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Strategic Government Relations

The Powers Report

A Weekly Summary of Activities in Jefferson City

The Powers Report is produced by Prestige Powers, a strategic government relations firm.

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March 5, 2010

It's all about the budget

Describing the state's budget situation is beginning to tax the vocabulary skills in Jefferson City.

Last week it was "train wreck." This week's terms include "staggering," "crisis," "fiscal precipice," and "deep trouble." We asked one budget expert to describe the situation in one word. Her response, while incredibly descriptive, cannot be printed here.

Nobody involved in this process has ever seen anything like it.

State revenue collections in January were horrible, and February was even worse. Through the end of February, collections for FY11 are down 12.7%. The budget wasn't built with that in mind, so another round of cuts will certainly be announced by the governor in a matter of days.

Worse yet, the expectation two months ago was for FY11 revenues to drop 6.4%, then grow off that lower number by 3.6% in FY12. Now it's obvious the predicted 6.4% decline was wildly optimistic. There has been talk this week of coming up with a new "consensus revenue estimate" to use in crafting the FY12 budget, but a CRE is not a legal requirement. The use of the CRE began about twenty years ago as a sign of cooperation between the executive and legislative branches. All that's legally required is for the general assembly to pass the budget bills by the first Friday in May, and for the governor to sign or veto the bills before the end of June. Then, it's the governor's responsibility to withhold spending authority during the fiscal year if revenues don't meet expectations, as has happened repeatedly in FY11.

The House Budget Committee will be slogging through the details of the budget bills beginning Monday, March 15. The proposed house committee substitutes were released this week, with cuts totaling about \$139 million below what the governor proposed six weeks ago. However, House Budget Chairman Allen Ictet (R-Wildwood) proposes using \$87 million of that savings to fully fund the foundation formula for K-12 public schools. It's widely believed the state would be sued – again – by the public school districts if the state fails to fully fund the foundation formula. So, in the end, the proposed budget as it looks right now is only about \$50 million less than what the governor proposed. It even includes the \$300 million in federal money the governor expected, which most everyone agrees will not be forthcoming.

Meanwhile, the budget writers in the Senate say expected FY12 revenues could be as much as a billion dollars below the figure the governor used in his proposed budget -- \$300 million in "lost" federal money and \$700 million in reduced general revenue.

"This is a crisis that we have never, ever seen before," observed Sen. Kurt Schaefer (R-Columbia), the vice chairman of the Senate Appropriations Committee.

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Gov. Jay Nixon, after looking at the horrid revenue numbers for February, issued a statement acknowledging that “we will need to downsize the scope of state government.” In fact, legislation was filed this week to enable the legislature to do just that, even the possibility of eliminating entire departments.

What about a tax increase? Forget about it.

“The magnitude of a tax increase that you would have to pass to fix the budget situation is almost impossible,” said Senate Pro Tem Charlie Shields. “That is not a viable option.”

While the House Budget Committee is ready to start the detail work, many in the legislature are waiting for the governor to take the lead on proposing the kind of deep, painful cuts that will be necessary. He met with legislators this week, but several legislators say the meetings were a little short on details.

“Dialogue is good,” Sen. Schaefer noted, “but I hope the governor doesn’t think that coming and speaking to us and pointing out what we already know and then not offering solutions is going to be the end of it.”

Progress on the ethics front

The Senate passed its version of an ethics bill (SB 577) this week. We analyzed that bill last week. If you missed it or need a refresher: http://www.prestigepowers.com/SB_577_analysis.pdf.

House Majority Floor Leader Steve Tilley doesn’t think much of it. “We don’t think it’s strong enough. We think they took the easy way out.”

The House ethics committee filed its bill this week: HB 2300. It is much more comprehensive than SB 577. You can read it here: <http://www.prestigepowers.com/HB2300I.PDF>.

The bill:

- Forbids soliciting or receiving campaign contributions, or holding fundraising events, on state property or in any building owned or leased by the state or any political subdivision.
- Creates a broad definition of paid political consultant: “a person who is paid to provide political consulting services to promote the election of a certain candidate or the interest of a certain group, including but not limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, conducting public opinion polling, providing research on issues or opposition background, coordinating, producing, or purchasing print or broadcast media, phone solicitation, fund raising, and any other political activities.”
- Prohibits legislators from receiving compensation of any kind for working as a paid political consultant to any other legislator, statewide elected official, or any political committee. The ban also extends to the legislator’s spouse, children, and parents.
- Requires legislators to sit out one legislative session after leaving office before becoming a legislative lobbyist. This would allow legislators to immediately lobby the executive branch or local governments after leaving office.
- Makes it unlawful to solicit a legislator to accept employment as a legislative lobbyist or a paid political consultant while in office, and makes it unlawful for a legislator to solicit clients to represent as a legislative lobbyist.
- Prohibits the governor or anyone acting on behalf of the governor to offer appointments, jobs, fee offices, judgeships, or any other position to legislators in exchange for a vote, and makes it illegal for a legislator to accept such a thing in exchange for a vote.
- Offering anything of value to any public official in exchange for an official act, or accepting such a thing, would be a Class D felony.

- Refines lobbyist reporting requirements for group expenditures by limiting such reports to food and beverages, and by requiring a listing of the location of where the food and beverages were provided.
- Requires lobbyists to maintain accurate records of expenditures for at least three years and makes the records available for inspection by the ethics commission during an investigation.
- Anyone who works as a lobbyist without registering would be guilty of a class B misdemeanor for the first offense, and a class D felony on any second or subsequent offense.
- Disallows a legislator from accepting more than \$1,000 in stuff from a lobbyist per calendar year. This also applies to the legislator's spouse and dependent children.
- Requires ethics complaints to be properly signed and notarized and allege facts that, if true, would fall under the jurisdiction of the ethics commission.
- Allows the ethics commission to conduct investigations without a complaint having been filed if "there are reasonable grounds to believe that a violation has occurred" and at least four members vote to proceed (out of six).
- All investigations are strictly confidential.
- Allows appeal of ethics commission actions to the circuit court of Cole County.
- Increases the fee for the late filing of campaign reports from \$10/day to \$50/day, with a total cap of \$3,000.
- Requires candidates to swear that they are "not a feigned candidate in order to conceal the candidacy of another or to divide the opposition."
- Makes it illegal to give or promise anything of value to a person to become a "feigned candidate."
- Outlaws most committee-to-committee transfers, and specifically forbids any transfer intended to conceal the identity of the source of the money.
- Sets campaign contribution limits of \$5,000, regardless of the office sought.
- Requires the receipt of any campaign contribution in excess of \$2,000 to be reported to the ethics commission within 48 hours (current level is \$5,000).

One small step for man, one less license plate for Missourians

The Missouri Senate this week amended a transportation bill (SB 781) to repeal the requirement that vehicles in this state display two license plates. Sen. Matt Bartle said the move would save the state about \$3 million.

"Other states get by with only one license plate," Bartle declared. "Why not Missouri?"

This debate has been going on for more than twenty years. Every time it comes up, the highway patrol shoots it down by convincing legislators that troopers can more easily identify cars with two plates. We hear the troopers will be making the same argument this year, and they'll likely have some behind-the-scenes help from the company that currently pockets part of that \$3million that would be saved: 3M. They sell the reflective paint.

Oh, and there's another problem. The Department of Revenue has almost two million plates in stock at a cost of \$2.8 million. The department estimates that almost 900,000 of the plates would have to be discarded at a cost of \$1.2 million.

The amendment allows anyone who wants two plates to get an extra plate for \$15, but who would do that? The department thinks more than a million people would, generating more than \$17 million for the state. The potential fiscal impact of this, and some of the other measures in the bill, got it sent to the Senate Committee on Governmental Accountability and Fiscal Oversight for additional review.

SB 781 also contains a provision that bans texting while driving for all ages. Current law only outlaws texting while driving for those 21 and under. Since the original text messaging ban for the younger drivers went into effect last August, the highway patrol has written only 14 tickets for violations.

There's a new "Fair Tax" in town

The Missouri Senate this week only briefly discussed a new version of the so-called "Fair Tax," which would replace the state's income taxes with a broad sales tax on most transactions.

The new version, known as SS SCS SJR 29, would eliminate the corporate income tax, the corporate franchise tax, and the bank franchise tax on January 1, 2013. The individual income tax would be phased out over five years. The measure allows the St. Louis and Kansas City earnings taxes to remain.

The new version caps the sales tax rate at 7%. It's unknown if this would be enough to replace the revenue lost by the elimination of the income tax. A study performed by the Joint Committee on Tax Policy on the earlier version of SJR 29 estimated the necessary tax rate could go as high as 9.7%.

The new version adds exemptions to the new sales tax, including tuition and fees, motor fuel, insurance premiums, and money donated to charity. Additional exemptions could only be added later with a two-thirds vote of the general assembly and the signature of the governor.

SS SCS SJR 29 allows the legislature to provide for rebates to people as a way of offsetting the impact on the poor, but it's optional.

If approved by the legislature, SJR 29 would go to a vote of the people.

No federal health insurance mandate

The Missouri House this week gave a strong initial vote to HJR 48, which would send a constitutional amendment to the people saying that no federal rule or law shall "compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system." The vote was 113-40.

It's a reaction to the possibility that Congress might pass a health reform bill that would require Americans to purchase health insurance or be fined.

"Like no other time in our nation's history," declared Rep. Tim Jones (R-Eureka), "the federal government has tried to insert itself into an area in which it does not belong to force citizens to purchase a product."

Similar efforts are underway in 33 states. HJR 48 was also approved by the House Fiscal Review Committee this week, setting up a final House vote after Spring Break, which ends March 15.

A \$100 case throws a monkey wrench into the red light camera industry

The Missouri Supreme Court this week threw out a \$100 fine the city of Springfield had levied on Adolph Belt, Jr., for running a red light. We don't know how much Mr. Belt spent to avoid the \$100 fine, but the impact of *Springfield v. Belt* could wander into the millions of dollars.

"This is a \$100 case," wrote Judge Michael Wolff for the unanimous ruling, "but sometimes, it's not the money. It's the principle."

In this case, the principle is that the city of Springfield has been handling tickets for running a red light that is caught on a red light camera as an administrative function. The court said they can't do that; the moving violations have to be handled in a court setting. Since the

ruling was issued this week, drivers who had previously paid the \$100 are starting to demand refunds.

A careful reading of the ruling also lays bare some facts the opponents of red light cameras will use in their fight to ban the devices. It turns out the city of Springfield picked on the wrong guy. Mr. Belt is a 30-year veteran of the highway patrol and a former Kansas City police officer. He thought the yellow light was a little abrupt, so he timed it with a stopwatch: about 3.5 seconds. The generally accepted standard is 4.5 seconds. He also produced research indicating that in many cases, the times of yellow lights are shortened after red light cameras are installed.

An online newspaper article cited in the ruling indicated the city of Springfield had shortened the timing of yellow lights at 105 intersections before installing their red light cameras. That same article noted a Texas study that showed a one second reduction in yellow light timing resulted in a 100% increase in red light violations.

The court didn't address the issue of the timing of yellow lights, nor did the court address the overall debate of using red light cameras, but the legislature might. Sen. Jim Lembke (R-St. Louis), a longtime opponent of red light cameras, seized on the court ruling to resurrect the issue in the Senate. His bill to ban the practice has been scheduled for a hearing after Spring Break.

Thinking outside the box

Sen. Charlie Shields (R-St. Joseph) is looking for ideas on how to streamline government. He has a website for you to submit suggestions:

<http://www.senate.mo.gov/RebootMO/RebootMO.aspx>. And he's serious.

"We cannot sustain the size and scope of government as we know it," he said. "We must think outside the box."

The form on the website asks for your name and all that, but anonymous suggestions will also be accepted.

Democrats respond to the E. coli report

The three Democrats on the Senate Commerce Committee – Sen. Tim Green (D-St. Louis), Sen. Jolie Justus (D-Kansas City), and Sen. Joan Bray (D-St. Louis) didn't approve when the chairman – Sen. Brad Lager (R-Savannah) – last week released a draft E. coli report without their direct input. So they issued a response this week.

"From the beginning, it has been apparent that Sen. Lager's interest in the elevated E. coli levels was overtly political in nature and certainly not grounded in any concern for the environment or the public good."

Lager responded: "This is smoke and mirrors, trying to cover up the fact the Department of Natural Resources violated the public trust."

More than a hundred bills filed this week

The last day to file bills in the Senate was March 1. More than 50 bills were filed that day in the Senate alone. Some highlights from the week:

- HB 2257 requires those selling fireworks to have liability insurance and not be convicted felons.
- HB 2263 establishes the Insured Vehicle Identification Network to use technology to track insured motorists and identify scofflaws.
- HB 2265 repeals the corporate income tax.

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- HB 2266 repeals the ban on expanded polypropylene coolers in the rivers that was passed last year.
- HB 2267 prohibits real property taxes from rising or falling more than 5% per year.
- HB 2281 reauthorizes straight-party voting.
- HB 2287 requires bills to be referred to committee within 20 days of filing.
- HB 2295 creates the KidCare Co-op to provide health insurance for children.
- HB 2304 requires the licensing of home inspectors.
- HB 2309 requires all owners of dogs and cats to have them vaccinated for rabies.
- HCR 69 declares that nonbinding resolutions to Congress are a complete waste of time.
- SB 1016 gives the department of revenue additional tools to collect taxes, including garnishment authority.
- SB 1021 allows schools to avoid making up days lost to H1N1.
- SB 1029 instructs the Department of Public Safety to study the safety of the lettered highways.
- SB 1035 requires parental consent for those younger than 18 to give blood.
- SB 1045 makes it a crime for anyone under the age of 25 to be inside a car with a gun in St. Louis.
- SB 1049 changes the state employees' retirement system from a defined benefit plan to a defined contribution plan for all new hires after January 1, 2011.
- SB 1051 bars legislators from lobbying for one year after leaving office.
- SB 1052 bars legislators from being paid by political committees.
- SB 1054 prohibits the receipt of tax credits by campaign contributors.
- SB 1065 creates the Joint Committee on the Reduction of State Government.
- SCR 53 requests Congress to go back to the days when state legislatures elected United States Senators.
- SJR 44 deletes the names of all state departments from the constitution, so the legislature can more easily get rid of them in the downsizing that appears headed our way.
Your lobbyist can answer your questions on these and other bills.

A few bills got passed, too

The House sent 8 bills to the Senate; the Senate sent 24 to the House. Here are the highlights:

- HB 1903 creates the Federal Budget Stabilization Extension Fund to receive money from any federal job creation legislation, 146-4. Picture a baby robin with his mouth open.
- HJR 76 would amend the constitution to require a four-sevenths majority for voter approval of any initiative relating to birds, fish, game, wildlife, or forestry resources, 126-23.
- HJR 86 would amend the constitution affirming the right to raise animals humanely, 96-52.
- SB 614 requires antibullying policies to include cyberbullying, 32-0.
- SB 649 declares March 12 "Girl Scout Day." Cookie's Law.
- SB 801 requires credit reporting agencies to block information resulting from identify theft.

Extension of jobless benefits signed

Gov. Jay Nixon this week signed HB 1544 into law. It provides an extra 20 weeks of unemployment compensation. An estimated four thousand Missourians could qualify.

Quote of the Week

You get two again this week, because next week is Spring Break, and people will be saying their clever things where we can't hear them.

During a committee meeting on reforming intrastate inter-carrier access charges, Sen. John Griesheimer (R-Washington) expressed his exasperation with the process of trying to reach a compromise, which has dragged on for years:

“This has been like herding grasshoppers in a wheelbarrow.”

After it was noted by a reporter that the current version of the state budget eliminates \$25,000 for the free coffee the legislature provides to themselves and to the public, Rep. Eric Burlison (R-Springfield) said:

“I think people will adjust and find another way to get coffee.”

Keep your grasshoppers together, and have a great week!

It's Spring Break! **No report next week!**

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