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WEEKLY CAPITOL UPDATE

NIXON SPIKES PLAN TO SCRAP DAY CARE REGULATIONS

Gov. Jay Nixon on Aug. 28 ordered the Missouri Department of Health and Senior Services not to implement a proposal that would have repealed state regulations on the operation of child care facilities operated by religious organizations. Nixon's order came one day after the State Board of Health reluctantly voted to scrap the 14-year-old regulations, which department attorneys said are legally unenforceable.

The regulations targeted for repeal included prohibitions against caregivers who are drunk or under the influence of illegal drugs on the job or who otherwise pose a danger to children. "I feel there's something inherently wrong with deleting the line that caregivers and other personnel shall not be under the influence of alcohol or illegal drugs on the premises," board member Joseph Forand said prior to the vote, according to the St. Louis Post-Dispatch. "I understand your legal point. But, ouch."

The timing of the board's action was curious since the regulations have been in place since 1995 and haven't been challenged. In seeking the repeal, health department lawyers cited a 1993 law that exempts religious-based child care facilities from state licensing requirements and rules regarding staffing levels or curricula. However, that same law requires the department to implement regulations governing the health and safety of children at care facilities and specifically says those rules shall apply to facilities affiliated with religious organizations.

TWO COUNTIES CHALLENGE FEES TO BOOST DEPUTY PAY

Officials from St. Charles and St. Louis counties argued before a Cole County judge on Aug. 31 that a 2008 law that significantly hiked court document fees to pay for salary increases for deputy sheriffs in small rural counties is unconstitutional.

The law at issue requires county sheriff's departments to collect an additional \$10 fee on the serving of subpoenas and other court documents, with the money earmarked for improving pay for deputies. However, while most of the money is collected by larger counties, the bulk of the revenue would go to smaller counties.

Since the money is collected by individual counties, St. Charles and St. Louis county officials argue it is unconstitutional for those counties to be required to turn the funds over to the state for redistribution to other counties. Ideally, the challenging counties want a judge to leave the fee in place and strike down only the portion of the law requiring redistribution of the revenue. However, since the purpose of the law is to improve deputy pay in small counties, under court precedent the whole law likely would be invalidated if the redistribution scheme is deemed unconstitutional.

SUPREME COURT UPHOLDS EDUCATION FUNDING FORMULA

Finding that Missouri is complying with minimum constitutional requirements, the state Supreme Court on Sept. 1 upheld the state's formula for distributing education funding to local public school districts. The ruling ends a challenge to the funding system brought by more than half of Missouri's 524 school districts that has been working its way through the courts for nearly six years.

The districts argued that the General Assembly violated the Missouri Constitution by failing to adequately fund public schools and unfairly distributing the revenue it does provide. By a unanimous 7-0 vote, however, the court ruled that the legislature's only constitutional obligation in regard to education funding is to budget at least 25 percent of state revenue for free public schools. Lawmakers typically set aside more than a third of state revenue for public schools. The court also held that there is "no constitutional basis" for fair and equal distribution of education funds and noted that various constitutional provisions actually build unfairness into the system.

Although he concurred with the bulk of the majority's ruling, Judge Michael Wolff issued a separate opinion in which he dissented concerning the court's rejection of claims that unfair and unconstitutional property tax assessment practices in many counties result in school funding being shortchanged. The majority essentially said that was an issue for another day and left open the possibility for a future challenge on that point. Since local property taxes are a key component of the state's education funding distribution system, Wolff said unconstitutional assessment practices result in a "rigged" system.