

House of Representatives

Week in Review

For the Week Ending: Friday, March 19, 2010

News Items From the House

- **Lawmaker Calls for Release of Good Government Bills**

State Rep. Greg Lavelle (R-Sharples) is calling for action on multiple “good government” bills that have been gathering dust in a House of Representatives’ committee for more than a year.

Rep. Lavelle’s call for action came on “Sunshine Week” (March 14-20), an annual observation intended to focus attention on the public’s right to know what their government is doing.

House Bills 13 and 84, which have been pending action in the House Administration Committee since March 2009, seek to require that the state’s capital and operating budgets be introduced a few days in advance of being enacted, giving the public a chance to see them before they’re voted on.

“There is absolutely no legitimate reason why our current procedures cannot be tweaked to accommodate this common sense safeguard,” Rep. Lavelle said.

He noted that identical bills have been previously been approved in the House of Representatives, so he’s at a loss to understand why they are being blocked now. “House Bill 13 and House Bill 84 have passed the House of Representatives before, so what’s the difference [now]? I don’t get it.”

Rep. Lavelle says it’s ironic that some of the same legislators who have been congratulating themselves for being champions of open government are blocking legislation that would allow the public to see the budget bills before they’re enacted. He added that in addition to the massive amounts of money being spent in the budget bills, there’s another reason the public should have a chance to see them before they become law. “There are a lot of policy changes that go on through the epilogue language,” Rep. Lavelle said. “We’re actually legislating through the money bills as much as spending money.”

In addition to calling for action on his two existing reform bills, Rep. Lavelle said he also intends to soon introduce two new measures.

The first deals with a law enacted last year that makes the Delaware General Assembly subject to the state's Freedom of Information Act (FOIA). Because the state constitution and case law prohibit one General Assembly from binding the actions of a future General Assembly, Rep. Lavelle says the well-intentioned law won't apply to the next legislative session. To ensure the Freedom of Information Act applies to the General Assembly beyond 2010, Lavelle says he'll introduce a constitutional amendment containing the same language as the original law.

To be enacted, constitutional amendments must pass two consecutive General Assembly sessions, but do not require the signature of the governor. The 145th General Assembly ends this year. The 146th General Assembly will be seated in January.

"Everyone was behind this before, so it should be pretty easy to pass now," Rep. Lavelle said. "We could pass it before the end of June, come back in January with a new General Assembly [and pass it again]. Within eight or nine months, we could have a constitutional amendment [enacted] that makes open government ongoing and lasting."

Rep. Lavelle said he doesn't anticipate any opposition and intends to file the bill on behalf of all members of the House and Senate.

The second bill Rep. Lavelle plans to introduce seeks to make any report financed with tax dollars available to the public. Sensitive or confidential information, like the identities of service recipients, would continue to be shielded. Identical legislation passed the House unanimously in 2007, but was bottled-up in the Senate Executive Committee for two years and died without being considered by that chamber. Rep. Lavelle said he's hoping this session of the General Assembly will endorse the notion that the public deserves to see the information that was gathered with the use of their tax dollars.

Some other "good government" bills currently pending action in the Delaware General Assembly:

House Bill 4 – (Sponsors: Rep. Hudson and Sen. Sorenson, et. al.) –HB 4 would broaden campaign finance laws by requiring that all cash contributions of \$20 or more be fully disclosed in campaign finance reports.

Status: Passed the House. Pending action in a Senate Executive Committee since April 2009.

House Bill 12 – (Sponsors: Rep. Lavelle and Sen. Bunting, et. al.) – HB 12 seeks to establish a process by which "public officers" (as defined under Delaware law) would file annual reports disclosing the identities of any family

members or close relatives that have state jobs or are employed by organizations receiving significant state funding.

Status: Assigned to the House Administration Committee March 2009.

House Bill 20 – (Sponsors: Rep. Keeley, et. al.) – Very similar to House Bill 12, this measure seeks to require certain Delaware public officers to disclose which close relatives are also working for the state, school districts or other organizations receiving state money.

Status: Released from committee April 29, 2009. Pending action by the House of Representatives.

House Bill 16 w/HA 1 – (Sponsors: Rep. Keeley, et. al.) – This bill seeks to require that lobbyists publicly disclose the name of every non-profit organization, community association, and trade group of which the lobbyist is a council or board member. The bill was amended to apply only to Delaware organizations.

Status: Passed the House. Pending action in the Senate Executive Committee since April 2009.

House Bill 55 – (Sponsors: Rep. Lavelle & Sen. Peterson, et. al.) – House Bill 55 would change the function of the Delaware Compensation Commission. The commission reviews the salaries of top legislative, judicial and executive branch officials every four years. The six-member group analyzes salaries paid to officials in surrounding states, as well as states similar to Delaware, and issues a report containing recommendations. The report is delivered to the General Assembly (January following each presidential election year) and automatically becomes law unless lawmakers intervene to stop it. This happened once, in 1993. The Delaware Compensation Committee met in Dec. 2008 and decided that, given the economic conditions, no raises were warranted. However, they reserved the option of returning with a new report in Jan. 2010. HB 55 would make the commission's recommendations non-binding, removing the autonomous mandate that allows lawmakers to get a raise without having to cast a vote. The General Assembly could still use the commission's recommendations, but any salary increases would need to be included in the budget, the same as any other state worker.

Status: Released from committee in May 2009. Pending action by the full House of Representatives.

- **More Than a Dozen State Lawmakers Take Stand Against Federal Healthcare Entitlement**

Calling the massive proposed federal healthcare entitlement program “fiscally irresponsible” and contrary to the will of most Americans, 15 members of the Delaware General Assembly are backing a measure urging Congress to reconsider their approach to reform.

State Rep. Deborah Hudson (R-Fairthorne) said she was spurred to introduce House Concurrent Resolution 28 after listening to the concerns of business owners and local residents about the impact the sweeping legislation could have on their families and enterprises.

In fact, dozens of measures dealing with the federal healthcare reform initiative have been introduced in state legislatures throughout the country. “There are a lot of people out there with a lot of anxiety about this issue, but in too many cases, their concerns have fallen on the deaf ears of their U.S. Senators and Representatives.”

Rep. Hudson points to a “Rasmussen Reports” national telephone survey that was conducted March 15 as proof that most Americans are not happy with the healthcare proposals before Congress. The survey revealed that 53-percent of those polled oppose the healthcare plan, while 43-percent said they support it. Even the level of support for the latter group proved to be soft. The survey indicated that 46-percent of respondents “Strongly Oppose” the plan, while only 23-percent “Strongly Favor” it.

State Rep. Ruth Briggs King (R-Georgetown), a sponsor of HCR 28, said she chose to sign onto the bill because of the huge financial implications of the federal healthcare plan and its mandates.

“Last month, the president signed a bill to raise our country’s debt limit to nearly \$14.3 trillion,” Rep. King said. “To put that in perspective, that’s about \$113,000 for every taxpayer in the country. Now we’re talking about enacting a new entitlement program that will increase annual spending by hundreds-of-billions of dollars, force people to buy coverage they don’t want, and hit them with massive fines if they refuse. It’s fiscal insanity.”

According to the Rasmussen Reports survey, 57-percent of voters believe the federal healthcare plan will hurt the U.S. economy.

The supporters of HCR 28 also note the new federal healthcare plan will extend coverage, in part, by adding an estimated minimum of 15 million people to the Medicaid rolls. A significant portion of Medicaid costs fall on state governments and the taxpayers that support them. “Medicaid expenses are already one of the top budget drivers we have in Delaware,” Rep. Hudson said. “Enacting this plan will send those costs into hyper-drive.”

In lieu of the federal healthcare reform plan, HCR 28 urges “the 111th U.S. Congress, to ... enact a law facilitating the establishment of regional healthcare co-ops; a law allowing Americans to purchase healthcare insurance plans across state lines; and legislation resulting in medical malpractice tort reform. “These are common sense steps we can take to decrease healthcare costs and increase

the availability of healthcare options, without creating a vast, costly and inefficient federal bureaucracy,” Rep. Hudson said.

Many state legislators are questioning whether the federal government even has the authority to impose a healthcare system on American citizens, noting the U.S. Constitution does not specifically grant such power.

“Under the 10th Amendment of the U.S. Constitution, powers not specifically delegated to the federal government are reserved to the states,” Rep. King said. “With that in mind, I plan to introduce a bill to prohibit the federal government from mandating that Delawareans purchase healthcare plans they don’t want or to force them into the new federal healthcare program. It’s just wrong and it’s time we took a stand.”

• **Controversial Car Inspection Legislation Killed**

A bill that sought to establish a pilot vehicle inspection program in Delaware has been stricken by the House of Representatives less than two months after it was first approved by that chamber.

Sponsored by State Rep. Bill Carson (D-Smyrna), State Rep. Brad Bennett (D-Dover South), and other legislators, House Joint Resolution 8 would have created a three-year pilot program to test the feasibility of allowing vehicle inspections to be performed at new car and truck dealerships in Delaware.

Under the proposed pilot program, car owners would have continued to have the option to take their vehicles to the state inspection lanes.

The Delaware Automobile and Truck Dealers’ Association (new franchise) had advocated for the program, saying it would provide a convenience that many of their customers had requested.

Initially, there was virtually no interest in HJR 8. It sparked little debate and passed the State House of Representatives unanimously on January 28, just before the General Assembly recessed for six-weeks while the Joint Finance Committee conducted budget hearings.

During the break, controversy over the measure grew among those who feared the legislation was a prelude to establishing a system similar the one in nearby Pennsylvania. Unlike Delaware, where inspections are conducted by the workers at the Division of Motor Vehicles (DMV), the Keystone State licenses private garages to conduct mechanical and emissions testing.

WDEL radio talk host Rick Jensen railed against the bill during his daily afternoon show. Jensen contended if Delaware moved to a private inspection system, unscrupulous mechanics would have an economic incentive to find fault with the vehicles they inspected, driving up costs for motorists.

The Delaware Automotive Service Professionals (DASP), an organization of independent automotive repair shops, also aggressively opposed the bill. After its passage through the House, the group mobilized and began lobbying against the measure. One posting on the group's Facebook page summarized their opposition: "Strange things can happen in a de-centralized [inspection] format. We don't need to change the DMV in Delaware. Please oppose HJR8."

Surprised by the sudden opposition to what had appeared to be a non-controversial measure, the sponsors of HJR 8 began having second thoughts about the legislation.

In a highly unusual move, the House of Representatives recalled the bill from the Senate, then struck (killed) the measure on March 16, the first day lawmakers returned after the JFC break.

Around the Hall – News Briefs

House Thanks Woman Who Helps Troops

State Rep. Don Blakey (R-Camden) was among a group of legislators who recently honored Joan Cote in recognition of her nearly 20 years of service guiding the Delaware chapter of the USO. Ms. Cote was presented with a House Tribute commending her "vigor, passion, and enthusiasm to support the troops and their families" which has "touched the lives of many." Among its ventures, the USO undertakes efforts to support the personnel at Dover Air Force Base and the members of the Delaware National Guard. Rep. Blakey pleasantly surprised colleagues and Ms. Cote with a rendition of "Thanks for the Memories," the signature song of famed USO supporter Bob Hope.

Bill Seeks to Reform "Protection From Abuse Orders"

A broad bipartisan coalition, including Delaware Attorney General Joseph "Beau" Biden III, Governor Jack A. Markell, Rep. Michael A. Barbieri (D-Newark) and Rep. Deborah Hudson (R-Fairthorne), are backing new legislation to strengthen "protection from abuse orders" (PFAs) in the First State.

House Bill 336 would give Family Court judges greater latitude, allowing them to extend the "no contact" provisions of a PFA from its current one-year limit to two

years. The bill would also give judges the discretion to order “no contact” for as long as was deemed necessary in cases where aggravating circumstances existed.

Advocates who work with domestic violence victims say current law is inadequate. Although PFAs may be granted for up to one year, after that initial period is up, victims must petition the court for a six-month extension. After the extension expires, the victim must apply for a new PFA and show that they have suffered additional harm.

Rep. Hudson says the burden of protection should not be placed on victims, adding that she regards HB 336 “as an urgent piece of legislation.”

House Bill 336 is co-sponsored by Senate Majority Leader Sen. Patricia Blevins (D-Elsmere) and Senate Minority Whip Sen. Liane Sorenson (R-Hockessin).

HB 336 was drafted by the Domestic Violence Coordinating Council and is pending action in the House Judiciary Committee.

[Action on Bills*](#)

House Bill 299 – (Sponsors: Rep. Bennett, et. al.) – This bill is intended to fix an oversight in “Michelle Smith’s Law” (HB 204), which was enacted in the wake of the death of Delaware City paramedic Michelle Smith. The law was intended to protect first-responders by increasing the penalties against those that intentionally injure or kill them. However, it failed to include paramedics or emergency medical technicians. HB 299 would add these occupations to those designated as first-responders, as well as fire marshals and fire police.

Status: Passed the House. Pending action in a Senate committee.

House Bill 304 – (Sponsors: Rep. Bennett, et. al.) – This bill seeks to increase the penalties on those who commit sexual assault on a juvenile, between the ages of 16 and 18, and “stands in a position of trust, authority or supervision” over the victim.

Status: Passed the House. Pending action in a Senate committee.

House Bill 322 – (Sponsors: Rep. Atkins, et. al.) – This bill seeks to close a loop-hole in Delaware’s “felony resisting arrest” law that was identified in a recent Delaware Supreme Court decision. In *Watson v. State*, the High Court overturned a conviction of a man who injured two probation and parole officers who were trying to arrest him on a violation. The court noted that the current felony statute applies only to arrests made by police officers. HB 322 would expand the scope of this crime to include assaults against all peace officers.

Status: Passed the House. Pending action in a Senate committee.

House Bill 330 – (Sponsor: Rep. Schwartzkopf, et. al.) – If enacted, HB 330 would shield from the threat of lawsuits anyone who makes “good faith” donations of equipment to volunteer fire departments. The bill would not apply in cases where those making the donations had engaged in gross negligence or intentional misconduct. The legislation is intended to remove a barrier that may currently be preventing volunteer fire companies from receiving aid.

Status: Passed the House. Pending action in a Senate committee.

House Bill 335 – (Sponsor: Rep. Schooley, et. al.) – This bill would direct the Secretary of Finance to develop a means by which Delaware taxpayers could directly deposit their income tax returns into a Delaware College Investment Plan account.

Status: Passed the House. Pending action in a Senate committee.

House Concurrent Resolution 27 – (Sponsors: Reps. Oberle & Cathcart & Sen. Bunting, et. al.) – This resolution supports the effort to designate the “Honor and Remember Flag” as a national symbol for remembering our fallen U.S. servicemen and women. Since the Revolutionary War, more than one million members of the United States Armed Forces have been killed in the line-of-duty, but there is no official nationally-recognized symbol acknowledging the sacrifice of these men and women. This resolution urges Delaware’s Congressional delegation to support action on the federal level to advance this cause.

Status: Passed the House. Pending action in a Senate committee.

Senate Bill 182 – (Sponsor: Sen. Hall-Long, et.al.) – This bill would prohibit the use of the title “nurse” unless such person is a “registered nurse” or a “licensed practical nurse.”

Status: Heading to the governor for his consideration.

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