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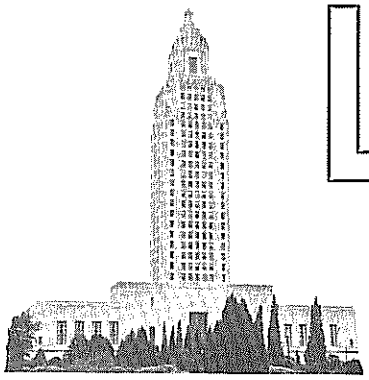

Legislative BULLETIN

Public Affairs Research Council of Louisiana, Inc.

Recap of the 1991 Legislative Session

Two special sessions preceded the regular session which ran until midnight of the final day, July 8. This bulletin reports what happened to selected issues. Bills that passed, except proposed constitutional amendments, are subject to gubernatorial veto.

Finance

Sales Taxes Continued on Food and Utilities

Act 4 of the first special session continued suspension of exemptions from the 3% state sales tax. In the regular session, the Senate voted to extend the suspension to the 1% Louisiana Recovery District sales tax to raise another $106 million, but the House killed SCR 162 (Nunez).

Suspending the traditional exemptions on food, utilities and other items, done annually since 1986, continued the "temporary" taxes. Early suspension allowed the Governor to include these revenues ($310 million) in his proposed budget bill.

Budget Balanced With Nonrecurring Funds

The general appropriation bill (HB 260, Adley, passed both houses), providing for the operating expenses of government, is balanced in accordance with state constitutional requirements. However, the revenues include over $600 million from nonrecurring sources that will not be available for future years. The sources include $437 million from state surplus funds, $85 million from insurance premiums not paid to the state's self-insurance fund, $64 million in a planned-asset swap with state retirement systems, and $53 million in one-time federal funds. In addition, $310 million from sales taxes primarily on food and utilities expire at the end of this fiscal year.

Use of surplus and other one-time funds for recurring expenses will leave a huge revenue gap just to continue existing programs. The Governor vetoed $73 million. PAR has recommended a saner, more responsible fiscal policy that would prohibit the use of surplus funds for continuing operations. A proposed constitutional amendment (HB 151, Hand) contained such a policy but died in House Appropriations Committee.

Pay Raises for Almost Everybody

The general appropriation bill originally included a cost-of-living increase for retired state employees, a 5% raise for college faculty, and the final "annualization" of last year's teacher pay increase. The list grew to include state employees, noninstructional local school employees, votech employees, and district attorneys and registrars of voters and their assistants--costing more than $100 million. SB 646 (Kelly, passed both houses) also gives sheriffs an average 6% raise financed from their funds.

The Governor used his item veto for most of the added pay raises.

Proposed Dedication of Mineral Settlements

HB 23 (Stine, passed both houses) would create a constitutional fund and

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dedicate to it money from mineral settlements and judgments of $5 million or more. The Legislature would appropriate both principal and interest earnings in the fund for early retirement of state or Louisiana Recovery District debt, or to reduce the state's unfunded debt of public retirement systems.

Governors now can decide to place mineral settlement money in the recently-created Revenue Stabilization/Mineral Trust Fund, or in the general fund to finance the operating budget. HB 23 would assure this one-time money is used for a legitimate purpose--debt reduction.

Locals Protected From State Mandates

The Legislature approved HB 125 (Thompson), a proposed constitutional amendment, that would prohibit the state from mandating local governments to do anything that costs money unless a local government either approves the mandate or the Legislature appropriates funds to cover the cost or provides a local source of revenue.

PAR noted as far back as the 1973 Constitutional Convention that one of the most noxious of legislative practices is that of legislating cost increases for local governments without making any provision for the governments' ability to meet those increased costs.

Other

- HB 99 (Martin, killed by House) was a proposed constitutional amendment to allow school boards to impose an additional property tax of up to 20 mills, subject to voter approval, without homestead exemption.

- SB 238 (Johnson, passed both houses) extends the homestead exemption to mobile homes on rented land.

- SB 19 (Crain, passed Senate, killed by House) was a proposed constitutional amendment to require that all sales tax exemptions be enacted by two-thirds vote of the elected members of each house.

- SB 857 (Nunez, passed both houses) creates a special fund, to be financed from possible federal offshore mineral revenues, with half the money for environmental concerns and half for socioeconomic problems caused by offshore development.

- SB 957 (Nunez, passed both houses) authorizes short-term borrowing (revenue anticipation notes) as a cheaper and more flexible way to meet temporary treasury cash shortages than borrowing from special treasury funds.

- SB 962 (Rayburn, passed both houses) creates a commission to establish and maintain a management information system to assess state needs and aid in policy decisions.

- HB 1228 (Ackal, passed both houses) requires continuing five-year projections of state revenues and expenditures for planning.

- HB 1856 (Adley, passed both houses), the legislative appropriation bill, provides $574,000 to initiate performance audits of state programs by the Legislative Auditor.

- SB 44 (Fields, killed in Senate) would have eliminated the industrial tax exemption on local school property taxes.

Economic Development

New Directions for DED

The Governor's "New Directions" plan to reorganize and expand the Department of Economic Development (DED) called for three new offices, 42 new positions and $4.8 million in added funding, including $2.1 million for new regional development agencies. The reorganization bill (HB 824, Laborde) passed both houses, but the appropriation was reduced to $4 million.

This plan addresses a number of longstanding PAR recommendations for improving DED operations through better research and information, small business development and retention, and community-level action.

Business Financing Programs Expanded

A package of bills to expand the state's financial aid programs for business development passed both houses but awaits voter approval of one, a proposed constitutional amendment, to allow donation of public funds for economic development. The bills create a new nonprofit corporation to manage and expand the state's development finance programs, dedicate a portion of the vendors' sales tax compensation to back revenue bonds to fund finance programs, create a revolving fund, and authorize new private financial institutions (BIDCOs) to help finance medium-risk business.

The new corporation and funding dedication will permit a $50 million capitalization of the revolving development fund over several years. This could leverage investments in state firms, estimated at nearly $0.5 billion.

Business Gets Inventory Tax Relief

Businesses will receive credits for local property taxes paid on inventories to be used against their state income and corporate franchise taxes under SB 373 (Ensminger, enacted). The credit will be phased in over five years, beginning in fiscal 1992-93.

This act implements a PAR recommendation to bring Louisiana in line with the 36 other

states that do not tax business inventories. The tax credit removes the innate inequity of inventory taxation with no local loss in revenue. It also makes the state more attractive to wholesale and distribution firms. Credits will rise from $24 million the first year to $146 million in the fifth, but economists expect the loss to be offset by economic growth.

Voters to Decide on Single Parish Sales Tax Collector

A proposed constitutional amendment (HB 93, Reilly, passed both houses) would require all local sales taxes to be collected by a single collector for each parish.

PAR has long recommended consolidation of local sales tax collection. This proposal would reduce the present 207 separate local sales tax collectors to a maximum of 64 and ease business compliance.

Workers' Compensation Fund Proposed

SB 1073, a proposed constitutional amendment, and SB 1062, enabling legislation (Foster, passed both houses), would create a private, nonprofit corporation to provide workers' compensation insurance. It would have one rate structure for "preferred risks" and another for firms which cannot find insurance in the voluntary market--"accepted risks." The current assigned risk pool would be phased out. Though not a state agency, the corporation could borrow state funds to meet deficits. Incentives would be given to expand the voluntary market.

The high cost of workers' compensation and the dwindling number of companies wiling to provide insurance led to consideration of a state workers' compensation fund similar to that found in 22 other states.

Tax Break Provided for Medical/Research Parks

HB 1985 (Forster, passed both houses) allows the Board of Commerce and Industry to grant exemption contracts for five years, renewable for five years, to firms locating in a biomedical research park or in a university-operated research and development park. Most state taxes and local sales taxes may be exempted.

The program should help draw research and development firms to the parks planned for Baton Rouge, Shreveport and two in New Orleans.

Education

Superboard for Higher Education Fails

HB 153 (Orr, passed House, killed in Senate Education Committee) advanced the farthest of five proposals to create a single board for public higher education. It would have expanded powers of the Board of Regents; abolished the LSU, Southern and Trustees management boards; given management authority to campus heads appointed by Regents; and created an advisory board for each public campus. A House floor amendment gave campus boards veto authority over appointment of their campus head and allowed them other powers if provided by law.

The amended HB 153 could have exacerbated present problems by creating 22 instead of the present three management boards.

Higher Education Funding Remains Cuttable

HB 144 (Orr, passed House, killed in Senate Finance Committee) was a proposed constitutional amendment requiring the Board of Regents to recommend a higher education formula for legislative approval and 100% funding.

Regents has devised a higher education formula, but funding is far below the formula goal of the southern state average. The Legislature has discretion in funding it. Higher education remains in the 30% portion of the state budget vulnerable to budget cuts.

Voters to Decide on "HELP"

HB 154 (Reilly, passed both houses) is a proposed constitutional amendment to create a Higher Education Louisiana Partnership (HELP) fund for public and private colleges and universities. State money in the fund would match private donations on a 40% state, 60% private basis. Purposes include endowments for professorships and undergraduate scholarships, library books, laboratories, equipment and facilities.

The HELP fund, recommended by PAR, would fill funding gaps and stretch state dollars.

State Teacher Evaluation Suspended

SCR 66 and SB 879 (Picard, passed both houses) suspend the state teacher evaluation program for a year. Those teachers rated superior and eligible for extra pay for extra duties are not to be affected by the suspension. Both SCR 66 and SB 879 call for a team to critique the program, require the state Board of Elementary and Secondary Education (BESE) to make recommended changes, and then test the revamped program in the spring of 1992.

Use of a suspension resolution precluded a veto. Limited funds were approved to critique, revamp and test the program and also provide extra pay to eligible superior-rated teachers. Teachers may have won a hollow victory if they lose public support for public schools by suspending a program the public favors.

Failure to Revamp MFP Assures Litigation

SCR 56 (Johnson, died on Senate floor) proposed a new approach to the state Minimum Foundation Program (MFP), based on per pupil weighted expenditures and more local support according to wealth and tax effort.

Litigation is planned on the basis of documented inequities in the current MFP, making the state subject to a court-devised formula. The proposed new MFP followed recommendations of PAR, several task forces and a national consultant, and is supported by local school systems.

Computers Down on Program to Assist Learning

HB 1898 (Long, passed House, killed in Senate Education Committee) sought to create a computer education program for all students in public and state-approved private schools, to begin with grades K-1.

PAR has recommended the state assign a higher priority to computer technology to assist teachers in student learning. BESE has used some of its 8 (g) money for computer-assisted instruction of young children, and its evaluations show the children benefited.

Vo-Tech Formula Funding Fails

HB 886 (Long, passed House, died in Senate) would have directed BESE to prepare and submit annually for legislative approval a formula for equitable funding of the state's vo-tech schools. There was to be a three-year phase-in prior to 100% funding in fiscal 1993-94.

PAR has recommended equitable formula funding of vo-tech schools. The Legislature previously ordered BESE to develop one, but failed to approve it.

Other

- SB 261 (Brinkhaus, passed Senate, killed by House) would have authorized tuition-free merit scholarships to the top 5% of Louisiana high school graduates to attend accredited Louisiana colleges and universities.

- SB 64 (Ewing, passed both houses) directs BESE to prepare and adopt by July 1, 1992 alternative courses (particularly science and math) required for high school graduation to prepare students either for a job or college.

- SB 262 (Brinkhaus, passed both houses) requires local school boards to renew "performance-based" contracts for school administrators and supervisors unless their local superintendent opposes renewal on the basis of an evaluation, or the position is abolished.

- HB 376 (Long, killed on House floor) would have added two school days and one teacher planning day a year for the next 10 years.

- HB 378 (Long, killed in Senate Finance Committee) would have added 10 minutes of instructional time per day for the next three years, increasing the minimum school day from five and one-half hours to six.

Legislature

Lobbyists Must Report Spending

SB 1040 (Ewing, passed both houses) requires lobbyists to report how much they spend to influence legislation--by individual legislator if they spend more than $100 per occasion or more than $600 per six-month reporting period for a legislator. Lobbyists will be prohibited from making campaign contributions or loans to legislators 30 days before, during and 15 days after a regular session; legislators cannot solicit campaign funds or loans from lobbyists during the same period. Lobbyists also are required to report how much they spend to influence action by officials and others in state executive branch agencies.

Before passage of SB 1040, Louisiana was one of three states not requiring lobbyist financial disclosure. SB 1040, backed by Common Cause, will enlighten the public, eliminate fundraisers during legislative sessions, and reinforce Louisiana's strong campaign financial disclosure law and code of ethics.

Term Limitations Defeated

Eight proposed constitutional amendments would have limited the number of consecutive terms a person could serve in various elected offices. One applied only to the governor. Others applied to state legislators (two- or three-term limit) and some to congressmen and other state officials. None moved out of committee.

Unlike three states that have adopted legislative term limits, Louisiana does not have an initiative procedure; voters will not get a chance to decide unless they convince their legislators to limit terms.

Legislators Still Eligible for State Contracts

Several bills were to place restrictions on contracts between state agencies and legislators. HB 33 (LeBlanc) passed the House but died in Senate Governmental Affairs Committee.

PAR has recommended that all contracts between legislators and state agencies be prohibited to eliminate conflicts of interest.

Reapportionment on Hold

Districts to elect public officials must be reapportioned following each federal decennial census, with the reapportionment subject to "preclearance" by the U. S. Department of Justice as to whether minority rights are diluted and minority candidates' chances to be elected are enhanced.

Legislative Reapportionment: Senate and House districts were reapportioned at a special session. SB 79 (Bagneris, passed both houses but vetoed) was an amended Senate plan in response to objections by the justice department.

The justice department's response to the House plan was after the session adjourned.

BESE Reapportionment: HB 809 (Bruneau, passed both houses) continues eight single-member districts and will have to be "precleared" before the October election of BESE members.

Congressional and Public Service Commission Reapportionment: No plans have been enacted; these elections are next year.

House and Senate reapportionment plans will be the focus of a special session.

Gambling

Most Lottery Dedications Deferred

HB 1310 (Heitmeier, passed both houses) re-enacts a 1990 act which dedicates $5 million, or 5%, whichever is greater, to a high-risk health insurance pool.

SB 686 (Bagneris, passed both houses) creates the Louisiana Homeless Trust Fund and dedicates 10% of unclaimed lottery prize money to it.

Many other bills sought to dedicate lottery proceeds to various purposes but were deferred. PAR recommends lottery proceeds not be dedicated.

Other

- HB 1999 (Heitmeier, passed both houses) authorizes gambling on paddle wheel boats on Louisiana's rivers and lakes, and also creates a gaming commission and an enforcement division.
- SB 735 (Ullo, passed Senate, killed by House) would have authorized gambling on cruise ships.
- HB 283 (Bruneau, passed both houses) legalizes and regulates video poker machines.

Supporters of riverboat and cruise ship gambling claim it will promote tourism and create jobs. Supporters of legalized video poker machines claim the state will collect taxes now lost by illegal operations.

Other Issues

Charity Hospitals Moved to Separate Authority

SB 25 (Ewing, passed both houses) will move the nine charity hospitals (renamed "medical centers") out of the state Department of Health and Hospitals and under the Louisiana Health Care Authority (LHCA) by 1992. The LHCA board can issue revenue bonds to fund its five-year capital improvements plan. Local management boards will operate each hospital. The LHCA may contract for private management of a facility with legislative approval.

The LHCA plan is designed to improve management and get action on rebuilding the decaying hospital structure which serves as primary health care provider for 900,000 uninsured Louisianians.

Public Service Commission Retains Outside Consultants

HB 1998 (Laborde, killed on House floor) would have required the Public Service Commission (PSC) to limit its use of outside consultants and develop its own expert staff. It would have limited the use of consultants to cases where in-house staff was inadequate, but only by bid and after a public determination of need.

The proposal was based on recommendations of a 1985 PAR study. The PSC has been almost totally dependent on outside contract consultants for legal and analytical services in major rate cases. The costs, in excess of $1 million a year, are charged to the utility in question and never appear in the PSC budget.

Other

- HB 150 (Donelon, died on House floor) advanced farthest of

three proposed constitutional amendments for merit selection of judges.

- HB 112 (Theriot, Act 26), which made history when the Legislature overrode the Governor's veto, prohibits abortions except in cases of rape, incest and danger to the mother's life.

- HB 261 (Haik, passed House, killed by Senate) would have prohibited selling or distributing to single persons under age 17 recordings with lyrics advocating various sex and criminal acts and which have a parental warning label.

Voters Face Eight Proposed Constitutional Amendments on October 19 Ballot

- ☐ Place money the state receives from mineral settlements of $5 million or more in a fund to reduce debt of the state, the Louisiana Recovery District and public retirement systems (HB 23, Stine).
- ☐ Prefile local and special bills before a regular session or introduce within the first five days of a special session and eliminate advertising before introduction (HB 36, Morrell).
- ☐ Require a single local sales tax collector for each parish (HB 93, Reilly).
- ☐ Limit state mandates requiring increased spending by local governments (HB 125, Thompson).
- ☐ Reduce appointed members of the Board of Regents from 15 to 13, and enhance Regents' authority to coordinate, plan and name institutions and facilities (HB 132, John Smith).
- ☐ Create a Higher Education Louisiana Partnership (HELP) fund to receive state money to match private donations for stipulated purposes of public and private colleges and universities (HB 154, Reilly).
- ☐ Allow donation of public funds to promote education and economic development (SB 26, Ewing).
- ☐ Authorize a state-backed, private, nonprofit corporation to provide workers' compensation insurance (SB 1073, Foster).

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