

February 14, 2018

## Bill Tracker Returns

The South Dakota Chamber of Commerce and Industry reads and reviews every one of the more than 500 bills during every legislative session. Of those 500 plus bills, the Chamber follows roughly 100 or so through the process including sitting in on hearings, discussions with legislators and offering brief testimony.

There are 25-40 bills that will have the greatest impact on the Chamber's members and the business community in general. These are the bills that receive the Chamber's full analysis and research, along with discussions with committee members, offering more extensive testimony in committee hearings and contacting members of the entire Senate and House of Representatives.

These highest priority bills can be reviewed on the Chamber's Bill Tracker though [\*\*this link\*\*](#) which will be part of every issue of Capitol-ism. Currently the tracker has 17 bills listed.

The bill tracker has a link to see the actual bill itself, lists the bill's main sponsor, a link to any analysis that has been written, the Chamber's position, the vote of the committee, the vote on the floor of the house where it was introduced, and the committee and final floor vote of the other legislative body (House or Senate).

Here again is the link for the highest priority bills of the 2018 legislative session to this point.

[\*\*2018 Bill Tracker\*\*](#)

## Work Comp Bill on Bad Faith Falls Short

**SB 145 Maher (R-Isabel) - revise certain provisions related to claims regarding workers' compensation.**

Chamber members and other businesses that offer workers' compensation insurance or provide claims administration services have indicated they are facing an increase in claims of bad faith when trying to settle claims, especially when lawyers are involved. They have said that these claims are increasing the cost of settling cases through mediation and have resulted in several spectacular jury awards that are disproportional to the actual claims.

SB 145 would have required those bad faith claims to be adjudicated by the Department of Labor's Workers Compensation Division hearing officers, which would relegate Circuit Courts to being an appellate function to be heard by a judge rather than a jury.

During the hearing, a number of attorneys that opposed the bill brought clients that had been injured at work to testify about their experience trying to get medical bills paid by insurance companies. Capitol-ism acknowledges that the stories told during the hearing were compelling and the people had faced real struggles.

The stories that were told at the hearing are examples of when the system seems to have failed, although there was no cross examinations beyond the revelation that one of the attorneys discussing information he claimed demonstrated a systematic refusal to pay claims wasn't from a workers' compensation case at all but rather a claim from an automobile accident.

In the end, the opposition prevailed and the committee voted to table the bill with a motion to “refer it to the 41<sup>st</sup> day”. Legislators voting to kill the bill did express a belief that work should be done to evaluate the concerns about the impact that claims of bad faith are having on the workers’ compensation system in South Dakota.

Here is the vote on SB 145:

**SB 145, Senate Commerce and Energy, Deferred to the 41st legislative day - 2018**

Yea 6 Nays 1 Excused 0 Absent 0

Kennedy	Yea	Kolbeck	Yea	Netherton	Yea
Novstrup	Nay	Tapio	Yea	Nelson	Yea
Jensen (Phil)	Yea				

## **Update - Ballot Question Committees Could be More Flexible**

### **SB 128 Haverly (R-Rapid City) - revise certain provisions regarding ballot question committees.**

As noted in Capitol-ism on February 2<sup>nd</sup>, the South Dakota Chamber of Commerce and Industry is leading an effort to change how ballot question committees function. SB 128 will allow groups like the Chamber to maintain a ballot question committee as an ongoing committee that can be used in future elections and can support/oppose multiple other ballot measures.

SB 128 was debated by the full Senate last Thursday and passed on a vote of 27-Yea to 8-Nay (see vote below). During the debate, a criticism surfaced about these multi-issue, long term ballot question committees acting like a screen that would keep the public from knowing exactly which ballot measure the businesses that donate to the Chamber’s committee were supporting or opposing.

While this observation is valid, it misses badly the main point of the bill which is making sure the public knows who gives to all ballot question committees. The Chamber, or the South Dakota Retailers or any other organization, will list all donations to their ballot question committees and, in turn, list every donation that is made by those committees to other ballot measure campaigns. There is an alternative that is legal under the law today which is for the Chamber and others to raise money as “treasury” and give to ballot measure campaigns without reporting the source of a dime of those funds.

It is important to note that ballot question committees cannot give to any other type of political campaign, such as candidates or political parties.

Making the irony even starker, these new ongoing ballot question committees function as a “screen” in exactly the same manner as do political action committees (PACs) and political parties themselves. Plus, ballot measures lack the “corruption or appearance of corruption” that justifies the regulation of limits on campaign contributions to candidates. During a ballot question campaign, the communication is directly with the people that vote; there can be no “quid-pro-quo” that is the essence of corruption.

The South Dakota Chamber of Commerce appreciates the Senators who voted to approve this bill. Here is the vote on SB 128:

**SB 128, Senate, Do Pass - 2018**

Yeas 27 Nays 8 Excused 0 Absent 0

Bolin	Yea	Cammack	Yea	Cronin Yea
Curd	Yea	Ewing	Yea	Frerichs Nay
Greenfield (Brock)	Yea	Haverly	Yea	Heinert Nay
Jensen (Phil)	Nay	Kennedy	Nay	Killer Nay
Klumb	Yea	Kolbeck	Yea	Langer Yea
Maher	Yea	Monroe	Yea	Nelson Yea
Nesiba	Nay	Netherton	Yea	Novstrup Yea
Otten (Ernie)	Yea	Partridge	Yea	Peters Yea
Rusch	Yea	Russell	Nay	Soholt Yea
Solano	Yea	Stalzer	Yea	Sutton Nay
Tapio	Yea	Tidemann	Yea	White Yea
Wiik	Yea	Youngberg	Yea	

**Business Day at the Legislature is just a week away. Check out the agenda and [register today](#).**

This message has been sent to: Yankton Area Chamber

222 East Capitol | Suite 15 | PO Box 190 | Pierre, SD 57501  
[Contact](#) | 605-224-6161