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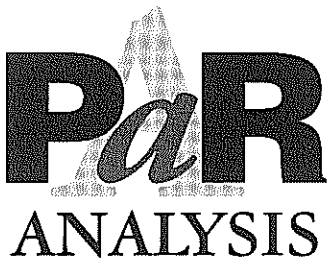

Legislative Wrap-Up 1999

Public Affairs Research Council of Louisiana, Inc.

Session Overview

In the 1999 regular session, the Louisiana Legislature worked down to the final hour to complete its consideration of some 3,397 bills and 842 resolutions. The Legislature passed out 1,435 of the bills and 712 resolutions. With one week left to veto legislation, the governor has announced five vetoes.

In This Issue

Of all the issues dealt with this session, none was more important than deciding how to use the tobacco settlement money. The Legislature also undertook some modest reform efforts and there were a few successes. Among the more positive legislative actions this session were the following:

- Produced a last minute compromise plan for the tobacco settlement windfall that, while not perfect, was a genuine improvement on both the House and Senate plans.

- Fully funded the Minimum Foundation Program (MFP) for the first time, although it used some one-time money.

- Limited the abuse of teacher sabbaticals and sick leave.

- Made some improvements in public records laws.

- Created the "Judicial Budget and Performance Accountability Act."

- Rejected the perennial efforts to expand the homestead exemption.

Notable, however, was the long list of questionable or troubling actions taken in this session. For example, the Legislature:

- Spent all of the available first-year payments from the tobacco settlement windfall—mostly to plug holes in the operating budget.

- Loaded the capital outlay budget with numerous local projects.

- Gave very large raises in an election year to politically important local officers (sheriffs, assessors, clerks of court, and registrars of voters) to be paid from local funds.

- Increased retirement benefits for a variety of public servants with little regard for the costs. Increased the benefit accrual rate for sheriffs and even made it retroactive to cover all prior service.

- Could not find money to fund teachers' raises but tried to force the school systems to give them anyway.

- Expanded legislative micromanagement of the local school

districts with a dozen new mandates on school policies, courses of instruction, student conduct, student and parent discipline, and teacher planning and lunch periods—all proper areas for school boards to handle.

- Tried to fix criminal penalties for any one giving information about bills legislators are working on.

- Created new criminal laws covering offenses already covered by existing statutes.

- Circumvented two constitutional provisions—a prohibition against imposing a new tax in a non-fiscal session and a two-thirds vote requirement for imposing a state tax—by creating special taxing districts in order to allow slot-machines at two race tracks.

- Instead of eliminating the governor's urban and rural slush funds, gave them additional money.

- Created a $7 million-a-year slush fund for projects individually recommended by New Orleans' legislators for their districts.

- Raised the limit on campaign contributions to legislators from political action committees (PACs) from $35,000 to $48,195.

- Failed to prohibit legislators from contracting with the state or its political subdivisions.

This election-year session produced its share of political posturing, special interest and "feel good" legislation, pork-barrel projects, smoke and mirror funding, unfunded promises and attempted constitutional end-runs. From a "good government" perspective, the reforms were few. Unfortunately, some of the more positive aspects of the session were those things the Legislature did not do. Considering some of the proposals that were rejected, the outcome could have been far worse.

While the session dealt with many subjects of interest to PAR members, this report focuses on the major fiscal issues and those issues that have been the subject of recent or ongoing PAR research.

Tobacco Settlement Money

By far the most significant issue this session was deciding what to do with the tobacco settlement money, and the major legislative action was the compromise plan adopted at the last minute. The state will receive payments from the tobacco companies indefinitely beginning with a $199 million receipt at the end of FY 1999-2000. Over the next 25 years, these payments are expected to total $4.6 billion.

Some 30 bills were introduced proposing a wide variety of uses for the money and most called for a permanent trust to preserve all or some portion of the money. Late in the session, the Governor even suggested using 20-25% to fund teacher raises.

The proposals were narrowed down to a Senate plan to create a separate trust fund for each school district with 30% of the money and a House plan to place 50% in a permanent trust fund for the TOPS program. Both houses envisioned spending the rest of the money each year on health and education programs. The Senate also indicated an interest in the state treasurer's proposal to place all the money in trust and bond the revenue to provide for annual spending. With some opposition, both houses agreed that any trust fund would not include the first year money.

The Compromise Tobacco Plan

The compromise plan for the tobacco settlement money was finally achieved in conference committee in the final hours of the session. HB 640 proposes a constitutional amendment that will require voter approval this fall before the plan can take effect in FY 2000-2001. The plan involves one permanent trust fund and four expendable funds.

Millennium Trust

The plan would place 75% of the tobacco settlement payments into the Millennium Trust, a permanent trust fund, after the third year. The funding would be phased in with 45% in 2001 and 60% in 2002. The Legislature could increase the per-

NOTE: Some bills covered in this analysis remain subject to veto or line-item veto by the governor.

centage above 75% by two-thirds vote but could not decrease it. The fund would be invested the same as the existing "8 g" education trust fund, limited to 35% in equities. The Legislature could increase the equity portion up to 50%. The investment earnings, less an inflation factor, would be annually transferred in equal amounts to three special funds:

1. The **Health Excellence Fund** which could be appropriated for a variety of health related programs to benefit children and the general citizenry.

2. The **Education Excellence Fund** to be distributed to special schools, public school districts and 15% to approved private schools. For the first seven years, equal payments to each public school district would come from 30% of the amount allocated with the remaining 70% distributed on a per student basis. From year eight on, 100% of the money for the public school districts would be distributed on a per student basis.

The money is not to supplant or replace state or local funding for existing programs and could not be used for salary increases or capital improvements.

For the first three years, an extra 10% of the tobacco money would be allocated to the Education Excellence Fund. This would add about $15 million each year to the small initial investment earnings that could be allocated to the schools to spend.

3. The **TOPS Fund** which is restricted to appropriations for financial assistance to students attending the state's postsecondary education institutions.

Louisiana Fund

The remainder of the tobacco money would go into the Louisiana Fund which could be appropriated each year for children's health and education initiatives, health care sciences, disease management, tobacco-related illness services and anti-smoking programs. The Louisiana Fund would receive 45% of the tobacco money in FY 2000-2001, 30% in FY 2001-2002, 15% in FY 2002-2003 and 25% each year thereafter.

The spending restrictions are probably flexible enough to allow most of this money to be spent to continue programs already in the operating budget.

Millennium Leverage Fund Option

The plan would permit the Legislature by two-thirds vote to direct all or a portion of the tobacco money into the Millennium Leverage Fund, a permanent trust fund, which would be invested with a 50% limit on stocks. Revenue bonds could then be issued against the tobacco money with the bond proceeds and trust fund earnings being distributed equally among the four expendable funds described above.

COMMENT: While the tobacco settlement plan is relatively well crafted, it is unfortunate that it was felt necessary to add seven pages to the present 128 page constitution to provide for the spending of a revenue source providing only 1% of the total state budget. The same result might have been achieved with a brief constitutional authorization and a detailed companion act—perhaps amendable only by a three-fourth vote of the Legislature. This would have reduced the inevitable need for future amendments to make minor adjustments in the new detailed language.

The optimum approach would have been to immediately place all of this windfall revenue source into a permanent trust and only spend a portion of the earnings each year. The 75% trust was a reasonable compromise, however the one-year delay and three-year phase-in makes the tobacco money available to help plug budget gaps for some time to come. The plan fortunately provides greater flexibility in the spending purposes than was proposed by the House and Senate bills. This prevents tying up a lot of money in a program, such as TOPS, which might require rethinking in the future.

The addition of the Millennium Leverage Fund to the plan preserves the option of using the treasurer's proposal if the Legislature, upon further examination, finds that it would improve the management of the revenue stream and build a larger trust fund. The 50% stock limit does not appear logical considering that the state's other major long-term investment funds, the state employees' and teachers' retirement funds, have a 65% limit.

State Operating Budget

The Legislature adopted a $13.7 billion budget for FY 1999-2000, a 2.1% increase over the current year budget. Projected revenues include $5.9 billion in general fund direct, $1 billion in fees and self-generated revenue, $2.2 billion in statutory dedications and $4.6 billion in federal funds.

Initially, the administration submitted a recommended $13.2 billion operating budget for FY 2000 that was actually $42 million lower than the current year budget. State general fund revenues are forecast to rise less than 1%. The budget proposal was $320 million below the amount needed for a "continuation budget." To help fill the gap, the agencies were expected to absorb $100 million in inflation and merit increases and the $44 million required by an extra (27th) payday during the year.

While the administration proposed spending for education and health initiatives (new or expanded programs), its budget cut $66 million from the amount required to continue Medicaid programs and left the MFP $38 million short of being fully funded.

The administration also offered a supplemental budget, contingent upon finding additional revenue, which would primarily restore the Medicaid money and allow the state to attract $171 million in federal matching money. Tentatively, $44.7 million from expected payments by the New Orleans casino and $32.7 million from the tobacco settlement were suggested as the possible additional revenue. But, the Revenue Estimating Conference (REC) later designated all of the expected $67 million in casino payments "nonrecurring" and unavailable to spend on operations.

Of the $199 million in expected tobacco payments only $43 million was ruled "nonrecurring." This left $156 million in recurring first year tobacco payments and the Legislature opted to spend it all:

- $101 million in recurring tobacco money for Medicaid and children's health insurance.
- $32 million to higher education for endowed chairs and medical research.
- $10 million for capital improvements.
- $10 million for various ongoing programs and services.
- $3 million for smoking cessation grants.

Minimum Foundation Program Funding

For the first time, the Minimum Foundation Program (MFP) will be fully funded at a total state cost of $2.3 billion. Initially, the MFP for FY 1999-2000 required $96.6 million more than schools actually received this year. The initial budget only provided $58 million more leaving a $38 million gap to be filled. An agreement with the Board of Elementary and Secondary Education (BESE) produced a one-time adjustment in the MFP formula reducing it by $19 million which the local systems are to make up from a $41 million savings experienced this year due to changes in required retirement system contributions. The state came up with another $19 million bringing the total additional state funding for the MFP next year to $76.6 million.

With all this added state spending, some Legislators felt the school systems should use the money for teacher pay raises and attempted, unsuccessfully, to force the issue. BESE argued the school systems need the flexibility to determine their own spending priorities.

Higher Education Funding

Higher education fared well this session with a $16.5 million increase in formula funding and $16 million for faculty pay raises. Counting capital outlay, it will also get about $40 million of the tobacco money. The state's popular new college scholarship program, TOPS, received a $22.1 million boost for a total cost of $81.3 million in FY 1999-2000.

Medicaid Funding

With the addition of $101 million in tobacco money and other funding to help provide the state match, the Medicaid Program will reportedly be able to meet 99% of its projected spending needs for FY 1999-2000. Three significant expansions include $13 million to fund services to an additional 800 mentally retarded and developmentally disabled Louisianians, $9.8 million for the care of disabled children and $13 million for LaChip (insurance for children in families with incomes at or below 150% of the poverty level).

Judicial Funding

The appropriation for the judicial system rose only to meet the demands of inflation and mandated costs. There was no movement toward state assumption of more of the cost of the statewide system.

A new Judicial Budget and Performance Accountability Act promises to improve fiscal oversight and performance of the court system.

Nonrecurring Revenues for FY 1999-2000

Revenues designated "nonrecurring" for FY 1999-2000 total $204 million and include $67 million in casino money, $43 million in tobacco money and a $94 million year-end surplus from FY 1997-1998. The state's Rainy Day Fund will receive 25% of the total or about $51 million. Another $49.5 million (from the surplus) will be used to pay state debt early and $6.5 million of the casino money goes to New Orleans for related services. The remainder, about $97 million, was appropriated for various capital outlay purposes.

The nonrecurring tobacco money ($32 million after the Rainy Day Fund deduction) was appropriated in the capital outlay bill as follows:

- $13.9 million for K-12 technology.
- $7.8 million for higher education (mostly scientific equipment).
- $4.5 million to promote genetics research.
- $3.4 million for parish health units.
- $2.7 million for various local projects.

Until this year, nonrecurring revenue could only be used to pay off state debt early. A 1998 constitutional amendment places 25% of any nonrecurring money in a Rainy Day Fund and allows the remainder to be used for capital improvements, to pay off retirement system debt or to pay off state debt.

In each of the past five years, the state's sizeable surpluses were used for the most part to pay off (defease) bonds coming due the next year. This sleight-of-hand converted the surplus into operating funds for the next year by freeing up general fund money that otherwise would have gone to pay debt service. Because of this front loading of the bond pay offs, there was only about $32 million left to be freed up for the FY 1999-2000 operating budget. Of the $94 million surplus, $49.5 million was slated to defease $52.4 million in bonds and related interest over the next three years. This plan freed up $32 million for use in next year's budget and about $10 million in each of the following two years.

In passing SB 822, the Legislature circumvented the constitution and the Revenue Estimating Conference by taking $6.5 million off the top of the casino money before it went to treasury in order to pay New Orleans for casino related services and contribute to the program for problem gamblers.

FY 2000-2001 Budget Problems

While this year's budget difficulties have been resolved, the solution has added to the problems the state faces in FY 2000-2001. Those problems include additional funding requirements roughly estimated as follows:

$131 million	increase in debt service requirements
$65 million	normal growth in MFP
$76 million	to replace tobacco money (if all of the $70 million in the Louisiana Fund is spent to continue existing programs)
$70 million	inflation and merit increases for state employees
$169 million	to bring teacher salaries up to the southern average
$64 million	to bring higher education salaries to the southern average
$575 million	**Total additional funding requirements for 2000-2001**

Potential sources of additional funding include the following:

$120 million	assumes a normal 2% growth in available general fund
$100 million	assumes New Orleans casino is successful, revenues are designated recurring and the current statutory dedication is repealed
$130 million	assumes 1% sales tax on food and utilities is reimposed
$350 million	**Total potential new revenues**

COMMENT: The resulting budget problem under the above scenario would be a shortfall of $225 million. Different scenarios can be created by removing spending or revenue categories. However, none would be able to provide teacher and faculty pay raises without a significant new revenue source above and beyond the 1% sales tax.

It is far too early to accurately quantify the potential budget problem for FY 2000-2001. The additional costs are fairly certain although some could be avoided. There could even be unexpected mandates such as in the corrections area.

The real uncertainties are on the revenue side. While the economy could improve, oil prices could rise or another windfall could be found, it is unlikely. It is more likely that revenue growth could fall below 2%, casino payments could be designated nonrecurring or legislators could balk at repealing the dedication or reimposing the sales tax. Furthermore, there is little chance of a year-end surplus to help out.

It is apparent that some difficult decisions will have to be made next year. If nothing changes, teacher and faculty pay raises could easily become a casualty of the budget process for FY 2000-2001.

Capital Outlay Budget

HB 2, the capital outlay appropriations bill, authorizes a $2.8 billion construction plan for FY 1999-2000. The bill includes $1.2 billion in projects to be paid for by cash and $1.6 billion in projects to be funded by general obligation bonds.

The $1.2 billion cash portion of the budget includes $680 million in gasoline tax revenue and federal funding for highways and other construction programs in the state Department of Transportation and Development (DOTD). Another $292 million in cash is to come from revenue bonds (e.g. an agency's fees are bonded to construct a building). Other sources of cash include various fees and self-generated revenues, dedications, federal funds, some state general fund money (only $13 million), prior year surplus ($21 million) and tobacco settlement revenue ($39 million).

The $1.6 billion general obligation bond portion of the construction program is allocated to projects listed in five priorities. However, only a portion of the $1.6 billion will be used in the fiscal year. Priority 1 includes projects ready for funding in the first half of the year and is mainly a reauthorization of projects approved in prior years that may already be completed. Priority 2 includes projects that may be undertaken the coming year although they might not be completed for several years. (Actually only about $90 million of the $245 million in projects can be funded.) Priority 3 and 4 projects are basically on a wish list for the future. Priority 5 binds the state to provide funding in the future.

The following are the total amount of projects, by priority, to be funded by general obligation bonds:

(In Millions)

Priority	All Projects	Non-State Projects
1	$473	$209
2	245	60
3	63	34
4	153	20
5	628	190
Total	$1,562	$513

Non-state projects comprise about $489 million or nearly one third of the bond portion of the construction program.

COMMENT: The cash portion of the capital outlay budget almost exclusively is comprised of state projects and the largest portion of that is for DOTD construction projects determined for the most part by priority programs removed from legislative involvement. The next largest portion is for agencies building their own facilities using self-generated money to secure and pay bonds. Only $22 million in non-state projects are included in the cash portion.

The obvious problem in the state's capital budgeting process is the tremendous growth in non-state or local projects included in the bond portion of the budget. Over a 20-year period ending in 1998, spending on local capital projects rose from $1 million to $270 million. Legislators added numerous projects for their districts this year to show their constituents that they are "bringing home the bacon." Many of these can not be assured of funding any time soon, if ever, but they are on the list. By one count there are 98 parish projects, 109 for cities and another 68 for non-state entities in the capital outlay bill.

While the constitution requires a feasibility study for each project in the capital outlay program, the Legislature has interpreted this to mean that a request for a local project serves as its feasibility study. Most local projects were submitted with the idea of getting full state funding, however the final bill attached local matching requirements to most of the new local projects.

The Legislature can be commended for its continuing resolve to limit the sale of bonds to no more than $200 million a year. In fact the state has not sold bonds since April, 1998 and may not again until next spring. It is unfortunate that the Legislature does not use the same restraint when considering adding local projects.

PAR agrees with the chairman of the House Appropriations Committee who was quoted as saying, "At some point, we will have to have a more credible capital outlay process." A better state policy for assisting local capital improvements is badly needed, and sooner rather than later.

Public Salaries

Compensation Review Commission

HB 2153 creates a nine-member commission to review and recommend changes in the salaries of legislators and statewide elected officials. The president of the Senate and speaker of the House will each appoint two members, statewide elected officials elect four and the chief justice of the Supreme Court appoints one. The commission will review officials' pay and make recommendations 60 days before regular sessions in even-numbered years. The Legislature can accept or reject the recommendations but not change them. The recommendation may be enacted by a resolution which does not require the governor's signature.

COMMENT: Many states employ compensation commissions. They make it more politically palatable for legislators to vote themselves raises. However, a commission appointed by the officials whose salaries are to be reviewed is somewhat suspect. There could have been an effort to include some impartial compensation experts on the panel. Denying the governor a veto avoids the check and balance system.

Problems with this commission approach aside, the major omission is the lack of any guidelines for determining the appropriate pay for a legislator or state official. Should it be tied to private sector pay? Should pay be automatically adjusted for inflation? Should legislative pay be sufficient to allow a low-income person to serve? Should other states' salaries be used as a guide? Without addressing these questions and setting a compensation policy, the commission will be left with personal opinion and possible political pressure to guide it.

Parish Official Raises

Sheriffs were given $12,000-a-year raises, Assessors and Clerks of Court all received $10,000 raises, and Registrars of Voters and their subordinates will receive raises of $300 to $3,000 depending on their current place on a 12-step pay plan.

Supplemental Pay

SB 294, a proposed constitutional amendment on the ballot this fall, would allow the legislature to permit payment of supplemental pay to port, levee and bridge police.

In a grand election-year gesture, the House attempted to increase state supplemental pay for firefighters, police and deputy sheriffs to $500 a month over four years. The first $50 increment was to begin in FY 2000-2001, but only if funds were available. The increase, when fully phased in, would have cost $41 million. The bill passed the House but died in Senate committee. The House then amended the same plan into another Senate bill which died in conference committee.

COMMENT: PAR has long opposed pay supplements which make direct payments to individuals. These programs give proportionately more money to those local governments that can afford more deputies, police and firemen. The House effort to promise a $500 a month increase was the worst type of election-year pandering. It would have cost nothing to make the promise but would have left future legislators to come up with the funding or disappoint all those public servants.

Local Tax Issues

Property Tax Exemption Bills Fail

HB 170 would have allowed the assessor to recommend to the parish governing body an increase in the homestead exemption from the present $7,500 in assessed value up to $15,000. The increase would have required local voter approval. The bill failed twice on the House floor to get the 70 votes needed for a proposed constitutional amendment. The last vote was 54 ayes to 40 nays.

SB 968 would have required the Department of Revenue to provide the Board of Commerce and Industry employment data for companies receiving industrial tax exemptions to be compared with those given by the companies when applying for the exemptions. If the company had not created or retained the number it projected, the Board could have rescinded the exemptions. The bill failed on the Senate floor by a vote of 11 to 24.

Homeowner and Rental Business Tax Breaks

HB 897 will allow homeowners to waive their homestead exemptions, pay the extra property tax and receive an equivalent credit against the local sales taxes they pay. The credit could not exceed the amount of local sales taxes paid.

Property taxes are deductible for federal income tax purposes and sales taxes are not. Thus, a homeowner who itemizes his deductions could get a substantial tax break on his federal taxes and a much smaller one on his state income tax. The property tax collector would collect the extra tax and turn it over, less his expenses, to the local sales tax collector who would presumably pay the money out as refunds to the taxpayer. The bill does not specify how this would be administered.

A last minute amendment to the bill added a property tax exclusion for local sales taxes on tangible personal property purchased for subsequent lease or rent. The exclusion would be phased in over the next four years by applying it to 25% of the purchase price next year (FY 1999-2000) and adding another 25% each year until it reaches 100% on July 1, 2002.

COMMENT: The property tax/sales tax swap is an inventive subterfuge. Barring a possible adverse ruling by the I.R.S., those homeowners who can itemize deductions could have savings of $200 or more each year ($7,500 X 100 mills on average X 28%, the maximum federal tax rate, = $210). In St. Tammany Parish, where the average effective homestead exempt millage is about 157 mills, the savings could reach $330.

The bill is vague as to the process for granting the credit. There are some obvious questions as to what a taxpayer will have to do to prove his local sales tax payments and how their legitimacy might be verified. At any rate, the local governments would not be out anything as they would not receive the extra property tax or give up any sales tax collected.

The credit would of course not be available to renters nor to most low income families who now bear the brunt of the regressive sales taxes. If the plan works, it will make it even easier for middle class homeowners to support higher sales taxes and increased homestead exemptions—the larger the homestead exemption, the larger the federal tax break.

The part of the bill that gives a tax break for rental businesses was fought by the local governments which will lose substantial revenue. However, the fiscal note on the bill could only roughly estimate the loss in local revenue to be between $1 million and $10 million a year when fully phased in. The logic of the exclusion is that it removes the current double-taxation of items—when they are purchased and again when they are rented. A similar exclusion is already in place for automobiles purchased for subsequent rental.

The rental tax break avoided the constitutional ban on enacting "exemptions" in an odd-numbered year session by "excluding" these purchases from the definition of taxable goods.

Campaign Finance and Elections

Noteworthy legislation passed this session includes:

- HB 472 allows candidates to pay themselves interest on any money they loan to their campaign.

- SB 145 increased maximum political action committee (PAC) contributions for district office candidates from $35,000 to $48,195 and requires this be adjusted every four years based on the rate of inflation according to the Consumer Price Index.

- HB 788 requires anyone guilty of an election offense in a winning campaign to resign or not accept the position.

Comment: Changing the PAC limit was unnecessary and it gave special interests an even more important role in Louisiana politics. Interestingly, the law concerning major office candidates was not changed, which means that any legislator will soon be allowed to receive more PAC money than the governor and other statewide elected officials for their campaigns. Incumbents received the major benefits from these changes.

Ethics

The Legislature made several changes to the ethics code including:

- SB 905 requires legislators to file annual financial disclosure reports to report certain income received from the state, its political subdivisions, or any gaming interests.

- HB 967 extended whistle-blower protection to public employees working for political subdivisions (school boards, parish governments, etc.)

- HB 1141 permits paperwork due to the Board of Ethics to be hand-delivered, faxed, e-mailed, mailed or shipped with a commercial delivery service.

- SB 450 lowered the maximum fine for late reports from $10,000 to a fine ranging from $1,000 to $3,000, set fines for the late filing of various required paperwork, allowed civil penalties for late reports to be assessed at the discretion of the Board of Ethics, and reduced jail term for filing a false financial disclosure report for the governor.

The Legislature also expanded the definition of "immediate family" and "controlling interest" in the ethics code and added a provision concerning "regulatory employee." In addition, Board of Ethics advisory opinions can now be appealed to the First Circuit Court of Appeal and the Board can now contract with outside counsel to enforce their judgements.

COMMENT: The Legislature failed once more to enact legislation that would prohibit themselves and other state elected officials, their spouses and children or their businesses from contracting with the state or any political subdivision. What they did accomplish consisted of minor changes.

PAR and the Bureau of Governmental Research (BGR) have recommended that legislators and other state elected officials be required to report in detail anything of economic value that they, their immediate family or any business in which they have a 5% ownership derive from doing business with the state or any political subdivision. SB 905 differs from the PAR/BGR recommendation by not including statewide officials, the immediate family (besides the spouse), all income received, and some other business income.

The Legislature also continued a tradition of enacting exceptions to the ethics code without a sunset provision. Several are dual office holding exceptions and one would allow a member of a municipal governing authority to be appointed mayor without waiting two years.

Open Meetings and Public Records

HB 1691 clarified the custodian's duty and responsibility to provide access to public records, places the burden of proof for denying access on the custodian and public body, requires the custodian to cite the legal basis for the denying of access, sets limits on the amount that can be awarded in a public records suit for attorney fees, and requires an educational program on the public records law.

HB 1545 requires public bodies to post a copy of the open meetings law.

HCS 4 requires a study of the exemptions to the public records and open meetings laws.

COMMENT: A 1998 PAR study recommended several changes to improve the public's access to government. Several of these recommendations were implemented with the passage of the bills discussed above.

A major disappointment was the failure of two bills: HB 1952 to institute a mediation program to assist the public in disputes over public records and HB 1726 to require public bodies to certify that they had properly conducted an executive session.

SB 892, which the Senate passed overwhelmingly, would have made it illegal for any public employee to tell about legislation a legislator is working on prior to its introduction. State or local employees could have been fined $5,000 and fired. Elected officials, legislators excepted, could have been charged with malfeasance, fined and jailed for up to five years. Following the release of a PAR commentary criticizing the bill and strong opposition from groups like the League of Women Voters and the news media, the author announced that he was dropping the bill.

Education

TOPS

Under legislation passed this session, only core courses will be included in the GPA calculation and students who initially qualify for the performance and honors award levels are allowed to downgrade to a lower award level without losing all benefits.

Sick Leave and Sabbaticals

SB 297 replaces the existing rest and recuperation sabbatical for teachers with medical leave. Teachers with three years of consecutive service will earn one semester of medical leave that increases to two semesters with six years of service.

SB 296 enacts a sick leave provision for teachers and school bus drivers that provides up to 90 days of extended sick leave in a six-year period, with unused days not carried forward. This leave can be used for a personal or family illness when regular sick leave is exhausted.

Both medical leave and extended sick leave require a doctor's certification and the school board can pay for a second and third opinion if it disagrees. Employee compensation is set at 65% of salary and the employee is prohibited from working at another job unless certain conditions are met.

SB 1000 allows school boards to establish an incentive pay program to encourage teachers to not use their sick leave.

Charter Schools

The Legislature modified the Charter School Law to improve a charter school's access to unused public school facilities or funding from the legislature for new construction or renovation of facilities, change the student at-risk percentage for conversion schools, expand eligibility for admission into a charter school to include children living outside the district and non-traditional, older students working on their high school diploma or GED, and allow a charter school to set mission specific admission requirements.

Other Actions

Several bills implemented parts of the state's new school accountability program or other education reforms. These bills improved student tracking, provided experts to assist low performing schools, required school boards to offer summer school, established an alternative assessment program and "high stakes testing" program for students with disabilities, and allowed school boards to establish incentive awards for employees in high performing schools.

COMMENT: PAR had long recommended ending teacher sabbaticals for rest and recuperation and substituting disability insurance for long-term illness. SB 297 thus partially accomplished this by repealing the rest and recuperation sabbatical provision and replacing it with medical leave.

The Legislature exhibited a disturbing trend toward micro-managing of the school systems through a dozen new mandates including bills requiring:

- Students to show respect for teachers by saying "yes ma'am" and "yes sir."
- Teaching fifth graders about the U.S. flag.
- Adoption of codes of student conduct.
- 45-minute planning periods and 30-minute duty-free lunches for teachers.
- School boards to advertise superintendent vacancies.
- Parents to be penalized for not attending parent-teacher conferences.

Gambling

SB 1047 and SB 1051 allow slot machines at the horse racing tracks in Bossier and St. Landry Parishes. HB 1647 prohibits the Louisiana Gaming Control Board from requiring phantom or simulated riverboat cruises.

SB 1023, a proposal to eliminate the fifteenth riverboat license, died.

COMMENT: In the ongoing war over gambling, the gambling interests won most of the skirmishes. Various proposals to phase out gambling were killed, an effort to eliminate the fifteenth riverboat license was defeated and the Gaming Control Commission was stripped of the ability to require phantom cruises. The most significant victory for the gambling interests was the authorization of slot machines at two race tracks. To accomplish this, special local taxing districts were created to circumvent the constitutional provisions requiring a two-thirds vote to impose a state tax and prohibiting the imposition of taxes in a non-fiscal session.

PROPOSED CONSTITUTIONAL AMENDMENTS	
HB 617	Allow five-year tax assessment freeze for restoring blighted residential property in Orleans Parish.
HB 477	Maintain state funding for a university for four years if a community college begins offering classes nearby.
HB 497	Prevent the sale of the Louisiana Workers' Compensation Corporation and protect it from legislation not applying to other insurers.
HB 568	Authorize creation of Zachary community school system.
HB 640	Create the Tobacco Settlement Trust Fund and Louisiana Fund.
HB 647	Permit investment in stocks by certain wildlife trust funds.
SB 116	Allow state to donate used asphalt to local governments.
SB 217	Limit the automatic pardon for a first-time felony offender to specified crimes.
SB 245	Expand matters Legislature may consider in and extends the length of even-numbered year regular sessions.
SB 257	Repeal authority for a school system for Wards 9,10 and 11 in Rapides Parish.
SB 294	Allow state supplemental pay for levee, bridge, waterfront and riverway police.
HB 424	Require favorable recommendation by the Board of Pardons for governor to grant pardons, commutations or remittances.
HB 492	Allow the Louisiana Workers' Compensation Corporation to join the Louisiana Insurance Guarantee Association once the full faith and credit backing of the state is removed.
HB 601	Allow the donation or exchange of moveable surplus property among political subdivisions with public safety functions.
HB 641	Exempt those 70 years of age or older from jury duty unless they elect to serve.
HB 663	Allow the state to adopt a biennial budget. (This repeals and replaces a 1997 proposed amendment that has not yet been placed on the ballot.)

Proposed Constitutional Amendments

Of the 117 constitutional amendment proposals introduced this session, 16 received the two-thirds vote of each house needed to bring them before the voters this fall. This follows closely on the heels of the 20 proposed amendments voters had to deal with at the 1998 elections.

The new proposals include a variety of issues ranging from a 3,041-word provision for the tobacco settlement to a one-word addition to the pardons provision. The tobacco amendment verbiage alone would equal nearly one-tenth of the original 1974 constitution. While the 1974 constitution cut the state's basic law from 255,500 words to less than 35,000, it has since been lengthened substantially by voter approval of 94 of the 137 proposed amendments placed on the ballot since 1974.

COMMENT: The concept of a constitution as a relatively permanent statement of basic law and principles for governing the state has essentially disappeared under pages of detailed legalistic language. Much in the same way that the 1921 constitution became the second longest in the world, the 1974 constitution has been amended to the point that it has taken on the appearance of just another code of laws. The more detail that is added, the more likely the need for future changes.

Although it failed, there was an attempt to use the constitutional amendment as a vehicle to circumvent the ban on considering tax increases in odd-numbered year regular sessions. SB 24 proposed a constitutional amendment to place a $1.4 billion-a-year processing tax on oil, natural gas and other petroleum products.

PAR will issue an objective analysis of the proposed constitutional amendments prior to the election. However, previous PAR reports have dealt with several of these issues and raised serious questions regarding the desirability of continuing, much less expanding, supplemental pay; the fragmenting of school districts; and the use of hold-harmless funding arrangements.

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