

MISSOURI ASSOCIATION OF FIRE CHIEFS

EXECUTIVE DIRECTOR REPORT LEGISLATIVE REPORT #5 2013 SESSION FEBRUARY 4, 2013

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(NEW INFORMATION WILL BE IN RED)

Opening Day

The session began this week, and committees were named in the house and senate. (See above for a link to the committees). The Speaker of the House, Tim Jones and President of the Senate laid out priorities to their respective chambers. There were several stories covering these speeches, [article 1](#), and [article 2](#), but the quick read is they each remained consistent with their pre-session priority lists of investment in infrastructure (highway construction, education facilities and energy upgrades), improved education, tax revamp and economic development, including tort reform (med mal caps and workers comp/second injury fund reform). Absent from the support list was Medicaid expansion, which will be a marquee in the governor's budget when released on the 28th during his annual State of the State address. Speaker Jones made a clear statement that expansion of entitlements should not erode the funding for education.

Next week a few committees will meet to begin hearing bills, but Inauguration Day is Monday, which will limit the amount of business each chamber conducts next week.

The senate and house are beginning hearings. Tax policy, including income and sales taxes as well as tax credit reform, appears to be the frontrunner with respect to issues being debated first.

The Governor will announce his budget on January 28th during his state of the state address. The major objection the House and Senate republicans will probably cite is the Governor's attempted expansion of Medicaid, allowed, but not required, by the federal health care bill. More budget information will be received from Jorgen after the Senate reaction to the Governor's proposal is released.

The House Public Safety Appropriations Committee is meeting this week. Jorgen will meet with Rep Marsha Haefner, the new chair of the committee and Rep Dave Hinson, one of its members. This meeting is only to review the budgets; no decisions will be made. Other members of the committee are at the bottom of this document.

The big issue still looming in the capitol is, whether the senate has changed their method of doing business, or will they slip into their gridlock rut in which they have frustratingly found themselves in the past few sessions. Jorgen predicts a new Senate emerges; others are not so optimistic. When the Governor's approvals for his appointees are brought to the floor, it could set the tone for the session.

THIS WEEK AT THE CAPITOL

Infrastructure was the big topic of the week. A mix of house and senate members continue to push for a 1 cent sales tax for 10 years which will generate \$8 billion for projects throughout the state. Half of the cost of rebuilding I-70 would come from this revenue source, the other would be from funds already allocated by existing highway funds. Another camp, including the House chairman and Speaker prefer the bonding method, which brings in significantly less than \$8 billion, at most probably just under \$2 billion, but it has no tax increase associated with it, and would be paid from existing general revenue over a longer period of time than the competing 10 year sales tax proposal. The two camps are far from a resolution.

The Senate Economic Development Committee passed out two bills that have not made it through the Senate in past sessions because of a lack of a deal on the over all reform of Tax Credits.

The House Public Safety Appropriations Committee met this week, as did the Senate Appropriations Committee for the purpose of taking public testimony. Chief Russ Mason testified and was received very well by the Chairman, Kurt Schaefer from Columbia. Jorgen has a meeting to follow up with Sen. Schaefer and his staff regarding increasing training dollars in the FFTF. Thank you to Russ for taking time to do this!

The House Committee will receive public testimony on Wednesday in HR 6 at 2 p.m. Jorgen will also meet with Rep Marsha Haefner, the new chair of the committee and Rep Dave Hinson, one of its members, as she begins to contemplate her recommendations to the full Budget Committee. She does not get to make changes to the budget bills, but a good recommendation always helps. This will likely happen in late February, and the Senate will make their decisions in April.

Dave Hinson, new chairman of the Crime Prevention and Public Safety, will hold an organizational meeting this week. He has already discussed developing a omnibus public safety bill. He will work with us nicely.

The Senate passed two bills in as many days, both of which had been debated for the past several sessions and never made progress. The Senate has sent a signal that gridlock is a thing of the past.

The House continues to work on the budget now that the governor announced his budget, built on revenues that are not yet available, and need legislation to enact them. The Republicans pushed back hard on a few of his initiatives including the expected Medicaid expansion.

Below is the key committee on which we need to focus. Please check if you live or work in one of these legislator's districts. We will send an Action Alert next week with a message. You can click on the names at the bottom of the document and a map of their districts will show on their web page.

Workers Compensation reform is the theme for the week for the Senate. There will be significant debate on this issue, as there are multiple factions, and factions within factions attempting to resolve the bankrupt system.

A bill to increase filing fees for FPD board of directors from \$10 to \$50 will be introduced.

The big omnibus public safety bill has been introduced (see HB335 summary) below.

FSA Priority Issues

9-1-1

9-1-1 legislation is nearing introduction. We have seen a couple drafts, but no final version has been distributed. The bill will likely contain a local county option, instead of a statewide effect.

Increase Training Funds

Russ Mason testified before the Senate two weeks ago, and now the House Appropriations Committee this week. Both times he received support for his request of more training money. The Budget bills begin in the House but won't be officially introduced until late this month or even early March. Jorgen looks for an increase, hopefully \$100,000 or more, when the bills are passed out of the House, and sent to the Senate.

State Emergency Fund for Disasters

Move over Law to also include Emergency Responders

Immunity Legislation

OTHER ISSUES

Medicaid update

The House and Senate remain less than excited about moving this proposal forward and are looking for the other chamber to make the first move. The issue nonetheless continues to get significant conversation and is not dead by any stretch of the imagination. The expansion would cover many ambulance calls that are now for indigent patients. The expansion would cover people up to 138% of federal poverty. Current coverage is for adults under 19% of federal poverty level.

Reps Jay Barnes, Chris Mollendorp, Keith Fredrick's and Tom Flanigan comprise an unofficial workgroup drafting legislation outlining their own "expansion" proposal. That may include reforms and expansion but not to the federal requirement of 138%. This will be a game of chicken. The senate shows little movement thus far, but sun setting the expansion upon expiration of the 100% fed match does have some promise to get the senate's attention. It would then be for a future general assembly to renew the sun set. Much more to come-

Bills of potential interest

HOUSE BILLS

HB 28 [Lichtenegger](#) Authorizes any county commission, municipality, or fire protection district to adopt an order or ordinance, including a burn ban order, regarding its emergency management functions as they relate to a natural or man-made disaster.

Bill History: 12-03-12 H Filed
01-31-13 H Referred to House Committee on House-Local Government

HB 33 [Guernsey](#) Extends the expiration date of certain provisions of the Open Meetings and Records Law. This bill will be fast tracked since the previous legislature failed to extend the sunset clause, and currently your disaster preparedness plans are open records.

Bill History: 12-03-12 H Filed
01-31 Referred to House Committee on House-General Laws

[HB 45](#) [Hinson](#) Authorizes the county commission in any county to adopt certain building codes.

Bill History: 12-04-12 H Filed

01-31-13 H Referred to House Committee on House-Local Government

[HB 66](#) [Burlison](#) Removes the provision that requires fire protection districts located in Greene County to have an audit performed every two years.

Bill History: 12-18-12 H Filed

01-31-13 H Referred to House Committee on House-Local Government

[HB 115](#) [Davis](#) Prohibits an employer from requesting or requiring an employee or applicant to disclose any user name, password, or other means for accessing a personal account or service through an electronic device.

Bill History: 01-10-13 H Read second time

[HB 118](#) [Shull](#) Changes the laws regarding the Open Meetings and Records Law to allow certain meetings and records regarding policies, security systems, and structural plans regarding any terrorist or public safety or health incident to be closed.

Bill History: 01-10-13 H Read second time Same as HB 33 above

01-31-13 H Referred to House Committee on House-Utilities

[HB 135](#) [Diehl](#) Authorizes any political subdivision to enter into design-build contracts for construction projects exceeding one million dollars.

Bill History: 01-10-13 H Read second time

[HB 147](#) [Davis](#) Expands the procedural protections given to taxpayers in charter counties and the City of St. Louis regarding residential property tax assessments to taxpayers in any county.

Bill History: 01-14-13 H Read second time

[HB 160 Sommer](#) Prohibits certain election and campaign activities on election day within the property boundaries of a polling place and electioneering at specified voting sites within a 250 foot radius of the entrance to the site.

Bill History: 01-15-13 H Read second time

01-28-13 H Withdrawn

[HB 161 Gatschenberger](#) Specifies that any voluntary annexation must only be notarized and modifies procedures regarding invalidating or challenging a previous annexation.

Bill History: 01-15-13 H Read second time

[HB 234 Gatschenberger](#) Authorizes a claim clearinghouse to process and verify a request for an offset of an income tax refund and lottery winnings to satisfy an outstanding debt for ambulance services an individual received.

Bill History: 01-23-13 H Read second time

01-31-13 H Referred to House Committee on House-Local Government

[HB 254 Swearingen](#) Authorizes the City of North Kansas City to impose, upon voter approval, a sales tax to fund public safety improvements

Bill History: 01-23-13 H Read second time

[HB 305 Walker](#) **Extends the expiration date of specified provisions in the Open Meetings and Records Law, commonly known as the Sunshine Law.**

Bill History: **01-28-13 H Referred to House Committee on House-General Laws**

[HB 307 - Riddle \(049\)](#) – Exempts fire protection districts in certain counties from the provision specifying that no person holding any lucrative office under this state shall hold the office of fire protection district director.

Bill History: Introduced

01-28-13 H Read second time

NEW HOUSE BILLS

HB 332 Sommer Removes the sunset provisions with regard to certain provisions of the Open Meetings and Records Law.

Bill History: 01-29-13 H Read second time

HB 335 Hinson Changes the laws regarding public safety. This is a big omnibus public safety bill. It contains a provision allowing FPD's to increase their levy by \$1 by vote of the people. The bill also contains several provisions on EMS, killed in the line of duty benefit, and repeals various communicable disease statutes. [Read the summary.](#)

Bill History: 01-30-13 H Read second time

HB 336 Hinson Specifies that no political subdivision shall prohibit any first responder from engaging in any political activity while off duty and not in uniform unless otherwise prohibited by state or federal law.

Bill History: 01-30-13 H Read second time

HB 364 Roorda Allows an employee of a fire protection or ambulance district to serve as a board member of a fire protection or ambulance district if the district is not in the same county where the employee is employed.

Bill History: 01-31-13 H Read second time

HB 377 Kelley Repeals the expiration date of certain provisions of the Open Meetings and Records Law.

Bill History: 01-31-13 H Read second time

HB 384 Lant Allows any contractor who engages in the installation or service of fire sprinkler systems to register with the State Fire Marshal.

Bill History: 01-31-13 H Read second time

SENATE BILLS

[SB 1 Rupp](#) Modifies the law relating to workers' compensation. – This bill is a continuation of the reform of workers comp we supported last year. It is very broad and comprehensive (see summary at the bottom of this document) - It was heard and voted out of committee this week. It is suspected that several more versions will be contemplated prior to the bill receiving substantive debate time on the senate floor.

Bill History: 12-01-12 S Filed

[SB 30 Brown](#) Repeals all of the prevailing wage laws.

Bill History: 12-01-12 S Filed
**01-10-13 S Referred to Senate Committee on Senate-Small
Bus./Insurance/Industry**

[SB 66 Dixon](#) Repeals a number of expired or obsolete committees.

Bill History: 12-07-12 S Filed
01-23-13 S Hearing conducted

[SB 139 Kehoe](#) Extends the expiration date for the closure of certain records, meetings and votes relating to operational guidelines and security systems to December 31, 2017.

Bill History: 01-17-13 S Introduced and read first time Same as HB33 above.
**02-04-13 S Meeting set for 6:00 PM or 45 minutes after...Senate-Judiciary
Civil/Criminal Jurisprudence**

[SB 190 Walsh](#) Establishes mandatory wage reporting for the purposes of determining the prevailing wage.

Bill History: 01-22-13 S Introduced and read first time
01-31-13 S Withdrawn

NEW SENATE BILLS

[SB 213 Kraus](#) **Modifies provisions of law relating to tax increment financing.**

Bill History: **01-28-13 S Introduced and read first time**

[SB 216 Silvey](#) **Prohibits political activity restrictions on first responders and modifies current political activity restrictions on the Kansas City Police Department.**

Bill History: **01-28-13 S Introduced and read first time**

[SB 231 Munzlinger](#) **Modifies tax refund and lottery setoff procedure for unpaid healthcare expenses.**

Bill History: **01-29-13 S Introduced and read first time**

JOINT RESOLUTIONS

[SJR 13 Chappelle-Nadal](#) **Makes St. Louis city a part of St. Louis county** Bill History: 01-17-13 S Introduced and read first time

Public Safety Appropriations Committee

Haefner, Marsha, Chair
Conway, Kathie, Vice Chair
Ellington, Brandon
Fitzwater, Paul
Hinson, Dave
Hubbard, Penny
Muntzel, Dave
Nichols, Mary
Otto, Bill
Rhoads, Shawn
Sommer, Chrissy
Wilson, Kenneth

Workers Compensation Summary (SB1)

SB 1 - This act modifies the law relating to the Second Injury Fund.

This act allows the Director of Revenue to set the interest, with respect to workers' compensation matters, to equal the adjusted prime rate charged by banks in certain instances.

Currently, in workers' compensation cases an employee shall submit to reasonable medical examination at the request of the employer, the employer's insurer, the commission, the division, or an administrative law judge. This act requires the same treatment in claims against the Second Injury Fund at the request of the Attorney General, on behalf of the fund if the employer has not obtained a medical examination report.

Claims for permanent partial disability shall not be allowed against the Second Injury Fund after the effective date of the act. Claims for permanent total disability shall only be allowed going forward for instances when:

- there exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability,**
- the preexisting disability equals a minimum of 50 weeks of compensation according to the medical standards that are used in determining compensation, and**
- a subsequent work-related injury occurs and, when combined with the elements of the prior injury, results in permanent total disability.**

Employers at the time of the last injury are only liable for the disability resulting from the subsequent injury.

The act places limitations on when the Treasurer may enter agreed statements of fact and compromise settlements. Settlements are capped at \$60,000 for claims other than permanent total disability claims filed prior to the effective date of the act and capped at 200 times the employee's permanent total disability rate for all permanent total disability claims. Settlements may be made in any amount if a majority of the Second Injury Fund commission expressly authorizes the amount.

The Treasurer, with the advice and consent of the Attorney General and the authorization of the Second Injury Fund Commission, may enter into compromise settlements with dependents of claimants arising from the Schoemehl v. Treasurer decision.

Currently, the Second Injury Fund covers the fair, reasonable, and necessary expenses relating to the death and injury of employees of uninsured employers. The fund will no longer cover those costs going forward.

Currently, an actuarial study of the fund is conducted ever 3 years. This act requires a yearly study beginning in 2014.

Compensation shall not be payable from the Second Injury Fund when employees elect to pursue workers' compensation outside of the state.

Life payments paid out of the Second Injury Fund shall be suspended for all injured employees when the employee is able to obtain suitable gainful employment or be self-employed in view of the nature and severity of the injury. Life payments paid out of the Second Injury Fund may be suspended for any injured employee when the employee becomes eligible to receive Social Security benefits. The combined sum of the amount of monthly payments from the Second Injury Fund and monthly Social Security benefits shall not be less than the life payments otherwise payable out of the Second Injury Fund.

The act establishes a priority for paying fund liabilities as follows:

1. Expenses relating to legal defense of the fund.
2. Permanent total disability awards in the order in which they are settled or finally adjudicated.
3. Permanent partial disability awards in the order in which they are settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2012.
5. Interest on unpaid awards.

Currently, a 2% tax is levied on insurance carriers when the balance of the workers' compensation fund is estimated to be on hand on December 31 is less than 110% of the previous year's expenses. This act requires that amount to actually be on hand on July 1 of the year of the determination, which shall be made on October 31.

The act repeals a provision allowing loans to be made to the Missouri Employers Mutual Insurance Company.

The act institutes a funding mechanism to bolster the Second Injury Fund when usual collections are inadequate. If funds fall short, the Director of the Division of Workers' Compensation shall determine the shortfall, which shall be collected with a supplemental surcharge not to exceed 1 1/2%. If funds continue to fall short, the Second Injury Fund Commission shall determine the shortfall, which shall be collected with a supplemental surcharge not to exceed 1 1/2%. The provisions containing the authorization of additional surcharges expire on December 31, 2020.

The Attorney General shall reduce staff in proportion to the number of Second Injury Fund cases that remain.

The act creates the Second Injury Fund Commission composed of the Governor, Attorney General, President Pro Tem of the Senate, and the Speaker of the House of Representatives to approve additional surcharges and authorize certain settlements.

Sections 287.165 and 287.220 that establish the type of claims to be paid out of the fund, limitations on settlement agreements, and allowable interest under the chapter carry an emergency clause.

HB 335 -- Public Safety Summary

Sponsor: Hinson

This bill changes the laws regarding public safety. In its main provisions, the bill:

- (1) Authorizes the City of North Kansas City to impose, upon voter approval, a sales tax of up to .5% to fund public safety improvements including equipment, city employee salaries and benefits, and facilities for fire, police, and emergency medical providers (Section 94.902, RSMo);**
- (2) Allows a person to be eligible for certification by the Department of Health and Senior Services as a community paramedic if he or she is currently certified as a paramedic and has two years of full-time service as a paramedic or its part-time equivalent; successfully completes a community paramedic education program from a college or university that has been approved by the department or accredited by a national accreditation organization approved by the department that includes clinical experience under the supervision of an ambulance service administrator, advanced practice registered nurse, licensed physician assistant, or public health nurse; and completes an application form approved by the department. A community paramedic must practice in accordance with protocols and supervisory standards established by an ambulance service administrator and may provide services as directed by a patient care plan if the plan has been developed by the patient's primary physician, advanced practice registered nurse, or physician assistant in conjunction with the ambulance service administrator and relevant local health care providers. The care plan must**

ensure that the services provided by the community paramedic are consistent with those offered by the patient's health care home, if one exists; that the patient receives the necessary services; and that there is no duplication of services. The bill specifies that no person can hold himself or herself out as a community paramedic or provide the services of the position unless he or she is licensed by the department (Sections 190.098 and 190.100);

(3) Modifies the regulations that the department is allowed to promulgate to implement Sections 190.100 to 190.245 regarding emergency medical services to include violation of any legally protected privacy rights of a patient by means of an unauthorized or unlawful disclosure, refusal of any applicant or licensee to respond to reasonable department requests for necessary information to process an application or to determine license status or eligibility, any conduct or practice which is or might be harmful or dangerous to the mental or physical health or safety of a patient or the public as defined by applicable national standards,

and repeated acts of gross negligence or recklessness in the performance of the functions or duties of any activity licensed or regulated by the specified provisions (Section 190.165.2);

(4) Specifies that if the department conducts an investigation, the department must, prior to interviewing a licensee who is the subject of the investigation, explain that he or she has the right to consult legal counsel or have legal counsel present, have anyone present whom he or she deems necessary or desirable, and refuse to answer any questions or to provide or sign any written statement. The assertion of any of these rights cannot be deemed by the department to be a failure to cooperate with any investigation (Section 190.165.3);

(5) Requires the department, in order to be authorized to impose a suspension or revocation as a disciplinary action, to first inform the Administrative Hearing Commission when it files the requisite complaint with the commission. The commission is not permitted to grant summary judgment in an instance when the licensee files an answer contesting the department's intended licensure action (Section 190.165.4);

(6) Specifies that if an emergency care provider or Good Samaritan sustains an exposure from a person while rendering emergency health care services, the person to whom he or she was exposed is deemed to consent to a test to determine if the person has a communicable disease as specified in the bill and is deemed to consent to notification of the results of the test to the emergency care provider or Good Samaritan, upon submission of an exposure report by the emergency care provider or Good Samaritan to the hospital where the person is delivered. A hospital and a coroner and medical examiner must have written policies and procedures for notification of an emergency care provider or Good Samaritan as required by these provisions. If a person tested is diagnosed or confirmed as having a communicable disease, the hospital, coroner, and medical examiner must notify, as specified in the bill, the emergency care provider, Good Samaritan, or the designated local infection control officer of the emergency care provider who must notify the care provider. The bill requires all emergency care providers to respond and treat any patient regardless of the status of the patient's HIV or other communicable disease infection. Ambulance services and emergency medical response agencies are to establish and maintain local policies and provide training regarding exposure of personnel to patient blood and body fluids and general protection from communicable diseases. Hospitals, nursing homes, and other medical facilities and practitioners who transfer patients known to have a communicable disease or to be subject to an order of quarantine or isolation must notify the emergency care providers who are providing transportation services of the potential risk of exposure to a communicable disease. The bill specifies the regulations that the department must promulgate, including the type of exposure that would prompt notification of the emergency care provider or Good Samaritan; the process to be used for the required reports, for evaluating requests, and for informing emergency care providers and Good Samaritans as to their confidentiality obligations; and the method by which the providers must be provided information and advice in a timely manner related to the risk of infection from communicable diseases as a result of

aid or medical care (Section 191.631);

(7) Revises the definition of "killed in the line of duty" as it applies to the Line of Duty Compensation Act to include when any individual loses his or her life as a result of an injury received in the active performance of duties, if the death occurs as a natural and probable consequence of the injury or disease caused by the accident or violence of another within 300 weeks from the date the injury was received and if that injury arose from violence of another or accidental cause subject to these provisions but excludes death resulting from the willful misconduct or intoxication of the law enforcement officer, emergency medical technician, air ambulance pilot or registered professional nurse, paramedic, or firefighter. For these individuals, the death must be caused as a result of a willful act of violence committed by another person and a relationship exists between the commission of the act and the individual's performance of his or her duties regardless of whether the injury is received while on duty; the injury is received by an individual while traveling to or from his or her employment or during any break which takes place during the period in which he or she is on duty; or, for a law enforcement officer, the injury is received while attempting to prevent the commission of a criminal act of another person or attempting to apprehend an individual suspected of committing a crime regardless of whether the injury is received while on duty (Section 287.243);

(8) Allows the board of directors of any fire protection district to levy, if a majority of the voters of the district approve, in addition to all other taxes approved, an additional tax of not more than \$1 per \$100 of assessed valuation to be used for the support of the district (Section 321.241); and

(9) Repeals Sections 192.800, 192.802, 192.804, 192.806, and 192.808 regarding communicable diseases.