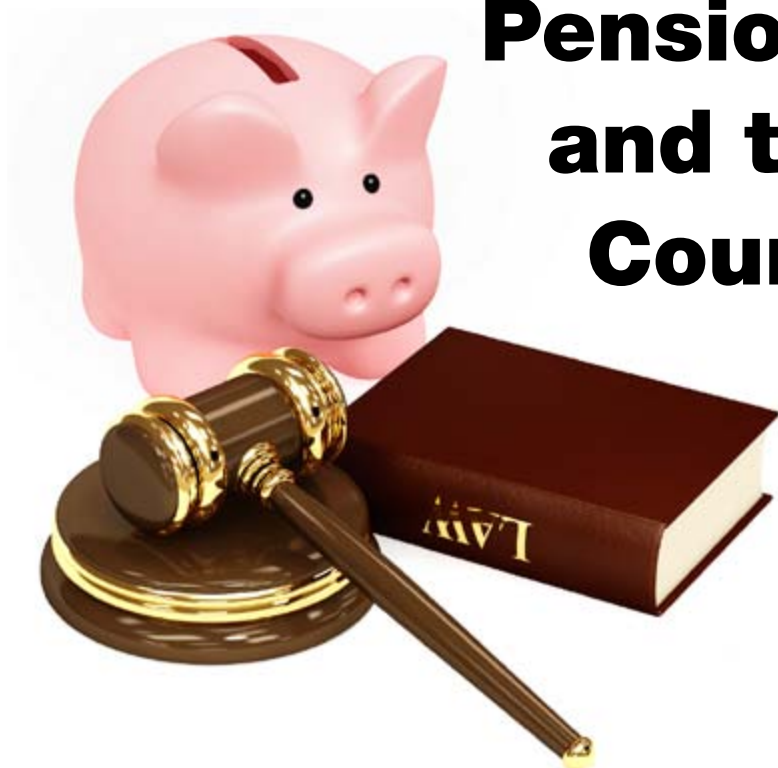


February 17, 2014

## Pensions and the Courts



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The next issue of Capitol Journal will be available on March 3rd.

### Top Story

*Public employee unions and their allies are flexing their muscle in California, where a sweeping pension reform initiative that once seemed destined for the November ballot will instead take a legal detour that will delay it.*

## SNCJ Spotlight

### Public Unions Push Back on Pension Reforms: What Will Courts Say?

Public employee unions and their allies are flexing their muscle in California, where a sweeping pension reform initiative that once seemed destined for the November ballot will instead take a legal detour that will delay it.

San Jose Mayor Chuck Reed, the initiative's author, said he will mount a legal challenge to the wording of

## A Cannon Perspective



With Lou Cannon

the ballot proposition by fellow Democrat Attorney General Kamala Harris. Reed contends that the wording is biased and pro-union, which Harris through a spokesperson denies. Public unions contributed heavily to the campaigns of the attorney general.

This twist in the California pension wars comes against the backdrop of a stark warning from Gov. Jerry Brown (D) to CalPERS, the nation's largest public pension union. Brown called upon the pension fund to address increased life expectancy of public employees, saying longer-lived retirees will add \$1.2 billion annually to pension costs. In a letter to Rob Feckner, president of the CalPERS board, Brown said that a recommendation by the board's staff to postpone action until 2016 was "unacceptable."

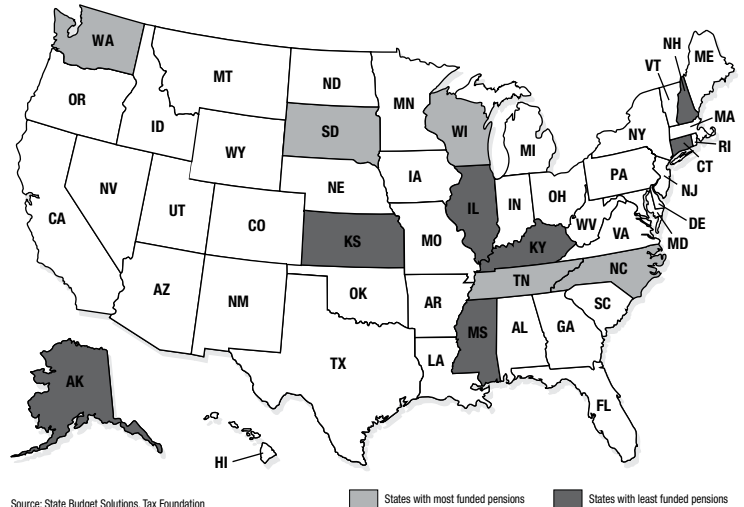
"Since CalPERS last faced this issue in 2010, there have been dramatic increases in life expectancy: by 2028 men retiring at age 55 are projected to live an average of 2.1 years longer and women 1.6 years longer," Brown wrote. "For the state, these changes mean that pension costs will be much greater than previously thought and state costs will increase...about 32 percent greater than today."

It's unclear what Brown can do if CalPERS ignores his entreaty. The California Constitution gives pension recipients the upper hand, and unions have made the most of it.

In 2012 Mayor Reed proposed giving the San Jose city government the authority to reduce pension benefits and also salaries, if needed to balance the budget. Seventy percent of the city's voters approved the plan, but a state judge in December 2013 invalidated the pension cuts. Superior Court Judge Patricia Lucas cited a provision of the state constitution that prohibits any reduction in pensions once they have been agreed upon.

The judge threw a bone to Reed and the voters, ruling that salaries could be cut to pay for pension costs. But that may be politically difficult to accomplish. The ink

## Bird's eye view



### State pensions could be 61 percent underfunded

States have only 39 percent of the assets they need to cover their public employee pension obligations, according to an estimate from State Budget Solutions, a non-partisan, non-profit, national public policy organization. That estimate is based on an annual investment return of 3.2 percent (the 15-year Treasury bond yield as of August, 2013), instead of the 7 to 8 percent rate most of the pension plans themselves use, a rate which many critics say is overly optimistic. By that more conservative standard, the most funded pensions, in Wisconsin, are still underfunded by 43 percent. Illinois' pensions, the least funded, are underfunded by 76 percent.



was hardly dry on Lucas's opinion before the union representing San Jose police officers warned it would sue if the city tried to reduce salaries outside the collective bargaining process. San Jose, California's third largest city, spends about one-fifth of its \$1.1 billion general fund on pensions or retiree costs. Pension costs have played a role in the bankruptcies of Stockton, San Bernardino and other California cities.

Eight states have provisions in their laws or constitutions similar to California's prohibiting pension reductions. One of the eight is Illinois, where a coalition of labor unions last month filed suit against Gov. Pat Quinn (D) and the legislature, which recently approved changes in the retirement system. The new law would affect pensions of an estimated 621,000 teachers, state workers, lawmakers and university employees. It would reduce annual cost-of-living increases and raise the retirement age for those 45 or younger.

Ultimately, the issue of state prohibitions on changes in the pension system could reach the Supreme Court. It's always risky to predict what the high court might do, but a federal judge in the Detroit bankruptcy case sent shudders through union ranks in December when he found that the city's obligations to pay pensions in full are not untouchable. Judge Steven V. Rhodes ruled that pension benefits were "a contractual right" that were unprotected in a federal bankruptcy even though the Michigan state constitution expressly protects them. The decision is under appeal.

As for the California initiative that Mayor Reed is pushing, one doesn't have to agree with its goals to have reservations about the wording used by Attorney General Harris. The ballot summary's first sentence declares that the measure "eliminates constitutional protections for vested and retiree healthcare benefits for current public employees, including teachers, nurses and peace officers, for future work performed." This is grammatically suspect. If written in plain English the words "for future work performed" would follow "constitutional protections." On first reading in a long and complicated ballot, voters might conclude that existing constitutional protections were being eliminated, not just future ones. And why single out "teachers, nurses, and peace officers?" The ballot measure could just as well say "assessors, tax collectors and prison guards." It really shouldn't specify any particular kinds of public employees since it would apply to all of them.

Reed says the killer word is "eliminate." He alleges that this word and most others in the ballot measure's wording seem to have been lifted from a memo that a Washington-based polling firm, Garin-Hart-Research Group, wrote to its public employee clients opposing a measure. On this point, Harris would be justified in saying, "So what?" What matters is not whether the wording was used elsewhere but whether it fairly describes the ballot measure. In this case it doesn't. Whether or not one agrees with the initiative, it should be decided by a vote of the people, not a partisan public official.

That said, the cause of pension reform is ill served by bashing public employee unions. As Donald Boyd and Peter Kiernan observe in a Rockefeller Institute of

Government report, public pensions are a societal value worth preserving. That's getting harder to do in a country where private pensions are all but disappearing and unfunded pension liabilities for the states have soared above an unimaginable \$4 trillion. To some degree these liabilities occur because politicians in state and city governments made promises they could never have honored. But the nub of the problem as explained by Boyd and Kiernan is that pension funds have based their solvency on gauzy estimates of future earnings without valuing the liabilities by the risk they will not be paid.

This problem has existed for decades but has become steadily more acute. In the mid-1950s there were seven active employees for every beneficiary. Now there are two. As the ratio of employees to beneficiaries declined, pension-fund managers took increasing risks with the assets entrusted to them and plunged into the stock market. In 1980 only 23 percent of pension-fund assets were in equities; it's now 67 percent. Putting most of the pension eggs in the equities basket may have seemed a nifty idea in 2013 when stocks were setting records. But the markets have come back to earth, as they usually do, in what *The Economist* calls the "wobbly" world economy of 2014.

Mark Funkhouser, ably summarizing the Rockefeller Institute report in the January issue of *Governing* magazine, "calls it a wake-up call for states and localities to take seriously the issues being raised and deal with them forthrightly and effectively." His article and the report itself are available on line. They are must reading for anyone serious about pension reform.

It's unclear who will ultimately prevail in California over the ballot wording of Reed's proposed pension reform. Even if Reed succeeds in getting the wording changed, he won't have time to gather the signatures necessary to put it on the November ballot, which means waiting until the next election. It's also unclear who will prevail in the ongoing lawsuits in Illinois and Michigan. But even a casual reading of the data in the Rockefeller Institute report suggests that time is running out for pension reform.

— By Lou Cannon

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## Budget & taxes

**E**XPANSION YEAR FOR EARNED INCOME TAX CREDIT? In his State of the Union Speech last month, President Barack Obama proposed expanding the Earned Income Tax Credit, the federal credit offsetting income and payroll taxes for low-income workers. It remains to be seen whether Congress will answer that call — having already expanded the credit multiple times since first enacting it in 1975 — but a number of states appear to be running with the idea.

So far this year, measures creating or expanding state versions of the EITC — which would piggyback the federal credit and allow state taxpayers to claim a portion of the federal credit on their state income tax returns — have been introduced in nine states, according to the National Conference of State Legislatures. Twenty-five states already offer such credits.

“States see this as a good policy,” said Erica Williams of the liberal-leaning Center on Budget and Policy Priorities. “As they’re kind of coming out of the lows of the recession and revenues start to come back, they’re looking for ways that they can reinvest.”

The credit appeals to both Democrats and Republicans. In fact, Illinois’ Democratic Gov. Pat Quinn and Kentucky’s Republican Gov. Steve Beshear are leading the EITC-expansion efforts in their respective states.

“We’ve seen this in blue states and red states,” said Williams. “Even during what was a very deep recession for states, a very deep decline in revenues, the worst since the Great Depression, states really maintained support for these credits.”

Liberals tend to view the credits as a useful addition to safety net programs, while conservatives favor them as a form of work-oriented welfare.

“As you work more, your credit increases in size, so it’s essentially paying you more to work, as opposed to a traditional welfare program,” said Kyle Pomerleau of the Tax Foundation, a conservative-leaning think tank. “It gives you more money the more you work.”

There are opponents of the EITC, however, including those who criticize its high price tag, expected to range from \$4 million to \$1.3 billion in fiscal year 2015, depending on the size of the state and the amount of the credit. Others bemoan its high error rate. A recent Treasury Department Inspector General report revealed that in fiscal year 2012 up to 25 percent of EITC payments — \$13.6 billion worth — were made in error. The error rate for the food stamp program, in contrast, is less than 5 percent.

But the EITC’s bipartisan appeal, particularly its incentivization of work at a time when states are trying to jumpstart their economies, and the credit’s minimal hassle to implement — requiring only a change to the tax code and an additional line item on tax forms — could be enough to make 2014 an EITC-expansion year in the states. (STATELINE.ORG)

## In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here’s a snapshot of what’s in the legislative works:

**Number of 2014 Prefiles last week:** 845

**Number of 2015 Prefiles last week:** 5

**Number of Intros last week:** 6,703

**Number of Enacted/Adopted last week:** 800

**Number of 2014 Prefiles to date:** 16,504

**Number of 2015 Prefiles to date:** 59

**Number of 2014 Intros to date:** 42,098

**Number of 2013 Session Enacted/Adopted overall to date:** 40,747

**Number of 2014 Session Enacted/Adopted overall to date:** 2,330

**Number of bills currently in State Net Database:** 139,859

— Compiled By FELICIA CARILLO  
(measures current as of 2/13/2014)  
Source: State Net database



**PA GOV MAKES \$1.4B DEFICIT DISAPPEAR:** Two months ago Pennsylvania's Budget Secretary Charles Zogby projected a \$1.4 billion deficit for the state's next fiscal year, which begins July 1. But the 2014-15 budget unveiled last week by Gov. Tom Corbett (R) — who faces a tough re-election battle this year — increases state spending by 3.3 percent without raising taxes and even continuing a phase-out of the state's capital stock and franchise tax.

"All sorts of weird things happen in election years," said Antony Davies, an economics professor at Duquesne University in Pittsburgh. "The game becomes very much one of appearances rather than reality."

The reality of Corbett's \$29.4 billion budget proposal, according to minority Democrats on the House Appropriations Committee, is that it relies on "unsustainable or unpredictable funding sources, program cuts or other gimmicks" — including \$225 million from tobacco settlement funds allocated for public pensions and \$150 million from an overhaul of the state's unclaimed property laws — to make ends meet.

Davies, who appears to see Corbett's budget the same way, is also critical of the governor's approach.

"One-time fixes are dangerous, and they're dangerous because they only kick the can down the road," he said. "It's like a household not being able to make ends meet, so they sell their car so they can buy food. Well, that buys you food for this year, but what you going to do next year?"

Corbett's election-year budget also reportedly relies on optimism that the improving economy will increase revenues, which evidently isn't a novel idea in the state.

"This is something that the state's done before," said Michael Wood, research director at the Pennsylvania Budget and Policy Center, "and it just makes it that much more difficult to come up with a reasonable spending plan the next year." (PHILLY.COM, STATENET.COM)

**BUDGETS IN BRIEF:** Covered **CALIFORNIA**, the Golden State's health insurance exchange, is setting aside nearly \$200 million to deal with projected budget shortfalls after federal grants that have been its sole source of financial support end this year. The exchange racked up 625,000 enrollments through mid-January, more than any other state (SAN JOSE MERCURY NEWS). • A poll conducted this month by Lansing-based EPIC-MRA found that 38 percent of **MICHIGAN** residents think the state's nearly \$1 billion budget surplus should be used for K-12 education and 36 percent think the money should go toward the state's roads, while only 11 percent think the money should be returned to taxpayers. The state's Republican-led General Assembly has reportedly been focused mainly on providing tax relief (DETROIT FREE PRESS, STATE NET). • **CONNECTICUT** Gov. Dannel P. Malloy (D) called for, among other things, an increase in the minimum wage, tax rebates and an investment of \$134 million in the state's community colleges and universities in his State of the State speech last week (HARTFORD COURANT, STATE NET).

— *Compiled by KOREY CLARK*

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# Politics & leadership

**S** **KIRMISHES IN STATES OVER SAME-SEX MARRIAGE:** Last week was a busy one for same-sex marriage, with significant developments on the issue in multiple states.

Some of the biggest news came out of Nevada, where Attorney General Catherine Cortez Masto (D) and Gov. Brian Sandoval (R) announced the state was ceasing its defense of its 2002 ban on gay marriage in federal court.

“The state’s argument cannot withstand legal scrutiny,” Masto stated in a motion filed with the U.S. 9th Circuit Court of Appeals in San Francisco, asking to withdraw the state’s legal argument against same-sex marriage in a case appealed to the court by an LGBT legal advocacy group, Lambda Legal, after a federal judge upheld the state’s ban in 2012

Sandoval supported that move.

“Based upon the advice of the attorney general’s office and their interpretation of relevant case law, it has become clear that this case is no longer defensible in court,” a spokeswoman for the governor said in a statement.

In Ohio, four married same-sex couples filed a federal lawsuit last week seeking state recognition of their marriages on birth certificates. Same-sex couples in the state recently earned the right in federal court to be recognized on death certificates.

A coalition of religious groups, meanwhile, filed an amicus brief last week asking the U.S. 10th Circuit Court of Appeals in Denver to uphold same-sex marriage bans in Oklahoma and Utah that have been declared unconstitutional by federal judges in each state.

“Our support for traditional marriage stands on the affirmative belief that husband-wife marriage complements our human natures as male and female, promotes responsible procreation, and provides the best environment for children,” stated the brief, filed jointly by the U.S. Conference of Catholic Bishops, the National Association of Evangelicals, the Ethics and Religious Liberty Commission of the Southern Baptist Convention, the Lutheran Church-Missouri Synod and the Church of Jesus Christ of Latter-Day Saints.

In action last week outside the courts, an Indiana Senate committee voted 8 to 4 along party lines to send a constitutional ban on same-sex marriage to the full Senate for a vote. The state’s House removed a provision from the measure that would also have banned civil unions before passing it and sending it on to the Senate. The Senate could restore that provision. If both chambers ultimately approve the measure, it would have to be approved by the Legislature again next year, before going to voters. (LOS ANGELES TIMES)

**KY SENATE SEEKS TO BOOST  
LAWMAKERS' OVERRIDE POWER:** By a vote of 24 to 14, Kentucky's Republican-led Senate passed a proposed constitutional amendment (SB 1) this month that would allow the General Assembly to override regulatory actions taken by the executive branch when the General Assembly is not in session.

"They wait until we leave town and then we have no authority, no power" to stop them from doing whatever they want, Sen. Julie Denton (R) said of Democratic Gov. Steve Beshear's administration. She added there were times when the executive branch manipulated regulations to distort the intent of laws passed by the General Assembly.

Beshear didn't much care for the bill, saying lawmakers already have the authority to overturn any regulation adopted by the executive branch when they are in session and "the last thing the people of this state want is for a small group of legislators elected by a small number of voters to have the authority to meddle in the day-to-day operations of government." But Beshear has no direct say on the proposal; under Kentucky's Constitution, constitutional amendments approved by a 60 percent majority in both legislative chambers go to the state's voters for final approval instead of the governor.

But before the state's voters could weigh in on SB 1, the measure would have to be approved by the Democrat-controlled House. And House Speaker Greg Stumbo (D) has evidently tied the fate of SB 1 — a top priority for Senate Republicans — to a priority of his own, a bill raising the state's minimum wage, much to the annoyance of Senate President Robert Stivers (R).

"I find it an interesting tactic that the speaker wants to basically hold hostage and have quid pro quo exchanges of legislation instead of allowing the legislation to live or die on the merits of the bill," he said. (COURIER-JOURNAL [LOUISVILLE])

**POLITICS IN BRIEF:** A proposed constitutional amendment to legalize marijuana in **NEW MEXICO** (SJR 10) failed to make it out of committee last week. That likely means the state's voters won't get an opportunity in November to vote on whether to legalize, tax and regulate the drug as voters in **COLORADO** and **WASHINGTON** did in 2012 (SANTA FE NEW MEXICAN). • **MISSOURI's** Republican-dominated House Workforce Development and Workplace Safety Committee approved right-to-work bills (HB 1053 and HB 1143) on party-line votes last week (COLUMBIA MISSOURIAN).

## Upcoming elections

(2/13/2014 - 3/6/2014)

02/25/2014

**Connecticut Special Election**  
Senate District 10

**Rhode Island Special Election**  
House District 49

**Virginia Special Election**  
House District 100

03/04/2014

**Massachusetts Special Primary**  
House 4th Hampden, 2nd Suffolk, 13th  
Suffolk, 16th Suffolk  
Senate 5th Middlesex

— Compiled by KOREY CLARK



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# Governors

**INSLEE HALTS WA DEATH PENALTY:** Saying there are “too many flaws” in the capital punishment system, Washington Gov. Jay Inslee (D) announced a moratorium last week on executions in the Evergreen State for the duration of his term as governor.

“During my term, we will not be executing people,” he said.

Inslee’s decision drew immediate criticism from capital punishment supporters like Rep. Jay Rodne (R), who called the moratorium a political distraction that harms the families of crime victims awaiting the execution of convicted murderers on death row.

“This must be a difficult day for these families as they are confronted with the reality that the governor cares more about a few convicted killers than justice for their loved ones,” he said in a statement.

Others hailed the decision, including Rep. Reuven Carlyle (D), who has introduced multiple measures to eliminate capital punishment. Carlyle called Inslee’s decision “a profound shift,” adding that the governor “has opened a legitimate conversation. ... It sets in motion a legitimate and genuine public conversation.”

In announcing the moratorium, Inslee noted his previous support for the death penalty. He said he had studied the issue for months before making a decision, including touring the state prison at Walla Walla and speaking with staff there as well as “law enforcement officers, prosecutors, former directors of the Department of Corrections, and the family members of the homicide victims.” Ultimately, he said, he concluded that he had too many doubts about the system’s fairness and its value as a deterrent.

Equal justice under the law is the state’s primary responsibility. And in death penalty cases, I’m not convinced equal justice is served,” he said. “The use of the death penalty in this state is unequally applied, sometimes dependent on the budget of the county where the crime occurred.”

The governor said that any death penalty cases that come to him will receive a reprieve. He emphasized, however, that this does not mean he will commute the sentences or pardon any of the nine men currently on Washington’s death row.

“Nobody is getting out of prison – period,” he said. (SEATTLE TIMES, WASHINGTON GOVERNOR’S OFFICE, SPOKESMAN-REVIEW [SPOKANE], CROSSCUT.COM [SEATTLE], ABCNEWS.COM, WASHINGTON POST)

**FEDERAL COURT GRANTS CA PRISON EXTENSION:** After enduring numerous rejections over the last three years, California Gov. Jerry Brown (D) finally got a federal court to give him more time to ease the Golden State’s longstanding prison overcrowding problem. A three-judge federal panel last Monday granted

California a two-year extension to achieve the court's mandate to reduce the state's prison population to 137.5 percent of capacity.

The state will now have until Feb. 28, 2016 to make the reduction. But the panel's ruling came with conditions. The justices said they intend to appoint a compliance officer who will have the power to release prisoners if the state does not hit certain interim

benchmarks, and the court limited how many inmates California will be able to send to out-of-state lock-ups. It also ordered officials to implement a series of immediate reduction measures, including increasing credits for nonviolent second-strike offenders and minimum custody inmates; setting earlier parole eligibility for some nonviolent offenders; easing parole for inmates who are older than 60 that have already served at least 25 years in prison; and expanding alternative custody programs for female inmates.

Brown hailed the ruling, saying in a statement that "the state now has the time and resources necessary to help inmates become productive members of society and make our communities safer."

Inmates' attorneys were not as happy. Michael Bien, a lawyer for some inmates, called the judges' ruling "dangerous and unjustified."

"This extension means two more years of suffering for inmates that should not have been granted," he added. (SACRAMENTO BEE, SAN JOSE MERCURY NEWS, NEW YORK TIMES)

**WALKER SIGNS SUITE OF MENTAL HEALTH BILLS:** Wisconsin Gov. Scott Walker (R) signed a package of seven bills aimed at improving mental health services in the Badger State. The measures, which cover a broad range of initiatives, will collectively pump about \$4 million into the system. The money will be used to recruit more mental health professionals to underserved areas (AB 454), create and staff a consultation hotline for children and teenagers (AB 452) and create mobile crisis teams to treat serious mental illness (AB 450 and AB 460).

Walker was effusive about AB 459, another bill he signed that would create a program to help the mentally ill find jobs.

"For everyone who is able and wants to work, we want to find a way to get them gainful employment," he said.

Other measures he signed include AB 453, which allows health care providers to more easily share health records, and AB 458, which allows children with mental health issues to receive in-home treatment. Walker has also expressed support for AB 718, a bill working its way through the legislature that would shift control of the troubled Milwaukee County Mental Health Complex to an appointed board. The facility has been dogged with accusation of poor patient care for decades.

## In case you missed it

Just when it looked as if no legislation of any consequence would ever make it through the partisan gridlock in Washington, Congress approved a five-year farm bill that will impact everything from farm subsidies to food stamps.

In case you missed it, the story can be found on our Web site at

[http://www.statenet.com/capitol\\_journal/02-10-2014/html#sncj\\_spotlight](http://www.statenet.com/capitol_journal/02-10-2014/html#sncj_spotlight)

Walker called the situation “a crisis, not unlike a natural disaster.” The bill is currently in the Assembly Committee on Health. (STATE NET, MILWAUKEE JOURNAL-SENTINEL, GREEN BAY PRESS GAZETTE)

**GOVERNORS IN BRIEF:** Three former **CALIFORNIA** governors, Republicans Pete Wilson and George Deukmejian and Democrat Gray Davis, announced their support for a proposed ballot measure that would, among several things, establish a five-year deadline for deciding death row appeals and transfer most capital punishment cases from the state Supreme Court to lower courts. Supporters hope to get the measure on the ballot this November (LOS ANGELES TIMES). • **CONNECTICUT** Gov. Dannel P. Malloy (D) has proposed legislation that would create a presumption in civil law that domesticated horses, donkeys and mules are not inherently dangerous or vicious animals. Malloy’s proposal is in light of a pending state Supreme Court decision in a case claiming that equine mammals are naturally inclined to be vicious (REPUBLICAN-AMERICAN [WATERBURY]). • **RHODE ISLAND** Gov. Lincoln Chafee (I) released a 300-page model school safety plan that incorporates new legislative requirements into a guide for creating better schools. The plan is based on legislation Chafee signed last year (PROVIDENCE JOURNAL). • **IOWA** Gov. Terry Branstad (R) said he plans to speak to the governors of **NEBRASKA**, **SOUTH DAKOTA** and **KANSAS** about setting up a multi-state online health benefits exchange. The Hawkeye State exchange is currently run in partnership with the Obama administration. Branstad said he believes a multi-state compact could be less costly for both states and the federal government (QUAD-CITY TIMES [DAVENPORT]). • **ILLINOIS** Gov. Pat Quinn (D) said he is working on a proposal that would require employers to provide workers with a minimum of two earned sick days each year (CBSLOCAL.COM [CHICAGO]). • **ARIZONA** Gov. Jan Brewer (R) joined forces with Gov. Guillermo Padrés of the Mexican state of Sonora to form a new partnership to recruit technology companies from around the world to do business in the Arizona-Sonora region. The venture, dubbed Global Advantage, will allow companies to conduct advanced research and development at Tech Parks Arizona and provide high-tech manufacturing capabilities, administrative and support services and access to a skilled work force at one of the Offshore Group’s facilities in Sonora (EXPLORER [TUCSON]).

— Compiled by RICH EHISEN

## Upcoming stories

Here are some of the topics you may see covered in upcoming issues of the *State Net Capitol Journal*:

- Immigration
- Drones
- Heroin abuse

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# Hot issues

**B**USINESS: The **KENTUCKY** House approves HB 1, a bill that would raise the Bluegrass state minimum wage to \$10.10 per hour by July 1, 2016. It moves to the Senate (LEXINGTON COURIER-JOURNAL). • The **WEST VIRGINIA** House approves HB 4283, a measure that would increase the state minimum wage from \$7.25 to \$8.75 by the start of 2016. It moves to the Senate (CHARLESTON GAZETTE). • The U.S. Department of the Treasury announces it will delay until Jan. 1 2016 a provision in the Affordable Care Act that requires employers with 50-99 employees to provide health insurance for their workers or face a penalty. It is the second delay for the health reform law's so-called "employer mandate." The Jan. 1, 2015 deadline still applies to employers with 100 or more workers, but a rule requiring them to cover at least 95 percent of their full-time employees has been changed to require coverage for only 70 percent of those workers (WASHINGTON POST). • The **WYOMING** House rejects HB 45, a measure that would have raised the Equality State minimum wage to \$9-per-hour (STATE NET, CASPER STAR TRIBUNE). • The **IOWA** House approves HB 2109, legislation that would bar the sale of electronic cigarettes to minors. It moves to the Senate (STATE NET, DES MOINES REGISTER). • The **OHIO** Senate approves HB 144, which would bar the sale of electronic cigarettes to minors in the Buckeye State. It returns to the House for concurrence (CLEVELAND PLAIN DEALER).

**CRIME & PUNISHMENT:** The **PENNSYLVANIA** House unanimously approves HB 1874, a bill that would require facilities that counsel sexually violent predators to notify police if they are providing services to those people. It moves to the Senate (STATE NET, PHILADELPHIA INQUIRER). • The **WYOMING** Senate rejects SB 49, which would have allowed the state to use firing squads to execute condemned prisoners (STATE NET, CASPER STAR TRIBUNE). • The **VIRGINIA** House approves HB 326, so-called "revenge porn" legislation that would make it a crime for someone to post nude photos of someone else on the Internet. It moves to the Senate (DAILY PROGRESS [CHARLOTTESVILLE]). • The **WYOMING** House rejects HB 49, which would have decriminalized possession of small amounts of marijuana (WYOMING TRIBUNE EAGLE [CHEYENNE]).

**EDUCATION:** The **NEW MEXICO** Senate unanimously approves SB 122, which would allow school districts to decide for themselves what activities can substitute for a physical education credit. It moves to the House (ALBUQUERQUE JOURNAL).

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**ENVIRONMENT:** The **VIRGINIA** Senate approves SB 154, which would allow hunting on Sundays in the Old Dominion. It moves to the House, which endorsed its own Sunday hunting measure, HB 1237, last month (ROANOKE TIMES).

**HEALTH & SCIENCE:** The **MICHIGAN** Supreme Court rules that local municipalities cannot bar the use of medical marijuana within their boundaries. The court unanimously rejected an argument that it was legally impossible to adhere to both federal drug laws — which still criminalize marijuana usage — and state laws that allow the herb to be used under a doctor’s supervision (DETROIT FREE PRESS). • The **MISSOURI** Senate approves SB 639, which would require facilities that perform mammograms to notify patients that have dense breast tissue that additional tests might be required to detect cancer. It moves to the House (KANSAS CITY STAR). • The **VIRGINIA** Senate unanimously approves SB 260, which would require people detained involuntarily for psychiatric evaluation to be held for at least 24 hours. Current law allows people to be held for only six hours. The bill moves to the House (RICHMOND TIMES-DISPATCH). • The **WISCONSIN** Senate approves SB 523, a bill that would require all newborn babies to be tested for congenital heart disease. It moves to the House (MILWAUKEE JOURNAL-SENTINEL). • The **MISSOURI** House approves HB 1430, a bill that would allow health care workers to opt out of providing medical care that conflicts with their ethical or religious beliefs. It must pass the House once more before moving to the Senate (STATE NET, NEWS TRIBUNE [JEFFERSON CITY]). • Also in **MISSOURI**, the House approves HB 1133, which would create a government database to track prescription drug purchases. It must also pass the House once more before moving to the Senate (STATE NET, KMOV.COM [ST. LOUIS]).

**SOCIAL POLICY:** A federal judge rules that **KENTUCKY** must recognize same-sex marriages performed in other states. The ruling by U.S. District Judge John G. Heyburn II overturns a state law banning recognition of those unions. He concluded that the government may define marriage and attach benefits to it, but cannot “impose a traditional or faith-based limitation” without a sufficient justification for it.” Bluegrass state officials have not indicated if they will appeal (WASHINGTON POST). • The **IOWA** House approves HF 2175, a bill that would bar Hawkeye State doctors from prescribing abortion-inducing drugs from remote locations. It moves to the Senate (WATERLOO CEDAR FALLS COURIER). • The **KANSAS** House

## The week in session

**States in Regular Session:** AK, AL, AR, AZ, CA, CO, CT, DC, DE, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MO, MS, NE, NH, NM, OH, OK, OR, PR, RI, SC, SD, TN, US, UT, VA, VT, WA, WI, WV, WY

**States in Recess:** NY, PA

**States in Special Session:** WI “c”

**States currently prefilng for 2014 Session:** FL

**States currently prefilng for 2015 Session:** MT

**States adjourned in 2014:** DE “b”, WI “b”

Letters indicate special/extraordinary sessions

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— *Compiled by RICH EHISEN*

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care of that,” she told the Charleston Regional Business Journal. Oops! By the next day Haley had changed her tune, insisting she wasn’t furious at Georgia or how Gov. Nathan Deal handled the weather, but just “as a sister not being able to get to her brother.” She apologized to Deal anyway.

**EVERYBODY LOVES JERRY:** Just ask him! California Gov. Jerry Brown hasn’t even officially announced his re-election plans yet, but apparently even his most devout rivals support him getting another term. As the *Sacramento Bee* reports, Brown’s website features a long scroll of pictures of people who supposedly support his call to “Keep California Working.” Clicking on one took the visitor to that person’s Twitter page. Okay. But imagine the surprise to find Brown’s two main rivals for his job, Assemblyman Tim Donnelly and former Bush administration official Neel Kashkari, along with state California Republican Party Chairman Jim Brulte and Senate Minority Leader Bob Huff. Brown’s folks quickly figured out that all of the gov’s Twitter followers were showing up as supporters, a “glitch” they quickly fixed. While Donnelly seemed miffed, Kashkari waived it off, saying, “Glitches happen.” We smell a campaign button coming on.

**WE KNEW TEXAS WAS SPACED OUT, BUT...**did you know the Lone Star State is the only one where someone can vote from space? Yup. And it’s been the law since 1997. And before you scoff, be aware that former space shuttle astronaut David Wolf has taken advantage of the law to cast his ballot from the heavens. Ironically, as the *San Antonio Express-News* reports, voters wishing to cast their ballot from cyberspace share no such privileges. Alas, while two of the six crew members manning the International Space Station hail from the U.S. — flight engineers Mike Hopkins and Rick Mastracchio — neither is from Texas.

**KIDS WILL BE SENATORS, UH, KIDS:** Lawmakers have become increasingly concerned with preventing children from bullying one another, particularly via the Internet and social media. But one Rhode Island lawmaker might want to rethink his own cyberbullying behavior. As the *Providence Journal* reports, 23-year-old Sen. Nicholas Kettle recently copped to creating a fake Facebook page intended to mock a fellow senator and political rival. Guthrie complained to local police and the state attorney general’s office, but so far it appears Kettle hasn’t broken any laws. He also is not inclined to apologize for his actions, which he says are just part of “rough and tumble politics.” A fellow named Chuck Newton is in fact the only person to suffer any consequences over the dummy site, which has been taken down. Newton, the communications director for the House Minority Office, got canned when he admitted to helping Kettle set up the fake Facebook page.

— By RICH EHISEN



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