

May 11, 2011  
MO-2

## MISSOURI LEGISLATIVE UPDATE

*We are in the last week of the Missouri legislative session. The legislature is required to adjourn this Friday, May 13<sup>th</sup> at 6:00 p.m. Several issues debated this year are still alive, some more than others. This bulletin represents an update on the issues most important to the building construction industry that were reported on in the last bulletin.*

*A \$23.2 billion 2012 Missouri state operating budget was passed last Thursday. The budget now goes to Governor Nixon, who can veto or reduce expenditures, but cannot add to them. The Governor has warned that he may have to make cuts because he believes the budget package spends around \$30 million more than he expects the state to receive in revenues. Overall, the 2012 budget is about the same size as the one approved last year. Due to improved tax collections this year, cuts were not as drastic as last year.*

*Below are up-to-date overviews of important issues staff has been following this session in the Missouri legislature.*

### THE FUTURE OF STATE TAX CREDITS STILL UNKNOWN

Continuing the great debate on tax credits, the Missouri legislature has seen several bills filed this session relating to changes in Missouri's tax credit programs. The Senate was leading the discussion by pressing for major changes. House members generally wanted to keep the programs intact. Staff at The Builders' Association has been working to oppose these drastic changes proposed in the Senate to programs like the Historic Preservation Tax Credit Program, which has been touted as a model program for the nation.

From all the bills introduced this session (and reported on in the last bulletin), two bills remain active. The first is [HB 116](#), which has turned into a 142 page megabill. This bill seems to have the most life at this moment. It includes Senator Chuck Purgason's language that seeks to codify the recommendations of the Governor's Tax Credit Review Commission that convened last summer. In particular, it immediately caps Low Income Housing Tax Credits at \$80 million and Historic Preservation Tax Credits at \$75 million. It also disallows the stacking of those credits and sunsets both programs in August of 2015. The legislation has passed both chambers and now sits in conference committee. Conferees include:

Senate Conference Committee Appointed - SENATORS PURGASON, SCHMITT, LAGER, CALLAHAN, CHAPPELLE-NADAL

House Conference Committee Appointed - REPRESENTATIVES FLANIGAN, DIEHL, JONES, KELLY, TALBOY

Builders' staff encourages members to contact the above-listed conferees immediately and voice your opposition to these drastic changes.

The other bill is [SB 100](#). It also is a megabill, standing in at 98 pages. This legislation includes Representative Anne Zerr's bill language in [HB 905](#), which is designed to enact the recommendations made by the business community to the Tax Credit Review Commission's Historic Tax Credit Sub-Committee via their [report](#) and subsequently recommended to the Tax Credit Review Commission. It also contains language which will help in processing and working with the Department of Economic

Development on tax credit issuance. Staff supports this language and is hoping this bill can regain some momentum. Stay tuned to the end of this debate for 2011.

## **WORKERS COMP LAW CHANGES STILL UNRESOLVED**

Over last summer, the Missouri Court of Appeals' decision in *Robinson v. Hooker* found an employee was responsible for injuries to a co-worker within the course and scope of employment. Also, a St. Louis trial court decision *Gray v. A.W. Chesterton, et al. and Cicerelli v. Certaineed Corp., et al.* eliminated exclusive remedy protection, subjecting employers to tort suits in claims involving occupational diseases. Legislation proposed this session in both chambers seeks to remedy these changes that hit at the foundation of the Workers Comp system in Missouri. The Builders' Association is supportive of these legislative fixes.

Of the handful of bills filed, Senator Jack Goodman's [SB 8](#) is the one to watch. It currently has passed both chambers and now sits in conference committee where representatives of both chambers work on a compromise. The bill affirmatively states that occupational diseases are covered under workers' compensation laws. This act also ensures that co-employees shall be released from liability for all workplace injuries under the workers' compensation system except when they engage in an act that intentionally caused or increased the risk of injury. In addition, toxic exposure is defined as an exposure to chemicals, dusts, particulates, fumes, mists, fibers, solvents, vapors, radiation, or other substances or other materials that, when ingested, consumed, inhaled, or absorbed are sufficient to cause disease, death, mutations, cancer, deformities, or reproductive abnormalities in humans. In cases where occupational disease is caused by toxic exposure, there shall be no subrogation rights for employers.

## **RIGHT TO WORK DEBATED, BUT LEFT TO DIE THIS SESSION**

Right To Work surfaced as an issue in the Missouri Senate early in the session. Senator Luann Ridgeway filed [SB 1](#) right out of the gate. It was soon merged with [SB 206](#), filed by Senator Chuck Purgason. Shortly thereafter, Senator Jason Crowell offered [SB 109](#) which included the same language, but submitted the issue to the voters of the state for an August 2010 election.

After some debate in committee for SCS/SBs 1 & 206, and then on the Senate floor, the issue has remained dormant on the informal calendar. All of the debate on this issue has been in the Senate. Even though identical legislation has been filed in the House, leadership there does not want to spend time on the subject without a passed version from the Senate. Staff does not believe this issue will be brought up again for debate or pass in any form this session.

## **PREVAILING WAGE CHANGES THIS YEAR NOW SEEM UNLIKELY**

As reported in the last bulletin, bills in both chambers were filed to change how prevailing wage is defined and applied in Missouri. Representative Barney Fisher filed two bills, [HB 320](#) and [HB 828](#). A companion bill to HB 320 has been filed in the Senate, which is Senator Brian Munzlinger's [SB 176](#).

In a nut shell, these bills revise the definitions of "construction" and "maintenance work"; change the method by which prevailing wages are determined each year via the Annual Wage Order; require notice of penalty letters be replaced by notice of violation letters with a 45 day penalty due date; prevent the department from initiating an administrative, civil, or criminal action against an employer if the employer pays back wages prior to the department initiating an action to enforce a monetary penalty; remove the provision allowing the prevailing wage for each title to be annually adjusted due to fluctuations in wages in a collective bargaining agreement; remove signage requirements; eliminate the provision imposing a term of imprisonment for up to six months for a person violating any provision regarding prevailing wages and abrogate the ruling in *Utility Service Co., Inc. v. the Department of Labor and Industrial Relations* and

the Labor and Industrial Relations Commission of Missouri. Fisher's HB 828 has moved the furthest; it has passed the House and has had a hearing in the Senate.

As of now, it does not seem likely that prevailing wage changes will occur this session. The AGC chapters across the state have worked together to oppose these changes and even supplied alternate language (that new language was not accepted). Deal-making in the last hours of session can bring any issue back to life, but it does not seem like prevailing wage will change this session.

## **NO CHANGES PROJECTED FOR PROJECT LABOR AGREEMENTS**

Companion bills with identical language have been filed by Representative Barney Fisher ([HB 319](#)) and Senator Brian Munzlinger ([SB 175](#)). Neither bill has advanced out of its original chamber, and both have been quiet for some time. Along with Right To Work and Prevailing Wage, Project Labor Agreement legislation received some debate time in the legislature this session. The above mentioned bills stalled rather quickly, though, and seem dead this session.

Specifically, the Project Labor Agreement legislation proposed this session aims to bar the usage of Project Labor Agreements on all public construction projects in the state. Currently, contracts for public construction are barred from containing provisions that require or prohibit the parties from entering into agreements with labor unions on the project or discriminate against parties for doing so when the project is funded by greater than 50% of state funds. This new legislation states the same requirements shall apply to contracts funded in any amount with public funds. It defines "public funds" to include funds belonging to the state, any agency of the state or any instrumentality or political subdivision thereof. It also redefines "project labor agreement" to apply to agreements for projects of agencies and instrumentalities of the state.

## **NEW CONGRESSIONAL DISTRICT BOUNDARIES ARE DRAWN**

One of the biggest jobs before the legislature this year was redrawing the congressional district lines. Since Missouri's population did not grow as fast as other areas in the country (particularly areas south and southwest), the state lost a congressional seat. Consequently, boundary lines needed to be redrawn into eight districts from the nine previously. Both chambers passed their version of the new map fairly easily, but squabbled a little when they needed to compromise on a single map. Eventually, a compromise was reached, but then the Governor vetoed it. With time left in the session, though, both chambers voted successfully to override the Governor's veto. The following [map](#) is now finalized. The bill that was passed was [HB 193](#).

## **CALLAWAY II POWER PLANT LEFT UNRESOLVED**

This could be the largest economic development project in the history of Missouri. A dispute among two senators in southeast Missouri has held this up, though. The enabling legislation, now found in [SB 207](#), is left unresolved.

These topics and other bills of interest have been debated this session. Staff will produce a year-end summary for the next legislative bulletin.

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To see a complete list of bills The Builders' Association is watching in Missouri, please click on the following links.

[Missouri House](#)  
[Missouri Senate](#)

As always, if you have questions about any of the pieces of legislation above, or would like us to look into a bill not listed, please contact Allen Dillingham, Government Affairs Director for The Builders' Association, at 816-595-4121 or [adillingham@buildersassociation.com](mailto:adillingham@buildersassociation.com). We also encourage you to contact your elected representatives on these pieces of legislation and other issues important to you and your business.