Minnesota Government Update

Posted by John A. Knapp on May 24, 2011

Minnesota Legislature Stands Adjourned – for now!

The Minnesota Legislature met its constitutional deadline for adjournment of midnight, May 23, and adjourned as required. The final hours of the regular legislative session were anti-climactic, as the major appropriations bills for the State's next fiscal year beginning July 1 awaited certain veto by Governor Dayton. In this last week of the session, the gap between the Governor and the Legislature had narrowed, but never completely closed. While the Republicans in the Legislature proposed a biennial budget of $33.9 billion, the Governor's budget was stuck at $35.8 billion. A focus of dispute was the Governor's proposal for an income tax increase on high-income Minnesotans, which the Legislature has been unwilling to accept.

Negotiations between the Governor and the Legislature will resume on Friday, May 27. Meanwhile, legislative leaders from both caucuses will be travelling around the state highlighting, depending on their perspectives, either the accomplishments or lack thereof in the 2011 regular session. Governor Dayton has the power to call the Legislature back into Special Session at any time. However, he has indicated he would not do so until there is budget agreement with legislative leaders. The state faces a partial government shutdown if a balanced budget is not passed by July 1.

The 2012 Minnesota legislative session will convene on January 24, 2012. The 2012 session is expected to last approximately 10 weeks.

Tort Reform Stymied

As the Minnesota House of Representatives convened yesterday, its first item of business was SF149, a comprehensive tort reform bill, which had passed the Minnesota Senate on May 16 on a 36 to 29 vote. However, DFL legislators opposed to the bill began offering a series of amendments and threatened to continue talking on the bill until the midnight deadline for adjournment was reached. After three hours of debate and faced with a continued mini-filibuster, Republican leaders chose to continue the bill on the calendar and move onto other business.

As amended on the floor of the House, the bill contained a number of substantive tort reform initiatives including:

- Interlocutory appeals of class action certification decisions would be allowed as a matter of right;
- The general statute of limitations would be reduced from six years to four years;
- The prejudgment interest rate for private litigants would be reduced from 10% per year to a rate based on the secondary market yield of one year United States Treasury bills, or 4%, whichever is greater;
- Attorney fee awards to a party recovering money damages is required to be "reasonable" in relation to the total amount of damages awarded to the prevailing party; and
- No attorneys fees would be awarded to a claimant if an offer of judgment is made to the party claiming damages and the actual award is less than the offer of judgment.

The tort reform legislation remains live for consideration at the 2012 session and need only pass the Minnesota House to be presented to the Governor. House Majority Caucus leaders have indicated their intention of taking the bill up very early in the 2012 legislative session. Governor Dayton has not publically indicated whether he would sign the measure.

Energy Bills Passed

Energy legislation was a topic of debate in the last weekend of the 2011 session. On Friday evening, a conference committee on SF86 took up legislation, which as introduced, repealed the moratorium on construction of new coal fired power plants or the importation of electricity generated by coal fired power plants. The Dayton Administration indicated that the Governor would likely veto the bill. In an effort to address the Governor's concerns, the bill was amended in conference committee to allow an exemption of 1500 megawatts in coal fired power. The conference committee report was adopted and re-passed by the Legislature. However, even with the concession to Governor Dayton, it is expected that he will veto the bill.

On Sunday, May 22, the House took up SF1197, the Omnibus Energy Policy bill. The House amended the bill to include several different components, which had been negotiated with the Governor's staff, including the following:

- Changes were made to the State's Conservation Improvement Program, which allows large natural gas customers to opt out of the program and allows exemptions granted to large electric customers to become permanent;
- The authority for inverted block rate affordability programs for low-income residential ratepayers is repealed;
- Utilities regulated by the Minnesota Public Utilities Commission are allowed to file multi-year rate plans, although the plan can be no longer than three years in length and the first proposed plans cannot be filed for one year; and

- Utilities are required to file with the Public Utilities Commission and the Legislature reports analyzing the cost of compliance with the previously adopted State Renewable Energy Standards.

Earlier versions of the Omnibus Energy Policy bill had included a requirement that electricity rates be designed primarily based on the actual cost of the service between and among customer classes. This provision was intended to address an issue with some Minnesota utilities where residential rates are subsidized by business customers. In the end, because of opposition from Governor Dayton's office, the provision was not included in the final version of the bill.

Omnibus Tax Bill

The Omnibus Tax bill for the 2011 was today vetoed by Governor Dayton. However, it contained several provisions of benefit to the business community, including:

- The statewide business property tax would be phased out by 2025;
- Adoption of sales-only apportionment for a corporate income tax would be completely phased-in in 2012; and
- The second tier of the research and development tax credit is increased from 2.5% to 4.7% beginning in tax year 2014.

In his veto message, the Governor expressed concern over the impact on property taxes from reductions in Local Government Aid. However, he did indicate a willingness to consider the immediate phase-in of single sales apportionment.