

LEGISLATIVE BULLETIN

VOL. 2016-4

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Inching Toward the Finish

Return to Work Passes the House

House Bill 171, Law Enforcement Officers Returning to Work introduced by Representative Larry Larrañaga and Senator Stuart Ingle, passed the House on a 38-29 vote Wednesday evening. As amended, the bill allows certified police officers who have retired prior to December 31, 2015, to return to work for an affiliated public employer; however, a Class A county with a population of 600,000 or more or a municipality with a population of 50,000 or more in that Class A county may only hire retired members at the ranks below sergeant and shall not promote the retired member above the rank of sergeant at any time during the subsequent employment. A Class A county with a population of 600,000 or more or a municipality with a population of 50,000 or more in that Class A county may not employ a number of retired members that exceeds 10 percent of the affiliated public employer's authorized police force. An affiliated public employer not within those population parameters that is recruiting for a chief of police may hire a retired certified law enforcement officer in accordance with the established hiring process for the affiliated public employer. There is also a five-year limit on re-employment.

House Bill 242, Permanent Distribution to Aviation Fund introduced by Representative Kelly Fajardo also passed the House on a 62-0 vote. The bill makes permanent the .46 percent distribution from the gross receipts tax to the State Aviation Fund.

Three other bills the League is watching passed the House this week. House Bill 194, Workers' Comp Benefit Entitlement introduced by Representative Cathrynn Brown, passed the House on a 36-27 vote. The bill provides provisions for employees terminated for post-injury misconduct connected with the employee's work, as well as for employers' acts to retaliate against or avoid paying benefits to an injured employee. House Bill 195, Medical Marijuana & Workers' Comp introduced by Representative Randy Crowder, passed the House on a 33 to 29 vote. The bill as amended eliminates a workers' comp carrier's or employer's liability for reimbursement of the expense of purchase or use of medical marijuana for an employee receiving workers' comp benefits if the payment violates federal law. House Bill 200, Public Works Prevailing Wage & Projects introduced by Representative Nora Espinoza, passed the House on a 35-32 vote. The bill amends the Prevailing Wage Act by eliminating public roads, public highways and facilities of school districts, state-chartered charter schools, post-secondary educational institutions and state educational institution projects from those that must comply with the Act. In addition the wage as determined by the Director cannot exceed the rate paid for similar work on projects covered by the Davis-Bacon Act. The Director is required to set rates after canvassing the wages paid for similar work throughout the state and taking a weighted average for the job classification.

Senate Bill 72, Right to Farm and Operations as Nuisance introduced by Senate Minority Leader Stuart Ingle, received a Do Pass recommendation from the Senate Judiciary Committee. The bill states no cause of action based upon nuisance may be brought by a person whose claim arose following the purchase, lease, rental or occupancy of property proximate to a previously established agricultural operation or agricultural facility, except when such previously established agricultural operation or facility has substantially changed in the nature and scope of its operation. It now goes to the Senate floor.

NOTE: There will be no *Bulletin* next week after the session ends. We will publish a *Final Bulletin* the first week in March.

LEAGUE OFFICE PARKING DURING THE SESSION

Because of the demand for parking around the Capitol during the session, we must protect the availability of parking for our municipal officials and staff. In order to reduce the possibility of accidents, a few areas in our lots are designated by signs as “NO PARKING” AREAS.” If you are visiting the session and need to park in the League lots, please help us by observing the following rules:

- 1. Do not park in the areas designated as “NO PARKING” zones.*
 - 2. Obtain a League Parking Permit from the reception desk and leave it on the rear-view mirror of your car so that it’s easily visible.*
 - 3. DOUBLE PARKING OR PARKING BEHIND ANOTHER CAR IS NO LONGER PERMITTED IN OUR LOTS.*
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YOUR LEGISLATIVE BULLETIN

This is the first in the series of weekly League **Legislative Bulletins** designed to communicate with municipal officials, legislators and the Executive Branch of state government.

The **Bulletin** will be sent by first class mail from Santa Fe each Friday afternoon so that it should arrive at its destination by the following Monday morning.

If you would like to receive the Bulletin electronically, we will send you a link by email each Friday. You can contact Roger Makin via e-mail (rmakin@nmml.org) or by fax (505-984-1392). Please be sure to include your name, title, municipality or agency, mailing address, and e-mail address. The Bulletin will also be posted each Friday on the League’s website at www.nmml.org. We urge you to take advantage of this service in order to reduce mailing costs and time delays.

Municipal officials who receive the **Bulletin** include all mayors, commissioners, councilors, trustees, managers, clerks, municipal judges, police chiefs and many other municipal officials.

The **Legislative Bulletin** contains:

- ◆ a brief review of all bills of municipal interest of which we have received a copy since the prior Bulletin (it will save you and us time if you make a note of the House or Senate Bill number you are interested in);
- ◆ a brief analysis of key legislative developments of the past week;
- ◆ detailed explanations of key municipal bills; and, perhaps,
- ◆ an Action Call if any important municipal bill is scheduled to be heard in committee or on the floor of either house.

Your legislator can be reached by name through the **Legislative Switchboard: (505) 986-4300** in Santa Fe. For those of you on line, the Legislature’s web site also contains the e-mail addresses of those legislators who use the service. That address is: <http://www.nmlegis.gov>. Also check the League’s web site (www.nmml.org) for League information.

CAPITAL PROJECT FUNDING BILLS

Capital outlay project requests in recent years have not been introduced as legislative bills, but submitted as “capital outlay requests.” All approved requests are then included in a major capital outlay bill for final passage.

In past years we have reported these requests as we received the printed copies. The legislature will track all capital outlay requests electronically only. Therefore, we are no longer able to report the requests for you as we had in the past. However, the good news is that all requests will be listed on the legislative web site at nmlegis.gov (click on Capital Outlay). Each request is listed under the appropriate county and then alphabetically by title and includes the description of the request along with the dollar amount. Legislative Council Service will be updating the information every Tuesday and Friday evenings so the new introductions will be available for you early on Wednesdays and Saturdays. As always, you can contact your legislators directly to find out when your project will be scheduled for hearing.

BIOGRAPHY OF A BILL

A bill is introduced by a sponsoring legislator on the floor of either house, numbered by the clerk and referred for consideration to one or more committees of that house. The deadline for introduction of all bills except appropriations bills or bills requested by the Governor (*special messages*) is Noon on the 15th day of a 30-day session (**February 3**).

Committee recommendations usually determine the success or failure of a bill. A bill may be amended in committee or on the floor at any point in the process — sometimes changed so severely that its own author would not recognize it — or a substitute measure with the same number and general subject matter may be put in its place.

If you are interested in a particular bill, do not be dismayed if it seems to sit for a long time in committee, particularly in a tax, finance or appropriations committee. Bills which ask for money or for taxing authority often lie dormant until the last few days of a session and then move with unbelievable speed.

If a bill passes successfully through its committee referrals, it returns to the floor of the house in which it was introduced for floor consideration. If it passes that house, it goes to the other house. However, it may also be tabled, referred again or defeated.

In the second house the bill is again considered in one or several committees and it may again be amended or substituted. If it gets through its committee assignments, it returns to the floor of that house for consideration and may from there be referred, tabled, passed or defeated.

If the bill passes the second house and it has been amended or substituted by the second house, the originating house must concur or fail to concur with the changes. If the originating house fails to concur, a conference committee representing both houses is appointed to decide what to present to both houses for acceptance.

A bill that has been passed in some agreed-upon form by both the House and the Senate goes to the Governor for signature. The Governor may choose to sign or to veto the bill. If the bill contains an appropriation, the Governor may veto portions if she wishes (*line item veto*); if it does not, she may only veto the entire bill. If vetoed, 2/3 of the House and 2/3 of the Senate must vote in favor of the bill in order to override the veto. If the veto override fails, the bill is dead.

Most bills do not reach the Governor's desk before the Legislature adjourns (**Noon, February 18**). The Governor has 20 days following the close of the session (**Noon, March 9**) to sign, veto or fail to sign (*pocket veto*) any bill that he did not act on during the session. Any bill is much more likely to have died in committee or on the floor before even reaching the Governor's desk.

In New Mexico, no more than 1/4 to 1/3 of bills introduced ever make it all the way to enactment. The historic trend in New Mexico is for more and more introductions each succeeding session.

ABBREVIATION CODE

HB	House Bill	SB	Senate Bill
HCR	House Concurrent Resolution	SCR	Senate Concurrent Resolution
HJR	House Joint Resolution	SJR	Senate Joint resolution
HJM	House Joint Memorial	SJM	Senate Joint Memorial
HM	House Memorial	SM	Senate Memorial

* Contains Emergency Clause (effective immediately on Governor's signing)
CA - Constitutional Amendment (requires approval by statewide electorate)

HOUSE COMMITTEES

HAFC	Appropriations and Finance
HAGC	Agriculture and Water Resources
HBEC	Business and Employment
HEC	Education
HEENC	Energy, Environment and Natural Resources
HGEIC	Government, Elections and Indian Affairs
HHC	Health
HJC	Judiciary
HRPAC	Regulatory and Public Affairs
HRC	Rules and Order of Business
HSCAC	Safety and Civil Affairs
HTPWC	Transportation and Public Works
HWMC	Ways and Means
HCW	Committee of the Whole
HEEC	Enrolling and Engrossing

SENATE COMMITTEES

SCC	Committee's Committee
SCONC	Conservation
SCORC	Corporations and Transportation
SCW	Committee of the Whole
SEC	Education
SFC	Finance
SIAC	Indian and Cultural Affairs
SJC	Judiciary
SPAC	Public Affairs
SRC	Rules

Bill Introductions through Wednesday, February 3, 2016

- HB 323 RAISE MINIMUM WAGE (Varela)** Amends §50-4-22; the bill raises the minimum wage to \$10.10 per hour. The tip minimum wage is raised from \$2.13 per hour to \$3.00 per hour. Current law requires that the combined wage and tip must equal at least the federal minimum wage for each person whose wage is based on receipt of tips. The Secretary of Workforce Solutions is charged with determining every July if the consumer price index for the prior year increased, and if it did, set the minimum wage at the prior year's minimum wage adjusted proportionately with the increase in the consumer price index. HRC
- HB 324 REPEAL TAX CREDITS, DEDUCTIONS & EXEMPTIONS (Varela)** Repeals 24 Sections of the Income Tax Act, the Corporate Income Act and other credits and deductions that may be applied against income as of 1/1/18 and 49 Sections of the Gross Receipts and Compensating Tax Act and other credits or CRS filed deductions or credits effective 7/1/16; the bill repeals many, but not all of the credits and deductions in the Income Tax Act and the Corporate Income Tax Act and many of the deductions or credits that are applied against receipts reported on the CRS form. The bill prohibits persons filing personal income tax or corporate income tax for taxable years beginning on or after 1/1/17 from claiming any of the credits or deductions to be repealed. Effective 7/1/16. HBEC/HEENC/HWMC
- HB 326 LOCAL APPROVAL OF MEDICAL CANNABIS LOCATIONS (Townsend)** Amends §26-2B-1 and new material; the bill amends the Lynn and Erin Compassionate Use Act and adds a section setting out a requirement for local approval of the location of a new producer license. The Secretary of Health is required to provide notice to a local governing body when the secretary is approving a new licensee in the governing body's jurisdiction. The governing body must hold public hearings within 45 days from receipt of the Secretary's notice. If the governing body disapproves of the location of the new producer license, the Secretary must disapprove the license location unless the license applicant approves of an alternative location suggested and approved by the governing body. If the original site is approved by the governing body then the Secretary must issue the license. Effective 7/1/16. HRC
- HB 328 COUNTY & MUNICIPAL FUELS TAX ACT (Gonzales)** Amends §§§§§§§§§§7-24A-1, 7-24A-2, 7-24A-3, 7-24A-5, 7-24A-6, 7-24A-10, 7-24A-11, 7-24A-14, 7-24A-17, 7-24A-18 and 66-6-25; the bill amends and changes the name of the County and Municipal Gasoline Act to the County and Municipal Fuels Tax Act. All counties and municipalities may impose fuel taxes of up to \$0.02 per gallon in \$0.01 increments. HRC
- HB 329 LICENSES FOR COMPLETION OF DWI REQUIREMENTS (Harrell)** Amends §66-5-5; the bill allows persons who have received a conviction for DWI in another state and completed the terms of the sentence in the state of the driver's conviction, may be issued a New Mexico driver's license upon meeting the requirements, regardless of whether the driver was required to submit to use of an ignition interlock device. Effective 7/1/16. HRC
- SB 281 REPEAL FOOD GROSS RECEIPTS DEDUCTION (Smith)** Repeals the deduction for food sales, introduced by Senator John Arthur Smith adds the sale of food back into the gross receipts tax base for state and local government. It would repeal the hold harmless provision and local government would receive the same amount in taxes. SCORC
- SB 283 WORKERS' COMP EXEMPTIONS (Barela)** Amends §§52-1-6 & 16; removes the exemption from the Workers' Compensation Act for farm and ranch laborers and for an employer who paid or is obligated to pay cash for services of \$8,000 in the preceding calendar year; worker exceptions include the following: 1) a family relation of an employer; 2) a family relation of an executive employee of a professional or business corporation of limited liability company, employed by the corporation as a worker, or a sole proprietor shall not be treated as an employee; provided that the executive employee or sole proprietor has affirmatively elected not to accept the provisions of the Act; and 3) an individual that performs a service for an employer shall not be treated as an employee; provided that the service performed is occasional and is for an employer who has or will provide a reciprocal or similar service; repeals §52-1-6.1. SCC/SCORC

- SB 284 INCREASE GAS TAX & CREATE NEW FUNDS (Smith)** Increases the Gasoline and Special Fuels Excise Tax by 10 cents with five cents going to local government and five cents to the state between 2019 and 2025; the funds could only be used for maintenance or reconstruction and not new streets or roads; creates the State Road Maintenance Fund and the Carlsbad Brine Well Remediation Fund. SCORC
- SB 293 CAPITAL OUTLAY PLANNING & MONITORING ACT (Campos)** New material creates the Capital Outlay Planning and Monitoring Act; creates a new Capital Outlay Planning and Monitoring Division in the Department of Finance and Administration that is to direct capital project planning for the executive branch, state institutions and local governments that seek funding for capital projects; coordinate with state and federal agencies that provide funding for local projects; maintain a central database on capital projects; all state agencies, local governments, institution and instrumentalities are to assist and cooperate with the division. The division is to publish guideline for proposed capital projects. Repeals §6-4-1 NMSA 1978. Effective 7/1/16. SPAC
- SM 94 STUDY COMPLEMENTARY AND ALTERNATIVE MEDICINE SERVICES (Papen)** Request the Superintendent of Insurance to convene a meeting of stakeholders to discuss business policies and practices in effect after January 1, 2014 for group health plans for state agencies, local public bodies, public schools and institutions of higher learning for the state 10-largest health insurers for the following: 1) reimbursement of complementary and alternative medicine services; 2) patient cost-sharing for complementary and alternative medicine; 3) reimbursement of conventional medical providers who see patients for chronic pain; 4) and patient cost-sharing for visits for chronic pain. The task force is also to provide input for the following: 1) whether reimbursement and patient cost-sharing correlates to a pattern of increased prescribing of opioids for chronic pain; 2) the financial impact of reimbursement and patient cost-sharing on New Mexico's complementary and alternative medicine providers; 3) the financial impact on patients who have sought complementary of alternative medicine service; and 4) whether reimbursement and patient cost-sharing pose barriers for making integrative medicine more widely available; the task force is to composed of several members of the medical industry, insurance industry, patient and consumer advocates and tribal health care providers. SCORC