

**Legislative Update: Motion or Progress?**

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One of our guiding principles here at Weber Johnson when working for our clients is never to confuse motion for progress. This means whether we are doing direct advocacy with public officials, building coalitions to advocate for a position or managing a general political or public affairs campaign, we always seek to implement strategies and tactics that move us towards our clients end goal. Too many in this business look busy just for the sake of the appearance of motion.

It is through the lens of motion vs. progress that we look at the legislative activity just over a month before the gavel is scheduled to drop on the 2009 session. In the case of the legislature, progress is certainly preferred when good legislation is on the table. When the state looks at bad legislation, we'll settle for motion over progress, even though we'd often prefer our legislators do nothing at all.

Over four months into the five month session, there has certainly been a lot of motion over at the state capitol. At print time, there have been over 2,100 bills introduced in the Senate and nearly 2,400 bills introduced in the House. But with a now \$6.4 billion deficit looming over all other legislative activity, we haven't seen a lot of progress as only 26 pieces of legislation have been presented to the Governor.

In most respects, the motion disguised as progress has been refreshing because bad laws have been averted.

For Example:

For the second straight biennium, enthusiastic legislators trying hard to "do something" attempted to turn Minnesota's vehicle emissions over to the state of California (a state, we'll remind you is having the gravest deficit problems in the country in large part because of their short sighted regulatory overreaches). HF690/SF674 is a seven page bill that incorporates volumes of California regulations into Minnesota Code, and gives an unelected California board represented by zero Minnesotans control over Minnesota vehicle emissions. Currently, our emissions standards are set by the Federal Government where Minnesota at least has elected advocates. The fact that California's emissions standards have been attributed to the near absence of E-85 pumps in California has been a key stumbling block for this ill conceived legislation. Provisions conflicting with key Minnesota priorities have allowed for the development of a diverse coalition of opposition. After lots of motion on this bill, it appears dead for this session.

Similarly, but perhaps more dangerous, for much of this decade, there has been legislative motion which would stop the development of wireless technology in its tracks

here in Minnesota. Each iteration of the cleverly but misleadingly named “Wireless Consumer Bill of Rights” (SF1681/HF1837) would regulate new non-issues that technology and competition have made more and more irrelevant. Technological advancement, near universal coverage and customer service have all increased exponentially specifically because the industry has grown and developed in a hyper-competitive lightly regulated marketplace. Minnesota has seen real job growth and a locally grown, burgeoning smart phones applications industry (<http://www.startribune.com/business/41609102.html?elr=KArksUUUU>) that will be severely hampered should Minnesota become a regulatory island. In a year where “jobs” is the word on virtually every bill, this would truly hurt Minnesota’s “jobs” climate. Thankfully, thoughtful legislators have slowed this motion in favor of progress, and this legislation appears to be dead until the 2010 session begins.

These are just two of too many examples of pieces of bad legislation teetering on the edge of passage for the past 2 years that will still lurk in the legislative shadows over the remainder of the session and into any subsequent special sessions. And each of these legislative initiatives is all but certain provide us with more legislative motion between now and the end of the biennium.

These and other pieces of legislation should concern industry and consumers alike, across sectors. They are cause for preparation starting now to help ensure there are no surprises for the remainder of 2009, and that business and industry are well prepared for an even larger contest during the 2010 regular session. Business and consumers have been fortunate in our state of hockey to have a gubernatorial goaltender. But he needs support, and now is past time for the developments of the coalitions necessary to pass good legislation and help block the bad.

Over the course of the remainder of the 2009 regular session however, it is likely that all progress will be towards the goal of balancing our state’s budget for the next biennium.

In the few days, the House passed its tax bill which would increase Minnesota taxes by \$1.5 billion, and the Senate passed a \$2.2 tax increase. The provisions range from:

- Increases in income taxes for every single income tax bracket.
- Establishing the 4<sup>th</sup> highest income tax rate in the country.
- New taxes on digital downloads and alcohol.
- Elimination of such popular tax deductions as the home mortgage deduction, the charitable contribution deduction for non-itemizers and the income subtraction for the elderly or disabled.

Governor Pawlenty has introduced and updated his budget balancing plans which would hold the line on taxes (cutting some with the goal of enhancing Minnesota’s job creation environment) and reprioritize the state’s spending. He has said recently of tax increase plans that “it’s a dead end for them. It’s a public policy cul-de-sac. It doesn’t go anywhere.” He has promised to veto either of the tax bills past in the last few days, saying, “The Democrats need to stop thinking up a tax increase every day and start focusing on how they can contain and reduce spending.”

There appears to be little agreement, even between the majority caucuses as to how to proceed, and the clock is ticking. Recent news reports have openly discussed the potential of a special session to deal with the constitutionally required balanced budget. It appears likely that many, but not all, of the legislative policy battles will be set aside to be debated in future sessions when not in the shadow of the current budget deficit.

We're certain to see much motion and some progress from both proponents and opponents of current and future legislative proposals during the interim between the 2009 and 2010 regular sessions. We, of course, encourage stakeholders in these issues to be vigilant.

Current motion doesn't preclude future "progress" (good or bad). We're here to help.