

2019 South Dakota Legislature | **January 18, 2019**

The slow pace of bill introduction continued through the end of week two, but committee deliberation on bills picked up considerably. Here's an update on bills of interest at the SDBA.

**SB37 Multiple Employer Health Insurance Trusts.** As previously reported, SB37 represents the work product of conversations that took place during the summer and fall of 2018 between staff from the South Dakota Division of Insurance and people representing various parties interested in the development and operation of multiple employer health insurance arrangements. Earlier this week, the members of the South Dakota Bankers Benefit Health Insurance Trust's Board of Trustees and the SDBA Board of Directors voted unanimously in support of SB37. Following those votes, I asked a number of bankers from banks who procure health insurance coverage for bank employees and their families from SDBBT to contact members of the Senate Commerce Committee and ask them to vote in support of SB37. The SDBA testified in support of the bill during Thursday's committee hearing, as did representatives of other employer groups in South Dakota known to be considering the formation of such trusts including dentists, chiropractors, farm equipment dealers and credit unions. Blue Cross Blue Shield of South Dakota and Sanford Health Plans also appeared in support. Because the committee adopted a minor amendment to the bill, the independent insurance agents of South Dakota also offered support. No group opposed the measure. The committee voted unanimously to send SB37 to the full Senate. A floor vote will happen sometime next week.

I want to personally thank every banker who answered the call to contact their legislators. Those calls and emails mattered because they reinforced what legislators heard in committee. Those contacts help put a real, local flavor on what might otherwise seem to be an abstract discussion. Perhaps most importantly,

committee members can tell the rest of their Senate colleagues that this bill matters to bankers back home. I expect a very strong vote in favor of SB37 by the entire Senate.

As important as these grassroots contacts were in support of SB37, they will matter even more when it comes time to oppose the Business Development Bank enabling legislation that has yet to be filed. Please be ready and willing to answer that call.

**HB1014 Bank Franchise Tax.** This bill changes the order of priority for applying bank franchise tax payments; first to tax owed, next to interest and lastly to any penalties owed per SDCL 10-59-6. As previously reported, when our state's bank franchise tax was enacted more than 80 years ago, legislators had different ideas about priority for applying payments. Passage of HB1014 puts the franchise tax on the same footing as sales tax, contractor excise tax, alcohol beverage tax and the like. I testified in support of HB1014 during the House Taxation Committee hearing on Tuesday. Members voted unanimously in favor of the bill and placed it on the House consent calendar where it passed unanimously without debate. HB1014 now moves on to the Senate.

**HB1015 Cross References between State and Federal Tax Codes.** This bill to sync cross references between various parts of South Dakota's tax code, including the bank franchise tax, and the most current version of the Internal Revenue Code received the same treatment as HB1014. Passed unanimously by the Tax Committee and the full House of Representatives, this bill also moves on to the Senate.

**SB29 Unclaimed Property.** Introduced at the request of State Treasurer Josh Haeder, this bill proposed changes to the internal workings of the Treasurer's Unclaimed Property Program. At the Treasurer's request, this bill

was withdrawn from further consideration during the 2019 Session. We may see this again in 2020.

## New Bill

**SB51 Trust Task Force Legislation.** Every year since 1997, the Governor's task force on trust administration and reform brings a bill to make changes to South Dakota's trust statutes. Much of this year's 10-section bill consists of housekeeping measures. Section Three contains perhaps the most interesting changes as it provides a means for a trustee to transfer or dispose of assets of a trust which finds itself either temporarily or permanently without a trustee.

## Other Legislation

**Concealed Carry Firearms Bills.** To date, a handful of bills have been introduced dealing with changing how and where a person can carry a concealed weapon (pistol). During a conference call on Tuesday afternoon, the SDBA Board of Directors adopted a watch position on these bills. Some banks, like other businesses, have adopted policies restricting the possession of weapons on bank premises. Those policies may apply to bank employees, contractors and visitors (customers) alike.

One of those bills, **SB47**, had its first hearing in the Senate Judiciary Committee on Thursday morning. Referred to by some as "constitutional" concealed carry and by others as "permit-less" concealed carry, this bill would repeal laws that require an individual to get a government permit to carry a concealed pistol on their person or in their vehicle. South Dakota sheriffs and states attorneys led the opposition to SB47. No business group testified in opposition. SB47 was sent to the full Senate on a 4-3 vote.

SDBA, state and local chambers of commerce and other business groups will watch these bills closely out of concern those bills do not trump the rights of private property owners to decide whether or not to restrict individuals from bringing weapons into their businesses, concealed or otherwise.

## Bills Awaiting Introduction

Several other bills of interest which I anticipate may be introduced include:

**Business Development Banks.** I have written extensively about the SDBA leadership's ongoing deliberation about legislation that would enable the formation and operation of limited purpose, specialty business development banks in South Dakota. In December, members of the SDBA's Legislative Committee and Board of Directors voted unanimously to oppose such legislation. An organization called South Dakota Business to Business Lending Group has registered a Fort Pierre attorney to act as its lobbyist. I presume a bill introduction won't be far behind.

## Commercial Property Assessed Clean Energy Programs.

Last year, the SDBA successfully led the opposition to the establishment of local C-PACE programs in South Dakota based on problems experienced elsewhere in the U.S., primarily with poorly-structured, poorly-underwritten loans and high-pressure sales tactics employed by salesmen of energy efficiency improvement programs for residential properties. Late in 2018, SDBA reviewed a revised legislative proposal developed by C-PACE program supporters. The revised proposal was less problematic than the 2018 version but was still not ready for prime time. I believe that Rep. David Johnson (R-Rapid City) intends to introduce C-PACE enabling legislation this year. I have conveyed banking industry views and concerns to him. Once a bill is introduced, we will focus future discussion on specific operational concerns.

**Confessions of Judgment.** As previously reported, confessions of judgment have been misused by some non-bank lenders and their collectors in matters involving small business loans in other states. During this week's conference call, the SDBA Board of Directors gave the green light to bring a bill to prevent improper use of this tool in South Dakota.

Thanks for your continued support for the work of the SDBA. Please contact me any time you have questions or concerns.

- Office Phone: 605.224.1653
- Cell Phone: 605.280.7985
- Email: [ceverson@sdba.com](mailto:ceverson@sdba.com)