

Unintended Consequences



©iStockphoto.com/ spxChrome

July 22, 2013

Budget & taxes

States making unprecedented unemployment insurance cuts

5

Politics & leadership

Reaction to Zimmerman ruling

7

Governors

Snyder endorses Detroit bankruptcy

11

Bird's eye view

3

Hot issues

15

Once around the statehouse lightly

16

The next issue of Capitol Journal will be available on August 5th.

Top Story

The Supreme Court's momentous rulings last month on three issues shook up the country and the states, but they may also have unintended political consequences.

SNCJ Spotlight

What Supreme Court decisions could mean for the states

The Supreme Court's momentous rulings last month on three issues shook up the country and the states. The court gave conservatives a victory on voting rights while moving the country in a liberal direction on marriage equality. Disappointing both sides, the court also kept affirmative action on life support in a case involving admission to the University

A Cannon Perspective



With Lou Cannon

of Texas. All of these rulings may have unintended political consequences.

Take voting rights, for instance. On its face the court gave an assist to conservatives by striking down Section 4 of the Voting Rights Act requiring states and counties with a history of racial discrimination to get pre-approval from the federal government before making changes in their voting laws. Chief Justice John G. Roberts, writing for the 5-4 majority in *Shelby County v. Holder*, found the section unconstitutional because Congress had relied on old data in its reenactments of the VRA, first passed in 1965.

In the wake of the Shelby ruling Texas announced that a law requiring voters to show specified photo identification would take effect. It had been blocked by the Department of Justice. Texas still faces a lawsuit under another section of the VRA, but this is an uphill challenge in which the burden will be on the plaintiffs. State officials will also move ahead in Mississippi to implement a strict voter-ID law approved by voters and the Legislature but blocked by Justice. So will Alabama, which never submitted its law for federal approval. Strict voter-ID laws in Pennsylvania and Wisconsin that were previously invalidated are under review by state courts.

The policy arguments on voter identification laws are unconvincing — on both sides. Liberals say that strict voter-ID laws suppress the turnout of minority and low-income voters, who are more likely to vote Democrat but less likely to have photo identification. Conservatives defend the laws as a reasonable protection against fraud. But documented cases of voter fraud at the polls are rare and what fraud exists has usually involved absentee or mail-in voting, beyond the reach of voter-ID laws. The liberal charge of vote suppression is also unpersuasive. Three states with strict voter-ID laws — Indiana, Georgia, and Tennessee — have not seen a significant drop-off in minority voting.

The voter-ID controversy is really about politics, at which liberals have shown considerable recent skill. Conservative analyst Ross Douthat, writing in the *New York Times*, called the voting rights decision “a political gift to the Democratic Party” from the Roberts court. Douthat observed that Democrats effectively used the spectre of voter suppression to mobilize their liberal and minority base, one reason that African-American turnout didn’t decline from 2008 to 2012, as anticipated. “By trying to restrict the franchise on the margins, Republican state legislators handed Democrats a powerful tool for mobilization and persuasion...” Douthat wrote.

The week in session

States in Regular Session: MA, MI, NC, OH, SC, US,

States in Special Session: DE “b”, TX “b”

States in Recess: CA, CA “a”, DC, IL, NH, NY, NJ, PA, PR, WI

States Adjourned in 2013: AK, AL, AR, AZ, AZ “a”, CO, CT, DC, DE, DE “a”, FL, GA, HI, IA, ID, IL “a”, IN, KS, KY, LA, MD, MN, MO, MS, MS “a”, MT, ND, NE, NJ “a”, NM, NV, NV “a”, OK, OR, RI, SD, TX, TX “a”, UT, UT “b”, VA, VA “a”, VA “b”, VT, WA, WA “a”, WA “b”, WV, WV “a”, WV “b”, WY

States currently prefilng for 2014 Session: AL, KY, MT, TN

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO
(session information current as of 7/17/2013)
Source: State Net database

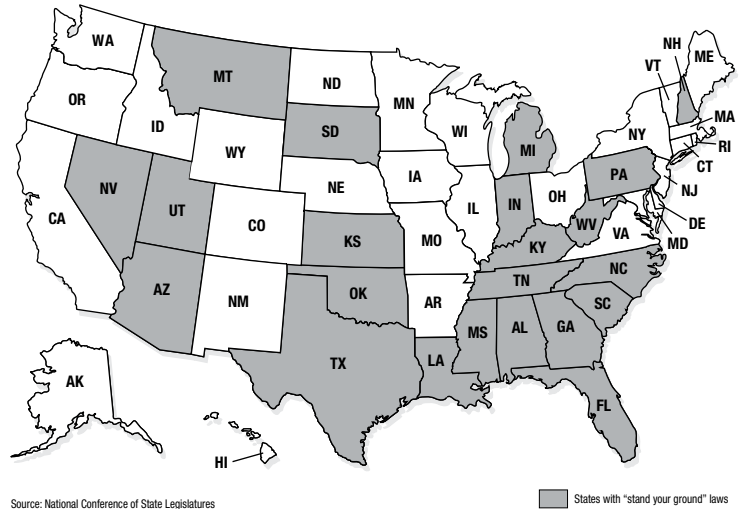
But the struggle isn't over. Republicans have their sights on the 2014 midterms, when voters will choose the entire U.S. House and a majority of the nation's legislators. Super-statistician Nate Silver, also of the *New York Times*, has estimated that voter-ID laws could reduce turnout by 2 percent, which could impact close elections. Will the projected drop off equalize the value to liberals of the voter-ID issue? As the news analysts like to say on television: Only time will tell.

Time will also determine the reach of the Supreme Court's decisions in two same-sex marriage cases. Writing for a 5-4 majority in *United States v. Windsor*, Justice Anthony Kennedy struck down the Defense of Marriage Act (DOMA) limiting spousal benefits to marriages between a man and a woman. In another 5-4 ruling, this one by Roberts, the court decided on technical grounds not to take up Proposition 8, a 2008 ballot initiative banning same-sex marriage in California. A federal judge had ruled that Proposition 8 violated the state constitution, a decision upheld by the Ninth Circuit Court of Appeals. The Supreme Court's ruling let stand the lower-court decisions, opening the way to a flood of same-sex marriages in the Golden State.

Justice Kennedy had harsh words for DOMA, saying that the law imposed a "stigma" on those who entered into same-sex marriages and "wrote inequality into the United States Code." Nonetheless, as NBC legal analyst Pete Williams noted, the high court has no appetite for tackling the larger issue of whether a ban on same-sex marriage is constitutional.

The absence of a larger ruling left the nation with a bifurcated marriage system. Thirteen states and the District of Columbia with 30 percent of the nation's population permit same-sex marriage. Two states — New Jersey and New Mexico — have no laws on same-sex marriage. The other 35 states with two-thirds of the population define marriage as between a man and a woman. Twenty-nine of these states have a constitutional ban on same-sex marriage.

Bird's eye view



Nearly half of states have "stand your ground" laws like Florida's

At least 22 states have self-defense laws relieving individuals of the "duty to retreat" from an attacker before using force against them anywhere they are legally allowed to be, according to the National Conference of State Legislatures. The laws in at least nine of those states, counting Florida, include "stand your ground" language specifically.



The near-term prospects for further change appeared scant when the court went home for the summer. But the way in which the court decided California's Proposition 8 has provided an opening for same-sex marriage advocates in Pennsylvania. In California, the governor and attorney general declined to defend Proposition 8 in court, leaving sponsors of the ballot measure to do it. Justice Roberts, speaking for the court majority, said the sponsors lacked standing because they had not suffered "actual harm."

Two days after the court's decision the American Civil Liberties Union filed a lawsuit challenging Pennsylvania's ban on same-sex marriage. Attorney General Priscilla Kane, a Democrat, seized upon this ruling in saying she would not defend the law. This put Republican Gov. Tom Corbett in a tight spot, forced to choose between angering his conservative base by not defending the law or alienating the majority of voters whom polls say favor same-sex marriage. Corbett faces re-election in 2014.

Also in a tight spot, and sooner, is New Jersey Gov. Chris Christie, a Republican who favors civil unions but vetoed a bill providing for same-sex marriage, which Christie wants decided by a vote of the people. Christie is up for re-election this fall. Before that happens, however, a New Jersey Superior Court will hold a hearing on a motion by Lamda Legal, which seeks a summary judgment in favor of same-sex marriage. The New Jersey Supreme Court ruled in 2006 that gay couples are entitled to the same rights as married couples. Lamda Legal argues that after Justice Kennedy's ruling invalidating DOMA, it is clear that civil unions alone do not provide same-sex couples with equal rights.

Same-sex marriage could be approved in October by the Illinois Legislature, which fell one vote short in the spring. Hawaii may be next on the list. Democratic governors in both states favor same-sex marriage. Oregon voters are likely to be given a chance in 2014 to repeal a state constitutional ban on same-sex marriage. Other states where voters could be asked to overturn a constitutional ban in 2014 include Arizona, Colorado, Michigan and Ohio. Same-sex marriage advocates in these states must decide if they'd prefer to wait until the presidential election of 2016 and a presumably higher voter turnout.

The third issue on which the Supreme Court spoke remains fraught with uncertainty. Some thought the court might use *Fisher v. University of Texas* to drive a stake through the heart of affirmative action in higher-education admissions. The case involves a white woman, Abigail Fisher, who claims she was denied admission to the university because of her race. But the court punted. On a 7-1 decision the justices returned the case to lower courts to consider if "workable race-neutral alternatives would produce the educational benefits of diversity."

The court's decision offers hope for schools that want to continue using race as one of several measures of diversity, said Deirdre Bowen of the Seattle University School of Law, who has studied affirmative action extensively. But it won't be cheap or easy. Bowen said that it will be expensive for universities and colleges to come up

with detailed plans — different for every school, depending on history, demographics and location — that will pass muster in federal court.

Still, the Supreme Court avoided imposing a one-size-fits-all policy on the nation's institutions of higher learning, leaving room for creativity in devising policies to promote campus diversity. Diehards on both sides of the affirmative action debate may deplore the ambiguity, but the court was wise to leave higher education some running room.

— *By Lou Cannon*

Budget & taxes

STATES MAKING UNPRECEDENTED UNEMPLOYMENT INSURANCE CUTS: The dramatic cuts North Carolina made to its unemployment insurance program this month drew fierce protests in Raleigh and national headlines. But they were just the latest in a string of unprecedented reductions states have made in unemployment aid even as unemployment rates remain high in much of the nation.

Since 26 weeks became the standard length of unemployment benefit coverage decades ago, no state had offered less than that — at least until recently. Now

Georgia's benefits last only 18 weeks, and North Carolina and four other states have limited their coverage to 19 or 20 weeks.

With 4.3 million of the 11.8 million unemployed Americans having been without work for 27 weeks or longer, according to the most recent data from the U.S. Department of Labor, the trend of states scaling back their unemployment benefits worries some safety-net advocates.

"These are historic and disturbing cuts," said Mike Leachman Director of State Fiscal

Research with the State Fiscal Policy division of the Center on Budget and Policy Priorities. "When the next recession hits, the unemployment system of the country is going to be significantly less effective. And it means the next recession will be deeper than it otherwise would have been."

North Carolina Gov. Pat McCrory (R) says states are only trying to pay back money borrowed from the federal government to cover the cost of extended unemployment benefits offered to long-term unemployed workers during the Great Recession.

"When the next recession hits, the unemployment system of the country is going to be significantly less effective. And it means the next recession will be deeper than it otherwise would have been."

Overall, states collectively owe the federal government approximately \$21 billion for loans they took out to keep their unemployment compensation funds afloat during the downturn. California leads that group, owing almost \$9 billion. (STATELINE.ORG, USA TODAY, CAPITAL PUBLIC RADIO [SACRAMENTO])

HURRICANE SANDY-STRICKEN SHORE TOWNS AVOID BIG TAX HIKES — FOR

NOW: One of the many fears created by last year's Superstorm Sandy was that it would cause so much property damage in coastal towns of New Jersey, New York and Connecticut that they would have to impose huge tax increases on surviving structures to make up the difference. But thanks largely to the more than \$60 billion in Sandy relief approved by Congress those tax hikes haven't been necessary.

"We were all concerned there would be a big tax increase," said Ray Ryan, a resident of Mantoloking, New Jersey, where virtually every home was destroyed or damaged. "But we are delighted it didn't. It makes absolutely wonderful sense when you consider the storm aid that was available."

The affluent borough actually adopted a 14.6 percent increase in its municipal tax rate. But because of the influx of storm recovery money and the lowering of property values due to the storm, most tax bills will end up being lower this year.

"That's the good news: Taxes in 2013 will be lower," said Councilman Steve Gillingham.

Things could be different next year, however, when the tide of storm aid recedes. As Gillingham noted, "because these are nonrecurring revenues, it may be hard in subsequent years to provide the same level of services." (ASSOCIATED PRESS, PHILADELPHIA INQUIRER)

CO MISMANAGING REGULATION OF MEDICAL MARIJUANA:

For the second time in recent months state auditors in Colorado have found fault with a government agency charged with overseeing the state's medical marijuana industry. In March, auditors uncovered evidence of wasteful spending and incomplete enforcement at the Department of Revenue's Marijuana Enforcement Division. The audit released last week found that the Colorado Department of Public Health and Environment has, among other things, been lax in its regulation of physicians who prescribe medical marijuana.

One doctor, for instance, approved medical marijuana for over 8,400 patients. Another recommended 501 marijuana plants for a single patient, far above the standard of six plants per patient.

Upcoming elections

(7/19/2013 - 8/9/2013)

07/23/2013

California Special Election

Senate District 16

California Special Primary

Assembly District 52

08/06/2013

Michigan Special Primary

House District 49

Virginia Special Election

Senate District 14

Washington Primary

Senate Districts 7, 8, and 26

● ● ● ● ●

— Compiled by KOREY CLARK

R

That verdict, handed down by a jury made up solely of women, none of them black, was seen by many in the African-American community as evidence of the racism that persists in the nation five years after electing its first black president yet less than a month after the U.S. Supreme Court struck down a key provision of the Voting Rights Act enacted to protect minorities from discrimination.

“I pretty well knew that Mr. Zimmerman was going to be let free, because if justice was blind of colors, why wasn’t there any minorities on the jury?” said Willie Pettus of Richmond, Virginia.

Jeff Fard, a community organizer in Denver, said Martin would still be alive today if he weren't black.

“If the roles were reversed, Trayvon would have been instantly arrested and, by now, convicted,” he said. “Those are realities that we have to accept.”

Velma Henderson, a retired state employee who lives in a suburb of Chicago, likewise, said she was “heartbroken” but not surprised.

“The system is screwed. It’s a racist system, and it’s not designed for African-Americans.”

That sentiment was also echoed in the signs held by parishioners at the St. Sabina Catholic church on the South Side of Chicago which read, “Trayvon Martin murdered again by INjustice system.”

But legal analysts said the reason Zimmerman was acquitted of second-degree murder and the lesser charge of manslaughter, for that matter, was because, despite five weeks of trial and 56 witnesses, the state simply failed to prove he’d committed those crimes.

Among the difficulties the prosecution faced were a lack of certainty about many of the details of the case, such as whether it was Martin or Zimmerman yelling for help in the 911 call moments before the shooting, and the attraction of self-defense.

“Especially when cases are so gray, like this one was, self-defense really resonates because people can associate with being afraid,” said Jude M. Faccidomo, former president of the Florida Association of Criminal Defense Lawyers.

Prosecutors also faced an uphill battle in proving the “ill-will,” “hatred” or “spite” needed for a conviction on second-degree murder, which required painting Zimmerman as a frustrated would-be cop who was fed up with crime in his gated community. And their job wasn’t made any easier by Florida’s 2005 Stand Your Ground law, freeing the state’s residents of having to retreat before using lethal force in the face of a deadly threat.

But many of the witnesses called by the state actually seemed to help the defense, including a neighbor who claimed he saw Trayvon pin Zimmerman on the ground. And overall, Zimmerman’s defense team was so successful in showing the state’s lack of evidence in the case that Larry Handfield, a prominent African-American criminal defense lawyer based in Miami, said he thought a more diverse jury would have returned the same verdict.

“After seeing the quality of the evidence presented by the state, the diversity of the jury really didn’t matter in the end,” he said, although he added, “it would have helped the community in giving more credibility to the decision to acquit Zimmerman.”

In addition to raising racial and legal issues, the case also drew attention once again to the stand your ground laws in place in Florida and 21 other states, just as it did immediately following the shooting. Florida’s law states that “a person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force, if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.”

Zimmerman’s lawyers didn’t actually rely on the stand your ground law in defending him but the judge in the case cited it in her instructions to the jury just before they began their deliberations. And Sanford police didn’t arrest Zimmerman until nearly two months after the shooting because of a provision in the law requiring

police to have specific evidence refuting a self-defense claim before arresting someone claiming self-defense.

That provision “does a disservice to Floridians because it’s so vague,” said Florida Sen. Dwight Bullard (D) in an interview with CBS Miami.

U.S. Attorney General Eric Holder denounced “stand your ground” laws in a speech to the NAACP in Florida last week. But administration officials said there’s not much the Justice Department can actually do about the laws because they’re state rather than federal statutes. And last year, a task force in Florida headed by the lieutenant governor reviewed the state’s “stand your ground” law but recommended only minor changes that required no action by the Legislature.

“The liberal activists tried to use that tragedy (the shooting death of Trayvon Martin) as an opportunity to take our rights as Americans,” said Florida House Speaker Rep. Will Weatherford (R). “We stood our ground on Stand Your Ground.”

A study of “stand your ground” laws commissioned last year by the private, nonprofit, nonpartisan National Bureau of Economic Research, however, found that the number of homicides significantly increased in states with “stand your ground” laws after the laws were enacted, raising serious doubts about one of the principal arguments made in support of such laws: that they make people safer. (STATELINE.ORG, NEW YORK TIMES, MIAMI HERALD, NBER.ORG, NATIONAL CONFERENCE OF STATE LEGISLATURES, WASHINGTON POST)

BUSINESSES SUFFER FROM SEASONAL VISA DELAY: Every year the U.S. State Department issues up to 66,000 seasonal visas to foreign workers under a guest worker program known as H-2B. Those workers man the crab-picking plants in Maryland, the beach resorts in the Carolinas and construction sites and other business operations all across the country when employers can’t find enough domestic workers to fill those jobs.

But this year many of the visas were delayed because of rule changes implemented by the Obama administration raising wages for workers in the program, which some unions have called exploitative and the Southern Poverty Law Center described as “close to slavery.” Beset by multiple legal challenges aimed mainly at blocking the wage hikes, the processing of applications for H-2B visas was temporarily halted in March by a court order. The federal government began

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 Prefiles last week: 49

Number of Intros last week: 412

Number of Enacted/Adopted last week: 568

Number of 2013 Prefiles to date: 26,354

Number of 2013 Intros to date: 126,564

Number of 2013 Session Enacted/Adopted overall to date: 35,677

Number of bills currently in State Net Database: 144,744

— Compiled By FELICIA CARILLO
(measures current as of 7/17/2013)
Source: State Net database

processing applications again in April, and officials at the U.S. Department of Labor and U.S. Citizenship and Immigration Services say they've caught up on the backlog of visas.

But many businesses suffered as a result of the delay. A small hotel in Nantucket, for example, had no H-2B staff to clean rooms, change linens and prepare breakfast over the busy Memorial Day weekend, said Jane Nichols Bishop, president of Peak Season Workforce, a Mashpee, Massachusetts-based staffing company that specializes in international workers. She said about 40 percent of her clients were impacted by the late arrival of workers this year due to the visa processing delays.

The timing of the delays also couldn't have been much worse. They "occurred at the worst possible time, when businesses were busy ramping up for the summer season," said Brad Dean, president of the Myrtle Beach Area Chamber of Commerce. "Had the suspension occurred three months earlier or later, it would not have had as much impact."

But others say changes to the H-2B program have been long overdue. For instance, Texas Agriculture Commissioner Todd Staples, who lobbied for changes to the program in Washington earlier this year, said it was "riddled with bureaucracy and filled with outdated quotas."

The sweeping immigration reform package recently approved by the U.S. Senate would expand the H-2B program but still retain its quota, although it would end the practice of counting returning H-2B workers in the cap. In Maryland, those workers account for 80 percent of the total each year, according to U.S. Sen. Barbara Mikulski (D- Maryland), who pushed for that change in the Senate bill. Republicans who control the U.S. House, however, have expressed concerns about the Senate's comprehensive immigration plan and may opt for piecemeal legislation instead. (STATELINE.ORG)

VOTER ID BACK IN SPOTLIGHT: The legal battle over voter ID was back in the headlines again last week, but this time it was waged in a state court in Pennsylvania rather than the U.S. Supreme Court like last month, when a key part of the Voting Rights Act of 1965 was struck down.

The case before Pennsylvania's Commonwealth Court stems from a lawsuit filed by the American Civil Liberties Union of Pennsylvania and other groups in May 2012 alleging the state's voter ID law would disenfranchise voters. Commonwealth Court Judge Robert Simpson temporarily blocked the law from taking effect before the 2012 election. It will now be up to Commonwealth Court Judge Bernard L. McGinley to determine whether that ruling should stand.

Federal courts have generally upheld voter ID laws that include accommodations to ease the burden on those without ID cards, and Gov. Tom Corbett (R) and other Republican backers of Pennsylvania's law say the special ID cards and other outreach efforts the state undertook before last year's election meet that requirement. But a

statistics expert hired by those challenging the law testified last Tuesday that 500,000 registered voters do not have a valid ID issued by the Pennsylvania Department of Transportation (STATELINE.ORG, PITTSBURGH POST-GAZETTE, STATE NET)

POLITICS IN BRIEF: U.S. Attorney General Eric Holder said last week the Justice Department will shift its focus to enforcing Section 2 of the Voting Rights Act, which bars discriminatory voting rules in all states and localities and which was untouched by the U.S. Supreme Court ruling last month effectively invalidating Section 5 of that law. Unlike Section 5, however, Section 2 cannot be used to stop voting law changes before they take effect (REUTERS). • The administration of **VIRGINIA** Gov. Bob McDonnell (R) is projecting it will be able to restore the voting privileges of 10,000 nonviolent felons who have completed their terms under a rights restoration system initially announced by the governor in May (VIRGINIAN-PILOT, STATE NET). • The **CALIFORNIA** Supreme Court rejected a request by ProtectMarriage, sponsors of Proposition 8, California's 2008 voter-approved ban on gay marriage, to halt same-sex marriages in the state while the group's challenge to a federal judge's 2010 injunction against Prop. 8 is pending. The group alleges the federal court injunction did not apply statewide and Gov. Jerry Brown (D) did not have the authority to order all counties to obey it (LOS ANGELES TIMES). • **UTAH** Gov. Gary Herbert (R) called the full Legislature into special session last week to clarify issues surrounding a new House committee created to investigate the alleged misconduct of Attorney General John Swallow. In an unprecedented special session of the House on July 3, representatives voted 69-3 to begin an investigation of Swallow (DESERET NEWS, STATE NET).

— Compiled by KOREY CLARK

Governors

SNYDER ENDORSES DETROIT BANKRUPTCY: Michigan Gov. Rick Snyder (R) signed off on the city of Detroit's Chapter 9 bankruptcy filing on Thursday, instigating the largest municipal bankruptcy case in the nation's history. The filing was made in U.S. District Court for the Eastern District of Michigan after Kevyn Orr, the emergency manager Snyder appointed in June to help Detroit through a major reconstruction of its finances, could not reach agreements with enough of the troubled city's bondholders, pension funds and other creditors to restructure its debt outside of court.

Snyder had final approval over whether to make the filing. He gave that approval in a letter attached to documents submitted to the court. In a statement later posted on

his gubernatorial Web site, Snyder called the filing “a difficult, painful step” undertaken only when it became clear that no “other viable option remained” for the city. He said the city’s troubles were “six decades in the making,” noting it currently spends 38 cents of every city dollar on debt service and other legacy costs. That figure, he said, would climb to 65 cents on the dollar by 2017.

“Detroit is broke,” he added, saying bankruptcy can put the city “back on the right path...so Detroiters can have a better quality of life.”

The filing came one day after two Detroit unions filed suit against Snyder and Orr alleging they did not have the constitutional authority to authorize a bankruptcy filing that could ultimately reduce pension benefits. The suit — brought forth by the city’s General Retirement System and the Police and Fire Retirement System of the City of Detroit — join two others filed by individual retirees earlier this month.

Bill Nowling, Orr’s spokesperson, decried the suits.

“Pension boards, insurers, it’s clear that if you’re suing us, your response is ‘no.’ We still have other creditors we continue to have meetings with, other stakeholders who are trying to find a solution here, because they recognize that, at the end of the day, we have to have a city that can provide basic services to its 700,000 residents,” he said.

The filing begins a 30- to 90-day period to determine if Detroit is legally eligible for Chapter 9 protection. The city has current liabilities of almost \$19 billion. Its assets are less clear, though Orr has repeatedly said the city is insolvent, a requirement to qualify for Chapter 9 protection. Creditors may challenge the city’s assertion, though none aside from the unions has stepped up yet to do so.

Meanwhile, the filing ensures that an automatic stay is placed on most of the city’s bills, though Detroit will continue paying secured creditors like water and sewer bondholders. Lawsuits like those filed by the two unions will also be stayed, and will likely move into bankruptcy court if the city’s Chapter 9 request is granted. The court will also decide how many claimants will be allowed to compete for whatever money the city does have.

Although some observers have questioned whether bankruptcy will drive even more of the city’s businesses out of town, General Motors, one of its major employers and also a recent bankruptcy participant, said the filing would ultimately help the city more than harm it.

“GM is proud to call Detroit home and today’s bankruptcy declaration is a day that we and others hoped would not come,” the company said in a statement released shortly after the news broke. “We believe, however, that today also can mark a clean start for the city.” (USA TODAY, DETROIT FREE PRESS, REUTERS, BLOOMBERG, BOSTON GLOBE, WALL STREET JOURNAL)

In case you missed it

Business leaders hailed the Obama administration’s unexpected delay of a deadline on large employers to provide their workers with health coverage. But even bigger deadlines loom in the near future.

In case you missed it, the article can be found on our website at

http://www.statenet.com/capitol_journal/07-15-2013/html#sncl_spotlight

HEAT BUILDING ON MCDONNELL: The ethics scandal embroiling Virginia Gov. Robert M. McDonnell (R) has driven his approval ratings to a new low, spurring Democrats and even some Republicans to call for his resignation.

McDonnell has been dogged of late by revelations that he accepted over \$145,000 in gifts from Virginia businessman and political donor Jonnie Williams, gifts that included \$70,000 in cash delivered to a real estate development company owned by McDonnell and his sister, a \$50,000 loan to First Lady Maureen McDonnell, a \$6,500 Rolex watch and a \$15,000 New York City shopping spree for Ms. McDonnell. The *Washington Post* has also reported that Williams picked up a \$15,000 catering tab from the June, 2011 wedding of the McDonnell's daughter Cailin and gave another daughter, Jeanine, a \$10,000 check for her May, 2013 wedding.

State and federal regulators are investigating whether those gifts violated any laws. McDonnell has steadfastly denied any wrongdoing, and so far has not been charged with any crimes. But the ongoing coverage has definitely hurt his standing with the public. A new Quinnipiac University poll released last Wednesday showed his approval rating has dropped to 46 percent, a 3 percent drop from a May poll and his lowest mark as governor.

The scandal has inspired a small number of Old Dominion Democrats to call for McDonnell to step down. Del. Scott A. Surovell (D) has been the most vocal, suggesting that the governor should step down on his own, but that if he does not "other measures should be on the table." Democratic Sens. Barbara Favola and Chap Petersen have also publicly called for McDonnell's resignation. But barring investigators finding truly damning evidence of malfeasance, most observers doubt he would do so with only six months left in his term no matter how much political pressure Democrats put on him.

But the heat started coming from a different direction last week: from his own party. Shaun Kenney, a former spokesperson for the Republican Party of Virginia and current Chairman of the Fluvanna County Board of Supervisors, said he believes McDonnell should resign. Kenney says McDonnell's actions "cross the ethical plane" even if he has technically not crossed any legal boundaries.

"The bar for resignation isn't legal or illegal. It's not even ethical versus unethical. It's right or wrong," he said, adding "I'm certain that there are other Republicans who feel this way."

Through various spokespersons, McDonnell — once one of the most popular governors in the nation and someone who was on the short list to be Mitt Romney's running mate in the 2010 presidential election — has vigorously denied he will step down. (WASHINGTON POST, RICHMOND TIMES-DISPATCH, NEWSPLEX.COM)

EX-GOVS SUPPORT BROWN'S CA PRISON PLAN...SORT OF: A quartet of former California governors asked the U.S. Supreme Court to grant current Gov. Jerry Brown's (D) request to overrule a lower court's order for the state to

release almost 10,000 prisoners from state lockups by December to quell consistent overcrowding. In a “friend of the court” brief filed by the Criminal Justice Legal Foundation in Sacramento, the governors — Republicans George Deukmejian, Pete Wilson and Arnold Schwarzenegger along with Democrat Gray Davis — said such a release “threatens the people of California with grave and irreparable harm from increased crime.”

But the former governors did not exactly give Brown’s prison realignment plan — which has placed thousands of inmates into county jails instead of state lockups — a ringing endorsement. While crime rates have gone down in major cities across the nation, they said, major crime is up significantly in California’s metropolises. While nothing clearly links that increase to realignment, the governors’ filing posited that “further releases of even more dangerous inmates will cause additional and irreparable harm.” The Brown administration is awaiting a ruling on their request from Supreme Court Justice Anthony Kennedy. (SACRAMENTO BEE, SAN FRANCISCO CHRONICLE).

GOVERNORS IN BRIEF: Abortion rights activists in **TEXAS** accused Gov. Rick Perry (R) of a conflict of interest last week after he signed HB 2, a sweeping measure that requires clinics that provide abortion services to upgrade their facilities to meet the standards of ambulatory surgical centers. Critics noted that Perry’s sister has strong ties to the industry, both as an executive with United Surgical Partners International, based in Addison, and as a board member of the Texas Ambulatory Surgical Center Society. There are 420 such surgical centers in Texas, and under the new law they could begin performing abortion services. Perry signed the law last Wednesday (HOUSTON CHRONICLE). • **ILLINOIS** Attorney General Lisa Madigan (D) said last week she would not challenge Gov. Pat Quinn (D) in next year’s election. She will instead seek re-election to her current position (CHICAGO TRIBUNE). • **NEVADA** Gov. Brian Sandoval (R) signed a memorandum of understanding with Eruviel Avila, the governor of the state of Mexico, last week. The MOU pledges that the two sides will work together on such issues as education, tourism, manufacturing and mining (BLOOMBERG BUSINESSWEEK).

— 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*:

- **Prison reform**
- **State budgets**
- **Health reform**

Hot issues

B **BUSINESS:** The **NEW JERSEY** Supreme Court upholds a state law that says employees who report discrimination in the workplace are not required to identify a victim of the prejudice to be protected from employer retaliation. The ruling stems from the case of a worker who complained that his supervisor was using vulgar, sexual comments about women in the presence of other male employees, though no female workers were present at the time (STAR-LEDGER [NEWARK]). • **CONNECTICUT** Gov. Dannel P. Malloy (D) vetoes HB 6658, which would have voided post-merger noncompete agreements for employees after Oct. 1, 2013 unless the employees have at least seven days to first review the contract. Malloy said the bill would create unintended negative consequences (CONNECTICUT MIRROR [HARTFORD]). • **RHODE ISLAND** Gov. Lincoln Chafee (D) signs several business-related measures into law, including: SB 256, legislation that raises the state's minimum wage from \$7.75 to \$8 an hour, starting on Jan. 1, 2014; HB 6065, a bill that allows more Ocean State employers to pay workers every other week instead of weekly; and HB 5507, a measure that bars public and private employers from asking job applicants about any criminal history during an initial job interview (STATE NET, PROVIDENCE JOURNAL).

CRIME & PUNISHMENT: **WASHINGTON** Gov. Jay Inslee (D) signs SB 5912, which among several things requires that drivers charged with a second drunken driving offense be arrested and booked into jail and that an interlock device be installed on their vehicle within five days of them being released from custody (TACOMA TRIBUNE, STATE NET). • **RHODE ISLAND** Gov. Lincoln Chafee (D) signs HB 5286, legislation that makes it a crime for anyone to knowingly receive, transport or possess a firearm that has had its serial number or other identifying marks altered or obliterated. Violators face up to five years in jail (PROVIDENCE JOURNAL).

EDUCATION: **MISSOURI** Gov. Jay Nixon (D) signs SB 75, which requires Show Me State school personnel to participate in an “active shooter and intruder” drill led by law enforcement officers and encourages them to teach first-graders a gun safety course sponsored by the National Rifle Association (NEWS TRIBUNE [JEFFERSON CITY]).

ENVIRONMENT: **RHODE ISLAND** Gov. Lincoln Chafee (D) signs HB 5802, legislation that requires heating oil in the Ocean State contain 5 percent biofuel by 2017 (PROVIDENCE JOURNAL). • **DELAWARE** Gov. Jack Markell (D) signs SB 117, legislation that makes the First State the 39th to join the “Interstate Wildlife Violator Compact,” an agreement among member states to share information and access to

records about individuals who have lost their hunting, fishing and/or trapping privileges due to major offenses, like poaching (NEWSWORKS.ORG). • Back in **RHODE ISLAND**, Gov. Chafee signs HB 5764, a bill that makes the Ocean State the 40th to join the Interstate Wildlife Violator Compact (PROVIDENCE JOURNAL).

HEALTH & SCIENCE: CONNECTICUT Gov. Dannel P. Malloy (D) vetoes SB 1067, which would have required that a physician at a “medical spa” act as the facility’s medical director, perform every initial assessment and perform or supervise all cosmetic medical procedures (CONNECTICUT MIRROR [HARTFORD]).

• **RHODE ISLAND** Gov. Lincoln Chafee (D) vetoes SB 622, which would have barred anyone under the age of 18 from purchasing e-cigarettes and other “vapor products” that heat liquid nicotine into a smokable vapor (PROVIDENCE JOURNAL, RHODE ISLAND GOVERNOR’S OFFICE).

SOCIAL POLICY: A NORTH DAKOTA judge rules that a 2011 Flickertail State law barring the use of a drug used in nonsurgical abortions is unconstitutional. East Central Judge Wickham Corwin had “no compelling interest” to impose the measure. Attorney General Wayne Stenehjem said he would appeal the ruling to the state Supreme Court (GRAND FORKS HERALD). • **TEXAS** Gov. Rick Perry (R) signs HB 2, a bill that bans all abortions after the 20th week of pregnancy and requires that the procedure only be performed in ambulatory surgical centers (HOUSTON CHRONICLE).

POTPOURRI: RHODE ISLAND Gov. Lincoln Chafee (D) signs HB 5671, a bill that bars local municipalities from banning specific breeds of dogs or cats (PROVIDENCE JOURNAL).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

HOW NOT TO WIN HEARTS AND MINDS: Mark Twain famously noted that in California, “whiskey is for drinking, water is for fighting over.” Since forever, residents in arid SoCal have openly, wantonly and sometimes deviously lusted after the state’s water, which comes predominantly from NorCal. Now, Gov. Jerry Brown wants to build giant tunnels in the Sacramento San Joaquin Delta to shuttle water southward, something that has most north staters up in arms. Many have placed signs on their lawns declaring their opposition. But those signs recently began to

mysteriously disappear. Alas, as the *Sacramento Bee* reports, the sign-snatching culprit was the state Department of Transportation, which cited a little-known and rarely-used law that requires such placards to be kept over 600 feet away from roadways. When reminded that farmers down south who stand to gain from the tunnels have been posting roadway signs supporting the plan for years, CalTrans backed off. Or did they? Now the agency is citing another archaic rule requiring signs to be at least 14 feet off the road. Somewhere, Twain is probably having a stiff shot and a good laugh.

CONSERVATIVELY HOT: California Assemblyman Tim Donnelly is as red as red gets...red hot, that is! As the *Sacramento Bee* reports, *Politichicks.com*, a conservative Web site aimed at women, has named Donnelly No. 7 on its list of the “Top 10 Hottest Conservative Supermen in the Political World.” Donnelly, who has hinted at running for governor of the Golden State, finished one slot ahead Texas Gov. Rick Perry. He was also the only state lawmaker to make the list, which included several firebrand, rock ribbed, right-of-the-right members of Congress. Perry got his revenge, however, finishing 11th in the site’s ranking of the “Top 15 Overall Hottest Conservative Supermen in America,” which included both politicians and a plethora of media types. Told of the honor, Donnelly said his first reaction was “they must have gotten the wrong guy.” Hot *and* humble? Be still our restless hearts!

HOLLYWOOD BOUND? Speaking of oh-so-hunky conservative dream boats, if New Jersey Gov. Chris Christie doesn’t become president someday he might just have a career in Hollywood. The gov, who has become almost ubiquitous doing humorous bits on late night talk shows in recent months, is moving to prime time. As *NorthJersey.com* reports, the gov will soon appear — as himself of course — on a new NBC sitcom starring Michael J. Fox. No word on the storyline or the gov’s performance, but Christie offered a hint. “No chance of me getting my Screen Actors Guild card anytime soon,” he said.

STAN THE MAN FOREVER: When St. Louis Cardinals Hall-of-Famer Stan “The Man” Musial died in January, Missouri lawmakers quickly developed a plan to name the new Interstate 70 bridge connecting St. Louis and southwestern Illinois over the Mississippi River in his honor. Great idea, right? Uh, not to Prairie State lawmakers, who preferred to name the span in honor of military veterans. Not surprising, given how often Musial tormented the Chicago Cubs over his 22-year career. Not to be denied, on July 15 Missouri Gov. Jay Nixon signed a measure dubbing the Show Me State side of the bridge after Musial, and to heck with those folks on the other end. Alas, trouble was brilliantly averted a few days later when President Obama signed Congressional legislation that offered up the perfect solution, dubbing the span “The Stan Musial Veterans Memorial Bridge.” There you go. Who says Congress can’t get anything done!

— By RICH EHISEN

●
●
●
●
●

Editor: Rich Ehsen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Mary Peck
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA),
James Ross (CA), Lauren Davis (MA) and
Ben Livingood (PA)
Graphic Design: Vanessa Perez
State Net ISSN: 1521-8449

State Net®
A LexisNexis® Company



You've just read **State Net Capitol Journal**, the insider's source for political and legislative news in the 50 states.

State Net Capitol Journal is published 40 times annually and delivered over the Web or email.

**For a FREE subscription,
visit our Website at
www.statenet.com
and click on the
"Register Now" icon.
Or call us at
916.444.0840**

A publication of State Net — *Information and Intelligence on the 50 States & Congress*

The Power to Know. Act. Connect.

Unique State Net tools, methods and expertise overcome the challenge of managing government affairs information. We help minimize your risks and empower your team for success.

State Net: the service you can trust when you need to be right.

Learn more about our issue-based reporting solutions today:
info@statenet.com or www.statenet.com • 800.726.4566

LexisNexis is a registered trademark of Reed Elsevier Properties Inc., used under license. State Net is a registered trademark of LexisNexis, a division of Reed Elsevier Inc. Copyright 2011 LexisNexis. All rights reserved.