

# STRATEGIC CAPITOL

C O N S U L T I N G

May 3, 2024

There are only two weeks remaining for the 2024 legislative session so, it might make sense that the Missouri Senate spent almost 40 hours filibustering Senate Bill 748 sponsored by Senator Lincoln Hough (R - Greene). Members of the Freedom Caucus held the upper chamber hostage to stop legislation extending expiration dates for the state's federal reimbursement allowances. Not passing this legislation means Missouri's general revenue will take a \$3 billion hit.

Senators Bill Eigel (R - St. Charles), Rick Brattin (R - Cass), Mike Moon (R - Lawrence), Andrew Koenig (R - Ballwin) and Nick Schroer (R - St. Charles) took turns invoking God, fear and demanding Governor Mike Parson sign the Defund Planned Parenthood bill and that the Senate pass the IP reform first. Finally, around 3:30 a.m. on Thursday, Eigel and Company sat down, and the Senate voted to perfect the FRA legislation. The Freedom Caucus now holds the record for the longest filibuster in Missouri Senate history.

What is FRA? The Federal Reimbursement Allowance is Missouri's hospital provider tax. It began in 1992 and is the third largest source of revenue in the state budget. The hospital FRA is used to fund nearly the entire state share of hospital-related Medicaid expenditures. Not passing this legislation means Missouri's general revenue will take a \$3 - \$4.5 billion hit.

Here's the kicker. The Freedom Caucus is down a member. Yesterday, Senator Jill Carter (R - Jasper) announced she is leaving the Freedom Caucus effective immediately. Her colleague Senator Bill Eigel (R - St. Charles County) berated her on the senate floor Tuesday after she changed her vote on the FRA legislation. In a lengthy post on social media she said, "I have decided to leave the Missouri State Freedom Caucus. This decision was not made lightly, but it was made with the best interests of my constituents in the 32nd District of Missouri at heart. Over the past few months, it has become increasingly clear that the values and priorities that some current members of the Missouri State Freedom Caucus profess to champion are not reflected in conversations, behaviors or their strategy."

The budget is due next week. All of that drama has to be put aside so the Senate can third read the FRA bill and debate its version of the budget. Both chambers have to pass respective budget bills in time to meet the constitutional budget deadline of 6 p.m. on May 10.

### **End of Session Reports**

Only ten days remain in session. While tensions remain high and unpredictable, the time remaining is expected to be chaotic and several changes will be made to nearly all bills debated. Session is also expected to run throughout the next 10 days, while running late into each evening as they finalize the budget and work on any remaining priorities. Neither time nor ever-changing language will allow for your customary weekly reports. Instead, we will update you throughout the next 10 days with any necessary changes and updates.

Session adjourns promptly at 6:00 p.m. on Friday, May 17. To-date only 5 bills have been Truly Agreed and Finally Passed, as bills continue to be sent to the Governor, we will work to sift through all legislation and amendments and send you a final legislative report shortly after adjournment.

### **Floor Debate Notes**

#### **Mail from State Departments**

The House dedicated floor time Wednesday morning to debate HB 1489, sponsored by Representative Dave Griffith (R-Jefferson City). Currently, a notice of deficiency from the Department of Revenue must be sent by certified mail. The bill would remove that requirement for commercial entities and allow notice to be sent by electronic means. For individuals, they may opt-in to receive notification electronically or by first class mail. After a brief debate, the House passed the bill Consent by a 142-0 vote. The bill now will be sent to the Senate for further consideration.

### **Committee Notes**

#### **Judicial Proceedings Omnibus**

The Senate Judiciary and Jurisprudence Committee convened Monday afternoon to discuss HB 1886, sponsored by Representative Rudy Veit (R-Wardsville). The bill as originally filed, modifies numerous provisions regarding civil and judicial proceedings. Specifically, the bill includes the following:

- expands the circumstances under which an LLC may be dissolved.
- establishes an alternative dispute resolution process.
- changes the definitions of "adult" and "child" as they relate to actions under Chapter 455, RSMo.
- establishes the "Missouri Electronic Wills and Electronic Estate Planning Documents Act" which specifies that an electronic will is considered a will for all purposes of the law of this state and that any written estate planning document may be executed electronically.
- specifies that certain estate planning documents that were executed during the period between April 6, 2020, and December 31, 2021, during which a state of emergency existed due to COVID-19.
- establishes the "Uniform Interstate Depositions and Discovery Act" and the "Uniform Public Expression Protection Act".
- establishes procedures for such special motions to dismiss.
- and clarifies court staff duties during guardianship and conservatorship proceedings.

The provisions of this bill apply to the will of a decedent who dies on or after August 28, 2024, and to each other written estate planning document signed or remotely witnessed on or after August 28, 2024. Lastly, the bill includes provisions pertaining to juror fee, and qualified spousal trust language.

The Missouri Press Association, the Missouri Bar Association, the Missouri Association of Prosecuting Attorneys, the Institute for Free Speech, advocates, the Missouri Broadcasters Association, the Missouri Network Against Child Abuse and the Supreme Court Government Relations Council provided supporting testimony. No opposing testimony was presented to the committee.

The committee also moved into executive session to consider passage of SB 897, sponsored by Senator Curtis Trent (R-Barton). This is the Senate companion bill to the originally filed HB 1886, highlighted above. During committee discussion, substitute language was adopted to include the additional provisions that were amended into HB 1886. The bills are now identical. Once modified, the committee passed the bill by a 6-0 vote.

### **Omnibus Civil Reform**

The Senate Judiciary and Jurisprudence Committee convened Monday afternoon to discuss HB 2064, sponsored by Representative John Black (R-Marshfield). The bill expands and adds mental health courts to the list of treatment court divisions, allows any circuit court to establish mental health courts in an effort to provide an alternative for the judicial system to dispose of cases that stem from a mental health disorder or co-occurring disorder. Additionally, the legislation has been amended to include Jaxx's Law, age verification to access sexually explicit material online and added provisions regarding qualified spousal trusts, HB 1886 which modifies provisions relating to judicial proceedings and includes language that says internet service providers are to block access to obscene websites and requires users to confirm they are not minors. The Missouri Bar Association, Missouri Press Association, the Missouri Association of Prosecuting Attorneys, the Legal Aid Organizations of Missouri, the Missouri Department of Labor and Industrial Relations, 22nd Judicial Circuit, AIM, the Missouri Chamber of Commerce and Industry, and the Supreme Court Government Relations Council provided supporting testimony. A St. Louis attorney provided opposing testimony regarding the ex-offender language.

### **Criminal Proceedings**

The Senate Judiciary and Civil and Criminal Jurisprudence Committee convened Monday afternoon to discuss HB 2700, sponsored by Representative Ron Copeland (R-Salem). The bill as filed, modifies the offense of delivery of a controlled substance to add that a person commits the offense if he or she knowingly distributes or delivers a schedule I or schedule II-controlled substance and great bodily harm or death results from the use of the controlled substance. During the bill's House progression, the bill was amended to include additional provisions. Additionally, the bill includes provisions relating to tampering with a judiciary official, electronic signature for records, up to \$45 per day for jail costs, definition of vulnerable person, clean-up language on crime victims fund, Valentine's Law and provisions relating to juvenile proceedings. The Missouri Network Against Child Abuse, the Judicial Conference, Missouri Juvenile Justice Association, Missouri Prosecutors Association, and

numerous advocates provided supporting testimony. The Missouri Association of Criminal Defense Lawyers provided opposing testimony.

The House Judiciary Committee convened Wednesday afternoon to consider passage of SB 754, sponsored by Senator Tony Luetkemeyer (R-Parkville). The bill as originally filed, establishes Max's Law, which would increase the penalty for assaulting a law enforcement animal by making it a class a misdemeanor if the animal is injured, a class e felony if the animal is severely injured, and a class d felony if the assault results in the animal's death. During the bill's progression through the Senate process, the bill was modified to include 19 additional provisions. Specifically, the bill now includes SB 841, modifies provisions relating to funding for the Office of Public Defender; SB 887, modifies provisions relating to certification of juveniles for trial as adults; SB 765, establishes a conviction review unit; SB 861, modifies provisions relating to expungement; SB 746, modifies provisions relating to eligibility for parole; and SB 760, modifies provisions relating to the critical incident stress management program; SB 1070, establishes a statewide task force focused on addressing cyber crimes and stalking; SB 788, creates "Blair's Law"; and SB 901, establishes "Valentine's Law" which creates the offense of aggravated fleeing a stop or detention of a motor vehicle. Once modified, the committee passed the bill by a 10-2 vote.

### **Posting Unlawful Information**

The Senate Judiciary and Jurisprudence Committee convened Monday afternoon to consider passage of SB1400, sponsored by Senator Ben Brown (R-Franklin County). The bill modifies provisions relating to the offense of posting unlawful information and business records. Currently, a person commits the offense of unlawful posting if he or she knowingly posts information to threaten or cause great bodily harm or death. Additionally, the legislation also modifies provisions related to electronic business records being used as evidence and changes the penalty from a class C misdemeanor to a class E felony if a person causes harm or death of another by posting unlawful information. This act also changes the penalty from a class E felony to a class D felony if a person threatens harm or death to a law enforcement officer, judge, and other public safety officers and from a class D felony to a class C felony if the person causes harm or death to a law enforcement officer, judge, and other public safety officers. During committee discussion, substitute language was adopted to modify provisions related to affidavits. Once modified, the committee passed the bill by a 6-0 vote.

### **Valentine's Law**

The Senate Judiciary and Jurisprudence Committee convened Monday afternoon to consider passage of HB 1692. The legislation establishes "Valentine's Law," which creates the offense of aggravated fleeing a stop or detention of a motor vehicle. Penalties will be a class D felony if the person creates a substantial risk of injury, a class B felony if the person causes physical injury, and a class A felony if the person causes death of another. During debate, the bill was successfully amended to define "speed" as driving 10 mph or more over the posted speed limit and clarifies these provisions do not apply to drivers seeking a safe place to pull over. A committee substitute was adopted to make the language identical to other pending legislation also with Valentine's Law. After no discussion, the committee voted the bill do pass 6 - 0.

### **LAGERS Board of Trustees**

The House Pensions Committee met Tuesday morning to discuss SB 898, sponsored by Senator Rusty Black (R-Sullivan). The bill modifies the LAGERS board of trustees by replacing the employer trustee with a retiree trustee, expands the definition of employer trustee to allow for executive level trustees, removes the specific requirements for their annual meeting and election procedures, amends the quorum requirement to a simple majority, and protects public retirement systems by the closure of records by an investment fiduciary. Additionally, the bill includes SB 1267, which modifies the definition of "earnable compensation" as used by the Police Retirement System of St. Louis; SB 1286, which modifies provisions relating to limitations on working after retirement for members of the Public School Retirement System and the Public Education Employee Retirement System; and SB 877 which allows members of the Public School Retirement System of Missouri who have 32 or more years of creditable service, regardless of age, to have their retirement allowance calculated using a multiplier of 2.6%. The LAGERS Retirement System, the St. Louis Police Retirement System, PSRS/PEERS, MO State Teachers Association, MO Retired Teachers Association, MO NEA, and a private citizen supported the bill. No opposing testimony was presented.

Immediately after the hearing, the committee went into executive session to consider passage of SB 898. During discussion, a committee substitute was adopted to modify the title in order to include HB 2657, increases an individual's income tax adjustments related to private pensions to provide parity between public and private pensions; HB 1980, which allows the board of trustees of "The Firemen's Retirement System of St. Louis City" to act as trustees and administer other pension plans; and HB 1937, which seeks to ensure that investment fiduciaries do not consider ESG characteristics in a manner that overrides their fiduciary duties. Once modified, the committee passed the bill by a 6-0 and 3 present vote.

### **Career and Educational Experience Externships**

The Senate Select Committee on Empowering Missouri Parents and Children convened Tuesday morning to discuss HB 1945, sponsored by Representative Brenda Shields (R-St. Joseph). The bill removes a sunset on the educator career and educational experience externship program to allow the Department of Economic Development, Department of Higher Education and Workforce Development, and Department of Elementary and Secondary Education to jointly operate a voluntary vocational, career and technical externship program for professional educators to experience, participate in, and gain knowledge of the available career pathways, educational requirements, and emerging fields of study available to high school students entering college or the workforce in Missouri. Aligned, Missouri Chamber of Commerce and Industry, Missouri NEA, MSTA, Missouri School Boards Association, DESE, and North Kansas City Schools testified in support. Following the bill presentation, the committee moved into executive session. After no discussion, the committee passed the bill by a 10-0 vote.

### **Transferable Credit from Community Colleges**

The Senate Select Committee on Empowering Missouri Parents and Children convened Tuesday morning to discuss HB 2310, sponsored by Representative Cameron Parker (R-Campbell). This bill increases from 42 to 60 the number of semester credit hours that shall be approved as "transferable core of lower-division courses" from community colleges and four-year universities. By the 2025-26 academic year the coordinating board for higher education shall identify an additional 18 credit hours to be included in the transferable core of lower-division courses. Additionally, all the different four-year colleges and university systems would collectively decide on 5 additional classes that would be transferable. The Missouri Community College Association and State Fair Community College provided supporting testimony. The Missouri Council for Public Higher Education provided opposing testimony. Following the bill presentation, the committee moved into executive session. After a brief discussion, the committee passed the bill by a 10-1 vote.

### **Broadband Internet Expansion Grants**

The House Special Committee on Public Policy convened Tuesday afternoon to consider passage of SB 872, sponsored by Senator Karla Eslinger (R-Wasola). Currently, a taxpayer may deduct from state income tax 100% of any federal grant money received for the purpose of providing or expanding access to broadband internet to areas of the state that lack access. This bill expands the deduction to include state or local grant money and limits the deduction only to money disbursed for this express purpose. During previous debate, the bill was amended to include three additional provisions. Specifically, SB 947, which modifies the definition of "video service" for provisions of law relating to video service providers to include the definition of streaming content; SB 1411, which extends the sunset on the Uniform Small Wireless Facility Deployment Act from January 1, 2025 to December 31, 2029; and SB 896, which creates a state and local sales tax exemption for utilities, equipment, and materials used to generate or transmit electricity. After no discussion, the committee passed the bill by a 6-0 vote.

### **Election Reform**

The House Elections and Elected Officials Committee convened Tuesday afternoon to discuss SJR 78, sponsored by Senator Ben Brown (R-Washington). Upon voter approval, the resolution provides that only citizens of the United States over the age of 18 who are residents of Missouri and of the political subdivision in which they offer to vote are entitled to vote at all elections. Additionally, the resolution specifies that all elections shall be by paper ballot and voters are limited to one vote for each issue on the ballot. Opportunity Solutions Project, Heritage Action for American and several private citizens provided supporting testimony. Missouri Voter Protection Coalition, Better Ballot KC, League of Women Voters, a state public advocate and several private citizens provided opposing testimony. The Freedom Center of Missouri provided informational testimony.

### **Tidbits**

- Initiative petition ballot proposals are due to the Secretary of State Jay Ashcroft's office by 5 p.m. on Sunday. His office expects to receive 5 proposals: minimum wage, sports betting, abortion access, scope of practice for nurses and the riverboat gaming

license. Minimum wage was turned in yesterday and sports betting. Minimum wage and sports betting have been turning in. The sports betting campaign is reporting it collected over 300,000 signatures. Stay tuned.

- On Monday, after months of investigation, the House Ethics Committee voted 7-2 to dismiss the ethics complaint lodged against Speaker Dean Plocher. The Speaker had faced several allegations, including a software contract, and also retaliating against staff members who raised complaints. Chairwoman of the Ethics Committee Hannah Kelly issued a statement following the conclusion of the hearing stating her goal has always been to find the truth and has faced relentless attacks from supporters of the Speaker.
- Americold Realty Trust, a global leader in temperature-controlled logistics, real estate, and value-added services, has officially broken ground on a new \$127 million cold storage facility in Kansas City. Americold plans to create 187 new jobs in the region. The company's new 335,000-square-foot facility in Kansas City is part of a strategic collaboration with Canadian Pacific Kansas City (CPKC) to co-locate Americold warehouse facilities on the CPKC network.
- On Tuesday, the Missouri Supreme Court struck down a 2022 voter-approved constitutional amendment that required Kansas City to spend a larger percentage of its money on the police department, and ordered the issue go back before the voters in November. The measure, called Amendment 4 was approved by 63% of voters in November 2022. The measure required the city to spend 25% of general revenue on police, up from the previous 20% requirement. The opinion stated statewide officials misled voters by suggesting Amendment 4 would have no fiscal impact when the fiscal note was a sizable one. You can read the ruling [here](#).

### **Budget Update**

All eyes were on the Senate floor this week as the Senate dedicated floor time to debate SB 748, sponsored by Senator Lincoln Hough (R-Springfield). This is the Federal Reimbursement Allowance sunset extension, which is critical to the funding of the state's healthcare programs as it provides almost \$4.5 billion in Medicaid funding for Missouri each year. The originally filed bill sought to remove the sunset entirely. It is a voluntary tax that hospitals, nursing homes, ground ambulance, pharmacies, Medicaid managed care organizations and intermediate care facilities for the intellectually disabled place on themselves to allow for additional federal dollars to be drawn down to fund the Medicaid program in Missouri.

As predicated, immediately after Senator Hough made the motion to bring the bill before the body and offered a substitute to include a 5-year sunset, the Freedom Caucus immediately launched into a filibuster which lasted a little over 41 hours. Over the course of the filibuster Freedom Caucus members offered amendments which would have prohibited any public funds being expended on abortion providers and their affiliates (defund Planned Parenthood language), attempted to impose additional work requirements on MO HealthNet participants, and attempted to impose a range of various sunsets. At about 3:30am Thursday morning, Freedom Caucus members suddenly withdrew

their amendments and relinquished the floor, which allowed the body to adopt Senator Hough's offered substitute extending the sunset for 5 years. The Senate then provided its first of two necessary approval votes, and the 41-hour filibuster was finally ended. Next week is expected to be a crunch, as the FRA bill still requires a final third reading vote in the Senate, before being sent to the House for further consideration.

Additionally, only one week remains to get the FY25 budget finalized and sent to the Governor. The Senate still needs to debate and pass their version of all 18 budget bills, send them back to the House, and both chambers will need to conference to hammer out any differences. On top of racing against the clock, Freedom Caucus members have been promising scrutiny of the budget for months now and even highlighted some of their grievances during their 41-hour filibuster. So, the idea of any quick actions seems unlikely.

### **Upcoming Hearings of Interest**

**House:** <https://house.mo.gov/AllHearings.aspx>

**Senate:** <https://www.senate.mo.gov/hearingsschedule/hrings.htm>

### **Calendars**

**House**

**Senate**

### **Key Upcoming Dates:**

- May 10, 2024 – Last Day to Constitutionally pass the FY 2025 Budget
- May 17, 2024 – Last Day of the 2024 Legislative session
- August 6, 2024 – Missouri Primary Elections
- September 11, 2024 – Veto Session
- November 5, 2024 – Missouri General Elections

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