

PACE REMAINS HIGH, EARLY OUT IMPROVING

The odds of an adjournment *sine die* before March 14, the date by which the short session must end, appear to be improving as the General Assembly continues to work at a rapid pace on issues of significance. The passage this week by the Senate of HJR 1, sends the issue of a constitutional amendment to permanently cap annual property tax increases to the ballot this November 2. **SB 253**, authored by Sen. Luke Kenley (R, Noblesville), establishing the precise language for the question that will appear on the ballot, was heard in Sen. Kenley's Tax and Fiscal Policy committee on Tuesday but was not voted on at that time. It is scheduled for amendment and a vote next Tuesday, January 26.

Today marks the completion of the third week of the 116th Indiana General Assembly. The last day for bills to be heard in a committee and for committee reports to be filed is Thursday, January 28th. Bills must pass their house of origin by February 3rd.

IDOI OMNIBUS BILL HEARD

The IDOI omnibus bill, **HB 1240**, authored by Rep. Craig Fry (D, Mishawaka), was heard in his House insurance committee on Wednesday but held for amendment until his final hearing next Wednesday, January 27. Interestingly, upon inquiry by chairman Fry, Chief Deputy Commissioner Robyn Crosson, testified that the only provisions of the bill that were required for re-accreditation by the NAIC, were SECTIONS 5 and 25, dealing with the confidentiality of documents provided the department and the qualification of accountants auditing an insurers annual financial reports. All else in this opus were identified as being on the IDOI's "wish list".

The only concerning aspect of this is that the "wish list" audit provisions being amended

111 Monument Circle
Suite 2700
Indianapolis, Indiana 46204
P: 317 • 684 • 5400
F: 317 • 684 • 5432

700 North One Lafayette Centre
1120 20th Street, N.W.
Washington, D.C. 20036
P: 202 • 973 • 2635
F: 202 • 973 • 1212

in the bill, are of importance to the domestic industry. They are needed to ensure that the audit rule adopted by the IDOI in November of 2009 can withstand challenge since the statute as it now stands is inconsistent with the rule.

At the hearing, testimony was abruptly cut off, with opponents of the non-insurance related pharmaceutical labeling mandate for the visually impaired inserted into the bill by Rep. Fry unable to comment. Rep. Fry justified this on the basis that the bill would be held for amendment and that opponents, of which there were several representing the pharmacists or drug stores, could comment at the next hearing. [Later, Rep. Fry claimed that he did not see the hands raised when he asked if there was anyone present interested in opposing the bill!] The future of this bill remains of concern because of the determination of Rep. Fry to attempt to leverage its passage in order to obtain his goal of assisting the visually impaired.

MINI IDOI OMNIBUS BILL IN SENATE

Although we have not tracked or reported on **SB 357** for all insurance interests, we have now added this to all insurance tracks. This bill, authored by Senate insurance chair Allen Paul (R, Richmond), mainly deals with the licensing of independent adjusters.

P&C interests want amendments to the independent adjuster provisions to address several issues it has with respect to 1) the declaration of a catastrophe (it wants the commissioner rather than the governor to declare the catastrophe for certain purposes of the independent adjuster provisions) and 2) ensuring that, should two or more catastrophes are declared in any 90 day period of time, insurers will not need to re-apply for a other temporary emergency licenses for those already temporarily licensed adjusters brought into the state to deal with the catastrophic event.

HMOs want an amendment to grandfather currently licensed HMOs with respect to a requirement found in both SB 357 and HB 1240 that an HMO maintain a physical office in Indiana. In discussing this with the IDOI, it was discovered that it had merely wanted to extend the requirement with respect to maintaining a "physical presence" in the state currently imposed upon insurers seeking to re-domesticate to Indiana. That provision, however, grandfathered all insurers domiciled prior to June 30, 2000. We believe that the IDOI is amenable to conforming the HMO requirement to current requirements on insurers.

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COLLATERAL SOURCE BILL MOVES

As fully expected, **HB 1255**, authored by Rep. Phil GiaQuinta (D, Ft. Wayne), flew out of the House Judiciary committee on an 8-4 vote. The lone Republican vote, Rep. Eric Koch (R, Bedford), is a trial lawyer and voted as such. This bill will likely pass the House on a party line vote plus one. Its fate in the Senate will depend upon whether it is assigned to the Senate Judiciary committee or the Corrections, Criminal and Civil Matters committee. The latter is chaired by Sen. Brent Steele, another trial lawyer who just happens to serve the same constituency as that of Rep. Koch. A more sympathetic, but by no means certain, Senator relative to the industry perspective is Judiciary chair Richard Bray (R, Martinsville).

TOWING CHARGE BILL TO BE HEARD

SB 143, authored by Senate insurance chair Paul, has scheduled this bill for hearing next Thursday, January 28. It is anticipated that the bill, intended to bring rationality to towing costs in Indiana. Currently, obtaining release and paying reasonable charges is a problem too often encountered. We expect this bill to move from the committee for further action on the floor.

FIRE AND LAW ENFORCEMENT FEE PENDING

SB 145, sought by the P&C industry, prohibits local units of government (and fire departments representing those units) from charging response fees as a means of enhancing local revenues. The bill, authored by Sen. Paul, is assigned to the Senate local government committee but has not been set for hearing. The committee, which meets on Wednesdays, has not released its schedule yet for its final meeting next week, but we believe that it will be heard in that committee next Wednesday, January 27, at 1:00 p.m.

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WC RESERVE FUND BILL SCHEDULED

A bill authored by Sen. Brandt Hershman (R, Monticello) has been set for hearing next Thursday, January 28, in Senate insurance. **SB 300** deals with the release of reserve funds deposited by employers. The bill is in response to a constituent who entered into a side agreement regarding reserves.

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Unfortunately, the agreement did not specify a date beyond which those funds might be held after liability is no longer an issue. This is a complex issue on which the IDOI and industry representatives are working with the senator. It remains to be seen whether the bill will move this year.

OPEN ACCESS PENDING SECOND READING

The bill allowing providers to pick and choose which networks in which they may be willing to participate and when they may wish to cease participation remained unassigned to the second reading calendar at the request of its author, Rep. Peggy Welch (D, Bloomington), while she and providers have sought compromise with labor. Labor has sided with insurers and employers in strong opposition to this “managed care buster” legislation. As of a meeting yesterday that providers hosted with labor and employers, opposition remains strong. If that remains, **HB 1022**, will likely find difficulty moving in the House as the Speaker eyes labor support in the fall election.

DENTAL FEE SCHEDULE BAN MOVES

SB 129, authored by Sen. Jean Leising (R, Oldenburg), moved out of the Senate health committee this past Wednesday on a 7-2 vote. The bill was amended in committee to conform the bill to a Rhode Island law which limits the ability of a dental plan to impose a fee schedule for services not covered by the plan. It retains the ability of the plan to impose a schedule if the services are covered even though the plan makes no payment for the services. The employer community remains neutral on this particular issue, especially now that the bill has been amended. The labor community has not entered into the debate. Several health insurers and HMOs, including Anthem, have moved to neutral as well with the bill now amended.

DIALYSIS BILL APPEARS DEAD

HB 1074, authored by House insurance chair Fry, which revisits insurer and provider mandates sought by him last year, was stripped of its content in committee and language addressing a P&C issue – auto passenger liability – was inserted. While the dialysis issue appears off the table at the moment, it might still reappear before House action on House bills is concluded. However, at the moment, it appears that the issue may be dead for the session.

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SMOKING MANDATE NOT TO BE HEARD

With the final hearing of the Senate insurance committee posted, **SB 125**, authored by Sen. Tim Lanane (D, Anderson) will die for lack of hearing. The bill mandates insurer reimbursement for smoking cessation prescription drugs.

INSURER COST DISCLOSURE GONE

Sen. Vaneta Becker's effort to force insurers and HMOs to annually report to the IDOI their use of premiums, including detailed information respecting administrative expenses and salaries, will not be heard in the Senate insurance committee next week. The lack of a hearing for this Evansville Republican's **SB 171** seals its fate for this session.

AOB APPEARS DEAD

For reasons not fully known, Senate health committee chair Pat Miller (R, Indianapolis) has indicated that she will not schedule **SB 326**, authored by Sen. Bev Gard (R, Greenfield) and co-sponsored by her and Sen. Dennis Kruse (R, Auburn), for hearing at her last hearing of the year next Wednesday. Thus, this most contentious of issues of the past 5 years, moves off the calendar with nary a whimper this year. One may speculate that a number of factors were at play including, the passage of SEA 1300 in 2009 requiring notice be provided with payment for out-of-network services that payment is to be made to the provider, the report made to the Health Finance Commission this past fall which showed that the issue was marginal according to ISMA's own data, and the focus of the ISMA on the open access issue this year.

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P: 202 • 973 • 2635
F: 202 • 973 • 1212

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

www.bosepublicaffairs.com