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OVER 35 YEARS OF LOBBYING EXPERIENCE
IN ILLINOIS ON BEHALF OF BUSINESS INTERESTS

APSA of Illinois Non-End of Session Report

June 5, 2017

General Assembly Adjourns without a Budget

For the third year in a row, lawmakers left Springfield last Wednesday without sending a budget to Governor Rauner. When the Senate adjourned on May 31st, many Democrat Senators commented that they had done their job and there was no need for them to return until the House decided what they were going to do about the budget. Last week, the Senate Democrats approved a budget along with more than \$5 billion in increased taxes to fund it. The House adjourned earlier in the evening with the full expectation of coming back in June to address the budget. However, the political formula becomes more difficult as all bills with immediate effective dates will require a three-fifths majority meaning there will need to be Republican votes to send any legislation to the Governor.

Last week was a difficult one for those of us lobbying on behalf of employer interests at the State Capitol. A number of measures that will cut into Illinois' ability to retain and attract jobs were approved by the General Assembly. Many of these were pushed knowing that they were likely to be vetoed by Governor Rauner. However, some of these have a popular political tone on their surface and going into a tough re-election in 2018, the Governor may want to take the popular, political road to avoid the simplistic barrage that can be used against him. To help avoid any question of the direction the Governor should take, Illinois businesses must take the initiative to let the Governor know how important these issues are to undermining the state's wobbly economic well being. When the House returns several other, important anti-business issues likely are to be approved.

APSA of Illinois Issues that Passed Both Chambers

IL - HB1813, sponsored by Rep. Keith Wheeler (R-Aurora)/Sen. Julie Morrison (D-Deerfield), requires the Department of Commerce and Economic Opportunity to establish a **Networking for Success Program** to assist small to mid-sized businesses in strategic market research, geographic information systems, web design, search engine optimization, and social media marketing. Effective immediately.

IL - HB3045, sponsored by Rep. David Harris (R-Arlington Heights)/Sen. Dan McConchie (R-Hawthorne Woods), requires an **application for a certificate of title or vehicle registration** to include, if available, a person's email address. Allows the Secretary of State to send to owners of randomly selected motor vehicles requests for information about their motor vehicles and liability insurance coverage electronically or via U.S. mail.

IL - HB3072, sponsored by Rep. Robert Martwick (D-Norridge)/Sen. Michael Hastings (D-Orland Hills), amends the **definition of "vehicle protection product"** by including protective chemicals and substances and excluding fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle and removes provisions regarding warranties and the liability of the warrantor. No vehicle protection products sold or offered for sale in the State shall be subject to the provisions of the Code or the Service Contract Act unless offered as a service contract under the terms of the Service Contract Act. A vehicle protection product warrantor's liabilities under a vehicle protection product warranty must be covered by a warranty reimbursement insurance policy; provides that vehicle protection product warranties are express warranties and not insurance. Under the Service Contract Act, in provisions concerning the definition of "service contract", it makes changes concerning service contract coverage related to protective chemicals, substances, devices, or systems and establishes requirements for refunds of vehicle protection products; adds definitions for "vehicle protection product" and "vehicle protection product warranty"; and makes conforming changes to the treatment of service contracts.

IL - HB3172, sponsored by Rep. Nick Sauer (R-Lake Barrington)/Sen. Jil Tracy (R-Quincy), lengthens the required period of time that a truck tractor in combination with a semitrailer is subject to a **safety test** at an official testing station from every 6 months to 12 months.

IL - SB675, sponsored by Sen. Steve Stadelman (D-Loves Park)/Rep. Marcus Evans (D-Chicago), under the Illinois Vehicle Code, adds to the definition of **"essential parts"** a bed, front bumper, rear bumper, and for motorcycles, fairings, fuel tanks, and forks. Allows the Secretary of State to cancel any license or permit upon determining that the holder has assisted an out-of-state resident in acquiring an Illinois driver's license or identification card by providing or allowing the out-of-state resident to use his/her Illinois address of residence and distributes/forwards the Illinois driver's license or ID card to the out-of-state resident. Operating a driver training school without a license issued by the Secretary of State is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense. An automotive parts recycler, scrap processor, repairer, or rebuilder with a business license issued by a municipality that has been revoked or non-renewed due to fraud or misconduct committed against the municipality within 3 years preceding the effective date of the bill or on or after the effective date of the bill cannot be eligible for a license or license renewal to conduct business as an automotive parts recycler, scrap processor, repairer, or rebuilder under the Code, except in a municipality with 1 million or more inhabitants. An application to conduct business as an automotive parts recycler, scrap processor, repairer, or rebuilder shall include a statement indicating if the applicant has been subject to the revocation or nonrenewal of a business license due to fraud or misconduct committed against the municipality. An automotive parts recycler, scrap processor, repairer, or rebuilder shall be fined \$1,000 for each day it conducts business in this State with a revoked or non-renewed business license. Effective immediately.

IL - SB1556, sponsored by Sen. Bill Cunningham (D-Chicago)/Rep. Marcus Evans (D-Chicago), requires that a **certificate of title issues by the Secretary of State** to contain the names and fax numbers or electronic addresses of any lienholders and the certificate's expiration date. Allows the Secretary to issue a certificate of title to an out-of-state resident if the out-of-state resident is a bona fide purchaser of a vehicle or a manufactured home from a dealer licensed in this State and the licensed dealer is no longer operating as a licensed dealer and does not properly transfer the title application to the bona fide purchaser prior to the licensed dealer's business closure. Changes the required bond amount to be deposited with the Secretary for each applicant who intends to act as a remittance agent to be \$20,000. Requires an application for a new vehicle dealer's license or a used vehicle dealer's license to contain a bond or certificate of deposit in the amount of \$50,000. Provides that a licensee that has faithfully and continuously complied with conditions of the bond requirement for new vehicle dealers and used vehicle dealers under the Illinois Vehicle Code for a period of 60 consecutive months after the effective date of the bill shall be exempt from any further bond requirements under those provisions.

IL - SB1694, sponsored by Sen. David Koehler (D-Edwards)/Rep. Kelly Cassidy (D-Chicago), requires any **commercial vehicle relocater, private towing services, or any other private towing service providing removal and seeking to impose fees for storing a vehicle** to provide written notice within one business day after the vehicle is removed or towed, by certified mail, return receipt requested, to the lienholder of record, whether there is a lien or not. The notice must include the rate at which fees will be incurred and provide the lienholder an opportunity to inspect the vehicle on the premises where the vehicle is stored within two business days of the lienholder's request.

IL - SB1943, sponsored by Sen. Koehler/Rep. Daniel Beiser (D-Alton), under the Environmental Protection Act, removes a provision providing that specified monies in the **Used Tire Management Fund** may be used to assist with the marketing of used tires. Makes changes to provisions concerning the Clean Air Permit Program. Removes a requirement for Clean Air Act Program Permits to include a requirement that all compliance certifications be submitted to the United States Environmental Protection Agency.

IL - SB1946, sponsored by Sen. John Mulroe (D-Chicago)/Rep. Elaine Nekritz (D-Northbrook), allows a salvage dealer to obtain free of any lien a junking certificate or a salvage certificate by submitting an application to the Secretary of State. Defines "**salvage dealer**" as "a licensed dealer who primarily sells salvage vehicles on behalf of insurance companies and obtains a "salvage dealer" designation through the used dealer application process" under the Illinois Vehicle Code. A vehicle owner or a lienholder may send notice of dispute of title within 30 days after notice of transfer of title is sent by the insurance company or salvage dealer to the owner or lienholder. No dealer licensed under the Code shall sell a vehicle for which a rebuilt title has been issued from another jurisdiction without first obtaining an Illinois certificate of title with a "REBUILT" notation under the Code. Effective 90 days after becoming law.

IL - SB1969, sponsored by Sen. Scott Bennett (D-Champaign)/Rep. Carol Ammons (D-Urbana), under the Environmental Protection Act, changes provisions prohibiting persons from allowing water to accumulate in used or waste tires by providing an exception for residential households that keep no more than 4 (currently 12) used or waste tires at the site if they are covered and kept dry. Changes the maximum amount of money that may be allocated from the Used Tire Management Fund for specified purposes from \$2,000,000 per fiscal year to \$4,000,000 per fiscal year. Provides that 10% of allocations from the **Used Tire Management Fund** shall be allocated to the University of Illinois for the Prairie Research Institute (rather than to the Department of Natural Resources for the Illinois Natural History Survey) for specified research purposes. Provides that moneys in excess of \$4,000,000 (rather than \$2,000,000) per fiscal year from the Used Tire Management Fund shall be used to provide grants to public universities for vector-related research, disease-related research, and for related laboratory-based equipment and field-based equipment. Provides that \$300,000 from the Emergency Public Health Fund shall be allocated annually to the University of Illinois (rather than the Department of Natural Resources) for specified research purposes. Effective immediately.

APSA of Illinois Issues that Were Defeated

IL - HB3030, sponsored by Rep. David Harris (R-Arlington Heights), creates the **Digital Fair Repair Act** to require original equipment manufacturers to (i) make available to any independent repair provider or owner of equipment manufactured by the original equipment manufacturer the same diagnostic and repair documentation in the same manner as that information is made available to the manufacturer's authorized repair providers; and (ii) make available for purchase by the owner, his or her authorized agent, or any independent repair provider, parts, inclusive of any updates to the embedded software of the parts, upon fair and reasonable terms. Requires original equipment manufacturers to make available for purchase by owners and independent repair providers all diagnostic repair tools incorporating the same diagnostic, repair, and remote communications capabilities that the original equipment manufacturer makes available to its own repair or engineering staff or an authorized repair provider.

APSA of Illinois Issues Still Pending

(After May 31st will require a 3/5 majority for an immediate effective date. Otherwise it will have a July 1, 2018 effective date.)

IL - SB1432 & **IL - HB2747**, sponsored by Sen. Sandoval/Rep. Zalewski, creates the **Autonomous Vehicle Act** providing an automated driving system equipped vehicle may drive or operate upon the highways of this State with the automated driving system engaged for testing, a transportation service, or any other use, regardless of whether a human operator is physically present in the vehicle. Prior to initiating the testing of automated driving system equipped vehicles in a municipality, a person shall provide a notice of intent to test to the corporate authorities of the municipality. When engaged, the automated driving system shall be considered the driver or operator for purposes of assessing conformance to applicable traffic or motor vehicle laws and shall be deemed to satisfy any physical acts required of a driver or operator. Liability for incidents involving an automated driving system equipped vehicle shall be determined under existing product liability law, common law negligence principles, or other federal, State, or local law. Preempts home rule powers. Effective immediately. (SB1432-Senate Calendar Second Reading/HB2747-Re-referred to House Rules Committee)

IL - SB1545, sponsored by Sen. Mulroe, requires the owner of a vehicle to maintain comprehensive, collision, or other insurance coverage for the damage or loss of a vehicle if the coverage is required under the terms of a loan agreement between the owner and a lienholder identified on the vehicle's certificate of title. Requires an insurer paying a claim for the damage or loss of a vehicle shall issue the payment to both the owner of the vehicle and the lienholder, except when the claim is paid under a lienholder's collateral protection insurance policy on a vehicle securing the lienholder's loan when the vehicle owner has failed to satisfy a loan condition to provide insurance coverage for the damage or loss of the vehicle. (Senate Calendar Second Reading)

Governor's Commitment to Protect Business Challenged by Democrat Legislative Majorities

Here is the list of key bills that were passed by both chambers that impact Illinois APSA OF ILLINOIS members.

SB 81, sponsored by Sen. Kimberly Lightford (D-Chicago)/Rep. Will Guzzardi (D-Chicago), **increases the minimum wage** for an employee who is 18 years of age or older or if under 18 has worked more than 650 hours during any calendar year: to \$9 per hour from January 1, 2018 to December 31, 2018; to \$10 per hour from January 1, 2019 to December 31, 2019; to \$11.25 from January 1, 2020 to December 31, 2020; to \$13 per hour from January 1, 2021 to December 31, 2021; and to \$15 per hour on and after January 1, 2022. For an employee who is under 18 years of age that has not worked more than 650 hours for an employer during any calendar year,

the minimum wage shall be: (1) \$8 per hour from January 1, 2018 to December 31, 2018; (2) \$8.50 per hour from January 1, 2019 to December 31, 2019; (3) \$9.25 per hour from January 1, 2020 to December 31, 2020; (4) \$10.50 per hour from January 1, 2021 to December 31, 2021; and (5) \$12 per hour on and after January 1, 2022. The legislation creates a convoluted credit against the withholding tax liability of employers with 50 or fewer employees, calculated based on the increase in the minimum wage. The Senate approved the measure on a [30-23-2](#) vote. Earlier in the week, the House vote was [61-53-2](#).

[HB 2525](#), sponsored by Rep. Jay Hoffman (D-Swansea)/Sen. Kwame Raoul (D-Chicago), is being promoted by the House & Senate Democrats as **workers' compensation** reform. It is far from it. Codification of current bad case law for "causation" and "traveling employee" merely locks employers into the court-expanded liability. In addition, it prevents employers from being able to achieve a change in the case law from future courts. Senate amendment 2 offers some relief but is far outweighed by increased regulation and litigation that are contained in the measure. The Senate approved the bill on a [35-19-1](#) vote. The House for concurrence vote on the Senate amendment was [64-51](#). Also approved by the Senate was [HB 2622](#) (Fine/Biss). This measure uses employer and insurer tax dollars to capitalize the creation of a state established, mutual insurance company to compete with the over 300 insurers that already provide workers' compensation coverage. The \$10 million of startup money are tax dollars that currently go to run the operations of the Workers' Compensation Commission. The legislation provides that the funds are a "loan" to be paid back with interest. Given the track record regarding finances of Illinois state government, it is difficult to believe the loan would be paid in a timely fashion. Furthermore, removing resources meant to support the operations of the Commission jeopardizes the entire adjudication of workers' compensation for injured workers as well as employers. The Senate approval was [32-20-1](#) and sends the measure to the Governor. Sen. Sam McCann was the only Republican vote "yes". Democrats Mike Hastings and Steve Landek voted "no".

[HB 2462](#) (Rep. Anna Moeller (D-Elgin)/Sen. Daniel Biss (D-Skokie) **Equal Pay - Wage History**: Prohibits an employer from: (i) screening job applicants based on their wage or salary history, (ii) requiring that an applicant's prior wages satisfy minimum or maximum criteria, and (iii) requesting or requiring as a condition of being interviewed or as a condition of continuing to be considered for an offer of employment that an applicant disclose prior wages or salary. Prohibits an employer from seeking the salary, including benefits or other compensation or salary history, of a job applicant from any current or former employer.

In addition, the very concerning changes being made by HB 2462 are the undermining of employer defenses along with the expansion of civil penalties, including punitive damages and injunctive relief. The question we ask is this legislation really about limiting what employers can ask of a job applicant or is the bill all about increasing litigation opportunities and judicial awards against employers? HB 2462 was approved by the Senate on a [35-18-1](#) vote.

[SB1720](#) (Sen. Biss /Rep. Lisa Hernandez (D-Chicago) increases criminal penalties for violation of the **Wage Payment & Collection Act**. It also bars contractors for 5 years from bidding on any state procurement by a business violating certain Illinois employment laws, any comparable laws in other states or the federal FLSA.

Measures Pending that the General Assembly Likely Will Take Up Later this Month:

[SB1905](#) sponsored by Sen. Ira Silverstein (D-Chicago)/ Rep Creates the Collective Bargaining Freedom Act **restricting local government units from addressing ways to regulate collective bargaining agreements.**

[HB3539](#) sponsored by Rep. Mike Halpin (D-Milan/ Sen. Biss) requires state bidders to obtain an equal pay certificate before a purchasing agency may issue a contract to the bidder. The Department of Employment Security to issue the certificates, specifying information to be included in an application for an equal pay

certificate. The CEO of the bidding organization must certify that the organization is in compliance with the Equal Pay Act of 2003, Equal Wage Act, Illinois Human Rights Act, and Title VII of the Civil Rights Act of 1964.

[HB2771](#) (Rep. C. Mitchell-D-Chicago/Sen. Hutchinson-D-Olympia Fields) **Mandated Paid Leave:** As amended, the bill will require employers to provide 40 hours of paid sick time to employees. An employee may earn sick days 120 days after beginning employment at the accrual rate of one hour of sick leave for every 40 hours worked. School districts, park districts, and certain City of Chicago sister agencies are exempt. The Department of Labor will administer the program. Individuals may file civil actions with respect to violations of the new Act. **If an employer offers a personal time off (PTO) benefit the employer is not required to change its policy if the policy allows up to 40 hours of sick time. This provision however is not an exemption from the Act meaning that even with a PTO policy in place, an employer must comply with all other features of the Act.** The measure is on Concurrence in the House.

[HB 2802](#), sponsored by Rep. Theresa Mah (D-Chicago)/Sen. Martin Sandoval (D-Chicago), requires all covered employers to offer at least one transportation benefit program. Provides that the employer may choose between providing a program consistent with federal law that allows employees to elect to exclude from taxable wages and compensation the employee's commuting costs incurred for the purchase of a transit pass to use public transit or for the purchase of qualified parking, or a program under which the employer supplies a transit pass for the particular qualifying public transit requested by the covered employee or reimburses the covered employee for payments made for the use of qualified parking.

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