

Legislative Round Up

56th Legislature, Second Session

Thursday, January 25, 2024

Day Nine

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



Senate PFMLA Bill Rolled Over Until Tuesday

Want to know what it feels like to run a small business? Many days it's not too different from the little pooch above - paddle like heck and keep your head above water. The last thing you need is for someone to come along and put a big weight on your back. That, however, is just what SB 3 would do. Sponsored by Senate President Pro Tempore Mimi Stewart (D-Bernalillo), the bill is a mirror image of HB 6. We've given you a lot of detail about all three bills dealing with this subject. Tonight we just want to focus on the crux of the matter: the disruption to small businesses that would be caused by extended employee absences - that's the big weight that could well sink many of our home-grown businesses.

The fact is there is a significant "employment gap" right now. According to the Workforce Solutions Department data for October 2023 (and not much has changed since then), the estimated employment gap was 34,400 vacancies. That means if everyone who was unemployed and looking for a job found employment, there would still be 34,400 vacancies. Reflect on that for a minute. What those numbers tell you is that employers are struggling to fill regular, full-time jobs. How will they possibly find workers to fill in on a temporary basis behind an absent employee? The answer is they won't, and that's why SB 3 and HB 6 would be so devastating to small businesses since they allow a full 12 weeks - a quarter or 25% of the year -

to be taken as leave. And, the reasons go way beyond childbirth and serious medical conditions to include an ill defined and virtually unverifiable category of "safe leave."

Proponents of these measures argue that proposed programs will be great for small businesses, allowing them to offer a benefit they can't now afford, thereby improving recruitment and retention of employees. This viewpoint has a built-in assumption that small businesses don't do a thing for their employees when it comes to significant events like childbirth or a serious illness. They portray the scenario as if employees will be catapulted from a wasteland into a paradise. In reality, most small businesses do everything they can to accommodate an employee's needs. These small businesses are usually more like a family than a corporate office. They want their employees to stay and to return to work. The big difference is that the business owner and the employee work things out in a way that's mutually satisfactory. Rep. Linda Seratto (D-Santa Fe), a cosponsor of HB 6, consistently points to her own experience where the small business she worked for accommodated her need for maternity leave. That's typical.

As Rover, the pup above, struggles to recover from navigating the very tough pandemic waters, what she needs is help to stay afloat, not a concrete life preserver. How about we reform the GRT to eradicate pyramiding that so disadvantages our native businesses? How about we really accelerate career technical training? How about we do a lot of things that will help old Rover keep her head above water? Just a thought.

The bill was rolled over Tuesday due to lack of a quorum. We'll keep you informed on its progress.



Attracting, growing a health care workforce

On Wednesday, the Senate Health and Public Affairs Committee heard Senate Bill 89, Expand Health Care Workforce, sponsored by Sen. Gerald Ortiz y Pino (D-Bernalillo).

Ortiz y Pino, a veteran lawmaker who's been in the state Senate since 2005, is also a social worker and knows more than a bit about the challenges his bill would address.

He explained his \$60 million proposal is designed to "attract, grow our own, and retain health care professionals across the state." And he told the committee the funding appropriations break down this way:

- \$20 million to the Health Care Authority for help with Medicaid reimbursements. According to the bill's fiscal impact report, the federal match on this would be \$73.8 million, bringing the total to \$93.8 million. (This would be a recurring appropriation.)
- \$10 million to the loan repayment fund to help medical professionals get out from under their school loans. Ortiz y Pino said currently the fund has had to turn away applicants and has become more like a "lottery" when it should be a guarantee.
- \$2 million to the Children, Youth and Families Department, which he said will be matched close to 50-50 with federal dollars, so social workers and counseling students get paid a stipend while doing their training here, encouraging them not only to study here but stick around and practice here as well.

- \$5 million to the University of New Mexico Health Sciences Center for new medical residency slots, \$3 million for preceptors who supervise residents and \$10 million for faculty. (This would be a recurring appropriation.)
- \$10 million to the Higher Education Department for internship supervisors. (This would be a recurring appropriation.)

Medical professionals from across the state, including a physician and a substance abuse clinic operator, as well as the New Mexico Behavioral Health Providers Association, the New Mexico Medical Society and the New Mexico Academy of Physicians all testified in support of the bill. It received a resounding do-pass vote and is headed to the Senate Finance Committee.

The Chamber joins supporters in their call for solutions to attract, foster and retain professionals in the health care community. We'll let you know what happens with SB 89 next.

The "Anti Oil and Gas Act" Sent Forward



Lots of folks in the environmental activist community would apparently love to see the oil and gas industry fade into the sunset. Year after year, we see legislation that would severely hamper the oil and gas industry, especially New Mexico's own independent producers. This year's harpoon comes in the form of HB 133, sponsored by Reps. Kristina Ortez (D-Taos) and Matthew McQueen (D-Sandoval and Santa Fe), which squeaked by the House Energy, Environment and Natural Resources Committee on Thursday morning with a 6-5 vote.

Quite courageously, Rep. Cynthia Borrego (D-Bernalillo) bucked her party's mandate to move this bill ahead, joining the committee's four Republicans in opposing the bill. Borrego is quite concerned about the lack of data presented to committee members as well as the lack of community outreach during development of the proposed legislation.

Here's what's in the bill:

- Gives the Oil Conservation Division (OCD), part of the Energy, Minerals and Natural Resources Department, the authority to regulate the transfer of wells and block the transfer if involved parties have a record of noncompliance with rules and regulations and if there are inadequate financial assurances to provide for remediation of any abandoned wells. The OCD can also regulate the transfer of wells for other purposes such as energy storage or geothermal development.
- Establishes several methods for financial assurance against well abandonment ("orphaned wells") in the event the state needs to step in. To show how dramatically HB 133 impacts industry, the cap on a blanket bond (used by producers with many wells) is proposed to increase from \$250,000 to \$10 million. There is no requirement that the fees or financial surety instruments be "tiered" based on the size of the company being affected. Rather, the size of the company is one among several factors to be considered

- when determining amounts by rulemaking of the OCD.
- Similarly, fees and fines are proposed to increase very significantly - from two to four times the current amounts, and are increased annually by a cost of living factor. These increases are allegedly necessary in order to ensure there are sufficient revenues in a remediation fund to cover all the potential well abandonments. This need is in dispute.

New Mexico Producers Strongly Oppose



From the northwest to the southeast and points in between, independent oil and gas producers lined up to demonstrate to the committee the hardships this measure would impose on their businesses, forcing companies to either close or move out of state. Interestingly, committee members who themselves are in the oil and gas business, such as Rep. Larry Scott (R-Lea) and Jared Hembree (R-Chaves), emphasized that if this legislation is enacted, it will favor the large major oil producers who will swoop in to acquire the assets of smaller companies forced out of business. As an example, Hembree pointed out that Colorado raised the cap on its surety bond to \$40 million. The next day there were 200 newly abandoned wells as companies folded up shop and major oil companies picked up the pieces. The deputy secretary of OCD, Dylan Fuge, did not dispute this outcome.

Committee Chair McQueen asserts that by his calculations upward of \$389 million is needed to deal with current and expected abandoned wells and there is currently only about \$50 million in the remediation fund. Scott, on the other hand, says the current \$50 million in the fund along with \$20 million in annual fee payments is enough to remediate 160 wells per year, if necessary, more than enough to keep pace. Both supporters and opponents agree that some modernization to the Oil and Gas Act is needed - the dispute is how far this particular bill goes. Support for the bill arises mainly from environmental advocacy organizations.

The Chamber joined in opposition to the measure. Chamber lobbyist J.D. Bullington observed:

"Onerous regulation should be supported by fact-based science and study that justify fee increases and the implementation of new requirements. This bill poses a serious threat to investments in the San Juan and Permian basins - threats that will likely result in dramatic decrease in state revenues at a time when we are planning financially in the long term for a future some day without the resources from this economic base for our schools, social programs and infrastructure investments."

Scott pointed out the small group of producers contributes \$500,000 a day to the state's treasury. Moreover, these are local companies, employing New Mexicans that participate in community activities and add to the stability and vibrance of many small towns throughout the state. Negotiations on this bill have been fast and furious over the last several days, and we suspect that additional discussions are to be had. This is a prime initiative of the governor, so it has a lot of oomph behind it. It's a complicated bill and one that would likely benefit from study and negotiation of the interim period. We'll have to see how this plays out over the next two and a half weeks.



Paving a way to reliable road funding

On Thursday morning, the House Transportation, Public Works and Capital Improvements Committee gave a unanimous do-pass vote to House Bill 146, the Transportation Trust Fund.

Sponsor Rep. Cathrynn N. Brown (R-Eddy and Lea) modeled her legislation on the amazing success of the Early Childhood Education and Care Fund, which in a few short years has grown the original \$300 million appropriated in 2020 into – wait for it – \$5 billion with a “b”. The State Investment Council manages that fund, and it would manage the proposed Transportation Trust Fund as well.

How would it work? The Transportation Trust Fund would annually distribute 5 percent of the preceding three calendar-year ending balances, and those monies could only be used on “projects that incorporate federally required measures, align with the Department of Transportations’ long-range plans, and address the multimodal needs of New Mexicans.”

Brown made the pragmatic move to include “feeder” funding in her proposal. Not only would the fund be seeded with \$400 million from the revenue boom, but going forward it would also receive an annual infusion of 1 percent of the gross receipts tax on electricity as well as a percentage from the Motor Vehicle Excise Tax. The bill also “creates a new earmark for all capital outlay balances appropriated from the general fund and that otherwise would revert to the general fund.” To be clear, Brown emphasized this is not a new tax; it is an appropriation and then redirection of existing tax revenue and so-called “stranded” capital outlay appropriations.

And what if the economy goes bust, you ask? The Transportation Trust Fund would be designated as a fund of “last resort” to help bail out the budget.

Committee member Rep. Jason Harper, R-Sandoval and a tax wonk, commended Brown on finding a creative way to bring the electric vehicle component into the picture. He said just as the gasoline tax is used in part to fund road work and amounts to a “user tax,” earmarking a portion of the GRT on electricity helps EV users pay their way (a routine criticism from drivers using combustion engines).

Committee Chair Dayan Hochman-Vigil (D-Bernalillo), who with Brown, Harper and others brought a similar bill last year that didn’t make it over the finish line, said not only is Brown’s version much improved, but that the funding shortfall it addresses “is one of the most important issues this committee” will take up, ensuring the state Transportation Department “has the resources it needs now and into the future. This is a fantastic bill. ... We just can’t give up until we’re finally heard.”

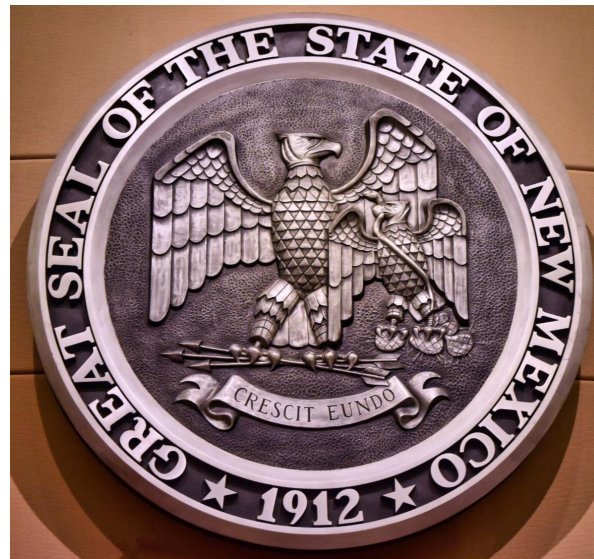
While Hochman-Vigil and Brown both commended another bill moving through the Roundhouse, HB 177 the NM Match Fund, which would put \$100 million toward the matching funds local and state entities need to secure federal monies for infrastructure, Brown pointed out HB 146 “is durable and will grow” because of the designated feeder funding. (The Greater Albuquerque

Chamber of Commerce also supports HB 177 and has testified in support.)

The Chamber joined the New Mexico Department of Transportation and the Association of General Contractors in supporting HB 146. D'Val Westphal, Executive Vice President of Policy and Programs for the Chamber, testified that "It's a sad fact you know you've crossed the state line because the quality of the road changes. Funding our roads has always been a challenge – a cobbled together system that never catches up with the backlog of maintenance and construction needs. HB 146 can finally change that. It will invest \$400 million of the state's extraordinary revenues in a trust fund to help ensure a healthy stream of revenue for the foreseeable future."

Our state lawmakers have wisely set up trust funds for other pressing needs, and the Early Childhood Education and Care Fund has succeeded beyond everyone's wildest dreams. It's time to do the same for our roads, especially with gas tax revenue estimated to decline as the use of electric vehicles rises. Good roads are a key to economic development, tourism and safety. Here's to putting the pedal to the metal on HB 146, getting it the governor and into law!

Around the Roundhouse



Tick Tock

There was an interesting play made today by Senate Republicans: they boycotted the Senate Tax, Business and Transportation Committee hearing on SB 3, the PFMLA bill. They were admonished by Majority Leader Peter Wirth (D-Santa Fe) to attend or forfeit the ability to ask questions and participate in the committee discussion as the bill will simply be voted on next Tuesday.

Apparently, that was a big "so what." Did the Rs accomplish anything? Well, the bill was delayed until Tuesday, and in a 30-day session especially, every day counts. When in the minority, often there is nothing left to do but delay and try to run out the clock. Tick tock.

Signing Off from Santa Fe



The snow has been falling, and it's cold outside, but the Roundhouse is buzzing with the warmth of activity. Committees are in full swing, several will be meeting on Saturday and soon we will see long floor sessions as bills wind their way to the floors of each chamber.

Both the House and Senate will reconvene tomorrow at 11 a.m. At the top of our agenda for tomorrow is HB 11, sponsored by Rep. Marian Matthews (D-Bernalillo), a PFMLA bill that we support. It will be interesting to see how the House Health and Human Services Committee treats a bill fundamentally different from HB 6, which they've already approved. In our book, both bills need to keep moving to see if a workable solution can be found.

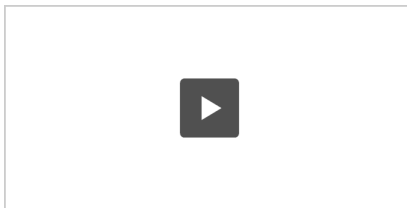
There are other measures we'll be tracking as well, so stay tuned and we'll bring you all the news and views. Thanks for joining us today, and we'll look forward to "seeing" you tomorrow. Until then, we wish you a wonderful evening.

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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