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Strategic Government Relations

The Powers Report

A Weekly Summary of Activities in Jefferson City

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Grand Jury probe moves ahead

We no longer have to rely on rumors regarding what the federal grand jury in Kansas City is looking into. Sen. Matt Bartle (R-Lee's Summit) testified to the grand jury this week, and emerged to tell reporters the federal investigators are interested in the way his porn bill (SB 32) died in the House of Representatives in 2005. Bartle is only a witness and not a target of the inquiry.

The timeline makes it easy to see why the feds are interested. SB 32, which would have imposed very strict limitations on strip clubs and other adult-oriented businesses, passed the Senate on March 29 of 2005. The message was read into the House that same day. The bill was "second read," making it eligible to be referred to a committee by then-Speaker Rod Jetton, on March 30. On March 31, a political action committee called "People for Private Enterprise" cut a check for \$35,000 to the "Committee for Honest Campaigns." PPE was controlled by the Missouri adult entertainment industry and had recently raised about \$66,000 from various strip clubs, porn shops, and sex toy shops in Missouri. CHC paid money to Don Lograsso as a consultant. At the time, Lograsso was serving as general counsel to Speaker Jetton. CHC reported receiving the contribution on April 1.

Four days later, on April 5, SB 32 was assigned to the House Local Government Committee, which was chaired by Bob Johnson, a vocal critic of both Bartle and SB 32. In fact, Johnson ran against Bartle in the Republican primary in 2006 and lost.

Johnson didn't hear the bill until 17 days later, On April 21. A diluted committee substitute was finally voted out of the committee on May 4, but not turned into the House clerk until May 9. The bill was routinely referred to the House Rules Committee on May 9, chaired at the time by Rep. Shannon Cooper, where it died. Bartle, furious at the time, attached his bill to a DWI bill that actually passed and was signed by the governor, but the courts threw it out because they said a porn bill had no business being attached to a DWI bill.

"The receipt of that money looks horrible," Bartle told reporters after his testimony. "And I think there's a link between the receipt of that money and my bill dying."

Because of the nature of reporting requirements, the PPE contribution to CHC wasn't reported to the Missouri Ethics Commission until August 13 of 2005 (had it been "received" by CHC on March 31, it would have been reported by April 15). Nobody caught the potential connection at the time. Reporters don't usually read the details of campaign finance reports, only the cover pages that show the amount raised, spent, and cash on hand.

Somebody finally tipped off the Kansas City Star, though, because they broke the story of the \$35,000 contribution on March 4, 2006. On March 30, 2006, the CHC made a \$35,000 contribution to Hope House of Independence, MO, a shelter for battered women.

P.O. Box 674 | Jefferson City, MO 65102-0674 | (573) 353-9264

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Also testifying this week was David Byrn, currently a Jackson County Circuit Judge who served as the treasurer of the Committee for Honest Campaigns during the time in question. He declined to speak with reporters. He would have been the person to receive and deposit the \$35,000 check and would have written the \$35,000 check to Hope House.

The CHC was terminated on December 20, 2007. Most of the remaining money near the end of the committee's life -- \$6,700 -- was paid to Krf Solutions, Inc. for "consulting." Krf is listed as a privately-owned biological research firm in Lee's Summit, providing consulting, clinical monitoring, and quality assurance services for pharmaceutical companies.

Jetton, who had been very quiet during the rumor stage of the federal investigation, was very open with Tony Messenger of the *St. Louis Post-Dispatch*, after it became public knowledge that Bartle had testified about the \$35,000 contribution. Jetton told Messenger that the lobbyist for the porn industry at the time -- Kent Gaines -- had approached him about making a contribution to Jetton. According to the *Post-Dispatch*, the same conversation also included SB 32.

"I basically said I don't want your money and even if I wanted it, I wouldn't take it. I'm not stupid, politically," Jetton said.

Jetton also made it clear he was willing to kill the porn bill anyway.

"Bob Johnson didn't like Senator Bartle and I didn't like Senator Bartle. He was a pompous, arrogant senator."

Jetton now admits he's a target of the investigation, but told Messenger he's "befuddled" as to why.

The grand jury will be meeting again next month.

Meanwhile, Bartle this week uttered the understatement of the year when he said, "I think it's highly unlikely under these circumstances that anybody in the legislature is going to take campaign contributions from a porn shop."

And here comes another porn bill

Actually, the shorthand use of "porn bill" isn't very accurate. The legislation would impact all forms of adult-oriented entertainment in Missouri, including porn shops, strip clubs, and anything else that involves nudity, semi-nudity, or sexual activity.

The Senate this week gave first-round approval to SB 586, Sen. Bartle's latest attempt to strictly regulate the adult entertainment industry in Missouri. The only voiced opposition came from Sen. Jolie Justus (D-Kansas City). She tried to exempt Kansas City from the bill, claiming the city can regulate itself and besides, the adult entertainment industry in Missouri employs an estimated 3,000 people.

Bartle objected, claiming her amendment would "make Kansas City the porn capital."

Bartle's bill would ban nudity entirely, and force any "semi-nude" performers to stay at least six feet away from customers and avoid all physical contact. Adult businesses could not locate within 1,000 feet of a pre-existing school, church, day care facility, library, park, residence, or another adult business. The distance restriction runs from the closest end of one parcel to the closest end of the other parcel, making it much more restrictive than simply "1,000 feet."

A lawyer with the adult industry says the bill would essentially shut the industry down, but he's confident the courts will throw it out on constitutional grounds if it actually becomes law.

Senate ethics bill advances

The Senate ethics committee this week approved a committee substitute for Sen. Charlie Shields' ethics bill -- SB 577. As filed, SB 577 would have prohibited campaign contributions from lobbyists and their clients during the legislative session. Due to concerns that such a broad restriction

would be ruled unconstitutional, the measure was watered down to require legislators to report “in-session” contributions exceeding \$250 within 48 hours.

The bill also prohibits legislators from contracting with other legislators for political work. Any violation is a class D misdemeanor.

People who used to lobby the legislature “on an occasional basis” and not as a “primary” purpose of their employment and were therefore able to escape registering as a lobbyist will now be required to register and file reports.

The bill requires employees and staff of the legislature to file financial interest statements and disclose all sources of outside income of \$5,000 or more per year and the nature of the business conducted. The actual amount earned will not be disclosed.

The major teeth of the bill are included in the new 105.960, which creates the Office of Independent Investigation within the state ethics commission. This office will be free to initiate investigations and file complaints without waiting for citizens to file complaints, as is currently the case.

SCS SB 577 does not include campaign contribution limits and will probably be perceived as “weaker” than what the House ethics committee will produce.

No public money for lobbying?

The House ethics committee gave a pretty cold shoulder this week to HB 1872, which would prohibit the use of public funds to pay for a lobbyist.

“You can monitor, you can educate, but you can’t advocate,” declared the sponsor, Rep. Shane Schoeller (R-Willard). “They can’t ask you to vote yes or no.”

Lobbyist Randy Scherr said that’s a distinction without a difference. “You’re putting everybody into a trick bag on this.”

But the line that brought down the house, and was curiously ignored by the handful of reporters in the room, came from lobbyist Bill Gamble, who said he got a fundraising solicitation on his cell phone on his way to the committee hearing – from one of the co-sponsors of HB 1872.

“You know, I don’t want to go to a luau. I don’t want to do scotch and cigars. I don’t want to play golf in one hundred degree heat. How about we say you can’t solicit money from lobbyists, because, my God, you don’t want that dirty money in your campaign accounts.”

The House ethics committee will put together a committee substitute for an ethics bill, but Schoeller doubts his bill will be included.

“The members on the committee made it very clear they don’t support the legislation,” he said.

Lobbyists texting each other about the state budget are using OMG!

General revenue collections in January were down more than 22% from a year ago. Fiscal year-to-date, collections are off by 12.5% -- more than half a billion dollars.

The governor responded by cutting another \$73 million from the current budget, including \$24 million for rural broadband expansion, \$29 million for a new emergency communications system, and \$2 million from Parents as Teachers. He also cut the money the state uses to match employee contributions to deferred compensation, up to \$35.00 a month.

“We’re getting close to the bone now,” noted Rep. Chris Kelly (D-Columbia), a former budget chairman.

Drug testing

The notion of requiring drug testing of cash welfare clients – those receiving money under the Temporary Assistance for Needy Families (TANF) program – advanced in both chambers this

week. The House gave its bill first-round approval on a vote of 113-40. A Senate committee approved its version on a partisan vote of 5-3.

“We’re not going to subsidize drug use by welfare beneficiaries,” noted Rep. Bryan Pratt (R-Blue Springs).

In the House, a lot of members are privately grumbling about the way the bill was handled during debate. An amendment was offered to require elected officials to also submit to drug tests. Any refusal to submit would be an admission of guilt. Another amendment was offered to also include judges in the testing requirement. It was adopted on a close voice vote. Even those opposed to testing judges said they felt obligated to vote to test themselves and other officials, because of how it might play back home if they voted no.

Unusual State of the Judiciary Address

Chief Justice William Ray Price, Jr. did something highly unusual this week: he delivered a substantive and interesting speech to the general assembly. Quite honestly, in some years, the State of the Judiciary Address is forgotten by lunch.

First, he outright rejected a proposal that would raise judicial salaries. “I thank you for the idea, but the time is wrong.” That made news right there.

He also noted that the “throw away the key” attitude toward crime “has cost us billions of dollars and we have just as much crime now as we did when we started.

“We may have been tough on crime, but we have not been smart on crime.”

Price went on to declare: “Perhaps the biggest waste of resources in all of state government is the over-incarceration of nonviolent offenders and our mishandling of drug and alcohol offenders. It is costing us billions of dollars and it is not making a dent in crime.”

He said there is a better way. “We need to move from anger-based sentencing that ignores cost and effectiveness to evidence-based sentencing that focuses on results.”

The speech is recommended reading: <http://www.courts.mo.gov/page.jsp?id=36875>.

A flurry of bill-filing activity

Legislators filed some 180 bills this week, and some are interesting:

- HB 1891 increases the cigarette tax by 16 cents a pack.
- HB 1897 allows political subdivisions to adopt “ranked-choice voting,” where voters rank choices from top to bottom.
- HB 1911 allows bus companies to fingerprint applicants and make hiring decisions based on what they find.
- HB 1913 declares the timber rattlesnake the official snake of Missouri. Oh, the potential amendments boggle the mind.
- HB 1921 creates the Puppy Mill Cruelty Prevention Act.
- HB 1926 requires a \$50 deposit when adopting a dog or cat, refundable when the animal is spayed or neutered.
- HB 1936 requires payday lenders to display information about food stamps.
- HB 1938 outlaws idling the engine of a school bus while waiting to load or unload children at school.
- HB 1940 requires businesses to provide four weeks of paid leave for the birth or adoption of a child.
- HB 1947 outlaws automated speed enforcement systems, with exceptions.
- HB 1949 would allow convicted felons to get food stamps.

- HB 1953 allows taxpayers to more easily pay the government in advance for property taxes.
 - HB 1955 allows taxpayers to more easily pay the government in arrears for property taxes.
 - HB 1978 repeals the midwifery law.
 - HB 1980 allows an income tax credit for fixing up a rented residence.
 - HB 1981 provides an income tax credit for hiring the disabled or people fresh out of prison.
 - HB 1986 prohibits professional sports teams from getting public funding if any home games are blacked out. “Couch Potato’s Law”
 - HB 1995 requires utilities to pay a surcharge on electricity produced at a nuclear plant and sold outside its service territory.
 - HB 1998 repeals registration requirements for interior designers.
 - HB 2030 prohibits criminals from qualifying for elected office.
 - HB 2032 prohibits gubernatorial appointees from participating in partisan political activity while serving.
 - HB 2050 prohibits the smoking of “spice,” commonly known as “fake pot” or K2.
 - SB 878 allows ambulance service providers to collect debts directly from income tax refunds or lottery winnings.
 - SB 880 creates DWI courts.
 - SB 888 makes Missouri a right-to-work state.
 - SB 889 prohibits the state minimum wage from rising above the federal minimum wage.
 - SCR 44 urges Congress to repeal “Don’t Ask, Don’t Tell.”
 - SCR 45 urges Congress to keep “Don’t Ask, Don’t Tell.”
- Don’t be afraid to ask your lobbyist about these or other bills.

Quote of the Week

During the committee hearing on HB 1872, to prohibit the use of any public funds to pay for a lobbyist, Rep. John Burnett (D-Kansas City) weighed in on the side of lobbyists:

“I think lobbyists provide a valuable function.”

Try to be valuable to someone, and have a great week!

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