

Legislative Round Up

56th Legislature, Second Session

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Day Eight

Welcome to the Legislative Roundup, your update on the most important news from the Legislature



Burdensome PFMLA Bill Gets Committee OK

Despite widespread opposition from a multitude of business organizations and individual businesses, the House Health and Human Services Committee gave a do pass recommendation Wednesday to House Bill 6, sponsored by Reps. Christine Chandler (D-Los Alamos, Sandoval and Santa Fe) and Linda Serrato (D-Santa Fe). The vote was 6-3, Democrats in favor, Republicans opposed. The bill next goes to the House Commerce and Economic Development Committee. The committee was scheduled to hear both this bill and an alternative, HB 11, which we support, but ran out of time due to a late start (about 45 minutes) and placing another bill ahead of the PFMLA bills. We expect HB 11 to be heard on Friday morning.

Chamber President and CEO Terri Cole appeared in opposition to the measure. The Chamber has three principal concerns with HB 6:

1. A new tax is imposed on both employees and businesses. the latest in a long string of increased costs imposed on businesses (paid sick leave, increased minimum wages, etc.).
2. The bill is hugely burdensome to small businesses and nonprofits who struggle to find qualified employees and surely will be hard pressed to find temporary employees to fill skilled positions. There is a shortage of these kinds of workers - think nurses, health care technicians, skilled crafts like plumbers, welders and electricians. This problem is bad enough in Albuquerque and the state's more urban areas - it's even more unworkable in rural communities.
3. Managing a small business with the burdens imposed by this bill will be too much for many. The committee heard testimony to this effect - owners may simply close up shop or move elsewhere.

Need a better starting point



As noted in the fiscal impact report (FIR), most of the states adopting this kind of massive program are wealthy states. Modeling a program after those states is a bad place for New Mexico to begin. As the FIR points out:

All existing state PFML programs are in wealthier states, and their uptake rate (the rate of people taking leave) may be quite a bit lower than in New Mexico. There are several reasons to suggest more New Mexicans will utilize a PFML program and New Mexico could have a higher uptake rate than existing programs.

Of course, a higher participation rate would result in ever higher premiums to be paid by employees and employers in order to avoid fund insolvency. Even with lower participation rates assumed in the FIR, two of the three scenarios envisioned result in fund insolvency. In the high-utilization scenario, insolvency could be reached as soon as 2030, just three years after the start of benefit payments. Higher utilization could be stimulated by the broad eligibility requirements for leave; the likelihood that lower-wage workers take leave at a higher rate; the relatively poor health of the New Mexico population; and, inclusion of leave prior to military service and the "safe leave" for domestic violence and other incidents, which are not in other state programs.

Enacting a law that would further burden businesses that are struggling to find qualified employees as it is, and which rests on the shifting sands of fiscal insolvency, is a bad idea. A much better idea, which the Chamber has proposed, is to start with a parental leave program. Welcoming a new child is a very specific and verifiable event and can be planned for well in advance of the happy day (we'd include adoption of a child in this definition as well). It's a good beginning point that provides a significant benefit and allows time to evaluate utilization, administrative costs and both employee and employer satisfaction with this kind of program.



A mother of seven, a care giver to a husband who tragically succumbed to cancer and a career as a registered oncology nurse give Rep. Jenifer Jones (R-Doña Ana, Hidalgo and Luna) a unique perspective from which to evaluate HB 6. We think she must have assisted with a lot of surgeries, because she dissected the flaws in HB 6 with surgical precision. She summed it all up when she said, "We can't afford to put our businesses at risk." Jones pointed out that the broad provisions of HB 6 could allow an employee to stretch out the three months of leave 8 hours at a time, for example, taking a "mental health day" every Friday.

She also underscored the lack of definition for "affinity" relationships that would, under HB 6, permit taking leave to care for anyone with whom an employee has an "affinity" relationship. Jones offered the dictionary definition of affinity since it's not defined in the bill, "affection for or liking someone." This is an example of the broad and vague language repleat in HB 6. As a defense to the vague language, proponents of HB 6 often say, "this is the same language as in the federal FMLA." Let's keep in mind that the federal FMLA provides **unpaid** leave - an inherent deterrent against fraud or abuse. Being eligible for paid leave is an entirely different ballgame. What's needed is a bill whose scope is New Mexico specific and has specific definitions that can be understood and applied without vagueness. Leaving precision up to the Workforce Solutions Department via rule making is not a substitute for poorly crafted legislation.

The next chapter in this saga is to see what happens to HB 11, sponsored by Rep. Marian Matthews (D-Bernalillo) at the committee's hearing Friday, and on the Senate side, SB3 sponsored by Sen. Mimi Stewart (D-Bernalillo) and Chandler gets heard tomorrow in Senate Tax, Business and Transportation. Stay tuned as we'll be back with more news and views then.

Capital Gains Limit Tabled; Threat is no Laughing Matter



On Wednesday morning, the House Taxation and Revenue Committee temporarily tabled HB 37, titled Limit Income Tax Capital Gains Deduction.

And while the underlying reason is gathering tax bills into a package, the fact there were major IT issues that prevented online testimony from the public makes the tabling of this bad bill a doubly good thing.

The bill, co-sponsored by Rep. Christine Chandler (Los Alamos, Sandoval and Santa Fe) and Sen. Peter Wirth (D-Santa Fe), is “the same bill as in last year’s tax package,” Chandler testified. The bill states it “seeks to amend the limit of capital gains that may be deducted from personal income tax. The current limit is the greater of \$1,000 or 40 percent of the taxpayer’s net capital gain income. This bill changes the maximum a taxpayer may claim to \$2,500. This bill allows a deduction of 40 percent of up to \$1 million of capital gain income from a sale of a New Mexico business.”

Two audience members testified in support of the bill, but when it came time for online participation, technical issues prompted Chairman Derrick J. Lente (D- Rio Arriba, Sandoval and San Juan) to apologize for the difficulties and say “we had the stadium built but we don’t have the tech” hooked up. He then asked online participants to post their support or opposition in the chat feature, which was unfortunately disabled. (The Chamber later shared its testimony in a letter to the committee members.)

As committee members waited in vain for the IT issues to be ironed out, one told a serious dad joke we’ll share:

Q: Why can’t a pirate say the alphabet?”

A: Because he gets lost at “C.”

Now back to what was our regularly scheduled testimony.

As the Chamber was prepared to testify, there are real problems with HB 37 if the state does in fact want to attract and encourage businesses, investment, entrepreneurship and economic growth. That’s because the bill effectively guts our current capital gains deduction and represents a major tax increase.

The Chamber cited the fact in our letter that leading economists have called taxing capital gains “about the most inefficient source of tax revenue in the economy” and explained that this is a bad idea because it raises relatively little revenue over time while distorting economic decisions today -- especially around investing, growth and innovation. Anyone who’s spent much time around economic development in New Mexico knows that one of our key problems is a shortage of investment capital. Why on earth would we want to make it more costly for individuals to make investments here and for businesses to grow?

Speaking specifically to this point, the New Mexico Taxation and Revenue Department states in the bill’s Fiscal Impact Report that “taxing capital gains or limiting a deduction affects savings and investment decisions over the long term. The \$1 million cap could affect capital flight and cause decline in entrepreneurship in New Mexico.”

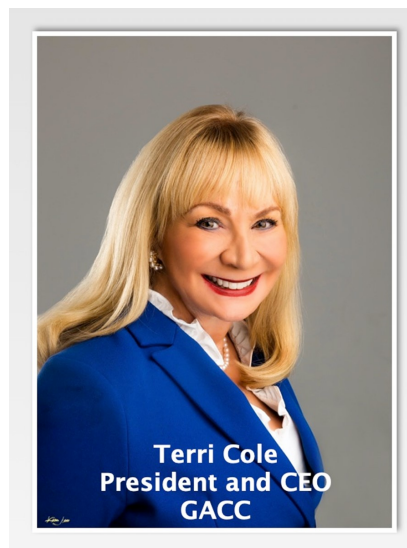
And the last thing we need is capital flight out of New Mexico. Yet, here we are, considering a proposal that would do just that and reduce business friendliness.

We're ready to testify if and when the bill comes up again, and we'll do our utmost to stop efforts that frown on investment and wealth-building in New Mexico.



Death, Taxes and Prescription Drug Price Increases

Yep, we're adding a third item to the list of things that you can't escape. Or at least it seems that way, doesn't it? Every year the cost of prescription drugs increases so much that nearly 25% of every health insurance premium dollar now goes to pay for these life-extending and life saving drugs. What the heck are the reasons and just who along the supply chain accounts for what portion of the total cost? Good question. The answer is, we don't know. That's where HB 33, sponsored by Rep. Pamela Herndon (D-Bernalillo) comes into play. If enacted into law, the bill would require, among other things, that prices for the top 25 drugs (in terms of frequency prescribed, highest cost and biggest year-over-year increase) to be transparent from the retail sale to the consumer all the way back to the manufacturers. The House Health and Human Services Committee gave the bill a 7-0 bipartisan do pass recommendation, moving the bill next to the House Appropriations and Finance Committee.



Chamber President and CEO Terri Cole joined a strong coalition in support of the measure. Terri quipped, "I love it when I can support a bill with labor on one hand and Voices for Children on the other. It doesn't happen very often!" Terri emphasized that HB33 should establish transparency and will be an important step forward in fostering accountability and access to prescription drugs. The latter point is particularly important. A poll conducted by Health Action Network found that 44% of respondents either did not fill their prescriptions or were rationing them because of the high cost. As they point out, if an individual doesn't have access to prescription drugs then they

really don't have access to health care.

Organizations standing in support of the bill are America's Health Insurance Plans, AARP, Blue Cross Blue Shield, Presbyterian Health Care, the Pharmacy Association, the Office of the Superintendent of Insurance, New Mexico Voices for Children and the New Mexico Federation of Labor. Opposition comes from, you guessed it, the manufacturers.

Signing Off from Santa Fe



Just in case you thought a day would go by when we weren't discussing paid family and medical leave, as we mentioned above, Senate Bill 3, sponsored by Sen. Mimi Stewart (D-Bernalillo), will be heard tomorrow afternoon in the Senate Tax, Business and Transportation Committee. SB 3 is virtually identical to HB 11.

We'll also be on hand to support HB 146, which would create a transportation trust fund to help ensure there's adequate funding for road repair and maintenance. The bill is sponsored by Rep. Cathrynn Brown (R-Eddy and Lea).

The Senate resumes activities at 11 a.m. mañana, and the House at 11:30. Tomorrow New Mexico Farm and Food Day will be celebrated, a nice opportunity to acknowledge the efforts of all those that keep us fed. Until then, we hope you have a scrumptious dinner and wish you a very pleasant good evening.

The Legislative Roundup, published during the New Mexico Legislative Session by the Greater Albuquerque Chamber of Commerce, provides information on local and state public policy and business issues that affect you.

For questions, please email D'Val Westphal at dwestphal@greaterabq.com.



Working to make our city and state a great place to start and grow a business and a safe, exciting place to work and raise a family.

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