

### **The Spending Debate Begins...**

Spring break is over and Minnesota's Legislators have 6 weeks to finish their 2015 work; and it's all about the money. In the mix for the homestretch are the state's biennial budget and a transportation package.

With a projected \$2 Billion surplus, Governor Dayton's proposed budget funnels most of the surplus into government programs with a heavy emphasis on schools.

The Governor is also proposing a gas tax of at least 16 cents per gallon and higher vehicle registration fees as part of his transportation package. House Leadership has a very different idea regarding the surplus and transportation packages, and it has been suggested that the state should possibly use the state's nearly \$1.8 billion budget surplus as well as redirect existing taxes on vehicle rentals and leases for road and bridge repairs.

Fueling the end of session debate is the Governor's newly unveiled \$842 Million bonding proposal and includes \$200 Million for college campus improvements and \$78 Million for railroad safety. This proposal is facing a strong headwind. Major bonding bills are generally reserved for even-year sessions, a preference expressed by both House and Senate leadership earlier this year when they declined to include debt payments in their proposed 2015 budget outlines. If a bonding bill is to pass this year, regardless of the level of funding, it will require a three-fifths vote of both the House and Senate.

### **About the Policy...**

Prior to the Legislature's spring break, hundreds of policy related pieces of legislation, including proactive codes related bill pursued by BAM and BATC, were debated and left either dead or alive.

BAM is happy to report the continued progress (and live status) of the codes bill.

Representative Tama Theis and Senator John Pederson – both BAM members – are authoring the industry's 2015 codes process bill. The bill codifies a six-year code cycle (a practice that's been informally in place since 2000), increases the implementation time before a new code becomes effective to be no less than 9 months, and requires the new code to be published online and accessible to the public prior to its effective date. Representative Vogel is spearheading a bill to clarify a performance path avenue for the energy code. Both bills are contained in the House Omnibus Jobs bill.

To date, there have been 2,192 bills introduced in the House and 2,043 bills introduced in the Senate. Many of the bills have died. In addition to keeping the industry bills alive, our

government affairs teams and lobbyists have been actively working on several dead or dying and alive bills, too.

In that list of “Is It Dead or Alive”, BAM reports on the following bills:

### **Attorney’s Fees, Contracts, & Law Suits**

- Attorney Fees Awarded to Homeowners – heard very early this session, this bill was strongly opposed by the industry. It was tabled; not to be resurrected in committee. It would have allowed attorneys fees to be awarded to homeowners prevailing in litigation, but would deny the same right to builders prevailing in litigation. This is a perennial issue and will come back to life in months and years to come.
- Common Interest Communities / Notice and Opportunity to Repair / Breach of Contract or Negligence – this bill is on hold until 2016. The City of Minneapolis is experiencing the consequences of CIC liability as fewer contractors are interested in building owner occupied properties, opting to build rental properties. This is due to the increasingly aggressive litigation “cottage industry” that has found suing developers and builders to be lucrative. As a result, Minneapolis is exploring ways to limit liability exposures and it may include a solution for residential contractors who are finding lawyers are threatening to sue under breach of contract or negligence to avoid the state mandated “notice an opportunity to repair” process (a process designed to allow repairs to be made before litigation ensues).
- Duty to Defend / Indemnification – this bill may or may not be dead. It failed to make committee deadlines, however, it may come back in the form of an amendment to another bill (just as it did last year). The industry is concerned with this bill because it alters the insurance relationship between parties and creates general liability insurance uncertainty.
- Point of Sale Contamination Awareness Act – this bill is dead for the year. It would have required real estate sellers to disclose whether there is or ever has been soil or water contamination on the property. The industry has joined with our realtor friends to monitor this bill as it may have unintended negative consequences.

### **Codes**

- Fire Marshal Plan Review & Inspections – this bill would have shifted plan review, inspections, and code rulemaking for fire safety from local building departments and the Department of Labor and Industry to the State Fire Marshall. For many reasons, the industry is very uncomfortable with this idea. The bill did not get a hearing this year. It may be dead.
- Border Cities and Mille Lacs County – both of these bills failed to make deadline, however, there is a professional lobbying push behind them so they may come back to life before the end of session. The border city bill lets 5 cities along the Red River to deviate from the statewide building code in favor of North Dakota’s building code. The Mille Lacs bill allows the county to

stop its inspection services. Both bills cause policy concerns for the industry – in addition to the licensing and liability problems with the border city idea, the Mille Lacs idea deviates from BAM's state goal of statewide codes enforced statewide.

- Fire Protection Awareness Act – this bill would have required builders to show a video to prospective homebuyers about the merits of sprinklers and disclose new homes built in Minnesota do not comply with the ICC model residential code. The industry opposes this bill and it did not get a hearing prior to deadline.
- Single Family Home Buyers Public Safety Protection Act – this bill would have required potential homebuyers to watch a video about sprinkler systems and sign a disclosure prior to closing. The industry opposes this bill and it did not get a hearing prior to deadline.
- Sprinklers – Leadership and lobbyists from BAM and BATC finally met face-to-face with the Governor to educate him on the lack of reason or necessity for the sprinkler mandate. Observers report that the Governor was not moved. Legislators continue to seek ways to eliminate the mandate and we expect to see continued debate on the issue in 2015 and beyond.
- Responsible Contractor – small changes have been made to the 2014 law to eliminate some of the “gotcha” loopholes in the bill that would have tripped up contractors working on publicly funded projects. BAM supports the 2015 improvements and is working with AGC to keep it moving through the process.
- Retainage – paying interest and segregating retainage in identifiable accounts was introduced but did not make a hearing prior to committee deadline. BAM is watching this proposal as it may have unintended consequences to punch list items and final payment clauses in residential construction contracts.

## **Environment**

- 50' Buffers – Governor Dayton surprised everybody when he announced his goal for a 50' buffer for all properties that have exposed soils and non-perennial coverage. Needless to say, the industry was concerned and worked with the DNR and BWSR to make sure it does not apply to residential developments. We have been assured the industry is not the target for this mandate, although agricultural interests continue to work on improving the Governor's proposal.
- State assumption of federal wetland permitting authority (wetlands & section 404 permitting) - this bill creates a study to determine how best to transfer federal wetland permitting to the state. BAM is a named participant on the study and supports the idea. The bill was heard and laid over for possible inclusion in the Omnibus Environment Bill.

- Wetlands Conservation Act – this bill contains language that allows the industry to pay a fee in lieu of land dedication for wetland replacement. It has been laid over for possible inclusion in the Omnibus Environment Bill.

### **Municipal Fees & Land Development**

- Street Utilities – this bill would have given municipalities the authority to create street utility zones to collect revenue for street repairs and maintenance. While the bill seems to be dead, it contains an industry negotiated provision that carves out new development.
- “Safe Routes To School” Infrastructure Zoning Mandate – this bill requires municipalities to impose sidewalk and other “safe routes to school” infrastructure as a condition of receiving state grants. The industry is working with the authors to narrow the scope of the word “infrastructure” to only sidewalks and to prohibit “double dipping” from developers who may be paying to put in the infrastructure and then having a municipality get a grant to cover the same costs. The idea is moving forward as part of the state’s transportation package.

### **Agency Related Provisions**

- OSHA Employee Misconduct Defense – moving forward as part of the DLI agency housekeeping bill, this idea disallows job superintendents to use employee misconduct as an OSHA defense. The industry is neutral on the idea.
- Radon Remediation Contractor License – the Minnesota Department of Health has proposed a radon remediation contractor license. Such a contractor would be required for remediation work but new construction is exempt from this requirement. The industry is neutral on this idea and it has not made much progress this far into session.
- DLI \$75 License Fee Reduction – the Department of Labor and Industry is proposing a \$75 reduction in the residential licensing fees. This is because the Contractor Recovery Fund is currently quite flush. This idea is part of an agency housekeeping bill and is moving through the legislature. The industry supports this fee reduction.
- Qualified Persons Sanctions – in an effort to better enforce against those flaunting the state’s licensing laws, the Department of Labor and Industry is amending its compliance statutes to include qualified persons as those who can be enforced against. BAM is neutral on this provision.

### **Workforce Housing**

- Workforce Housing Initiatives – For too long the state has prioritized “affordable” housing subsidies to the detriment of housing for Minnesota’s mainstream workforce. This year, the Legislature is beginning to address the very real issue of workforce housing. Included in the package is a 40% tax credit for investing in workforce housing in Greater Minnesota and an

additional 10 percent credit if the investor increases employment by at least 10 new employees for three years after the credit is received. BAM supports all efforts to reduce the regulatory cost of housing and initiatives to elevate workforce housing.

### **Thank You!**

Many thanks to BAM's government relations committee for all its advice and direction; we know volunteering on this committee is time consuming, but your input is priceless. Thank you to Jane DeAustin (CMBA), James Vagle (BATC) Matt Limoges (RAB) for the work you've done so far – remember its “only” six more weeks. Accolades to the industry's contract lobbyists Brian Halloran, Pete Coyle, Larry Redmond, Andrea Perzichilli, and Forrest Cyr, we promise you all the 5-hour energy drinks and sundries necessary to get you through May 18, 2015.

BAM will prepare for all members a session wrap up soon after the close of the regular session. As always, give me a call at 651.503.7691 or drop me a line at [remi@bamn.org](mailto:remi@bamn.org). If you are interested in joining the government relations committee, and we hope you are, please let us know.