



LEGISLATIVE UPDATE

TO: CEOs, Presidents & Legislative Contacts
FROM: Charles M. Miller, SVP / Director of Legislation & Regulation
DATE: February 25, 2011

The pace at the Capitol has picked up considerably and it feels like a real session. Several of the bills we are watching have picked up steam and, as usual, some of the proposals have gotten better while others have gotten worse.

TAX

HB1002 removes the capital gains tax on newly acquired Arkansas property. This is a bill, with the support of the business community that has passed the House and is now pending in the Senate Revenue & Tax Committee.

HB 1052, HB1397 and SB269 all decrease or exempt the sales and use tax on gas and electricity used by manufactures. These bills are pro economic development and all three are at different stages in the process; however, none have passed both chambers.

Rep. Jim Nickels, D-Sherwood filed HB1495 which would require corporations to use combined reporting for income tax purposes. This method of tax preparation, known as unitary tax, has been proposed in passed sessions and we opposed it then as we will now.

SB 275 will reduce the excise tax on the purchase of natural gas used in the production of electricity. The bill has passed the Senate and is pending in the House Revenue & Tax Committee.

REAL ESTATE

Rep. Jane English's bill (HB1185) to require additional reporting by improvement districts has now passed the House and the Senate, and I expect it will be signed by Governor Beebe next week.

House Bill 1354 deals with restrictive covenants in deeds and bills of assurance and was introduced by Rep. John Vines, D-Hot Springs to address questions resulting from a recent Supreme Court Decision. The bill has been significantly amended since introduction and we feel it was greatly improved. Nevertheless, there is still disagreement within the real estate community and among real estate lawyers as to whether it is good public policy. After considerably review by our legal counsel, the ABA does not oppose HB 1354. While the bill could have negative implications related to single family home borrowers, it could also be beneficial to real estate development lenders. If HB1354 is enacted, we do suggest that lenders

working with borrowers in new subdivisions pay closer attention to how restrictive covenants and bills of assurance are drafted.

After intense negotiations between the Land Title Association and representatives of certain out-of-state title insurers, a compromise was reached on SB309. The bill, which deals with Closing Protection Letters, quickly passed the Senate and has been referred to the House Insurance & Commerce Committee.

OTHER

The Bank Department's appropriations bill (HB1108) has passed and been signed by the Governor. It is now Act 109 of 2011.

House Bill 1445 by Rep. Jim Nickels will make it a criminal offense to "fail to pay" employee wages, compensation etc... Obviously, the catch is: what does the legislation mean by fail to pay? This is about as anti-business as it gets. We will fight any bill that criminalizes an employer's action which may have been pure oversight or otherwise unavoidable.

Senate Bill 164 that expands the Deceptive and Unconscionable Trade Practices Act has been amended. Now this bill will not apply to a person or product that is subject to regulation by a regulatory body. In other words, it does not apply to banking. SB164 is still in the Senate Committee but should move swiftly now that certain industries have been removed from its reach.

As I said, things are picking up at the Capitol so please pay close attention to communications from our office. Bad legislation could pop up at any minute and we may seriously need your help.