

Journal of the Senate
NINETY-SIXTH GENERAL ASSEMBLY
OF THE
STATE OF MISSOURI
FIRST REGULAR SESSION
VETO SESSION

WEDNESDAY, SEPTEMBER 14, 2011

The Senate was called to order in Veto Session by Lieutenant Governor Peter Kinder.

Reverend Carl Gauck offered the following prayer:

“Prayer is faith passing into action.” (Richard Cecil)

Constitutionally, this day requires us to move into action, to make decisions and vote as is appropriate; and so we do so with prayer first and considerations to follow. So bless us and guide us this day, we pray to You, O Lord, and may our actions be completed as You desire them. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

The following Senators were present during the day’s proceedings:

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Dempsey offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 1

BE IT RESOLVED by the Senate that the Secretary of Senate inform the House of Representatives that the Senate is duly convened and is now in session as provided by Article III, Section 32 of the Constitution and is ready for the consideration of its business.

Senator Dempsey offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 2

BE IT RESOLVED by the Senate that the rules of the Senate, as adopted by the Ninety-sixth General Assembly, First Regular Session, be declared to be the rules of the Veto Session of the Ninety-sixth General Assembly.

COMMUNICATIONS FROM THE GOVERNOR

The following communications, regarding vetoed Senate bills, were received by the Secretary of State, reading of which was waived:

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
June 17, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Committee Substitute No. 2 for Senate Bill No. 3 entitled:

AN ACT

To repeal section 115.427, RSMo, and to enact in lieu thereof two new sections relating to elections, with a contingent effective date.

I disapprove of House Committee Substitute No. 2 for Senate Bill No. 3. My reasons for disapproval are as follows:

Pending approval of a constitutional amendment, House Committee Substitute No. 2 for Senate Bill No. 3 would require a government-issued photo identification to vote. This new mandate would disproportionately impact senior citizens and persons with disabilities, among others, who are qualified to vote and have been lawfully voting since becoming eligible to do so, but are less likely to have a driver's license or government-issued photo ID. Disfranchising certain classes of persons is not acceptable.

House Committee Substitute No. 2 for Senate Bill No. 3 imposes unnecessary burdens on senior citizens and persons with disabilities, for example, who do not have a government-issued photo ID, with no guarantee that, in the end, their vote will count. House Committee Substitute No. 2 for Senate Bill No. 3 first requires them to execute a legally-binding affidavit explaining why they lack a government-issued photo ID. After executing the affidavit, the senior citizen, person with a disability and anyone else who lacks a government-issued photo ID for the reason identified in the affidavit is not permitted to cast a regular ballot and is instead given a provisional ballot. Even after meeting these requirements mandated by House Committee Substitute No. 2 for Senate Bill No. 3, their vote will not be counted unless the election authority compares their signature on the affidavit with their signature on file – a signature that may bear little resemblance to their current signature because it was written decades before – and determines that the two signatures match. Placing a cloud of uncertainty over ballots cast by qualified voters is inconsistent with an individual's right to vote and have that vote counted. In addition, for those citizens wanting to avoid the uncertainty of a provisional ballot, House Committee Substitute No. 2 for Senate Bill No. 3 would require them to navigate a costly and time-consuming process to obtain a government-issued photo ID. House Committee Substitute No. 2 for Senate Bill No. 3 does not meet with my approval, because it is unacceptable to impede or discourage citizens from voting who have lawfully cast ballots their entire adult lives.

In accordance with the reasons for disapproval stated above, I am returning House Committee Substitute No. 2 for Senate Bill No. 3 without my approval.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

Wednesday, September 14, 2011

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GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

July 6, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Substitute for Senate Bill No. 118, entitled:

AN ACT

To repeal sections 198.006 and 198.074, RSMo, and to enact in lieu thereof two new sections relating to sprinkler system requirements in long-term care facilities.

I disapprove of House Committee Substitute for Senate Substitute for Senate Bill No. 118. My reasons for disapproval are as follows:

Legislation passed in 2007 required sprinkler systems for certain long-term care facilities. The critical need for this legislation was made clear when eleven individuals died in a fire at the Anderson Guest House in Anderson, Missouri, a group home for individuals with disabilities. The fire tore through the roof and engulfed an entire section of the building before firefighters arrived. Ten residents died of smoke inhalation, and one employee died while heroically attempting to save their lives.

House Committee Substitute for Senate Substitute for Senate Bill No. 118 would delay the date for installation of sprinkler systems by two years, until December 31, 2014. These institutions already have had four years to comply with this vital safety requirement, yet almost 100 facilities subject to the statute, with the capacity to care for over 4,000 of our citizens, remain without approved sprinkler systems today. That is unacceptable.

Under current law, these facilities still have nearly eighteen months to come into compliance. This bill would delay the date by which sprinklers must be installed by three and one-half years from today, and over eight years since the Anderson Guest House fire. Delaying the date by which these sprinkler systems must be installed for another two years places Missouri's seniors and individuals with disabilities at an unacceptable risk. As we saw with the tragedy in Anderson, this is a matter of life and death.

In accordance with the above stated reasons for disapproval, I am returning House Committee Substitute for Senate Substitute for Senate Bill No. 118 without my approval.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

July 7, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163 entitled:

AN ACT

To repeal sections 172.030, 173.005, and 174.450, RSMo, and to enact in lieu thereof three new sections relating to higher education governing boards, with an existing penalty provision.

I disapprove of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163. My reasons for disapproval are as follows:

House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163 was truly agreed to and finally passed on May 5, 2011. Three days earlier, on May 2, 2011, I approved House Committee Substitute for House Bill No. 174, which is identical to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163. As the identical provisions of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163 will become law through my previous approval of House Committee Substitute for House Bill No. 174, it is unnecessary to approve this duplicative legislation.

In accordance with the above stated reasons for disapproval, I am returning House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163 without my approval.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY

65102

July 8, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Bill No. 220 entitled:

AN ACT

To repeal sections 429.015 and 516.098, RSMo, and to enact in lieu thereof three new sections relating to liens for architects, professional engineers, land surveyors, and landscape architects.

I disapprove of House Committee Substitute for Senate Bill No. 220. My reasons for disapproval are as follows:

House Committee Substitute for Senate Bill No. 220 provides immunity to architects, landscape architects, land surveyors and professional engineers through a nebulous process that is ripe for manipulation, lacks transparency and potentiates conflicts of interest. Approval of this bill would reduce public safety and diminish the accountability of design professionals while substantially denying access to the courts by individuals injured through the negligent acts of these professionals.

House Committee Substitute for Senate Bill No. 220 does not establish a robust peer review process. The bill does not impose specific qualifications on the reviewers – other than being licensed under chapter 327, RSMo – and does not prohibit participation by professionals with an interest in the project being reviewed. Moreover, the bill is silent on procedural requirements, as well as the extent to which a record, if any, is to be kept of its proceedings and whether written findings or recommendations are required to be created. House Committee Substitute for Senate Bill No. 220 also cloaks the entire process in secrecy by strictly prohibiting the disclosure of “any information acquired in connection with or in the course of [the] proceeding, or to disclose any opinion, recommendation, or evaluation of the peer reviewer or any member of a peer review committee.”

Despite the insufficient process established in the bill, House Committee Substitute for Senate Bill No. 220 nevertheless rewards participants in the review process with broad immunity from civil liability. Most concerning is that this includes immunity for the design professional whose project is being reviewed. Under House Committee Substitute for Senate Bill No. 220, a design professional can submit a proposed project for review and enjoy immunity from civil liability simply by acting upon the recommendations of his peers “so long as the acts are performed in good faith, without malice, and are reasonably related to the scope of inquiry of the peer review process.” The fact that House Committee Substitute for Senate Bill No. 220 allows for partners, co-workers or others with an interest in the project to serve as reviewers – in secret – and then blanket the project with immunity underscores the fundamental flaws in this legislation and the bad public policy it promotes.

House Committee Substitute for Senate Bill No. 220 provides extraordinary protections to design professionals through an unacceptable process with minimal structure, a lack of transparency, a disregard for conflict of interest concerns, and the granting of broad immunity to not only the peer participants but also the design professionals whose project is being reviewed.

In accordance with the above stated reasons for disapproval, I am returning House Committee Substitute for Senate Bill No. 220 without my approval.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

July 8, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI:

Herewith I return to you Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282, entitled:

AN ACT

To repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 52.010, 54.033, 54.330, 78.090, 105.030, 105.040, 105.050, 115.015, 115.123, 115.124, 115.127, 115.241, 115.293, 115.342, 115.601, 115.637, 115.755, and 115.761, RSMo, and to enact in lieu thereof twenty-three new sections relating to elections, with penalty provisions.

I disapprove of Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282. My reasons for disapproval are as follows:

Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 contains several provisions relating to elections. Those provisions include the moving of the Missouri presidential primary to the first Tuesday after the first Monday in March. I support that change and its inclusion in Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 was not a factor in my decision to disapprove this legislation. However, the bill contains other provisions that I view as unacceptable and necessitating today's action.

Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 cancels elections in more than 900 municipalities with a population below 35,000 when the number of candidates is equal to the number of positions to be filled. Approval of Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 would preclude citizens from electing a candidate through the write-in process when the number of declared candidates is equal to the number of available positions. This is especially important should voters learn something negative about the declared candidate after the deadline for filing but before the election. In short, the write-in ballot procedure is a valuable component of the electoral process that must not be sacrificed for theoretical efficiency.

Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 would also require the Governor to call a special election to complete the current term of a vacancy occurring in the offices of U.S. Senator and several statewide elected offices. This provision would require a special election to be called, regardless of the time remaining before the next regularly scheduled election for that office, at an estimated cost to Missouri taxpayers of \$7 million.

In accordance with the above stated reasons for disapproval, I am returning Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 without my approval.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Senator Dempsey moved that the Senate proceed to the order of business, Vetoed Bills, and that the calendar be called, which motion prevailed.

HCS No. 2 for SB 3 was called thereafter and no motion was taken thereon.

HCS for SS for SB 118 was called thereafter and no motion was taken thereon.

HCS for SCS for SB 163 was called thereafter and no motion was taken thereon.

HCS for SB 220 was called thereafter and no motion was taken thereon.

CCS for HCS for SB 282 was called thereafter and no motion was taken thereon.

RESOLUTIONS

Senator Dempsey offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 3

BE IT RESOLVED by the Senate that the Secretary of Senate inform the House of Representatives that the Senate, having been duly convened as provided by Article III, Section 32 of the Constitution, made no motion to override the Governor's veto of House Committee Substitute No. 2 for Senate Bill No. 3; House Committee Substitute for Senate Substitute for Senate Bill No.118; House Committee Substitute for Senate Committee Substitute for Senate Bill No. 163; House Committee Substitute for Senate Bill No. 220 and Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282 when the bills were so called by the President.

Senator Stouffer assumed the Chair.

On motion of Senator Dempsey, the Senate recessed until 1:45 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Schmitt.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HR 1**.

HOUSE RESOLUTION NO. 1

BE IT RESOLVED, that the Chief Clerk of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, inform the Governor and the Senate that the House is duly convened and is now in session in the 2011 Constitutional Veto Session and ready for consideration of business.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HR 2**.

HOUSE RESOLUTION NO. 2

BE IT RESOLVED by the House of Representatives, that the Chief Clerk of the House of Representatives inform the Senate that the House, having been duly convened as provided by Section 32, Article III of the Constitution, made no motions to override the Governor's vetoes on **CCS** for **SCS** for **HCS** for **HB 10**, **SS** for **SCS** for **HB 184**, **SS** for **SCS** for **HB 209**, **SCS** for **HB 256**, **CCS** for **SS** for **SCS** for **HCS** for **HB 430**, **HCS** for **HB 465**, **HB 484** and **SCS** for **HB 1008** when the bills were called by the Speaker.

On motion of Senator Dempsey, the Senate of the Veto Session of the First Regular Session of the 96th General Assembly adjourned sine die, pursuant to the Constitution.

PETER D. KINDER
Lieutenant Governor

TERRY L. SPIELER
Secretary of Senate

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