

House of Representatives

Week in Review

For the Week Ending: Friday, April 2, 2010

News Items From the House

- **April Fools! – Gaming Bill Remains in Legislative Limbo**

Legislation to expand legalized gambling beyond Delaware's three current racinos was withdrawn on the eve of an expected debate on the controversial measure.

Speaker of the House Bob Gilligan (D-Sherwood Park) told legislators it was his intent to have the House work House Bill 194 on April 1st.

Those anticipating legislative fireworks were ultimately disappointed. State House Majority Leader Pete Schwartzkopf (D-Rehoboth Beach), the prime sponsor of the bill, removed it from the agenda the evening before the expected debate when it became clear it didn't have enough votes to win approval.

House Bill 194 has been a subject of consternation since it was introduced in the closing days of the 2009 legislative session. As it's currently written, the bill would authorize legalized gaming at the proposed Del Pointe Race Track and entertainment complex in Millsboro, allowing the multi-million dollar project to move forward. The bill, which bypassed the committee process, was tabled back on June 24th and has remained in limbo ever since.

Part of the reason for the soft support is uncertainty. At least 10 amendments have been placed with the bill, with others are reportedly waiting in the wings. "Nobody knows what we're going to actually vote on given the number of amendments that were filed," said State Rep. Greg Lavelle (R-Sharples).

One of those amendments, House Amendment 5 to HB 194, would have basically replaced the bill. Offered by Rep. Schwartzkopf, this amendment would authorize two new casinos/racinos: one in Sussex County and one in the City of Wilmington. Under the proposal, the selection of the new venues would be done through an application process conducted by separate Lottery Redevelopment Committees.

Currently, only Delaware's three existing racinos – Delaware Park, Dover Downs, and Harrington Raceway – are authorized to operate slot machines and table games. The racinos oppose expanded gaming, fearing the new venues will dilute their customer base, reduce revenue, and endanger their survival.

A consultant's report commissioned by the state late last year arrived at a different conclusion. According to the study by TMG Consulting, two new gambling venues, located in the extreme northeast and southwest corners of the state, would result in a significant net gain of jobs and state revenue. While the report concedes the existing racinos would take a hit to their balance sheets, the study maintains the drop would not be severe enough to threaten the viability of the three tracks.

The General Assembly is on Easter Break and will return to action April 20th. In the interim, expanded gaming proponents are expected to continue their work to fashion a coalition of at least 21 House members needed to get the bill approved in the 41-seat chamber.

• State Lawmakers Introduce Bill to Protect Delawareans from Healthcare Mandates

A group of state legislators has filed a bill designed to protect Delawareans from the mandates of the recently-enacted national healthcare legislation.

The Delaware Health Freedom Act (HB 353) specifies that Delawareans are free to choose, or decline to choose, all healthcare services, without penalty or threat of penalty. The bill further directs the state attorney general to enforce the provisions of the act and defend the State of Delaware against challenges to the law.

"This bill attempts to do two things I think are of extreme importance," said State Rep. Deborah Hudson (R-Fairthorne). "First, it preserves Delawareans' freedom of choice in matters of healthcare. Under this bill, our residents would have free will to join the government plan, continue with their private healthcare coverage, or pay for their healthcare out of their own pocket – without the threat of being bullied into a decision by the federal government. Secondly, it defends Delaware's right to govern its own citizens."

At least 34 states have filed or pre-filed similar legislation (including Pennsylvania, New Jersey, and Maryland). Of the remaining 16 states, legislators in at least five have indicated plans introduce comparable measures.

State Rep. Ruth Briggs King (R-Georgetown), who is also a sponsor on the Delaware Health Freedom Act, said the bill is a defense against the creeping intrusion by the federal government into the authority of state governments.

“The Constitution does not give the federal government the authority to force Delaware citizens to comply with healthcare mandates,” Rep. King said. Under the 10th Amendment of the U.S. Constitution, powers not specifically delegated to the federal government are reserved to the states.

“This is more than a states’ rights issue,” Rep. King said. “It’s about the ability of average Delawareans to impact the decisions that shape their lives. Most people rightfully believe that their voices can’t be heard inside the Beltway. But in Delaware, you can meet with your legislators, even talk to the governor, and express your opinion. That’s why these issues are best handled locally, where government will actually be responsive to what its citizens want.”

Supporters of the bill note the federal government enacted the healthcare entitlement initiative, even though the majority of Americans opposed the plan. According to a “Rasmussen Reports” national telephone survey conducted the week before the plan’s enactment, 53-percent of those polled opposed the healthcare plan, while only 43-percent supported it.

State Rep. Tom Kovach (R-Brandywine Hundred South), who is a practicing attorney, said his sponsorship of the bill is based solely on its states’ rights aspect. “The approach the federal government is seeking to impose, which is beyond its Constitutional authority, may or may not be the best decision for Delaware. We have an absolute responsibility, as a state, to determine whether mandating coverage for our residents is in the best interests of the citizens of Delaware. This legislation serves only to exercise our state’s rights to safeguard our citizens’ liberty, allowing Delaware to decide for itself what’s in its best interests.”

State Rep. Greg Lavelle (R-Sharples) said the biggest questions about the federal healthcare law remain unanswered. “No one knows what impact this is going to have on the quality, price and availability of healthcare,” he said. “The federal Patient Protection and Affordable Care Act is thousands of pages long, many of the provisions won’t take effect for several years, and the actual implementation of those provisions will require the promulgation of new regulations by federal agencies – regulations that have not even been drafted as of yet. Why should our citizens be roped into decisions when they don’t know, can’t know, all the factors that will impact their choices?”

Additional sponsors on the bill include: State Reps. Gerald Hocker (R-Ocean View), Dick Cathcart (R-Middletown), Bill Oberle (R-Beecher’s Lot), Dan Short (R-Seaford), Dave Wilson (R-Cedar Creek Hundred), V. George Carey (R-Milford), Mike Ramone (R-Middle Run Valley), Biff Lee (R-Laurel) and Bobby

Outten (R-Harrington) as well as Sens. Gary Simpson (R-Milford) and Colin Bonini (R-Dover South).

“It’s disappointing not a single Democrat was willing to sign onto this,” said State House Minority Leader Richard Cathcart. “We sent a draft of this measure to all 62 state legislators and urged them to sign on as sponsors or co-sponsors. From private discussions, I know some Democrats agree with the intent of this bill, but they have apparently been asked not to sign on as a ploy to politicize this issue. We should be standing together to defend our citizens’ basic freedoms, as well as the fundamental authority of our state – points on which I think we share common ground. Instead, there seems to be a concerted effort to seek political advantage. That’s just sad.”

The bill is pending action in the House Administration Committee, chaired by State House Majority Leader Pete Schwartzkopf (D-Rehoboth Beach).

Around the Hall ***(Briefs from Legislative Hall)***

Autism Awareness Month

Affecting more than one million people across the country, and as many as 1,200 First State families, autism is the third most common developmental disability in the U.S. In an effort to help educate the public about the disorder, the House of Representatives recently passed a resolution (HR 37) declaring April as Autism Awareness Month in Delaware. State House Minority Leader Richard Cathcart (R-Middletown), one of the bipartisan sponsors of the measure, noted that the population of students diagnosed with autism in Delaware has more than doubled over the last 10 years. Autism impairs an individual's ability to learn, develop healthy social behaviors, and understand verbal and nonverbal communication. One of the challenges of autism is that it affects every person in unique ways, requiring individualized treatment, educational programming and services.

Child Abuse Prevention Month

Lawmakers, law enforcement officials, and pre-schoolers from the DelTech Terry Campus Child Development Center were among those that took part in an April 1st event in front of Legislative Hall to kick-off National Child Abuse Prevention Month.

Also in attendance were State Reps. Mike Ramone (R-Middle Run Valley) and Deborah Hudson (R-Faithorne), both members of the General Assembly’s “Kids Caucus” – an informal group of more than two dozen legislators who have organized to advocate for child-related issues.

In 1983, the Congress officially designated April to highlight the issue of child abuse. Most of the participants at the Leg Hall event wore blue bows, a nationally-recognized remembrance of those who have died from child abuse. The symbol traces its roots back more than 20 years to a Virginia grandmother who tied a blue ribbon to the antenna of her car as a way to pay tribute to her grandson who died from abuse.

Over 8,000 cases of child abuse, neglect, or dependency are reported every year in Delaware.

Action on Bills*

House Bill 363 – (Sponsors: Rep. Oberle & Sen. Cloutier, McBride & Marshall, et. al.) – This bill seeks to require public school students to receive instruction on the history of organized labor in America and the collective bargaining process.
Status: Pending action in the House Education Committee.

House Bill 358 – (Sponsors: Reps. D. Short, Bennett, Hudson, Kovach & Sen. Bunting, et. al.) – The sponsors of this bill want legislators and the public to have a better handle on the financial implications of proposed laws introduced in the Delaware General Assembly. Under current law, legislation that will require a state expenditure must have a “fiscal note” attached, altering lawmakers to how much the bill would cost to enact. HB 358 would also mandate that fiscal notes detail how much revenue a bill might produce for the state. Consideration would be given to the economic implications of enacting the bill, how many jobs the measure might create, and how much revenue might be generated.
Status: Pending action in the House Administration Committee.

House Concurrent Resolution 33 – (Sponsors: Rep. Gilligan, et. al.) – This resolution designates the week of April 18 through April 24, 2010 as Delaware’s Week of Service – an event that coincides with National Volunteer Week. Supporters of the measure note that the Week of Service provides a way for volunteers to connect with their local communities through service opportunities with the State Office of Volunteerism and organizations such as United Way, the News Journal, and the Jefferson Awards.
Status: Enacted.

House Concurrent Resolution 32 – (Sponsors: Reps. Wilson & Hudson & Sen. Bunting, et. al.) – This measure urges the U.S. Congress to propose the Parental Rights Amendment to the states for ratification. Introduced by U.S. Senator James DeMint of South Carolina and U.S. Representative Peter Hoekstra of Michigan, the amendment would add language to the U.S. Constitution that supporters say is intended to prevent the erosion of parental rights. The amendment has three sections:

- **SECTION ONE:** The liberty of parents to direct the upbringing and education of their children is a fundamental right.
- **SECTION TWO:** Neither the United States nor any state shall infringe upon this right without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.
- **SECTION THREE:** No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article; and

Status: Pending action in the House Administration Committee.

House Bill 355 – (Sponsors: Rep. Hocker & Sen. Bunting) – This bill would mandate that the Department of Natural Resources and Environmental Control (DNREC) expedite the authorization process for replacing or rebuilding docks, piers or bulkheads when they are being erected on the previously existing structural footprint. If the department wrongfully denies such an application, the bill waives the state’s immunity to liability, allowing the applicant to recover reasonable attorney fees and expenses.

Status: Pending action in the House Natural Resources Committee.

House Bill 354 – (Sponsors: Rep. Kowalko, et. al.) – This bill, being done in conjunction with the input of Delaware elementary school students, seeks to designate the grey fox as Delaware’s official state wildlife animal. The bill is in competition with House Bill 316, which was introduced earlier this year. That measure seeks to give the same designation to the red fox.

Status: Pending action in the House Natural Resources Committee.

House Bill 348 – (Sponsors: Rep. Longhurst, et. al.) – This bill seeks to impose enhanced penalties in more than 60 criminal offenses if the victim is a vulnerable or infirmed adult. Supporters of the bill believe the enhanced penalties are needed because adults with physical and/or mental limitations are at greater risk of being exploited or victimized.

Status: Pending action in the House Judiciary Committee.

Senate Bill 197 – (Sponsors: Sen. Blevins, et. al.) – If enacted, this legislation would create the new felony crime of “strangulation.” Currently, cases of strangulation are prosecuted as the crimes of “assault” or “offensive touching,” the latter of which is a misdemeanor. The bill’s supporters say the change is needed because strangulation is a leading indicator in domestic violence deaths. There are 18 states with similar laws on the books.

Status: Passed the Senate. Pending action in the House Judiciary Committee.

House Bill 344 w/ HA 1– (Sponsors: Rep. Brady, et. al.) – This bill seeks to clarify those people who have the authority to legally marry couples in the First

State. HB 344 would empower the clergy of any religion; the mayor of any incorporated town; and the judge of any Delaware court, to conduct marriages. Testifying on the floor of the House, New Castle County Clerk of the Peace Kenneth Boulden Jr. said the law needs to be inclusive of all clergy because the U.S. Constitution forbids the state from making a determination on the validity of religions. However, he said a companion bill to HB 344, which seeks to create a system of registration for clergy members, will soon be introduced in the General Assembly. He said that legislation is the product of months of talks between state and county officials. Under HB 344, the power of mayors to join two people in matrimony would be limited to the town limits of their municipalities. Interestingly, only the mayors of Wilmington and Dewey Beach currently have this authority.

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

House Bill 346 – (Sponsors: Rep. George & Sen. Peterson) – HB 346 would make it a felony crime to knowingly possess visual depictions of the intentional torture or killing of an animal. To be found guilty under this proposed statute, the depicted act would also have to be illegal under existing state or federal law. For example, Delaware law prohibits animal cruelty, cockfighting and dog fighting. HB 346 would ban the intentional depiction of such acts. The bill’s supporters say the legislation is also intended to outlaw so-called “crush videos,” where women wearing high heels step on animals to torture or kill them. Mirroring the language in Delaware’s obscenity statute, the bill stipulates illegal depictions must “be lacking in serious artistic, scientific, journalistic or political value” when contemporary community standards are applied.

Status: Pending action in the House Judiciary Committee.

[*partial list](#)