WEEKLY LEGISLATIVE REPORT

This is your March 6th legislative report, which includes information since the 2020 Legislative Session began. Get to know your state representative and senator and know their positions on key issues to you. You and your firm can help by giving to our state PAC (see website for more information). Items included in this report:

- Weekly Overview
- In the News
- Register for Legislative Days on April 15 & May 6
- Budget Update
- Senate Floor Action (Military Occupational Licenses)
- Committee Action Last Week (Expanded Workforce Act of 2020; License Reciprocity; Solid Waste Forfeiture Funds; Peer Review; Solid Waste Management Districts; Restricted Covenants)
- Committee Hearings of Interest (HB1259; HB1510; HB1603; HB2225; HB2343; HB2702; HJR124)
- House & Senate Calendars (HB1442; HB1804; HB2555; SB539; SB559; SB592; SB618; SB647)
- Major Dates of Interest

Please go to the www.acecmo.org website to view the bills of interest that we are tracking this year. Please let me know if you have any questions on legislative matters.

-- Bruce A. Wylie, brucewylie@acecmo.org, (573) 634-4080.

WEEKLY OVERVIEW

Last week marked the halfway point of the 2020 legislative session. With nine weeks down and nine to go the pressure is on each legislative body to get their priority bills to the opposite chamber before Spring Break which begins upon adjournment on the 19th. When they come back from Spring Break there is a 7-week sprint to the end of the legislative session on May 15th. Many priorities like creating a prescription drug monitoring program, a tort reform bill changing the way punitive damages are awarded, and the redistricting change dubbed “Cleaner Missouri” have already left their respective chambers and are awaiting action in the opposing chamber. Other bills like collecting online sales taxes and expanding charter schools are still in their original chambers.

Last week the House continued to work on member priority legislation, Perfecting and Third Reading dozens of bills and sending them on to the Senate. Through all the work, the House still was able to have some fun. On a bill creating an Honor Guard Appreciation Day, Rep. Nick Schroer added an amendment making the St. Louis Battlehawks, of the newly formed XFL, the Official XFL Team of Missouri. KaKaw!

In stark contrast, the Senate melted down when the Conservative Caucus took issue with a bill sponsored by Sen. Lincoln Hough. The bill created a new industrial manufacturing enhancement zone where tax withholdings could be used for expansion and development purposes. The conservative six were gun-shy of the initiative as a similarly innocuous piece of legislation passed by the same Senator last session came back
from the House with the Governor’s economic development package attached to it. The industrial zone legislation was filibustered for nine hours before an agreement was reached and the bill was Perfected. A positive end to an event that could have had lasting damage to the Republican Caucus.

IN THE NEWS

- Last week Senate Minority Floor Leader Gina Walsh resigned her position as Minority Leader and Assistant Minority Floor Leader John Rizzo has ascended to that leadership position. Walsh, who is finishing her final year as the senator for SD 13 due to term limits, made the announcement from the Senate floor Tuesday afternoon. She said she plans to continue out her term as a senator but wished to transfer the leadership position to Rizzo while she was still in office.
- Country music artist Porter Wagoner who hails from Poplar Bluff was honored with a small ceremony as he was officially inducted into the Hall of Famous Missourians. Wagoner, who died in 2007 at the age of 80, was from West Plains. Known for his flamboyant rhinestone suits, Wagoner was elected to the Country Music Hall of Fame in 2002.
- A House panel investigating Missouri’s medical marijuana program tore into top state officials, blasting the Department of Health and Senior Services for how it scored and awarded licenses. Last Wednesday’s hearing came two weeks after marijuana program director Lyndall Fraker told lawmakers he wasn’t aware of potential conflicts of interest by the state’s third-party application scorer, Wise Health Solutions, until the state had already hired the company. Mr. Fraker testified last week that the hearings are all about “money and politics,” and that he stands by all of his decisions. A statement which did not sit well with committee members.
- Legislation that would bar Missouri doctors from providing certain medical procedures and therapy to transgender children is being sharply criticized by advocates who call the proposed restrictions abusive and dangerous. At a House Judiciary Committee hearing, held last Tuesday night, transgender men, women and children – along with their parents, grandparents, doctors, counselors, advocates and others – warned that the proposals, if enacted, would lead to more suicides. “Innocent children will be killed because of this,” Mazy Gilleylen, 14, said. “That’s just not right.”
- Legislation that affects seclusion and restraint policies in public schools was Perfected by the House. This has become a highly charged issue in the recent months. Supporters say that schools should not be using restraint, seclusion, or isolation except in situations where the health or well-being of a student or staff member is in jeopardy. Opponents believe that it should be left to the local school districts to put policies in place. The emotionally charged debate lasted more than an hour.

REGISTER FOR LEGISLATIVE DAYS ON APRIL 15 & MAY 6

Registrations are open for MFTI's remaining 2020 Legislative Days. Your attendance is encouraged as we discuss the importance of increased transportation investment with our elected officials and their staffs. Orientation and a legislative briefing will be held at the AGC of Missouri office at 10 a.m. Participants will be provided materials to share with their legislators. Following orientation, we will have visits scheduled with legislative leaders in the Capitol. Participants are also encouraged to visit their local state senators and representatives to discuss the need for transportation investment.

There is no cost to attend, however registration is required. To register, click on the links below. Send your name and email address and that you are representing ACEC/MO. Registration is open for the April 15th and May 6th Legislative Days.

- April 15th - CLICK HERE to register
- May 6th - CLICK HERE to register
BUDGET UPDATE

The full House Committee on Budget met to present the committee substitute for the FY20 supplemental budget. Chairman Cody Smith (R-Carthage) added language which will allow for the Office of Treasurer to make the biennial fund sweep of an additional $8 million to be deposited into General Revenue, which will bring the total up to $10 million. This will give the Treasurer unprecedented transfer and sweep authority. Any funds which have lapsed funds would be available for use. The funds used in FY 2019 were as follows:

- Uncompensated Care Fund;
- Healthcare Technology Fund;
- DCI Administrative Fund;
- Supreme Court Publication Revolving Fund;
- Livestock Sales and Markets Fees;
- Health Spa Regulatory Fund;
- Department of Revenue Information Fund;
- Board of Accountancy Fund;
- Antitrust Revolving Fund;
- State Court Administrators Revolving Fund;
- Acupuncturist Fund;
- Mine Inspection Fund; and,
- Mine Inspection Fund.

The Senate Committee on Appropriations met to review the remaining department budget requests with the Governor’s recommendations and reviewed the re-appropriations and capital improvements bills. Chairman Hegeman asked how the Amtrak station in Jefferson City is being addressed and who will ultimately be responsible for the cost. He also stated he would like to see that project become a priority as so many travelers use the river runner from Amtrak. Senator Hoskins requested the recent report which lists any and all projects which have been ongoing for three or more years.

House Budget Chairman Smith intends to offer his committee substitutes for the various budget bills this week which will give the full budget committee time to review them and prepare their individual amendments. It should be noted any amendment offered which increases funding, barring language or fund switches, must have a corresponding decreasing amendment. The mark-up process will begin Monday March 16th. The House will not debate the bills until their return from the legislative spring break.

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SENATE FLOOR ACTION

MILITARY OCCUPATIONAL LICENSES: The Senate Perfected and then Third Read and Passed SB 673, sponsored by Senator Justin Brown (R-Rolla). The bill allows any nonresident military spouse to apply for an occupational license in Missouri, as long as he or she holds a valid current license issued by another state or territory of the United States.

The bill has been reported to the House and First Read.

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COMMITTEE ACTION LAST WEEK

EXPANDED WORKFORCE ACT OF 2020: The House Committee on Professional Registration conducted a public hearing on SB 877, sponsored by Sen. Eric Burlison (R-Republic). This act shall be known as the "Expanded Workforce Access Act of 2020". Beginning on January 1,2021, each state licensing authority shall grant a license to any applicant who has successfully completed the eighth grade, completed an apprenticeship approved by the Missouri Division of Professional Registration or the U.S. Department of Labor, and has passed an examination, if one is deemed to be necessary by the appropriate licensing authority. The
appropriate licensing authority shall establish a passing score for such examinations, which shall not exceed the passing score that is required for a non-apprenticeship license. If there is no examination requirement for a non-apprenticeship license, no examination shall be required for applicants who complete an apprenticeship. The number of working hours required for an apprenticeship shall not exceed the number of educational hours otherwise required for a non-apprenticeship license.

Committee members expressed concerns as not all trades have an exam to pass and there is no measurable way to equate on the job hours and classroom hours. Testifying in support were representatives from Missouri Chamber of Commerce and Industry, Associated Industries of Missouri, Opportunity Solutions, and St. Louis Regional Chamber of Commerce, and Empower Missouri. Supporters said that there is a workforce shortage which needs to be filled and that this legislation would ensure qualified workers. There was no testimony in opposition and the committee took no further action on the measure.

**LICENSE RECIPROCITY:** The Senate Committee on Professional Registration met in executive session to vote “do pass” with 5 ayes and 0 noes HCS HB 2046, sponsored by Rep. Derek Grier (R-Chesterfield). This bill makes changes to the existing professional licensure reciprocity statute, through which a person can become licensed in Missouri if they are licensed in another state. The following individuals are currently excluded in statute from the provisions of this section: those with a certificate of license to teach in public schools; and those licensed by the Board of Registration for the Healing Arts, the Board of Nursing, the Board of Pharmacy, the State Committee of Psychologists, the Dental Board, the Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Architects, the Board of Optometry, and the Veterinary Medical Board. This bill removes these exclusions and requires that licensure by reciprocity for these professions be the same as any other licensed profession in this state.

**SOLID WASTE FORFEITURE FUNDS:** The House Committee on Conservation and Natural Resources met in executive session to vote “do pass” with 8 ayes and 0 noes HB 2144, sponsored by Rep. Hannah Kelly (R-Mountain Grove). Currently, solid waste forfeiture funds are placed into the General Revenue Fund. This bill specifies that the funds will be placed into the “Post Closure Fund” created in the bill. Any forfeited funds from solid waste facilities, including scrap tire end-user facilities and scrap tire processing facilities, currently held in the General Revenue Fund will be transferred to the Post Closure Fund.

The bill has been referred to the House Committee on Rules-Administrative Oversight. The Senate companion bill was heard in the Senate Committee on Commerce, Consumer Protection, Energy, and the Environment. Testifying in support was a representative from Department of Natural Resources. There were no witnesses against, and the committee took no further action on the measure.

**PEER REVIEW:** The Senate Committee on Government Reform conducted a public hearing on SB 913, sponsored by Sen. Ed Emery (R-Lamar). This legislation removes the sunset on peer review for architects, engineers, land surveyors and landscape architects.

Testifying in support were Bill Quatman of Burns McDonnell, AIA Missouri, Missouri Society of Professional Engineers, American Council of Engineering Companies of Missouri, Missouri Association of Landscape Architects and Missouri Land Surveyors Association. There was no opposition or questions from the committee members. Sen. Emery will request consent status when they vote on this bill this week.

**SOLID WASTE MANAGEMENT DISTRICTS:** The Senate Committee on Commerce, Consumer Protection, Energy and the Environment conducted a public hearing on SB 771, sponsored by Sen. Wayne Wallingford (R-Cape Girardeau). This act modifies provisions relating to solid waste management districts. The act requires that if a county applies to the Department of Natural Resources to be placed with another regional grouping of solid waste management districts, the county must be placed with a regional grouping adjacent to the county. Under current law, the Department of Natural Resources shall conduct a performance audit of grants to each solid waste management district at least once every 5 years. This act states that audits of no more than 10% of grants to each district shall occur as deemed necessary by the Department based upon district grantee performance. Currently, $200,000 from the Solid Waste Management Fund may be allocated to certain solid waste management districts. This act repeals this provision. Under current law, no more than 50% of revenue allocated to solid waste management districts shall be used for the implementation of a solid waste management plan and district operations. The act changes the amount to no more than 25% only for district operations. Current law states that at least 50% of the revenue shall be allocable to the districts. The act
changes the amount to 75% for implementation of a solid waste management plan and grants or projects serving the districts. Additionally, the act requires such money to be allocated to districts on a quarterly basis from August 28, 2020, until August 27, 2025. Currently, certain solid waste management districts are minimally funded at $95,000 a year. This act changes the amount to $120,000 a year. The act repeals a provision stating that the Department and the Environmental Improvement and Energy Resources Authority shall conduct sample audits of grants. Under current law, the Department has 30 days to review grant applications. The act changes this time to 10 days. Solid waste management districts then have an additional 30 days to respond to the Department's request for additional information to evaluate grant applications. The act changes the response time to 10 days. The Department then has 30 days to either approve or deny the grant application. The act changes this response time to 10 days. Finally, if a solid waste management district receives an unfavorable decision on a request submitted to the Department, the district may send such request to the Solid Waste Advisory Board. Such request may be appealed to the Administrative Hearing Commission upon at least 2/3 of the members of the Board representing solid waste management districts, excluding the members of the Board appointed by the Program Director of the Solid Waste Management Program, voting to approve such appeal at the Board's next regular meeting.

Testifying in support were representatives from PRESIDIO Evergreen Consulting and St. Louis Jefferson County Solid Waste District. Testifying for information were representatives from Missouri Department of Natural Resources and Solid Waste Advisory Board and Region K. There was no testimony in opposition and the committee took no further action on the measure.

**RESTRICTED COVENANTS:** The Small Business and Industry Committee conducted a hearing on SB 922 sponsored by Senator Luethemeyer (R-Platte County). This act modifies provisions relating to covenants between business entities and employees, distributors, dealers, franchisees, lessees, licensees, or owners or sellers of assets or interests in a business entity. This act provides that a covenant between a business entity and an employee promising not to solicit, recruit, hire, induce, persuade, encourage, or otherwise interfere with the employment or business relationship of an employee is enforceable if the covenant does not continue for more than two years. This provision does not apply to employees who provide only secretarial or clerical services and who own or lease interest in a business entity. Additionally, a covenant between a business entity and an employee shall be conclusively presumed to be reasonable if its post-employment or post-business duration is no more than two years, instead of one. This act provides that a reasonable covenant in writing promising not to solicit, induce, persuade, encourage, accept business from, or otherwise interfere with, directly or indirectly, a business entity's customers shall be enforceable if the following requirements are met: (1) The covenant is limited to customers with whom the employee dealt, as defined in the act; and (2) The covenant between a business entity and an employee is not associated with the sale or ownership of assets or any interest in a business entity and does not continue for more than two years following the end of employment; (3) The covenant between a business entity and a distributor, dealer, franchisee, lessee of real or personal property, or licensee of a trademark, trade dress, or service mark is not associated with the sale or ownership of assets or any interest in a business entity and does not continue for more than three years following the end of the business relationship; or (4) The covenant between a business entity and the owner or seller of assets or interest in a business entity does not continue for more than the longer of either five years or the period during which payments are made as measured from the date of termination, closing, or disposition.

A breach or threatened breach of a covenant between a business entity and the owner or seller of assets or interest in a business entity shall create a presumption of irreparable harm in the absence of injunctive relief without the necessity of establishing evidence of any actual or threatened damages or harm. Additionally, a provision in such a covenant in which an employee promises to provide notice to a business entity of the employee's intent to terminate, sell, or otherwise dispose of an asset or interest is presumed to be enforceable if the notice period is no longer than 30 days and the business entity agrees to pay the employee's regular rate of pay and regular benefits during the notice period. The reasonableness of a covenant shall be determined by the facts and circumstances pertaining to it. Furthermore, this act provides that a covenant shall be presumed to be reasonable if its post-employment, post-termination, post-business relationship, post-sale, or post-disposition duration does not exceed the duration requirements. No express reference to geographical area is required for enforceability of a covenant. Additionally, a covenant that is overbroad, overlong, or otherwise unreasonable to protect legitimate business interests of the person seeking enforcement shall be modified by a court, which shall only grant relief reasonably necessary to protect those interests.
Senator Luektmeyer told the committee that current law relating to employer/employee covenants is outdated and that this bill codifies Missouri case law and makes such agreements applicable to both employees and former business owners. Speaking in favor of the bill were representatives of Lockton Companies, the Missouri Chamber of Commerce and Polsinelli Law Firm. These witnesses said that the bill will provide certainty to employees and businesses regarding restricted covenants. They said that the bill well defines what agreements are enforceable and will result in savings to businesses by reducing litigation costs. There was no opposition and the committee took no action on the bill.

COMMITTEE HEARINGS OF INTEREST

03/09/2020 5:00 PM House-Downsizing State Government Committee Hearing, HR 6
Meeting Time: 5:00 PM or upon adjournment (whichever is later)
Executive session may be held on any matter referred to the committee.
Public Hearing:
HB 2702 - Rep. Jeff Knight (R) - Dissolves the Highways and Transportation Commission.
HJR 124 - Rep. Jeff Knight (R) - Dissolves the highways and transportation commission.

03/09/2020 6:00 PM House-Conservation and Natural Resources Committee Hearing, HR 7
Meeting Time: 6:00 PM or upon adjournment (whichever is later)
Executive session may be held on any matter referred to the committee.
Public Hearing (2):
HB 2225 - Rep. Maria Chappelle-Nadal (D) - Establishes procedures relating to land use permits for historic landfills.
HB 2343 - Rep. Lynn Morris (R) - Modifies provisions relating to public water systems.

03/10/2020 12:00 PM House-Local Government Committee Hearing, HR 1
Meeting Time: 12:00 PM or upon morning recess (whichever is later)
Reconsideration of HB 1601
Executive session may be held on any matter referred to the committee.
Executive Session:
HB 1259 - Rep. Dan Stacy (R) - Modifies provisions regarding transportation development district elections.

03/11/2020 12:00 PM House-Agriculture Policy Committee Hearing, HR 7
Meeting Time: 12:00 PM or upon morning recess (whichever is later)
Executive session may be held on any matter referred to the committee.
Executive Session (2):
HB 1603 - Rep. Don Mayhew (R) - Changes the laws regarding land surveys.

03/11/2020 12:00 PM House-Veterans Committee Hearing, HR 1
Meeting Time: 12:00 PM or upon morning recess (whichever is later).
Executive session may be held on any matter referred to the committee.
Public Hearing:
HB 1510 - Rep. Steven Lynch (R) - Modifies definitions for certain statutes governing urban rehabilitation projects.

HOUSE & SENATE CALENDARS

HOUSE

House Bills for Perfection:
HB 1804 - Rep. Randy Pietzman (R) - Requires the department of natural resources to assist permit applicants throughout the permitting process.
HB 1442 - Rep. Steve Helms (R) - Modifies and adds provisions relating to professional licensure.

HB 2555 - Rep. Dirk Deaton (R) - Creates the COST Act.

SENXATE

**Formal Calendar - Third Reading of Senate Bills:**
- **SB 618** - Sen. Wayne Wallingford (R) - Modifies provisions of law relating to an infrastructure system replacement surcharge for gas corporations.

**Formal Calendar - Senate Bills for Perfection:**
- **SB 559** - Sen. Dave Schatz (R) - Establishes the Missouri Statewide Mechanical Contractor Licensing Act.
- **SB 647** - Sen. Andrew Koenig (R) - Establishes the Fresh Start Act of 2020.

**Informal Calendar - Senate Bills for Perfection:**
- **SB 539** - Increases taxes on motor fuels.
- **SB 592** - Sen. Bill White (R) - Establishes provisions related to water and sewer infrastructure rate adjustments for water and sewer corporations.

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**MAJOR DATES OF INTEREST**

**MARCH 2020**
23-27 – Legislative Spring Break (no session)

**APRIL 2020**
13 – Easter Break (no session)

**MAY 2020**
8 – FY2021 Budget deadline for passage
15 – Last day of the 2020 Legislative Session

**JULY 2020**
1 – FY 2021 Begins

**AUGUST 2020**
28 – Effective date of all legislation passed by the legislature and signed by the Governor that does not carry specific effective dates or emergency clauses.

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