

AIA-LA Political Update

July 3, 2020

Feelin' Good Again

Another joyous occasion unfolded as Louisiana's first special session of 2020 adjourned sine die late Tuesday afternoon without many last minute fireworks. While many items were eligible for introduction during the special session the top-level issues remained passing the state's operating budget (which did not happen during the regular session) and some version of tort reform (some of which passed in the regular but was subsequently vetoed by the governor).

The state's fiscal year began July 1 with a budget in tact plus a key tort reform measure finally passed both chambers in the waning hours of the special session. That said, issues surrounding the budget and tort reform will quite likely continue shaping the tone of the next few legislative sessions. It will be interesting to see whether lawmakers light the fuse and get away or instead pick up pieces of legislation that went down in the past two sessions. See below for a couple interesting reads from different media outlets on how the most unusual pair of legislative sessions in quite a while unfolded.

Historic Rehab Tax Credit Extension Headed to Gov

HB 4 by Rep. Tanner Magee, R-Houma, extends the date for which eligible expenses can qualify for the tax credit on rehabilitation of historic structures from costs and expenses incurred prior to January 1, 2022, to costs and expenses incurred prior to January 1, 2026. The bill also extends the effectiveness of the program from taxable years ending prior to January 1, 2022, to taxable years ending prior to July 1, 2026. A few other amendments were adopted (see the final version in the linked bill track). This measure was one of the only tax credit bills to survive the entire special session; many others were defeated over concerns of impacts to the state's fiscal coffers.

Tort Reform

Last week we highlighted several instruments aimed at tort reform, but in a matter of days nearly all went tumbling like a barrel thrown from the top of a waterfall. As most tort reform measures began heading the way of the woolly mammoth, **HB 57** by Speaker of the House Clay Schexnayder, R-Gonzales, climbed to safety. His bill is the result of a few years of work to address the state's high cost of auto insurance for personal and commercial lines. While

parties on both sides of the issue contend the bill isn't perfect, most can agree that it's an important first step at putting meaningful reform on the books.

At the commercial level the cost of insurance has escalated in recent years to catastrophic levels—heavily fueled by an incredibly litigious atmosphere. **HB 57** takes a shot at alleviating a few variables considered to be major contributors to high insurance premiums in Louisiana. The bill lowers the state's jury trial threshold from \$50,000 to \$10,000, reforms direct action, repeals the seat belt "gag rule" thereby allowing as evidence whether a plaintiff was wearing a seatbelt at the time of the accident, and addresses collateral source by allowing judges the discretion to award no more than 40 percent of the difference between the amount billed for healthcare services and the amount paid after the verdict. Gov. John Bel Edwards, D-Amite, indicated shortly after the special session adjourned that he intends to sign **HB 57** into law.

Summer / Fall Elections

Early voting is underway for several local and municipal primary elections across the state; Election Day is July 11th and any necessary runoffs will be settled August 15th. These races were all pushed back several weeks as a result of voting concerns and stay at home orders related to COVID-19.

In addition to local races, the special election to replace Rep. Reggie Bagala, R-Cut Off, (who, sadly, passed away earlier this Spring) is underway. There are six candidates in the race and all are Republicans. Joe Orgeron is considered the front-runner at this time; he has received quite a bit of support from the business community and likewise was endorsed by members of the Bagala family.

U.S. Sen. Bill Cassidy, R-Baton Rouge along with the state's U.S. House delegation is on the ballot this fall. Primaries for those races take place November 3rd and any necessary runoffs take place on December 5th. The only wide-open federal post is in the Fifth District, which encompasses northeast Louisiana and hugs the entire border with Mississippi all the way to Bogalusa. Cong. Ralph Abraham announced his retirement from the seat. The top two candidates are Luke Letlow, R-Start, and state Rep. Lance Harris, R-Pineville. Letlow served as Cong. Abraham's chief of staff for the previous six years and has experience in the oil and gas industry. Rep. Harris is term-limited in the state House of Representatives and owns convenience stores in central Louisiana. A couple other individuals have indicated their intent to run, and we will know how many

other candidates throw their hats in the ring by the end of July after qualifying completes (22nd-24th).

Also on the ballot this fall is a Supreme Court race to replace retiring justice Marcus Clark, R-Monroe. The top two candidates for the bench appear to be Jay McCallum, R-Farmerville, and Shannon Gremillion, R-Alexandria. McCallum served in the state House of Representatives years ago and currently serves as a judge on the Second Circuit Court of Appeals; Gremillion is a judge on the Third Circuit Court of Appeals.

Articles of Interest

6 Sessionpalooza Takeaways

by Jeremy Alford

www.LAPoliticsWeekly.com

June 30, 2020

1.) Legislative independence is here.

The vast majority of the House and Senate sought to sever outside voices from leadership elections like never before earlier this year. Just a few months later, they lawmakers called themselves into a special session for only the second time in the state's history, sidestepping the governor's traditional role. In between these legislative mile-markers, they filed resolutions and bills to give the Legislature more input — at the governor's expense — on advancing construction projects, appointing emergency successors and providing oversight for executive orders. None of those proposals made it the distance, but they did kick off a policy trend that will continue to play out this term. The popularity of temporary suspension resolutions, to avoid a gubernatorial veto, and the incessant chatter about veto overrides are other factors to remember as well.

2.) Procedure and process are politics.

The growing unease and heated debates over fiscal notes finally culminated in June with the ousting of legislative fiscal officer John Carpenter, who served in an independent position. Lawmakers have long sought more influence over the post. In the House, there has also been more second-guessing of the clerk than seen in recent memory and an uptick in retroactive legislation. The House changed its rules regarding the handling of conference committee reports and

certain staffing issues and the Senate added new language for how last-day resolutions are voted on. That's all to say that not only are the politics in Capitoland changing, but so are the procedures and process.

3.) Business and industry are seated at the table.

After putting considerable resources into last cycle's legislative elections, the lobbyists and government relations professionals attached to Louisiana's most influential businesses seized an enhanced position at the policymaking table on issues ranging from tort reform to taxes. While business interests enjoyed an enviable role in drafting the agenda for the special session, they also fielded accusations of having too much control over the legislative process. That allegation, of course, was deflated a touch when the governor vetoed business and industry's centerpiece policy effort from the regular session — tort reform. This special session, however, may present us with a different story.

4.) The leadership is united

Gone are the days when the Senate served as a reliable backstop for the governor. Instead, the Senate now backs up the House and the House looks to the Senate as an important partner. Much of this has to do with the cohesiveness of Senate President Page Cortez and House Speaker Clay Schexnayder, who have gone as far as to create a joint fundraising committee. This has created a new set of challenges for the administration as it has sought out House and Senate allies, but how divided the executive and legislative branches actually are this term remains to be seen.

5.) Intra-term turnover will be high

Each year of the last term brought with it new faces as legislators headed for the doors. Complaining of a hyper-partisan environment that favored rancor over results, lawmakers created a record turnover as they scored new elected jobs or simply gave up on Capitoland. So far this term, it seems like the trend will continue. Already Rep. Lance Harris is running for Congress, Rep. Joe Marino is seeking a judgeship and Rep. Stephen Dwight will be on the fall ballot for district attorney.

6.) Race will be a part of the conversation

Debates over police practices and institutional prejudices made for a few emotional moments during the special session, from tear-filled committee testimonies to Rep. Ted James' "One of Them" floor speech, which goes down as one of the most memorable orations from his legislative generation. But it was just the beginning, and the rest of this term promises to offer more of the same.

Something to watch for is how the Black and Democratic caucuses find ways to function as one, which would bring additional strength to their shared goals.

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https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_0f97dcb8-bb17-11ea-ab19-474a5d950135.html

How the Louisiana legislature finished the session's final day: \$35B budget, tax breaks, more

by Sam Karlin

Baton Rouge, LA – *The Advocate*

June 30, 2020

Louisiana lawmakers Tuesday passed the state's \$35 billion budget that seeks to halt pay raises for state employees along with a flurry of other laws in the final hours of a month-long special session concerned partly with coronavirus recovery.

The budget bill was one of two major outstanding issues headed into the final day of the session, along with the No. 1 priority of business groups, changing the state's legal system to reduce auto insurance lawsuits, which proponents argued would lower auto rates.

Lawmakers reached agreements on both issues in the hours before the Legislature was required to adjourn at 6 p.m.

The deal on the budget, which came a day before the new fiscal year begins, sets aside \$60 million currently slated to fund pay raises for state workers. But it's up to the agencies, and the State Civil Service Commission, to decide whether to ultimately freeze the raises. If they choose not to, the agencies will see their budgets cut until October, when lawmakers might return the money if the budget picture warrants.

Lawmakers have suggested they could return for another special session in October to either spend more federal coronavirus aid or make cuts if the budget situation worsens.

Republican senators sought to freeze pay for state workers because they didn't want the state to hand out pay raises when businesses were suffering. Democrats

pushed back, arguing the state shouldn't punish workers amid a pandemic and economic recession.

But the state largely avoided serious budget controversies because of an influx of federal coronavirus aid. By the end of the special session, lawmakers had sent more than \$900 million to plug holes in the state budget, up to \$300 million to small businesses, more than \$500 million to local governments and \$50 million to front-line workers.

"For the most part we have essentially a standstill budget," said House Appropriations Chairman Jerome "Zee" Zeringue, R-Houma.

"Our federal partners came to the rescue to some degree," Senate President Page Cortez said in a press conference after the session ended.

Republican leaders at the press conference touted their moves to hold back some money, including the \$60 million headed for pay raises, in case the financial picture worsens in the coming months.

In his own press conference, Edwards largely expressed support for the way the session turned out – though he said he was "disappointed" in the Legislature's attempted freeze on pay raises.

He said he thought the session lived up to its billing as aimed at coronavirus recovery, with lawmakers sending money to governments, businesses and a small amount for workers. He also said negotiations with Republican legislative leaders, who have presented a more unified front than any House speaker and Senate president in years, have gone well.

"In many ways it can actually be easier, so rather than everything being a triangular negotiation, it can be bilateral," Edwards said, adding he will sign a bill passed by the Legislature on "tort reform," a key priority of business groups.

The most significant moves made during the session came from Republicans and the business executives who set their agenda. The GOP-led Legislature passed a slew of tax breaks for businesses that will cost nearly \$25 million in the fiscal year that starts Wednesday. Over the next five years, when including some extensions of existing tax breaks, the measures will cost the state about \$227 million.

Republicans say the tax relief – along with a \$300 million grant program for businesses they stood up – will help prop up companies amid a pandemic that

has roiled the economy. Lawmakers and business groups have argued the proposals won't ultimately cost as much as fiscal analysts say, because of the economic activity they will generate. The legislative analysts say it's hard to say exactly what the impact of many of the measures will be on the state budget.

Democrats, who are dramatically outnumbered in the Legislature but have one of their own in the Governor's Mansion, pushed back on some of the tax breaks and other business-backed measures to little avail. They have cast the session as a bonanza for business lobbyists, who scored some long-time priorities, while saying it did little for workers. One exception is a bill that passed in the final days of session, pushed by House Democrats, to send \$250 checks to up to 200,000 front-line workers who make less than \$50,000 a year.

However, the \$25 million cost of the tax breaks are estimated to have in the upcoming fiscal year is far less than the total amount that was introduced. Lawmakers sidelined some bills and pared back others to trim the cost down, and are paying for the tax breaks with unclaimed property receipts that became available in the final weeks of session.

Edwards said his office is unclear on how much the tax breaks will affect the budget given last-minute changes. He said while he is "concerned" on their impact on the budget in the coming years, he would not say whether he will sign or veto any of the bills.

Lawmakers arrived in Baton Rouge for the regular session on March 9th. But in the minutes before Edwards was set to kick off the session with his State of the State Speech in the House chamber, health officials confirmed the state's first case of the novel coronavirus. By mid-March, the Legislature had adjourned over coronavirus concerns and didn't return for good until May.

Republican legislative leaders took the unlikely step of calling themselves into a special session immediately after the regular session ended June 1 without coordinating with the governor, a show of legislative unity rarely seen in the State Capitol.

That came even after House Speaker Clay Schexnayder, a Gonzales Republican, won the speakership because Edwards helped line up the House Democratic caucus to vote for him. House Democratic Caucus Chairman Sam Jenkins said Monday said there were "some disappointments" with the caucus's level of input under Schexnayder.

“We’re very much concerned about committee makeups,” Jenkins said, referring to the partisan split on the panels that can decide a bill’s fate.

Republicans won historic majorities in last fall’s elections, including a supermajority in the state Senate and a near-supermajority in the House, theoretically putting the GOP in a position to override Edwards’ vetoes.

That didn’t happen, and instead Republicans and Edwards came to the table on things like the "tort reform" legislation to hash out deals, with both sides unsure if they would win a veto override fight.

For instance, House Ways & Means Chairman Stuart Bishop successfully took millions of dollars that Edwards wanted to use on construction projects and funneled them away into the state’s savings account. And in that construction budget, where governors historically have flexed their power by striking out projects from the districts of their political enemies, Edwards signed it without any such “line-item vetoes.”

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Masks will be required in Baton Rouge starting Friday, but what if you don't wear one? Fines

by Terry Jones

Baton Rouge, LA – *The Advocate*

July 1, 2020

Starting Friday, anyone who leaves their house is required to wear masks or face coverings in Baton Rouge and parts of East Baton Rouge Parish, Mayor-President Sharon Weston Broome said Wednesday.

The executive order will be effective from noon Friday through Aug. 3, and will be re-evaluated before that end date, city-parish officials said Wednesday.

The executive order will place Broome among the handful of regional leaders, as well as other mayors in other states, who are requiring masks be worn in public as the newly diagnosed coronavirus cases in their cities and regions spike to alarming levels.

Broome's order primarily requires people wear masks and face coverings inside businesses and places where there are large crowds as the city-parish heads into Fourth of July weekend.

She originally said the order would go into effect Thursday, but pushed it back a day after business leaders asked for additional time to comply.

The mayor says she doesn't intend to lift the order until there's a positive trend in the parish's coronavirus data.

"It's times like this when leadership is not often embraced with popularity; when you have to make tough decisions," Broome told reporters during her announcement on the mask mandate, "(but) these are small sacrifices that will allow us to progress forward without the threat of reverting back to a stay-at-home order or Phase 1 reopening."

It appears the order won't be enforced across the entire parish, with Zachary, Central and Baker opting out.

Three hours after Broome's announcement, Zachary Mayor David Amrhein posted a statement to the city's Facebook page saying the mask requirement will not be enforced within Zachary city limits.

"The decision to wear a mask at local businesses in the city of Zachary shall be left up to the business owner," Amrhein wrote. "The City of Zachary will continue to require masks upon entering city owned properties."

Central Mayor David Barrow posted a video on his city's Facebook page Wednesday afternoon stating masks would not be mandatory within his city limits also.

"It is your personal choice and the choice of individual businesses," Barrow said. "Please continue social distancing, washing your hands, and other preventive measures."

Baker Mayor Darnell Waites is urging residents and business employees to wear masks and face coverings and gloves when in public, even though Broome's order excludes Baker.

Section 15:5 of the city-parish's Code of Ordinances grants the mayor-president the power to issue executive orders in the interest of protecting the public's safety and welfare during declared civil emergencies.

Any violators of those orders face misdemeanor fines not to exceed \$200 and/or no more than 60 days in jail, according to section 15:6 of the city-parish's Code of Ordinances state.

Broome said she wouldn't be dispatching local law enforcement officers to seek out violators, rather she wants businesses to implement "no masks, no service" policies.

Her decision was met with praise from Gov. John Bel Edwards as well as most of the Democrats on the Metro Council, while many of the Republican council

members scoffed at it, mirroring the political divide that has erupted at the national level over wearing masks during the pandemic.

Council Pro Tem Scott Wilson and Councilwoman Denise Amoroso echoed the sentiments of the mayors in Central and Zachary.

"I think businesses should be making the policy and if a person doesn't like that a business is not requiring masks, then an individual has the choice not to go there," Wilson said.

Amoroso added, "People need to take personal responsibility for themselves. If you're uncomfortable about going out, then don't go."

Broome also didn't rule out shutting down bars in the weeks ahead if the parish's coronavirus cases continue on their troubling trend.

"It will be considered if we don't see people adhering to mandatory mask covering," she said.

The state on Wednesday reported 2,083 additional cases statewide.

East Baton Rouge was the second-highest parish for additional coronavirus cases reported on Wednesday, with 227 more cases.

Broome said that over the past 11 days, the city-parish saw a 33% increase in the number of individuals admitted to hospitals for COVID-19. And over the same time period, the percentage of residents testing positive for the respiratory virus has nearly doubled for 6% to 11%.

Eight more coronavirus deaths over the past week in the parish were reported Wednesday.

The governor, during a separate press conference Broome also attended Wednesday, said the surges being seen at the state and local levels are not because of Phase 2 guidelines that relaxed many of the mitigation measures, but because of "people's behavior."

Broome shared similar sentiments in her press conference, claiming she had seen a troubling number of people out in public and patronizing businesses without masks or face coverings.

"We all know masks don't stop the spread of the virus, but masks and face coverings do reduce the risk of spreading it to those around us," she said. "This face covering policy will ensure businesses can remain open. This policy is rooted in common sense measures of the medical community."

Metro Council members LaMont Cole and Donna Collins-Lewis both characterized the mayor's decision as a step in the right direction. Collins-Lewis said if residents don't want to face being ordered to stay-at-home again, they need to adhere to the new mandate.

And Cole thinks it's "necessary for the safety of all citizens" but also acknowledged that enforcing it could become a challenge.

Councilman Matt Watson, who has already announced a mayoral campaign this fall, expressed his own concerns over enforcement and has reached out to the Parish Attorney's Office for clarity.

"I certainly want the community to be safe and healthy, but when I get (business owners) calling me, wondering how they're going to regulate this for one business where you have people consuming food compared to another that doesn't," Watson said. "How does one enforce this with equality under the law from one business to another?"

Watson also pointed out that local law enforcement has been trying to make fewer arrests since the pandemic began to lessen the prison population and reduce the chances of infection there.

"It seems contrary to have people get a misdemeanor for a new crime that has been created when previously we were trying to not serve as many misdemeanor summons," he said.

Councilwoman Tara Wicker, who also intends to run for mayor-president this fall, said local businesses are already struggling to survive the recession the pandemic lockdown created so she's concerned how Broome's order will affect them.

"It's not our local businesses' job to police this," Wicker said. "Overall, I think we've done a decent job of telling people how to keep themselves safe. I'm really not sure if this is the direction we want to be heading at this juncture."

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https://www.theadvocate.com/baton_rouge/news/coronavirus/article_2aac7aa8-bbcc-11ea-a273-7b22d6ad604c.html

Coronavirus is back 'with a vengeance' in Louisiana, and officials are ramping up testing and enforcement

by Sam Karlin

Baton Rouge, LA – *The Advocate*

July 1, 2020

As Louisiana continues to experience worsening coronavirus trends, state and federal officials are ramping up testing sites and will start to crack down on businesses not following the rules, an effort to avoid reaching a point where Gov. John Bel Edwards said he will impose more restrictions to keep hospitals from being overwhelmed.

The state on Wednesday reported its largest number of new cases, 2,083, since April 4, when the state was still grappling with rapidly-rising cases and

hospitalizations that prompted Edwards to institute a stay-at-home order in late March.

Testing has ramped up considerably since then, and the state nearly doubled its 200,000-a-month goal for tests administered in June, with about 385,000. Some of the cases reported Wednesday may have been from mid-June, because of a delay in reporting from one lab.

Still, the number of cases has outpaced the number of tests being administered, and cases have risen sharply in recent weeks. And hospitalizations – a key factor that Edwards’ administration looks at when deciding whether to impose or loosen restrictions – have risen from a low point of 542 on June 13 to 799. That puts the state back where it was on May 27 with hospitalizations.

“This disease is coming back and it’s coming back with a vengeance,” said state Health Officer Jimmy Guidry. “We better start getting serious.”

The most recent spike in cases came as East Baton Rouge joined Jefferson and Orleans parishes in mandating people wear masks, an effort to slow the spread of a highly-contagious virus that spreads largely person-to-person through respiratory droplets.

Federal, state and local officials, along with public health experts, have urged people to wear masks or face coverings to limit the spread of particles from the person wearing the mask.

In Phase 1 of Louisiana’s reopening, which ran from May 15 to June 5, the share of tests that resulted in positive cases was under 5%. But that figure has risen steadily, and sat at 7.4% over the past seven days, according to Louisiana Department of Health data. Federal officials say states should remain at least under 10% positive rates.

The surge is happening unevenly across the state. For instance, on Wednesday, Acadiana reported 12% of its total tests came back positive, and greater Baton Rouge had a 10% rate. The New Orleans region had a 5.6% rate.

Those rising rates of positive cases have garnered the attention of the White House, Edwards said at a Wednesday press conference. The governor said he had a long conversation on Tuesday with Dr. Deborah Birx, the White House coronavirus response coordinator, who expressed concern about new cases outpacing increased testing, especially in Baton Rouge.

The rising caseload prompted federal and state officials to erect a testing site that will add 5,000 tests a day in capacity in Baton Rouge. Mayor Sharon Weston Broome said the sites will be located at Cortana Mall, LSU, Southern University and the Greater Baton Rouge Fairgrounds. Edwards added the state will be bringing mobile testing sites to several areas.

A host of other states have seen similarly worrying spikes in cases. Texas shuttered bars and Florida banned alcohol consumption at them. Arizona closed bars, gyms, movie theaters and other businesses.

Edwards said Wednesday he was not announcing additional restrictions yet. First, he hopes to get more compliance from people and businesses with the existing restrictions, and he pinned the increases in cases not on the phased reopening, but with people ignoring guidelines like wearing masks, social distancing and washing hands.

On the other hand, the governor insisted, "We're not going to threaten our ability to deliver health care."

"If at some point if we don't get off this trajectory, we're on we're going to have to impose more restrictions."

He said the state will start cracking down on businesses who aren't following the rules, performing more "courtesy" checks of restaurants, bars and other businesses to make sure they're complying with his executive order. The governor issued his most recent order last Thursday, when he paused the reopening and kept the state in Phase 2 until at least July 24. The governor added he is not aware of any bars or restaurants having their liquor licenses pulled for not complying, which Texas has done to some bars.

"We are going to increase enforcement," Edwards said. "Because we don't want to go back to reduced occupancy if we can avoid it. We don't want to go back to closing down businesses and so forth if we can avoid it."

Acadiana continued to see worrying trends, as the virus put more people in the hospital as of Wednesday than at any point on record. One hundred twenty six COVID-19 patients were hospitalized in the seven parishes designated as Region 4, which is one more than those recorded on April 10.

Dr. Dawn Marcelle, the regional medical director for the Capital region, said the area is seeing a "noticeable and significant sharp increase" in cases. She said it is still possible that the virus could overwhelm health care facilities if it keeps spreading at its current rate.

Young people have comprised an outsized share of the rising caseload of late. While people in the 18-29 age group that have seen a surge in cases often don't experience some of the more dire symptoms as older people or those with underlying health conditions, officials have warned they can easily spread the virus to those who are more at risk.

"Young people with COVID are contagious," Edwards said. "We need them to be mindful of their own health but also we need them to be good neighbors."