

Kentucky Legislative Report
Week 5
Tuesday, February 22 – Friday, February 25, 2011

Even though it seems like it just began, the Kentucky legislature is about one week from finishing its 2011 “short” session. Most expect the legislature to finish its work next Friday and take a two-week long veto recess before adjourning sine die for the year. There is some flexibility in the calendar, but the one certainty is that the legislature can only meet for a maximum of eight more working days.

As expected, the activity level this past week matched that of the last, with a steady flow of moving legislation. So far, only a handful of proposals have cleared both the Republican-controlled Senate and the Democrat-controlled House. Still on the drawing board are dozens of high-profile bills, including bills that would overhaul the state’s criminal code, increase the dropout age from 16 to 18, and require a prescription for common cold medicines that include ingredients in making meth and changing the state’s immigration laws, among other things. Noticeably absent from the Commonwealth is the type of controversial legislation or policy showdowns seen in other states such as Indiana and Wisconsin. There was progress in the Senate on a substantial penal code reform measure, as it advanced out of a Senate committee, but the budget “fix-it” bill remained stalled in the upper chamber.

HB 305, the bill that would fill a potential \$600 million hole in the Medicaid budget and fix a smaller budget problem relating to education-intended federal stimulus dollars, received voluminous hearing time in the Senate Appropriations and Revenue Committee, but no vote. Even as the time runs out, there is no indication of a forthcoming plan of action from the Senate on the bill. It is still under debate as to whether or not the Senate will offer a different proposal or adopt the original provisions offered by the Governor and the House. The Governor has proposed to borrow \$166 million from the 2012 fiscal year to cover the shortfall; he intends to make up the 2012 deficit with efficiencies over the next 18 months. Due to Kentucky’s high federal match rate, failure to move that \$166 million of state money into this fiscal year will result in a \$600 million program shortfall in FY2012 - the consequence of which is a 30% cut in provider reimbursement rates, according to the Governor. If the Senate Republicans amend the bill, it will likely go to a conference committee of House and Senate leadership. In order to give the legislature time to override any potential gubernatorial vetoes of this measure, the House and Senate will send the bill to him before the veto recess begins.

Other legislative action of note this week includes:

- HB 463 - Penal Code reform – received a positive Senate hearing this week, and a vote on the bill may occur as early as Monday. The pending Senate floor vote had been scheduled for Thursday, but was delayed so that members could fully digest the 150-page bill.
- SB 45 – prescription requirements for common cold medicines used to make methamphetamine –remains in the Senate Orders of the Day. There is a proposed “gel-cap” compromise being bantered about, but in the absence of a consensus, no further action has been taken.
- Immigration bills received no discussion in either Chamber this week
- The Senate Agenda for Kentucky continues to stall in the House, although some action was taken on a couple of the measures. SB 9 would have required additional consultation for women intending to receive an abortion, but it failed on a close vote in the House Health and Welfare Committee on Thursday. The one Agenda bill to clear the committee hurdle in the House is the “one-stop shop” bill (SB8), which will provide a streamlined website for business filings.
- There are two False Claims Act bills (the Senate iteration included in the Agenda for Kentucky) this session, neither of which received any action this week as they both sat in the opposite chamber. The House is at least expected to have hearings on the Senate bill, but with heavy lobbying against the bill by health care interests, its outcome is uncertain.
- A bill that would change the makeup of KY’s Public Service Commission to a body of popularly elected officials from the Governor-elected group that it is today did not receive a committee vote this week. In what is by far the broadest ranging coalition of detractors thus far seen this session, the Kentucky Association of Manufacturers, Kentucky Chamber of Commerce and the left-leaning Kentucky Resources Council, all condemned the idea of a sea change in utility regulation. The House appears comfortable with passing a study of the proposal, but strong testimony by House Speaker Greg Stumbo (D), leaves open the possibility of the bill passing in its current form.
- Governor Steve Beshear signed the controversial optometric scope of practice bill, SB110. This was the first bill signed into law this session.
- Kentucky’s federal delegation was off this week, leading many members to visit the Capitol. While many spent time in Frankfort catching up with old friends and colleagues, Kentucky’s Junior Senator Rand Paul put in a full workday passionately advocating passage of a Senate resolution calling for a constitutional convention specific to a federal balanced budget amendment. Confusion abounded as to what number Kentucky is in the call for a



convention, as well as whether or not the state could extricate itself from the convention if its scope exceeds the balanced budget discussion. In what was perhaps the best civics discussion at the Capitol in recent memory, the resolution passed.

Expect a busy week next week, as the Agenda for Kentucky bills will likely be heard and the budget fix-it must pass. When the legislature convenes on Monday, it will mark the 23rd day of this 30-day session. It is possible that they will conclude the people's business as early as Thursday, leaving them at least one, but maybe two, days left to override gubernatorial vetoes in mid-March.