



May 19, 2009

BUDGET BATTLES AND DISAGREEMENTS DOMINATE SESSION'S END

The First Regular Session of the 95th General Assembly adjourned at 6:00 p.m. on Friday, May 15. Most of the bills affecting counties, for better or worse, either died in committee, were not taken up or acted upon, or were dramatically modified to the point that their effect on county operations is minimal. Overall, there were 1,918 bills and/or resolutions introduced this session and only 164 passed.

The primary focus in the closing weeks was on the budget and the allocation of federal stimulus money. The Legislature passed the \$23.1 billion budget Thursday, May 7, one day before the deadline. They also used \$785.5 million of the federal stimulus money to stabilize the budget for the upcoming year. Disagreements flared over allocations and spending priorities for both budget and stimulus funds. House Budget Chair Alan Iacet told the *Kansas City Star*, "It was almost like two budget years in one, and one is bad enough."

A week before session's end, the Senate moved to take up bills on the consent calendar, signaling their potential concern that contentious issues such as abortion, gun control, and the nonpartisan court plan amendment may trigger filibusters and derail the end of session. In the final days, the House and Senate were at a stalemate over both the economic jobs bill (HB 191), which would expand tax incentives to businesses for economic development, and the Show-Me Health Coverage Plan (SB 306), which would expand healthcare coverage to certain uninsured recipients. After the Senate worked out disagreements over tax credit provisions and developer incentives, the Legislature passed the economic development bill. However, the House adjourned before bringing up the healthcare bill. Two local government omnibus bills also failed in the session's final hours.

Appropriations

Funding for many state programs was slashed under the FY 2010 state budget that was ultimately adopted, but county appropriations fared well considering the economic conditions. Appropriations for prisoner per diem, assessment maintenance, single county circuit juvenile employees salaries and juvenile per diem all remain at current levels.

Local Government Omnibus Bills -- FAILED

HB 376 (Hobbs) and SB 386 (Lager) eventually became this session's local government omnibus bills. There were at least three others in play at various times as well. The final versions of both bills combined totaled over 200 pages. Among several other provisions dealing with county government, the bills would have increased the assessed valuation a county must maintain in order to move into a higher classification and would have amended bidding requirements, which was the original intent of HB 376.

On the last day of the session the House took up and defeated HB 376 by a wide margin. Two issues in the roughly 150-page bill doomed it to defeat: (1) a \$1 (for one year only) increase in recording fees to be split between the Missouri Housing Trust Fund and the Secretary of State's Office, which the Missouri Association of Realtors strongly opposed, and (2) the Missouri Press Association also worked against a provision that would have allowed cities in St. Louis County to post their financial statements on their websites instead of the newspaper. A number of House members from rural Missouri objected as well fearing this would lead to the same effort statewide.

SB 386 did not contain either of these provisions but died mid-afternoon on Friday when Sen. Tim Green voiced opposition to a portion of the bill that dealt with one municipality in St. Louis County. At that point it was too late to go back to conference and Sen. Lager had no choice but to scuttle it.

St. Louis County Assessor -- PASSED

SJR 5 passed the General Assembly on May 5. Upon voter approval, the constitutional amendment requires the assessor in St. Louis County to be elected.

County Planning Act -- FAILED

SB 5 (Griesheimer) would have established the Missouri County Planning Act, which would have allowed counties to create a county planning commission. The commission, formed by county commission appointment or petition vote and approval, would have been able to recommend subdivision and zoning regulations, as well as adopt street plans for unincorporated areas. It also would have required counties to appoint a board of zoning adjustment to hear appeals to zoning

decisions. Nothing in the bill would have affected the existence or validity of a county ordinance or order adopted prior to Aug. 28, 2009. A Senate substitute was adopted on March 25 which, among several other provisions, would have required that the formation of a planning commission be contingent upon voter approval. The bill passed the Senate, but did not make it out of the House Rules Committee.

Limits On State Appropriations -- FAILED

HJR 23 (Icet) would have prohibited, upon voter approval, appropriations in any fiscal year from exceeding the total state general revenue appropriations from the previous year by more than the appropriations' growth limit. The appropriations' growth limit would have been the greater of zero or the sum of the annual rate of inflation and the annual Missouri population growth. It also would have expired five years from the effective date.

Missouri Fair Tax Amendment -- FAILED

Another contentious issue that saw some movement due to the current economic climate was the Missouri Fair Tax Amendment. HJR 36 (Emery) would have amended the *Constitution* and would have replaced the state individual and corporate income tax and state sales and use tax with a fair sales tax of 5.11 percent on retail sales of new tangible personal property and taxable services beginning Jan. 1, 2012. The bill narrowly passed the House; however, it did not make it out of the Senate Ways and Means Committee.

Tax Collections -- PASSED

HB 148 (Franz) passed the General Assembly on May 11. It allows certain 1st- and 2nd-class counties to collect property taxes using electronic records and disbursements. County collectors of these counties are required by the 15th day of each month to file, with the county clerk and auditor, a detailed statement of all taxes and license fees collected during the preceding month. Taxing authorities will be required to request notification of current taxes paid under protest by Feb. 1, and county collectors must provide the information by March 1.

Other provisions establish the following: (1) specifies that the collector-treasurer will continue to be subject to the provisions of law governing the duties, powers, requirements, and compensation of collector-treasurers if a county abolishes its township form of government; and (2) removes the requirement that county auditors in 1st- and 2nd-class counties countersign all licenses issued by the county and requires that they receive a monthly listing of the licenses issued and related information.

It also contains the SB 711 "fix" that authorizes political subdivisions, for the tax year 2009, to levy a property tax rate sufficient to generate as much revenue as was produced in the 2007 tax year, excluding new construction and improvements, as long as the rate does not exceed the greater of the rate in effect for the 1984 tax year or the most recent voter-approved rate. A proposed two-year delay for the notice requirements required for all counties by last session's SB 711 did not pass, however.

Additionally, it allows Jefferson County to continue to receive a 7 percent fee for the collection of delinquent taxes and to create a tax maintenance fund.

Photo ID -- FAILED

HJR 9 (Cox) proposed a constitutional amendment authorizing the General Assembly to require a person to provide photo identification in order to vote in elections. It would have provided for advance voting and would have required state reimbursement of costs. HJR 9 was voted "Do Pass" by the House Rules Committee, but it saw no movement thereafter.

Voter Identification Cards -- PASSED

HB 709 (Dusenberg) passed the General Assembly on May 7. Currently, election authorities are required to issue voter notification cards to voters no later than 90 days prior to a primary or general election for federal office with certain exceptions. This bill changes the reference from notification to identification cards and specifies that individuals registering to vote by mail who have not previously voted will not receive a voter identification card, but anyone who registers to vote by mail and has not yet voted must receive a verification notice at least 90 days prior to the date of a primary or general election for federal office.

Andrew Jackson Vote Registration Act -- FAILED

HB 613 (Diehl) would have established the Andrew Jackson Vote Restoration Act which would have required certain elections to be held even if the number of candidates filing for a position is equal to the number of positions available. It also would have established the following: (1) made it a Class 3 election offense to use an electronic recording device to record, photograph, copy, or transmit the content of a voted ballot to any unauthorized person; (2) allowed county commissioners of a 3rd- or 4th-class county to appoint a land surveyor if no candidate has filed; (3) prohibited anyone convicted of a felony from running for state or local office; and (4) required the Secretary of State to establish a secure system for overseas service members to vote absentee via the Internet.

Independence Day Sales Tax Holiday -- FAILED

HB 952 (Sutherland) passed the House on April 16, but it did not make it out of the Senate Ways & Means Committee. It would have established the Independence Day Sales Tax Holiday which, beginning Jan. 1, 2009, would have authorized a state sales and use tax exemption on the purchase of all tangible personal property in the state and all taxable retail services rendered in the state every year during the period of July 4 through July 31. Counties and cities could have "opted-in" the holiday.

Sunshine Law -- FAILED

HB 316 (Jones, T.) became almost a shell of its former self, with much of the original language and penalties being removed or softened by the Senate General Laws Committee. The bill passed the House, but it was not taken up by the Senate during the final days of the session. The bill would have changed the Sunshine Law to (1) require the minutes to reflect a general account of the discussions that occurred at a closed meeting; (2) specify that only members of a public governmental body, their attorneys and staff assistants, and any necessary witnesses will be permitted in any closed meeting of the governmental body; (3) specify the criteria for the litigation exception to the open record disclosure (an actual lawsuit, a threat of a lawsuit, or a substantial likelihood of litigation must exist in order to close information regarding a cause of action); (4) require information to be made available in an electronic format if a public body keeps records in an electronic format (data must be available in a format accessible to the public if it is stored in a data-processing program); (5) reduce from \$1,000 to \$100 the maximum civil penalty for any violation of Secs. 610.010 - 610.026, *RSMo*, and increase the maximum penalty for a purposeful violation of these sections from \$5,000 to \$8,000 (the court may require the public official or county to pay all attorneys fees); and (6) require any public meeting of a public governmental body addressing issues regarding a fee or tax increase, eminent domain, zoning, transportation development districts, or tax increment financing to give at least five days' notice prior to the meeting, exclusive of weekends and holidays when the facility is closed (The meetings must allow time for public comment. If proper notice is not given, discussion on the issue will be postponed and no vote will be taken for at least 30 days).

Linked Deposit Loan Program -- PASSED

SB 542 (Pearce) expands the State Treasurer's linked deposit loan program to include as participants individuals who want to produce their own energy from renewable resources, and political subdivisions or other public entities seeking to finance capital improvements or other significant programs. It passed the General Assembly on May 4.

HB 883 (Flook), which is similar to SB 542 in many respects, also passed.

Fair Influence In Government Act -- FAILED

HB 1188 (Schoeller) would have established that no state agency, political subdivision, or private entity that receives any amount of funding appropriated by the state or any amount collected from any local tax authorized by statute shall use any public resources to pay the costs of employing or contracting for the services of any person who lobbies on behalf of said agency, subdivision, private entity or association. Any person who accepts public funds for payment would have been prohibited from registering as a lobbyist for a period of up to two years. Any violation of this section by any state agency, political subdivision, or private entity that receives state funds would have resulted in a fine of not less than \$1,000 but not more than \$5,000. The director of such agency would have been held liable. After it was read a second time by the House on April 2, the bill saw no movement the rest of session.

Enhanced 9-1-1 Funding -- FAILED

In recent years, enhanced 9-1-1 funding in Missouri has been a notable issue of concern, and the concern is growing. However, as with most bills this session, primary concerns arose concerning economic viability. SB 119 (Griesheimer) would have changed the law regarding enhanced 9-1-1 funding. It would have limited the number of Public Safety Answering Points (PSAPs) which may receive funding based upon the classification of the county in which they are located. This bill would have authorized the Office of Administration, upon voter approval, to establish a fee of up to 25 cents per month on every wireless telephone number to fund wireless enhanced 9-1-1 services.

HB 1156 (Bruns), along with creating a 25 cent user fee for enhanced 9-1-1 services upon voter approval, created the Enhanced 9-1-1 Communications Provider Advisory Board. The board would have been responsible for providing coordination, support, and a schedule for implementing enhanced 9-1-1 across the state. Another provision of the bill would have required counties to consolidate their number of PSAPs to receive state enhanced 9-1-1 funding; 3rd-class counties would have had to consolidate to one PSAP, 2nd-class counties would have had to consolidate to two PSAPs, and 1st-class counties would have had to consolidate to three PSAPs.

Many legislators were primarily concerned with consolidating the counties' number of PSAPs across the state before implementing a statewide funding mechanism.

Omnibus Crime Bill -- PASSED

HB 62 (Lipke) passed the General Assembly on the last day of session with an emergency clause. It adds several provisions regarding crime and law enforcement. Among several provisions, it establishes the following: (1) allows college and university police to assist outside law enforcement with emergencies and natural disasters; (2) requires a photo be taken of an incarcerated individual prior to release and made available to the victim upon request; (3) removes the provision that requires the prosecuting attorney to appear on behalf of the Director of the Department of Revenue in circuit court cases or hearings reviewing administrative decisions regarding alcohol-related traffic offenses; (4) expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, and third degrees to include a corrections officer; (5) expands the crime of tampering with a judicial officer to include juvenile officers and deputy juvenile officers; (6) specifies that the Attorney General may request the prosecuting attorney of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath in the course of a criminal investigation of a sexual or pornography offense if the venue of the alleged criminal conduct cannot be determined; (7) creates the crime of disarming a peace or correctional officer if a person intentionally removes from or deprives the peace or correctional officer of the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties (the crime,

a Class C felony, does not include situations in which a person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament); (8) expands the crime of tampering with a judicial proceeding to include influencing the official action of a state prosecuting or circuit attorney; (9) establishes the Crime Laboratory Review Commission within the Department of Public Safety to provide an independent review of any state or local crime laboratory receiving state-administered funds (the commission must submit an annual report to the governor on its activities and any suggestions to improve the quality management systems within the crime laboratories); (10) allows law enforcement officers to inspect any record open to inspection by the State Veterinarian or the Department of Agriculture of any livestock sales or market licensee to determine the origin and destination of any livestock handled by the licensee; and (11) repeals provisions regarding owning a hedge fence situated along the right-of-way of any public road and certain provisions regarding the payment of costs in criminal cases.

Also in various bills throughout the session were provisions regarding court procedures. Specifically among them was a provision which would have required a \$3 fee to be collected on all court cases and distributed into the corresponding circuit clerk's record preservation fund in the following distribution: \$2 would have been allotted to storage, microfilming, preservation, and public access of circuit court records; and \$1 would have been forwarded to the Secretary of State for additional preservation of local records. This provision did not survive in any form.

Surface Mining and Gravel Excavation -- PASSED

HB 246 passed the General Assembly on May 13. It allows a property owner, an operator conducting gravel removal at the request of a property owner, or a political subdivision who contracts with an operator for excavation to remove and sell excess gravel without a permit if the primary purpose for removal is to manage seasonal gravel accretion on property not used primarily for gravel mining. The mining must be performed on the owner's or political subdivision's property and within a distance (yet to be determined by the Department of Natural Resources and the Land Reclamation Commission) from outside structures, roads, and waterways. Owners and operators must also follow departmental guidelines regarding surface mining and gravel removal.

Illegal Immigration -- PASSED

HB 390 (Nolte) passed on the last day of session with an emergency clause. It changes the laws regarding illegal immigration and establishes the following: (1) prohibits college or university students who are unlawfully present in the United States from receiving certain types of financial aid; (2) specifies that post-secondary education public benefits, municipal permits, and contracts or agreements between public utility providers and their customers will not be considered public benefits under the provisions of public benefits illegal aliens must receive; (3) specifies that certain entities that contract with the state or any of its political subdivisions only have to provide the affidavits attesting to participation in a federal work authorization program and nonemployment of unauthorized aliens on an annual basis and allows, during or immediately after a natural or manmade disaster, business entities 15 working days to enroll and participate in a federal work authorization program as a condition for the award of certain public contracts; and (4) clarifies that an on-site employee of a contractor on a public works project must complete only one 10-hour Occupational Safety and Health Administration (OSHA) construction safety program or similar program approved by the Department of Labor and Industrial Relations.

Judicial and Court Proceedings -- PASSED

HB 481 (Jones, T.) passed on the last day of session. It changes the laws regarding courts and judicial proceedings to establish the following: (1) allows public administrators to serve as trustees when appointed by the circuit court or probate division; (2) changes provisions regarding the requirements for all public advertisements and orders of publication regarding foreclosure notices; (3) allows county clerks to remove the county surveyor position from election ballots if no qualified and certified candidate has registered for the election; (4) requires an additional 5 percent fee on all back and delinquent taxes in Jackson County; and (5) specifies that no political subdivision can define the relationship between a human and an animal as anything but property.

Public Defender System -- PASSED

SB 37 (Goodman) passed the General Assembly a day before the end of session. It modifies provisions relating to the public defender system to establish the following: (1) requires the state to pay the parking costs for public defender system employees; (2) establishes a system for handling an overload of cases based on a waiting list for defender services (courts may use both public and private defenders to the extent that funds are available to ensure that all persons subject to incarceration receive legal defense); and (3) requires state and local governments to disclose, upon request and without fee, information and financial records regarding an individual seeking indigent defense services free-of-charge to any employee of the system, instead of only to specified employees (photographs, recordings, and electronic files must also be provided to the public defender system without charge).

Private Jails -- PASSED

SB 44 (Pearce) passed the General Assembly on the final day of session. It creates new requirements for private jails. It establishes procedures for private jails to follow in the case that a felony is believed to have been committed within the jail, or in the case of a missing or escaped prisoner. The jail must contact outside law enforcement; willful failure to report such an infraction shall result in a fine of \$100-\$1,000. The bill also specifies that private jails must separate their populations by gender, as well as by civil and criminal causes. The jail must provide proper health care, clothing, food, and bedding for inmates, and it specifies that inmates may not be used for the betterment or personal gain of any employee.

Sheriff Qualifications -- PASSED

HB 667 (Jones, Kenny) passed the General Assembly on the last day. It removes the 12-month grace period that newly elected sheriffs are allowed in order to become licensed peace officers.

Housing Sexual Offenders -- PASSED

HB 826 (Brown) passed the General Assembly on May 12. It authorizes the Department of Mental Health to enter into agreements with county jails for the confinement of sexually violent predators.

Manufactured Homes -- PASSED

SB 235 (Cunningham) passed the General Assembly on May 5. It establishes the procedures for converting manufactured homes into real property or from real property back to personal property. It also redefines the term "agricultural and horticultural property" for purposes of property taxation to include any sawmill or planing mill as defined by certain U.S. Department of Labor Standards.

Initiative Petitions -- FAILED

HB 228 (Parson) would have changed the laws regarding initiative petitions and referendums.

Prisoner of War Tax Exemption -- PASSED

HJR 15 (Chappelle-Nadal) passed the General Assembly the day before the end of session. It establishes a constitutional amendment exempting all real property used as a homestead by a former prisoner of war with a total service-connected disability from property taxation.

Line of Duty Compensation Act -- PASSED

HB 580 (Bruns) passed the General Assembly on May 13. It establishes the Line of Duty Compensation Act which authorizes a claim to be filed with the Division of Workers' Compensation on behalf of public safety workers who are killed in the line of duty. The amount of state compensation for the claim will be \$25,000, subject to appropriations, for deaths occurring on or after Aug. 28, 2009.

Nonpartisan Court Plan -- FAILED

HJR 10 (Cox) failed primarily due to disagreements which triggered filibusters in the Senate. The proposed amendment would have increased from three to four the number of judicial candidates nominated by the Nonpartisan Judicial Commission for a vacancy in the office of judge of specified courts from which the governor may make appointments.

Lincoln County Classification -- PASSED

HB 257 (Schieffer) allows Lincoln County to become a second class county upon reaching the required assessed valuation and approval from the governing body effective at the beginning of the county's fiscal year following approval by the governing body.

Education -- PASSED

SB 291 (Shields) modifies several provisions relating to education and school districts. Among them, it requires that the first Tuesday after the first Monday in November 2009 will be a general election day for the purpose of allowing school districts to incur debt.