ABC of Georgia Weekly Legislative Report - 3.16.20

By Rusty Paul

While the number of cases in Georgia is still quite small, one casualty of Covid-19 virus is the 2020 legislative session. Late in the day Thursday, Speaker David Ralston announced the General Assembly would convene Friday at 11 a.m. simply to gavel in the session and immediately adjourn.

Thereafter, the 2020 session would be indefinitely suspended. With that, the legislature embarked upon unchartered waters because no one remembers a session being suspended under such circumstances and for such an indeterminant time.

Yet, the session clearly is not over. Legislators have not passed the one constitutionally required law – a budget for the fiscal year starting July 1. So, they must return for at least a couple of days to complete that task.

The conundrum is that incumbent legislators are still barred from fund raising under a state law that prohibits legislators from soliciting campaign contributions while the General Assembly is in session. And, it still is – indefinitely – or at least until a budget is passed.

A suspension does not end the session or open the campaign finance window. That’s a real problem for incumbent legislators facing a May 24 primary.

What happens next and when are the key questions. With that May primary facing those members seeking re-election, finding the time to complete the full 15 remaining days will be a challenge. State law mandates the General Assembly can meet no more than 40 days per year; they can meet fewer days, however.

All this overshadowed one of the session’s key milestones – Crossover Day. Legislative leaders were responding to a growing push by public health officials to eliminate as many large group gatherings as possible. In response, the Speaker had already suspended the House Page program, a longstanding ritual where teens from across Georgia serve a day as runners to carry messages to and retrieve legislators for constituents wishing to discuss legislative concerns with their member.

Nevertheless, the decision to shutter the session, at least temporarily, stunned long-time Capitol observers who could not remember a precedent for this action. During the session, the Capitol is typically crowded with lobbyists, constituents, interest groups all looking to influence legislative decisions. The crowds are particularly large on Crossover Day when a bill must pass at least one chamber to become law in the current year.

It’s one of the most intense days of the session as members jockey to get their bills to the floor for a vote before the clock strikes midnight. However, many professionals who monitor legislative activities had already decided to follow the legislative activities remotely via the streaming services the state provides.
State leaders will be talking during this recess to decide when it may be safe for legislators to return and whether they will take up the dozens of bills moving through the process or simply return, pass a budget and go home.

If they take up bills besides the budget, below is a list the bills whose fate may or may not have been sealed on Crossover Day.


We were there the morning before Crossover Day, so legislators were hustling through the Capitol trying to get their bills sent to the floor, unaware that all the bustle may have been for naught. Rep. Silcox gave the group an overview of the primary business-related bills that were then moving through the legislature, including tort reform, lien law reform and construction warranty legislation, the latter two measures correcting Georgia Appeals Court decisions that undermined traditional practice in both areas of law.

Rep. Knight, who oversees the state Technical College budget, engaged the group in conversation about workforce shortages. He noted that many industries are facing labor shortages and he is pushing the Technical Colleges to focus more on recruiting and training high school students for jobs like welding, plumbing, HVAC, electricians and other hard to fill jobs.

ABC members pointed out that waiting until students graduate high school is too late to begin the recruiting process, that it should begin in middle school or even earlier. Rep. Knight asked that a group of ABC members to meet with him after the session for further conversations.

Sen. Tillery, one of Gov. Kemp’s Senate floor leaders and Vice Chair, Senate Appropriations Committee, talked about the impact of education and healthcare on the budget. He noted that with the teacher pay raises the House just approved brought to 55 percent the proportion of the budget dedicated to education and since education spending is controlled by a per student formula, reducing the amount requires changes in formula driven decision making. With healthcare also now consuming 34 percent of the budget, other key needs, like infrastructure and capital spending, are being crowded out.

He noted the political difficulty in tackling the education conundrum, but said a better budget balance across spending categories is imperative.

**Tort Reform** – As noted last week, the Senate has been working on three bills that incorporate the first significant tort reform legislation in over ten years. This week, the Senate decided the outcome of several key reform bills.

On Crossover Day, the Senate tabled **SB 415**, a comprehensive, pro-business bill designed to reduce insurance rates for businesses. It remains tabled, but is effectively dead for this session. This complex bill dealt with several areas of civil procedure and practice, including premises liability, trucking lawsuits, seat belt admissibility in injury claims, asbestos litigation and truth in medical damages suits.

Another piece of the civil justice reform initiative, **SB 374**, did pass the Senate. It deals with complex settlement offers that have acquired a certain “gotcha” quality due to recent court rulings. This bill clarifies that a request for more information about a proposed settlement offer is not tantamount to a rejection of that offer. These requests for clarification have been deemed to be “bad faith” rejections when the insurance company may truly need additional information to understand the proposed settlement offer.
This bill requires settlement offers to be reasonable, limited in scope, professional and clearly drawn. This bill passed the Senate Monday and is pending in the House Insurance Committee.

**SB 390**, the third reform bill, failed to reach the Senate floor. It dealt with civil practice by lawyers and judges during litigation to prevent abuses in the litigation process.

**HB 715** – Another bill that ultimately failed was one that changed how local governments charge for business licenses. Currently, business licenses, except for a handful of professions, are based on the “gross receipts” of a business after subcontractor costs and out-of-state revenues are subtracted.

The bill had two parts: 1) requires permit fees to be based solely on the cost of providing the inspections related to the projects; and 2) ending the gross receipts calculations that local governments use to assess business license fees.

**Lien Law Revisions – SB 315**, Sen. Lindsey Tippens bill to restore traditional lien waiver rights and standards has passed the Senate, is now in the House Regulated Industries Committee. While non-controversial, its fate is tied to how leadership decides to conclude the 2020 session. The bill is needed to correct a Georgia Appeals Court ruling which held that waivers signed during the billing/payment process do, in effect, waive a contractor’s lien rights even if the contractor subsequently goes unpaid and the waiver is canceled.

**Construction Warranties** – Another important bill hanging in the balance is HB 968, which corrects a Georgia Appeals Court ruling that, in effect, capped construction warranties at eight years. It has passed the House and is awaiting action in the Senate Judiciary Committee.

**HB 486** - The House approved this proposed change that prohibits someone who lacks a valid license from the Division of Master Plumbers and Journeymen Plumbers from advertising that they are either a master plumber or journeyman plumber. It is on hold in the Senate Regulated Industries & Utilities Committee.

**HB 914** – The House passed this proposition this bill that automatically extends Georgia professional and business licenses to military spouses stationed in the state who hold an equivalent license in another state. As passed by the House, the bill contains a provision that the originating state must require comparable training, experience and testing as Georgia for the spouse to qualify for our state license. The bill is being held in the Senate Veterans, Military & Veterans Affairs Committee awaiting the decision going forward.