

Special Session Likely To Address Transportation Needs

Julie Perrus

The tragedy of the I-35 W bridge collapse on August 1, 2007, has made transportation funding the potential catalyst for a special session this fall. The 2007 Legislative Session produced only what is considered a "lights-on" law, which essentially keeps the Minnesota Department of Transportation operational for the next year, but little more. Initially, legislators passed an \$8 billion transportation funding package for city and county roads, highways and transit. The package depended on tax increases, including an increase in the gas tax. Governor Pawlenty vetoed the package on May 15, 2007, saying DFL leadership had gone too far by including spending funded by a gas tax increase. An attempted veto override failed in the final minutes of the 2007 legislative session.

The reality has changed, however, and the governor seems ready to consider a gas tax increase to address our transportation system's most fundamental problems. The DFL-led Legislature and the governor all appear poised to move forward with a special session, which will likely include transportation funding and possibly tax and bonding bills which were also left unresolved this spring.

Neither the bonding bill nor the tax bill requires a special session; bonding issues can be addressed next year and the state will continue to raise revenue under its current tax policies. However, many have argued for a special session to deal with both of these bills, in part because of the tax relief provided, as well as to ensure that the proposed construction projects move forward. Cost increases over the

next year may mean some projects are no longer feasible, or will require additional expenditures.

Together, the bonding and tax bills provided for approximately \$3 billion in new construction projects. In addition, the tax bill provided relief for victims of the Ham Lake fire; property tax relief for disabled veterans; additional aid to all property owners including increases in local government aid; and closing tax loopholes for foreign operating corporations. The bonding bill simply missed its opportunity for a vote, as time ran out on the final day of session. An earlier version of the bill had been vetoed by Governor Pawlenty. He vetoed the tax bill based on a provision included in the final hours of the session that required inflation to be included when forecasting state expenditures. Because the provision dealt with tax policy rather than a direct expenditure, the governor was not able to line-item veto the measure.

The difficulty of putting a special session package together will be determining what issues will be on the table, and which will likely need agreement before the governor will call legislators back to St. Paul. With more than 1,100 other bridges in the state with defects that have earned the "structurally deficient" rating that has garnered so much concern over the past weeks, how to target transportation funding and who will control the setting of priorities may be the sticking point. Also at issue is whether current planned projects will have to be put on hold to accommodate more pressing needs. Whatever happens, the discussion has definitely changed. ■

EDITOR'S CORNER

Peter Coyle

The 2007 session of the Minnesota Legislature began with much promise and ended with a thud. The new House DFL-majority leadership and a new Senate DFL-majority leader set out to pursue an agenda that played to their constituents in areas like education, health care and transportation. Similarly, Governor Tim Pawlenty, fresh off a narrow reelection victory, pledged to work with the new DFL leadership, but insisted that the Legislature stay within his budget framework and avoid general tax increases. In the end, after numerous vetoes with no successful override attempt, the governor pretty much got his way. The result was mixed: some necessary legislation funding state agencies was adopted, but important tax, transportation funding and bonding bills did not gain gubernatorial support. The mixed results of the 2007 session were predictable, given the political and policy differences represented by the DFL majorities in the Legislature and by Governor Pawlenty and his legislative allies.

While the governor controlled the agenda on spending legislation, the House and Senate went on a tear on numerous consumer protection fronts relating to financial services, retailer and auto dealer business practices and mortgage lending, among others. While these bills typically received broad, bipartisan support, their ease of passage into

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Legislative Updates

Julie Perrus

CONSUMER PROTECTION

Auto Sales

On January 1, 2008, a new law goes into effect that provides additional consumer protections when purchasing an automobile. Deemed the "Car Buyer's Bill of Rights," the law requires auto dealers to make disclosures to consumers showing the effect that adding options, such as theft deterrent devices, surface protection products, rust-proofing, undercoating and fabric protectant, will have on both the cost of the vehicle and monthly loan repayments. Consumers will have to sign a document confirming that they have received this information.

The law also requires that the dealer disclose whether it used a consumer credit report and provide a toll-free number to consumers where they can obtain a copy of the report. Finally, the law creates a definition for the term "certified" in used vehicle sales. The definition is intended to eliminate the improper use of the term and provide assurances to consumers.

Gift Cards

Rep. Joe Atkins (DFL-Inver Grove Heights) and Sen. Katie Sieben (DFL-Newport) have been urging changes to gift card laws in the press and at the Capitol since 2006. Concerns raised regarding the popular cards drove the lawmakers to introduce legislation to protect consumers from losing the value of the card because it had either expired or inactivity fees for non-use had erased the balance.

The new law prohibits expiration dates and service fees of any kind; it took effect August 1, 2007. However, there are plenty of exemptions in the law, which may leave consumers and businesses confused. Exemptions are provided for the following types of cards:

1. Those distributed for loyalty or promotional reasons without money given in exchange;
2. Cards distributed for employee recognition;
3. Cards sold below face value to employers or nonprofit organizations for fundraisers;
4. Prepaid calling cards;
5. Cards issued by a federal or state-chartered bank, bank and trust, savings bank, savings association, credit union or by an affiliate or subsidiary as long

as the card can be used at multiple sellers, such as a mall card, and provided any expiration date and associated fees are disclosed.

Canceling Contracts Made Easier for Military Personnel

A law effective August 1, 2007, will help military personnel and their families get out of consumer contracts without having to pay a penalty if they are deployed or if their duty station changes.

The law, sponsored by Rep. Ryan Winkler (DFL-Golden Valley) and Sen. Sharon Erickson Ropes (DFL-Winona), provides protection for the following types of contracts:

- Wireless service contracts, effective thirty (30) days after the service provider receives notice of the member's order for activation, deployment or change of station;
- Rental, club, membership travel or service contracts, which includes television, computer and Internet service;

In addition, the new law limits utility disconnections. The intent of the legislation is to protect service members who will not benefit from contracts entered into either by the service member or on his or her behalf.

Air Bag Safety

After an auto accident when an air bag is deployed, it may be assumed that the repair shop replaces the used air bag, but this is not so in some cases. As described during testimony on H.F. 1704/S.F. 1464, some repair shops fail

to replace the air bag entirely, and in some instances, air bags were replaced with different items, including soda cans in at least one instance, according to testimony.

The new law, sponsored by Rep. Tom Tillberry (DFL-Fridley) and Sen. Dan Skogen (DFL-Hewitt), requires that motor vehicle air bags be replaced with those specific to the make, model and year of the vehicle. Collision repair on a vehicle may not occur on a vehicle that has either had its air bag deployed or is missing unless the replacement requirements are met. Anyone who knowingly replaces the air bag with something other than the required replacement air bag is guilty of a misdemeanor.

CHANGES IN LOCAL GOVERNMENT LAWS

Park Dedication Fee Clarification

Over the past several years, changes have been made to the park dedication fee language in law that allows

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municipalities to require either a land dedication for city parks or a fee in lieu of dedication. This year, compromise language regarding how park fees are established was authored by Rep. Deb Hilstrom (DFL-Brooklyn Center) and Sen. Betsy Wergin (R-Princeton) and became effective August 1 of this year.

The new law specifies that the fee must be determined by utilizing the “average fair market value of the unplatted land...under the city’s adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well.” No mechanism for determining the appropriate fee existed in statute previously. The language is intended to help create consistency in the application of the statute within jurisdictions.

Annexation Task Force is Extended

For over a decade, since a major change in the annexation rules, cities and townships have struggled to find a balance between the increasing urbanization occurring in many townships and the growth of cities. In 2006, the Legislature passed a bill requiring that a task force comprised of legislators and representatives of local units of government deal with the issues surrounding municipal boundary adjustments. The Senate never appointed task force members and no meetings were held. Legislation sponsored this year by Rep. Mark Olson (R-Big Lake) and Sen. Betsy Wergin (R-Princeton) extends the task force until June 30, 2008, and requires that a report with recommendations be provided to the Legislature by January 15, 2008.

In addition, the legislation removes a sunset date for a controversial provision enacted last year. The provision allows 120 acres of land abutting a city to be petitioned for annexation by a property owner once per year. The law previously allowed a city to declare a parcel annexed if it was 60 acres or less, thereby avoiding any contest by the township. There were no limits under the old law regarding how often this could occur, which created the potential for serial petitions, where large tracts of land are annexed through a series of 60-acre requests by the landowner. This provision was set to expire on July 1, 2007, but repealer language in the Olson/Wergin bill made the change permanent. The change will require more large landowners to seek annexation through the traditional methods, which may lead to additional contested cases between cities and towns and putting development on hold.

Resorts See Additional Protection

In a change that extends the increased rights that legal nonconforming uses are granted in Minnesota, a new law that took effect August 1, 2007, will protect resort owners from local ordinances that might inhibit or prevent maintenance or replacement of outdated components or systems. The protections require a county or municipality to allow for maintenance that does not increase the structural footprint. It also allows for replacement of structures damaged or lost to fire or natural disaster and expansion, if the expansion is required to “minimally meet” federal, state or local dwelling standards or codes. The bill’s House author, Rep. Frank Moe (DFL-Bemidji) states that the law is designed to help the “mom-and-pop” resorts in the state. ■

Smokers Face Increased Restrictions

Julie Perrus

The Freedom To Breathe Act of 2007, signed by Governor Pawlenty on May 16, 2007, expands the existing prohibition on smoking in public places throughout Minnesota to include restaurants and bars, as well as places of employment.

The new law clearly contemplates the many areas that one might consider smoking. Places of employment under the new law include, but are not limited to, public conveyances, factories, warehouses, offices, retail stores, restaurants, bars, banquet facilities, theaters, food stores, banks, financial institutions, employee cafeterias, lounges, auditoriums,

gymnasiums, rest rooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities and rooms or areas containing photocopy equipment or other office equipment. The prohibition extends to vehicles used in whole or in part for work during work hours if more than one person is present.

Smokers can still legally light up in their own homes or automobiles, as long as they are not being used for employment purposes, in tobacco shops, if they have entered a scientific study and are in a separate ventilated room, at traditional Native American ceremonies, on family farms, on farm

vehicles and in heavy commercial vehicles. Smoking is also allowed at the disabled veterans rest camp in Washington County. Finally, theatrical productions may allow smoking as part of the performance only if a notice is posted warning patrons in advance.

Local governments may impose additional restrictions. A provision that was included in an earlier version of the bill, allowing municipalities to issue smoking licenses to bars, was removed before final passage. Any person in violation of the new law is guilty of a petty misdemeanor. The Freedom To Breathe Act takes effect October 1, 2007. ■

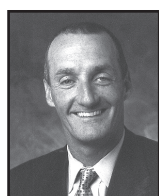
law reflects a striking shift in the makeup of the Legislature and Governor Pawlenty's willingness to accommodate non-spending regulatory legislation supported by DFLers and Republicans.

House and Senate leadership have now tasted the success and failures of leading their caucuses through a full session and falling short in some important areas. Governor Pawlenty has been emboldened by his success, but with the Republican

convention headed to the Twin Cities in 2008, may want to position himself as a conservative leader who gets things done. This would suggest that there will be a greater interest by all parties to work through their differences and avoid end-of-session vetoes. But then again, maybe not.

We hope you enjoy this issue of *CapitolWatch*! ■

Larkin Hoffman's Government Relations Department



PETER J. COYLE is president of Larkin Hoffman and chair of the Government Relations practice group. He is also a member of the firm's Land Use and Real Estate practice group.

Peter's government relations regulatory practice encompasses local, state and federal administrative agencies and the Minnesota Legislature. He represents private developers, landowners and businesses before state agencies, the Metropolitan Council, county boards and city councils.

Peter previously served as staff director and chief counsel to United States Senator Rudy Boschwitz and on the U.S. Senate Committee on Small Business in Washington D.C. ■



GERALD L. SECK is a shareholder and member of the Government Relations practice group at Larkin Hoffman.

Jerry has been an active lobbyist at the Minnesota Legislature since 1971. He has lobbied for a variety of clients and issues for governmental units and private concerns. His experience includes legal director of the Minnesota Public Interest Research Group, executive director of the Leech Lake Indian Reservation Legal Services Project, director of the Truk Office of Micronesian Legal Service and a clerkship for Justice James C. Otis on the Minnesota Supreme Court. He also was

recognized by the U.S. Environmental Protection Agency (EPA) for his environmental work. ■



JULIE L. PERRUS is an associate with Larkin Hoffman and is a member of the firm's Government Relations and Land Use and Real Estate practice groups.

Julie has experience working with senators and lobbyists to resolve statutory issues and manage legislation and policy issues. Prior to joining Larkin Hoffman, she was the committee administrator for the State and Local Government Operations Committee at the Minnesota State Senate. She also served as a legislative assistant to State Senator Linda Higgins and as a staff assistant to U. S. Senator Paul Wellstone. ■



MARNIE S. MOORE-LINDMAN is a paralegal with Larkin Hoffman and a member of the firm's Government Relations practice group. Before joining Larkin Hoffman, she was the manager of government affairs at Cook Hill Girard Associates and prior to that spent several years with the Minnesota Wild Hockey Club as a corporate account manager.

Marnie is currently serving as a Governor's appointee on the Board of Dietetics and Nutrition Practice and the Council of Health Boards. She also volunteers with the Minnesota Rural Health Organization. ■