri Department of Natural Resources.

The bills also include new language for solid waste districts, oil and gas councils, ambient air quality monitoring in non-attainment areas and other environmental regulations. And the bills require the DNR to file regulatory impact reports prior to submitting state implementation plans for EPA regulations. AIM fully supported many of these provisions, including ensuring the ability of companies to use actual monitoring of sulfur dioxide rather than relying on computer models.

Senate Bill 20, a bill that reinstates an exemption for commercial laundries on purchases made for use in providing their services, was finally passed in the House in the final hours of the session. The bill, supported by AIM, overturns a court case that was decided against

laundries that should be entitled to the exemption under current law.

Senate Bill 18, requiring the Department of Revenue to notify taxpayers of changes in interpretation of the tax law before holding them accountable for such changes, was also passed nearly unanimously by the House in the final hours. The bill seeks to put an end to the DOR's "notification by audit" where taxpayers find out about changes in DOR interpretation of laws when audited.

A couple of bills supported by AIM did not make it through the legislative process this session. House Bill 150, legislation that links the duration of jobless benefits to the state's unemployment rate and protects against former employees with golden parachutes from simultaneously receiving unemployment benefits, was vetoed by the Governor.

The veto was overridden in the House with no votes to spare, but the Senate adjourned without overriding the veto due to the impasse created by forcing the vote on the Right to Work bill. HB 150 may be revived during the veto session in September.

Also coming up a little short was House Bill 627. AIM's Manufacturing Infrastructure Investment Act which would expand the incentive program currently used to draw automobile-related manufacturing to the state to all manufacturing, passed the House of Representatives with 87 votes.

But the passage came too late in the session for any meaningful action in the State Senate. AIM will try again next year.

Bills passed by the Missouri General Assembly 2015

Tax Legislation

Senate Bill 18 requires the Department of Revenue to notify affected sellers when a change in the amount of sales tax due is modified, and or a change in which items are taxable before the changes can take effect.

Senate Bill 19, signed by the governor, determines what portion of a corporation's income is taxable in Missouri.

Senate Bill 20, authorizes a state and local sales tax exemption for material, machinery, and energy used by commercial laundries in treating or cleaning textiles. The facility must process at least 500 pounds per hour or 60,000 pounds per week to qualify for the exemption.

Senate Bill 190 removes the expiration date of the public mass transportation sales tax for Kansas City.

Senate Bill 336 specifies that for employees that earn tips, the amount of income that the employer should withhold for tax purposes shall be based on the greater of the total of tips reported to the employer on the employee's written statement or the amount of tips remitted to the employee by the employer. This provision also exists in **HB 517&754**.

HB 384, signed by the governor,

authorizes a period of tax amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the Department of Revenue which occurred on or prior to December 31, 2014. The bill also creates the position of Taxpayer Advocate to help resolve taxpayer disputes with the DOR. The bill also creates a commission to study state tax policy.

House Bill 517&754 includes several pieces of legislation. The bill requires interest to be paid on any individual or corporate tax refund that is not returned within 45 days of the date the return was filed. It authorizes an exemption deduction for a stillborn child for the year it would have been a member of the family. And it also includes the tax withholding on tips language as in HB 336.

House Bill 613 and House Bill 616 specifies that short term rental merchandise which will ultimately be sold must be considered inventory for property tax purposes and exempt from taxation. The bill is limited to general rental centers and construction, mining, and forestry equipment rental.

Environmental Issues

House Bill 92 includes several pieces of environmental legislation, including language on State Oil and Gas Councils, solid waste districts, and the measurement of sulfur di-

oxide inside non-attainment areas of the state. The bill also changes the definition of the "waters of the state" to block an expanded definition under EPA regulations. Also included was a new policy statement on the Missouri Clean Water Law, a change in the appeal procedures on DNR permits, and an affordability clause on the state's Clean Water Law.

Senate Bill 142 requires the DNR to prepare implementation impact reports instead of regulatory impact reports when reporting to the EPA.

Senate Bill 445 requires owners of a coal-fired electric generating source to develop an ambient air quality monitoring or modeling network. The bill also includes language on audits of solid waste districts, management of solid waste districts, recycling of textiles, and allocation of solid waste management fund moneys and grants.

The legislature also passed several non-binding resolutions in response to national policy issues.

House Concurrent Resolution 15 calls upon President Obama to support the TransCanada Keystone XL pipeline and the permitting for oil production off the northern coast of Alaska.

House Concurrent Resolution 21 urges the Environmental Protection Agency and the U.S. Army

Corps of Engineers to withdraw their proposed rule expanding the definition of “waters of the United States.”

Senate Concurrent Resolution 3 establishes the Joint Committee on Solid Waste Management District Operations, and **Senate Concurrent Resolution 5** creates the Missouri Lead Industry Employment, Economic Development and Environmental Remediation Task Force.

Human Resources

House Bill 116 was the most contentious legislation of the entire session. The so-called “Right to Work” bill specifies that a person, as a condition or continuation of employment, cannot be required to:

- (1) Become or refrain from becoming a member of a labor organization as defined in the bill;
- (2) Pay dues, fees, assessments, or other charges to a labor organization; or
- (3) Pay to any charity or third party any equivalent amount in lieu of dues, fees, assessments, or other charges required by a labor organization. Anyone violating the provisions of the bill will be guilty of a Class C misdemeanor.

House Bill 150 links the duration of jobless benefits to the state’s unemployment rate. If the unemployment rate remains under six percent, laid-off workers would be limited to 13 weeks of unemployment benefits. The current state unemployment rate is 5.6 percent. The bill also contains an AIM-drafted amendment to exclude termination and severance

pay from unemployment benefits. Under current unemployment law, vacation time is treated the same as wages, but termination and severance pay is not.

The bill was vetoed by Governor Nixon and overridden in the House, but because of the last week slow down, the Senate did not take an override vote. However, the Senate may vote to override the veto during the veto session of the legislature in September.

Economic Development

House Bill 514 allows state tax increment financing to be used in developing currently vacant former auto plants in the St. Louis area.

Also included in the legislation is a relaxation in the caps for financing programs that can be used by the Center for Geospatial Intelligence in St. Louis, which currently employs 2,000 people near downtown St. Louis.

Senate Bill 149, signed by the governor, creates state and local sales and use tax exemptions for data storage centers and allows municipalities to enter into loan agreements, or sell, lease, or mortgage municipal property for a data center project.

Senate Bill 194 extends the date that a business must commence operations to qualify for a business facility tax credit from 2020 to 2025.

Healthcare

Senate Bill 210 extends the sunset on certain healthcare provider

reimbursement allowance taxes and modifies provisions relating to MO HealthNet and DSH payments. The passage of this bill was necessary so the state could draw down federal money it uses for the bulk of its Medicaid program.

Senate Bill 239, signed by the governor, creates a statutory cause of action for damages against health care providers arising out of the rendering of or failure to render health care services. In such action against a health care provider for damages, a plaintiff shall not recover more than \$400,000 in noneconomic damages for personal injury, no more than \$700,000 in noneconomic damages for a catastrophic personal injury, as defined in the act, and no more than \$700,000 in noneconomic damages for death. These limitations shall increase by 1.7% each year, and the value shall be calculated by the Director of the Department of Insurance.

When a jury returns a verdict awarding noneconomic damages exceeding \$400,000, and upon a post-trial motion, the trial court shall determine whether the limitations as provided in the act shall apply.

Senate Concurrent Resolution 29 urges the President and Congress to repeal the federal excise tax on medical devices.

House Bill 531 requires liquid nicotine products to be sold in child-safe packaging.

Insurance

House Bill 1022 allows a casualty insurer to return or refund a portion

of its expense savings to an insured if the insured makes no reportable claim under specified coverages within a prescribed period of time established by the insurer, regardless of whether the claim is due to the fault of the insured.

Transportation

Senate Bill 12 modifies provisions relating to agriculture. Included in this bill is language supported by AIM that requires the Department of Agriculture to promulgate rules regarding the labeling of motor fuel pumps.

House Bill 522 changes the laws regarding bridge and highway designations. Included among the road and bridge name changes is language naming a portion of Highway 63 from the Adair-Macon County line to the northern border of the city limits of the City of Kirksville as the Harriet Beard Highway, in honor of a member of the Missouri Transportation and Development Council (MTD) from Kirksville.

Miscellaneous

House Bill 686 modifies provisions relating to junking certificates for motor vehicles.

House Bill 722 changes the laws regarding prohibited ordinances by political subdivisions. This bill specifies that all merchants, itinerant vendors, and peddlers doing business in this state must have the option to provide customers with a paper or plastic bag for any item or good purchased. A political subdivision cannot impose any ban,

fee, or tax upon the use of paper or plastic bags for packaging any item or good purchased or prohibit a consumer from using a reusable bag.

The bill also prohibits a political subdivision from establishing, mandating, or otherwise requiring an employer to provide to an employee a minimum or living wage rate or employment benefits that exceed the requirements of federal or state laws, rules, or regulations. These provisions will not preempt any local law or local minimum wage requirements in effect on August 28, 2015, but will prevent such ordinances in the future.