

To: Joint Council Legislative Contacts
From: Steve Willard
Date: Friday, March 19, 2010

The regular run of the South Dakota legislative session concluded Friday, March 12. The legislators return on March 28 to consider the Governor's vetoes. They also will be considering a budget on that day, which is very unusual. While the legislators were allowed to meet for 40 days in 2010, they only scheduled meetings for 38 days allowing some flexibility if necessary. With the budget being held until the last day, that flexibility may be needed because once again, the expectation of federal money has delayed action on the budget in SD.

Prior to the legislative session, the Governor submitted a budget with the expectation of spending about \$40 million in reserves to satisfy the constitutional requirement for a balanced budget. Late in the session, the Republican leadership announced their own plan to making cuts without spending the reserves, though the "leadership" excluded House Republican Appropriations Chair Larry Tidemann and the largest "cut" was an imaginary savings from reducing the large project tax refund program. Friends in the media say they have never seen the Governor as agitated as they did at the press conference following the release of the Republican plan.

Now Congress has promised the relief to the States from Medicare/Medicaid costs and is sending money although the amount is uncertain. In South Dakota, the expected assistance is around \$38 million, but it only goes to those states with a demonstrated need. Thereby deficit spending is almost a requirement to receiving assistance.

The federal legislation has passed the Senate and is awaiting action in the House and with all of the State's in dire straits, passage is certain, but not the amount. It's significant enough though, that the SD State Legislature went home without passage of a final budget. That action will take place on the last day of the regular session and depending upon the amount, some cuts may still have to be enacted.

278 House Bills and 196 Senate Bills have been introduced.

Bills of interest:

HB 1016. Revises certain provisions regarding 911 emergency services. To State Affairs. Passed 61 to 4. To State Affairs. Do Pass. Amended. Passed the Senate 34 to 0. Signed by the Governor.

Allows the SD 911 Coordination Board to use money from the sale of prepaid calling cards for Board expenses. Currently the funds go solely to the Public Safety Answer Points (PSAPs). Amended to compel the Department to promulgate rules prior to December 31, 2010 addressing the ability for PSAP's to comply with the minimum standards or "general operational standards". Also gave the ability for PSAP's to choose not to comply with the

standards (defined in state administrative rule 50:02:04:02) if they chose not to take revenues from the monthly uniform charges.

HB 1053. Revises certain provisions concerning campaign finance. To Local Government. Passed 69 to 0. To Local Government. Do Pass. Passed the Senate 35 to 0. Conference Committee appointed. Both bodies concurred. Delivered to the Governor.

Originally brought to affect a political trust that is established with personal funds. Amended to address the process by which an organization reports their spending on campaign communications largely because of the recent Supreme Court decision allowing for business communications during an election.

HB 1064. Establishes a process for persons rendering emergency aid to require testing for blood-borne pathogens. To Judiciary. Passed 68 to 0. To Judiciary. Do Pass. Passed the Senate 34 to 0. Signed by the Governor.

Allows first responders, firefighters, etc. to receive testing for HIV if they believe that they were exposed to the disease during the course of a rescue. Amended to include funeral directors and coroners.

HB 1096. Revises the penalty for an open burning violation in the Black Hills Forest Fire Protection District. To Ag and Natural Resources. Do Pass. Consent Calendar. Passed the House 69 to 0. To Ag and Natural Resources. Do Pass. Consent Calendar. Passed the Senate 33 to 0. Signed by the Governor.

Reduces the penalty for open burning from a Class 1 misdemeanor to a Class 2 misdemeanor. Maintains that a violator is liable for civil damages for all injuries caused by a fire.

HB 1099. Permits taxing districts to revise the base amount of revenue payable from property taxes. To Taxation. Passed 9 to 5. Failed to pass the House 32 to 36.

Enhances the ability of taxing districts to reevaluate their base value and tax rates. In the end, the impact was unclear to most of the members.

HB 1106. Limits the fee that may be charged for inmate labor used in response to emergency and disaster situations. To House State Affairs. Deferred to the 41st day 12 to 1.

Added language that stated, "The fee charged to any agency or political subdivision of the state for the use of inmate labor in response to emergency or disaster situations may not exceed five dollars per day per inmate." The committee thought the change was unnecessary and limiting.

HB 1128. Revises certain provisions concerning fire protection services provided through township funding. To Local Government. Do Pass. Amended. Passed the House

69 to 0. To Senate Local Government. Do Pass. Passed the Senate 29 to 0. Signed by the Governor.

Introduced solely by Representative Tom Deadrick. It allows a township that exists within a rural fire protection district to forgo its contract for fire protection if it is receiving services from a fire protection district. At this time, state law compels a contract between the township and the department. The body decided that it was not necessary if services are being provided by the rural fire protection district.

HB 1133. Prohibits minors from using certain wireless communication devices while operating motor vehicles upon the public highways and to provide certain exceptions. To State Affairs. Referred to House Health. Do Pass Motion Failed 5 to 8. Deferred to the 41st day 9 to 4.

Prohibits persons less than 18 from using a cell phone while driving except in the case of an emergency.

HB 1178. Prohibits the use of certain wireless communications devices while driving. To State Affairs. Referred to Transportation. Do Pass 7 to 4. Amended. Failed to Pass 32 to 37. Reconsideration Failed 33 to 34.

Prohibits texting for all drivers except in emergency exceptions.

HB 1216. Prohibits local units of government from requiring fire sprinklers in single family dwellings. To Commerce. Do Pass 11 to 1. Tabled by the House 70 to 0.

Prohibits local building ordinances from requiring sprinklers to be placed in single family homes. When sprinkler prohibitions were passed in SB 68, this bill was tabled at the request of the sponsor.

HB 1241. Establishes an additional time period during which fireworks may be sold and discharged. To Local Government. Do Pass 11 to 1. Passed the House 61 to 8. To Senate Commerce. Amended. Passed the Senate 19 to 16. House concurred with the Senate Amendments. Delivered to the Governor.

Creates a second fireworks license that would allow for fireworks to be sold and discharged between December 23 and January 2. We amended the bill in the Senate allowing a county to ban the discharge during the extended time period if conditions are dry.

HB 1256. Revises certain provisions regarding the enforcement of the requirement to wear a seat belt in a motor vehicle. To Judiciary. Deferred to the 41st day.

Requires seat belts by removing the requirement that seat belts are enforced as a secondary measure by law enforcement.

Senate Bills

SB 15. Revises certain codes and standards regarding fire prevention. To Commerce. Do Pass Consent Calendar. Passed 32 to 0. To Commerce. Do Pass Consent Calendar. Passed the House 66 to 0. Signed by the Governor.

Brought by the State Fire Marshall's office, the bill would update references from 2003 to 2009 to the International Building Code, Fire Code, and Mechanic's Code.

SB 46. Make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency. To Appropriations. Do Pass. Passed 32 to 0. To House Appropriations. Do Pass. Passed the House 69 to 0. Signed by the Governor.

Appropriates \$1,230,349 "for costs related to the suppression of wildfires." The annual appropriation measure.

SB 62. Revises the notice requirements for closure of a highway and to provide a civil penalty for failure to comply with a closure. To Transportation. Do Pass 7 to 0. Passed the Senate 29 to 4. To Transportation. Amended. Do Pass. Do Pass Failed. Reconsidered. Passed the House 39 to 30. Conference Committee Appointed. Both Houses concurred. Delivered to the Governor.

Revises the civil fine for being on a closed highway and changes the law to read that "any unauthorized presence on a closed highway is evidence of a violation". Violators are subject to civil action from the state up to \$1000 and must pay for the cost of rescue to a maximum of \$10,000.

SB 68. Updates certain references to the building code. To Commerce. Do Pass Amended. Passed the Senate 29 to 4. To Local Government. Do Pass 12 to 1. Passed the House 52 to 18. Signed by the Governor.

Originally updated the references to the UBC from 2006 to 2009. Amended to prohibit sprinklers from being required by ordinance in one and two family homes, mobile homes, vacation homes, etc. Opposed the legislation throughout the process without success. Could not get past the argument that, if there is no one prepared to adopt such an ordinance, then what harm is there to a delay.

SB 90. Provides an exception from one-call notification requirements to natural gas operators in emergency situations. To Commerce. Do Pass. Passed the Senate 35 to 0. To House Commerce. Do Pass. Passed the House 67 to 0. Signed by the Governor.

Allows natural gas operators to use probes to find leaks in certain circumstances without notifying one call. The one call Board assisted with its passage.

SB 128. Allows certain taxing districts to exceed the maximum property tax levy as the median level of assessment is adjusted. To Taxation. Deferred to the 41st day.

Reads in its entirety, That chapter 10-13 be amended by adding thereto a NEW SECTION to read as follows: "Notwithstanding any maximum property tax levy established by law, for taxes payable in 2012, 2013, 2014, and 2015, a taxing district may impose a property tax levy sufficient to generate the total amount of revenue payable from taxes on real property within a taxing district as allowed by § 10-13-35. In addition, the taxing district may exceed the maximum property tax levy established by law to generate additional revenue payable from taxes on real property through the imposition of an excess tax levy approved pursuant to § 10-13-36. This section does not apply to any property tax levy imposed by a school district."

SB 137. Nullifies certain federal health care laws within the state of South Dakota.

To State Affairs. Amended. Do Pass 5 to 4. Motion to Pass in the Senate failed 11 to 23.

Introduced by Governor Candidate Gordon Howie. Attempts to do just what the title states. Reads in its entirety, " Section 1. Pursuant to the ninth and tenth amendments to the United States Constitution, any law made by Congress which interferes with the right of any person or entity to choose private health care systems or private health care coverage, or which imposes any penalty, tax, fee, or fine, of any type, for declining to purchase health care coverage or participate in any particular health care system or plan, is null and void within the state of South Dakota."

SB 144. Limits increases in spending by state government. To Appropriations.

Deferred to the 41st day 5 to 1.

Introduced by Governor candidate Heidepriem. The bill would limit state government spending increases to 3%. Testimony concentrated on how a specific limit is unworkable.

SB 181. Temporarily increase the state sales and use tax to fund the state budget shortfall and to declare an emergency. To Senate Taxation. Deferred to the 41st day.

Introduced by Senator Stan Adelstein, the bill would increase the state sales tax on all items until December 31, 2010, when it would be repealed.