

## THIRD READINGS CONCLUDE

The Senate and the House finished third reading consideration of House and Senate bills respectively yesterday. The Senate finished its third reading calendar shortly before noon. The House, with a much longer calendar, did not finish its business until shortly before 9:00 p.m. The Senate recessed following conclusion of its calendar so that leadership could deal with dissents through the afternoon and get a jump on getting conferees appointed. According to Senate Pro Tem David Long (R, Ft. Wayne), he and House Speaker Pat Bauer (D, South Bend) have been in discussions about how to expedite matters with the accelerated timeframe that the General Assembly is pursuing. Thus, one would expect that Rep. Bauer will also move to appoint conferees as soon as possible.

## IDOI BILLS DIE ON SECOND READING

On Wednesday, both **SB 357**, sponsored by House Insurance chair Craig Fry (D, Mishawaka), and **HB 1240**, sponsored in the Senate by Insurance & Financial Institutions chair Allen Paul (R, Richmond), failed to survive second reading so were not eligible for third reading on Thursday. SB 357, as it left the Senate contained a number of items sought by the Indiana Department of Insurance, including licensure of independent insurance adjusters. HB 1240, as it was introduced in the House contained two amendments to the Indiana insurance code which were required for NAIC re-accreditation which is scheduled for later this year, and, in addition, changes to the producer licensing law to better conform our law to that of other jurisdictions. The principal vehicle for the IDOI, HB 1240 contained numerous other changes to the insurance code, most of the nature of good housekeeping.

SB 357 met its demise when Rep. Fry withdrew the bill following the attempted introduction by Rep. Jeff Thompson (R, Lizton) of an amendment banning pharmacists from filling prescriptions which would either cause abortions or cause death by assisted suicide, euthanasia, or mercy killing. The Speaker has maintained an iron clad directive that should such an amendment or similar amendments be offered a bill is to be withdrawn to

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avoid forcing his Democratic caucus from having to record a vote on the moral issues raised.

HB 1240 was simply left on the second reading calendar when Sen. Paul passed on the bill. The majority caucus agreed that the bill should be left on the calendar due to a variety of amendments that had been filed on behalf of:

- the Indiana Trial Lawyers Association (overturning the Indiana Supreme Court decision relative to the collateral source rule),
- the Indiana Dental Association (banning insurer imposed fee schedules for non-covered services),
- the Indiana State Medical Association (provider liens on civil judgments for other than hospitals who already have them), or,
- in the case of the Democratic minority, in part to force recorded votes on certain issues for later use during the upcoming political campaigns (an annual cap on health insurance rate increases, mandating IDOI public hearings on all rate increase filings [817 last year], and the annual disclosure of administrative costs and loss ratios).

Notwithstanding the demise of these two bills, we fully anticipate that Rep. Fry will make every effort to find a home for the pet items that he has been seeking, most probably paired with several of the key items the IDOI has been seeking, i.e., those relating to re-accreditation matters. The independent adjuster licensing will not be on his short list, evidenced by the fact that he stripped those provisions out of SB 357 in his committee. We also believe that there may be additional attempts separate from Rep. Fry to at least salvage the re-accreditation issues for the IDOI. STAY TUNED.

## ETHICS BILL TO GOVERNOR?

Assuming that the agreements reached earlier in the session between the Senate and Speaker Bauer hold true, we expect that he will concur in the Senate amendments to **HB 1001**, his ethics reform bill. Among a number of changes or additions to current law are the following items of interest to employer and compensated lobbyists:

- removes the requirement that legislator's statements of economic interest report gifts or purchases from legislator related businesses, shifting such reporting to lobbyists but limiting purchases reported to those made at other than the price generally available to the public;
- disallows payment of honoraria for an appearance or speech made or given in a member's capacity as a legislator;

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- increases fines for failure to timely file lobbyist reports to \$100 per day to a maximum of \$4500;
- requires reporting of expenditures for entertainment (including meals and drink) and gifts for a specific legislator to \$50 in one day or \$250 during a calendar year;
- requires reporting within 15 business days of any gifts made to a legislator in excess of \$50 and only allows such gifts upon consent of the legislator;
- requires attribution of expenditures for entertainment and gifts to a particular legislative person and "to the extent practicable" requires reporting of actual amounts without allocation of a prorated amount derived from an expense made with respect to several legislative persons;
- requires that, for the purpose of determining the expenditure reportable when 2 or more lobbyists contribute to the expenditure, the total amount with respect to the particular legislative person must be determined and not the amount each lobbyist contributed – however, each lobbyist must report the actual amount the lobbyist contributed, even if the amount would not be reportable if only one lobbyist made the expenditure [*this provision is relevant to the \$50 and \$250 thresholds for reporting mentioned above*];
- prohibits reporting of any expenditures or gifts relating to property or services received by a legislative person if the person paid the amount charged to any purchaser in the ordinary course of business [*think NCAA tournament or Super Bowl tickets*];
- requires reporting of purchases by a lobbyist from a legislator or candidate related business only if over \$100, outside the ordinary course of business and at a price unavailable to the general public;
- requires that employers of "legislative liaisons" [*think employees of state agencies or state educational institutions, e.g., Indiana University*] file with the lobby commission an annual, single, aggregate report of expenditures for lobbying activities by each of its liaisons stating expenditures for entertainment and gifts that total per legislator \$50 per day or \$250 per calendar year;
- prohibits a legislator from registering as a lobbyist or being employed as a legislative liaison from the date the individual ceases to be a member of the General Assembly until 365 days after that date -- however primary candidates for 2010 election of members of the General Assembly on November 3, 2010 may be registered or employed after May 31, 2011;
- limits lobbyist payment or reimbursement for legislative person's travel expenses outside of Indiana to those associated with a public policy meeting where the legislative person's sole purpose in attending the meeting is to serve as a speaker or other key

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participant in the meeting and the Speaker or the Pro Tem has approved payment in writing;

- authorizes travel expenses for travel outside Indiana for any purpose that is paid for by an organization or corporation of which the legislative person or their spouse is an officer, member of the board of directors, employee, or independent contractor;
- requires that lobbyists not governed by the Rules of Professional Conduct of the Indiana supreme court must file with the lobby commission a statement of procedures that will be followed in the event that a conflict of interest arises in the representation of a client and prohibits representation if a conflict of interest arises except pursuant to the procedures filed; and
- requires that lobbyists governed by the Rules of Professional Conduct of the Indiana supreme court shall file a statement to that effect with the lobby commission.

## CONFERENCE COMMITTEES

The ability of the General Assembly to go home as early as Thursday, March 4, of next week comes down to one essential issue – the delay of the unemployment compensation tax increases adopted in 2009. The House passed two bills which are relevant to the issue:

- **SB 23**, co-authored by Sens. Luke Kenley (R, Noblesville), Brandt Hershman (R, Monticello), and Dennis Kruse (R, Auburn), which was transformed into the Democratic “jobs bill” by a series of amendments and which, as amended, repeals the tax increase and
- **SB 396**, co-authored by Sens. Kenley and Kruse, dealing with agricultural property tax assessment and economic development issues, which also repeals the tax increase. Needless to say, the Senate majority will not find the current content of either bill to its liking which will cause both bills to have motions to dissent to House amendments filed.

The consensus is that reaching a deal on the issues now contained in these two bills will prove to be the greatest test of the ability of the House and Senate majorities to reach a compromise in a timely fashion.

To add to the tension, the House sponsor of the “take your guns to work” bill, **HB 1065**, has filed a dissent to Senate amendments. Rep. Bob Bischoff (D, Greendale) may seek to add some additional exceptions to the bill for facilities which are highly sensitive and represent substantial security risk or which produce product which might be attractive to the black market.

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While many other dissents will be filed, none are likely to hold up an early out should leadership wish to *sine die* earlier rather than later. However, the outcome of the unemployment compensation tax question remains obscure at this time and, in the end, will control the ending of this session of the General Assembly.

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Should you have any questions, or need further information, please contact Dan Seitz at (317) 684-5402 or at [dseitz@bosepublicaffairs.com](mailto:dseitz@bosepublicaffairs.com) or Mike O'Brien at (317) 684-5473 or at [mobrien@bosepublicaffairs.com](mailto:mobrien@bosepublicaffairs.com).

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