LABI 2005 Voting Record

Overview

Year after year, LABI defends Louisiana businesses from the variety of dangers inherent in every legislative session, while simultaneously pushing legislation to improve the business climate in Louisiana. The good news is that business suffered no significant losses during the 2005 Regular Session. However, while some improvements were enacted, important property tax, education and liability reforms supported by LABI and passed by the House with strong margins were killed in Senate committees.

LABI accomplished most of our Principle Goals for this year's session:

- Existing strengths in Louisiana's civil justice system and the exclusive remedy feature in Louisiana's workers compensation system were preserved.
- The integrity of employer-funded funds was maintained, and Unemployment Compensation Trust Fund and Incumbent Worker Training Program monies will continue to be spent according to their original intent.

- Bills that would have resulted in business property tax increases including attempts to repeal or limit the IPTEP, increase the homestead exemption, and limit increases in homestead assessments during reappraisal years were all defeated.
- In the oil and gas exploration and production arena, the severance tax suspension for inactive wells was renewed. However, the issue of legacy lawsuits remains unresolved.

The Legislature is now halfway through the current term. Over the course of a term, many critical votes are cast on legislation important to business people across Louisiana. Throughout the cycle of regular, fiscal, and special sessions, voting records fluctuate – sometimes radically – depending on the issues. Because voting records do fluctuate from session to session, no single session's record should be considered in isolation; the average over the entire term best reflects the level of a legislator's support for a better business climate in this state.

2005 House Votes

ELIMINATING/INCREASING THE SPECIAL ASSESSMENT LEVEL INCOME TEST

HB 52 (Constitutional Amendment), Odinet – As originally filed, this constitutional amendment would have eliminated the income test for the property tax special assessment level for persons 65 years and older.

Under current law, the property tax assessments of persons 65 years and older, with an adjusted gross income of \$56,744 or less, are capped or frozen for property tax purposes. Additionally, this income level is increased annually by the consumer price index. As originally filed, HB 52 would have eliminated the income test completely, and permitted all persons 65 years and older to receive this special assessment level, irrespective of their level of income. This expansion of the special assessment level would have further shifted the property tax burden to businesses, renters, and other homeowners. Louisiana already has one of the most generous income test levels in the South, and the current income level adequately protects those senior citizens on low or fixed incomes.

How the House Voted

When the bill came up in its regular order on the House floor, Rep. Odinet returned the bill to the calendar. Later that day, Rep. Odinet moved to call the bill out of order from the calendar, and then, without any discussion as to the merits of the legislation, immediately moved for final passage.

A vote AGAINST final passage was a vote WITH LABI. The bill failed to pass, 63-35-7, with 70 votes needed for passage.

Following this vote, Rep. Odinet gave notice of reconsideration. Later during the session, the House again considered HB 52. Rep. Odinet amended the income test back into the bill, but increased the income test from its current level of \$56,744 to \$70,000. Under this proposed amendment, the higher income test level also would have been increased annually based on the consumer price index.

How the House Voted

A vote AGAINST final passage was a vote WITH LABI. The bill failed to pass, 61-29-15, with 70 votes needed for passage.

PROPERTY TAX ON MOTOR VEHICLES EXEMPTION

HB 187, Arnold – As amended by the Senate, this constitutional amendment would have protected certain component parts of motor vehicles from property taxation, consistent with the current practice of assessors in many parishes.

Louisiana's Constitution exempts motor vehicles from state, parish and special ad valorem taxes. However, some assessors have recently decided that a motor vehicle is limited to only the parts that are necessary for its operation. Under this interpretation, currently untaxed component parts of vehicles, such as the dump bed on a truck, the mixer on a cement truck, and a semi-van trailer may become subject to property taxes.

How the House Voted

A vote AGAINST rejecting the Senate amendments was a vote WITH LABI. The amendments were rejected, 53-50-1.

LIMITING THE "ROLL-FORWARD" OF PROPERTY TAX MILLAGES

HB 273, Arnold – This constitutional amendment would have limited the "roll-forward" of local property tax millage rates to only a consumer price index level without a vote of the people.

During 2004, many taxpayers for the first time experienced the property tax "reappraisal" procedures (the Louisiana Constitution requires that property be reappraised at least every four years). The Louisiana Constitution requires local property tax millages to be "rolled-back" to neutralize the tax impact from increases in fair market value resulting from the reappraisal of property. Thereafter, each taxing authority by two-thirds vote may then "roll-forward" its millages to 100 percent of their prior levels. This subsequent roll-forward of millages by a taxing authority is in effect a tax increase that was not approved by the voters. In fact, it is not the reappraisal of property to fair market value that results in the tax increase, but rather the subsequent roll-forward vote by the taxing authority that directly triggers the tax increase to the property owner.

With a two-thirds vote, taxing authorities should be permitted to roll-forward millages only to a reasonable level (not 100 percent of prior millage levels), such as to the consumer price index ("CPI") level. Millage roll-forwards in excess of this reasonable level should require additional voter approval. HB 273 would have reduced the opportunity for local taxing authorities to benefit from substantial increases in their budgets without voter approval, and further would have reduced the likelihood of taxpayer "sticker shock." At the same time, local taxing authorities by a two-thirds vote could have received reasonable CPI increases in their budgets necessary to manage year-to-year increases in their expenditures, without having to obtain voter approval.

How the House Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 103-0-2, with 70 votes needed for passage. After passing the House by an overwhelming margin, HB 273 was later killed in the Senate Revenue and Fiscal Affairs committee

after the committee decided to "study" this issue prior to the next legislative session.

STATE RETIREMENT REFORM

HB 311, Schneider – This bill applies to state employees hired on or after July 1, 2006. It requires state employees to wait until age 60 to retire, provided that they have 10 years of service with the state. Current law permits retirement at any age after 30 years of service. The act also increases employee contributions to their pensions by 0.5 percent and pegs benefit levels at the five highest years of service instead of just three.

Louisiana's public employee retirement systems represent an \$11 billion obligation to current and future retirees, and it is growing. However, the monies to cover this obligation do not exist right now. This \$11 billion unfunded accrued liability could be significantly reduced if steps are taken to bring the state's retirement programs more in line with those in the private sector. Otherwise, all taxpayers, but most especially businesses, along with our children and grandchildren, will ultimately pay this monstrous sum. HB 311 constitutes a small step toward retirement system reform and is projected to save around \$10 million over the next five years.

How the House Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 69-35-1.

UTILITY ANTI-TRUST LIMITATION

HB 381, Johns – This bill would have exempted electricity and natural gas utility companies from the state anti-trust law, thereby eliminating the threat of treble damages for class-action lawsuits filed because of fuel adjustment overcharges.

Utility customers do not benefit from these classaction lawsuits; rather, customers are forced to pick up the expenses of litigation in their utility rates. Additionally, the PSC has plenary authority for reviewing fuel adjustment costs and returning any overcharges to the ratepayers.

How the House Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 75-21-8.

ALLEGED PAY DISCRIMINATION

HB 444, Hunter – Would have exposed employers to lawsuits from disgruntled workers alleging that their pay was less than their co-workers of the opposite sex performing "the same or similar work." Federal and state laws already exist that provide remedies for such discrimination, but this bill would have established a new cause of action, substantially increasing the number of lawsuits against Louisiana employers.

The bill's proponents promoted it as "equal pay for women" legislation, but this was merely a sales pitch since there are laws currently on the books that permit individuals of either sex who have been subjected to true pay discrimination to obtain redress. The creation of a new cause of action to allow unhappy employees to sue their employers would only burden the courts and increase the cost of doing business in Louisiana. Were this bill enacted, employers with perfectly sound reasons for their pay differentials could have been dragged into court to prove it, incurring significant costs of time, effort and legal fees spent in defending themselves.

Enactment of the bill would also have had an adverse impact on Louisiana's economic development. It would have discouraged business investment in the state and prompted some companies to consider relocating to a different state. Businesses are very sensitive to laws governing the management of their workforces—especially those with regard to pay scales—because these laws substantially impact their bottom lines. Businesses tend not to locate or remain in states where their employees have more opportunities to sue them.

How the House Voted

A vote AGAINST final passage of the bill was a vote WITH LABI. The bill failed, 33-62-10.

INCREASE IN THE HOMESTEAD EXEMPTION

HB 583 (Constitutional Amendment), Alario – This constitutional amendment would have increased the homestead exemption annually by the consumer price index.

Louisiana's \$75,000 homestead exemption already is the highest in the nation, and does not need to be indexed. The impact of this generous \$75,000 homestead exemption is that statewide approximately 65 percent of Louisiana's homeowners pay no property taxes (28th Biennial Report, La. Tax Commission), although they still receive all of the parish services including education, fire and police protection, recreational, and others. Consequently, businesses pay a substantially disproportionate share of the property tax burden in Louisiana — in 2003 businesses paid over 85 percent of all property taxes throughout the state. The state fiscal office estimated that the impact of HB 583 in exempting this taxable property from the assessment rolls would increase the tax burden paid by business, renters, and other homeowners by more than \$40 - \$50 million per year over the next five years.

How the House Voted

A vote AGAINST final passage was a vote WITH LABI. The bill failed to pass, 24-65-15, with 70 votes needed for passage.

SCHOOL CHOICE

HB 613, Burns – This bill would have provided for a voucher for children in Orleans Parish in grades K-5 who are forced to attend chronically failed schools. The voucher could have been used at any participating nonpublic school to pay tuition and fees.

At the time this legislation was debated, there were 24 "Academically Unacceptable" public elementary schools in Orleans Parish, serving about 10,000 children. LABI supports public education

and the school accountability program and works to strengthen both. In 2003, LABI supported the school takeover constitutional amendment and, in 2004, the transfer of some powers from school boards to school superintendents, in the hope that this could help systems that are paralyzed from infighting. LABI will continue to fight for educational opportunity for all children within the traditional public school system.

However, reform moves slowly, and thousands of children are lost in the educational system each year, particularly in Orleans Parish, which remains one of the worst performing school districts in the state. If there is even a small chance that more children can be provided with meaningful educational opportunities under another plan, LABI will support it. HB 613 would have done just that.

HB 613 would have worked within the accountability system (nonpublic schools that chose to participate would be bound by the same testing and accountability requirements as public schools), would have given parents another educational option and, most importantly, would have given children hope of receiving a basic education and a future.

The majority of the House recognized that, and voted by a large margin to pass HB 613.

How the House Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 62-37-5, but was later killed in the Senate Education Committee.

LOCAL COMMUNICATIONS EXCISE TAX

HB 688, Richmond – This bill would have created a statewide taxing district for local governments, and authorized the taxing district to levy and collect a 2 percent excise tax on all communication services in the state.

This bill would have created the Louisiana Communications Tax District, a new statewide taxing district. The district would have been controlled by local government representatives, with the authority to levy and collect up to a 2 percent excise tax on all communications services without a vote by the

taxpayers. This new levy would have increased taxes on business and residential users of communication services. The taxes collected would have been apportioned and distributed among local governmental subdivisions. While this bill did relieve the tax burden on some landline companies, this relief was offset by the imposition of a new statewide local excise tax on wireless services in the state, generating net revenues of about \$50 million for local governments, without a vote of the people.

Legislation increasing or imposing a tax usually requires a two-thirds vote of the Legislature. However, as this bill would have only created a statewide taxing district with the "authority" to levy a tax, this bill required only a simple majority of 53 votes to pass.

How the House Voted

A vote AGAINST final passage was a vote WITH LABI. The bill failed to pass, 24-73-7, with 53 votes needed for passage.

GOVERNMENTAL LIABILITY

SB 258, Kostelka – This bill restores some sense of reason and predictability to wrongful injury or death suits against state and local government. SB 258 states that the \$500,000 cap now in place applies per injured or killed person rather than per plaintiff. SB 258 clarifies legislative intent in response to a recent Supreme Court decision.

SB 258 saves state and local government millions of dollars. Those governments are funded by taxpayers. Business certainly pays more than its share of taxes. Therefore, any savings to taxpayers is a savings to the business community. Additionally, business wants to see fair liability laws apply to state and local government. For government to manage its funds as it should, it needs to be able to plan. This new law brings predictability, which contributes to the planning process.

How the House Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 83-15-7.

2005 Senate Votes

TAXPAYER NOTICE OF PROPERTY TAX ASSESSMENTS

SB 96, Schedler – This bill requires assessors to provide written notice to taxpayers of their property tax assessments during reappraisal years and in any year in which their assessments increase by more than 15 percent. Taxpayers also should be able to rely on this assessment notice in any contest regarding valuation issues. This legislation also: (1) authorizes assessors to provide taxpayers with notice of their estimated tax due; and (2) requires local taxing authorities intending to "roll-forward" millages without voter approval to provide notice to the public prior to July 15th of such year (any violation of this provision would make the subsequent resolution passed by the taxing authority to roll-forward its millages null, void, and of no effect). SB 96 generally has statewide effect, except for Rapides Parish, which was exempted out of the bill.

During the 2004 property reappraisals, many taxpayers across the state received no written notice and were generally unaware of the pending increase in their property tax assessments. If a taxpayer is unaware of his assessment (because either he did not physically inspect the assessment rolls or his assessor did not provide him with written notice), then the taxpayer might lose some of his rights, including his right to appeal. Taxpayers may contest valuations in their property tax assessments following the "open inspection" period (this is the two week period between August 15th and September 15th in which the assessment rolls are open at the assessor's office). Generally, by the time a taxpayer receives his property tax bill in December, the appeals period has already elapsed. With the passage of SB 96, taxpayers will be better informed of their assessments, with adequate time to appeal if necessary.

How the Senate Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 34-0-3.

GOVERNMENTAL LIABILITY

SB 258, Kostelka – This bill restores some sense of reason and predictability to wrongful injury or death suits against state and local government. SB 258 bill states that the \$500,000 cap now in place applies per injured or killed person rather than per plaintiff. SB 258 clarifies legislative intent in response to a recent Supreme Court decision.

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How the Senate Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 31-4-2.

STATE RETIREMENT REFORM

HB 311, Schneider – This bill applies to state employees hired on or after July 1, 2006. HB 311 requires state employees to wait until age 60 to retire, provided that they have 10 years of ser-

vice with the state. Current law permits retirement at any age after 30 years of service. It also increases employee contributions to their pensions by 0.5 percent and pegs benefit levels at the five highest years of service instead of just three.

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the state's retirement programs more in line with those in the private sector. Otherwise, all taxpayers, but most especially businesses, along with our children and grandchildren, will ultimately pay this monstrous sum. HB 311 constitutes a small step toward retirement system reform and is projected to save around \$10 million over the next five years.

How the Senate Voted

A vote FOR final passage was a vote WITH LABI. The bill passed, 22-9-6.

VOTING RECORD CRITERIA

There are certain rules which apply consistently to LABI voting records and to LABI's use of those records:

- ✓ Only KEY business votes are included in the record. Only bills on which LABI has taken a clear, broad-based position are considered.
- ✓ A vote may be on an amendment or procedural motion, as well as on final passage, if that vote was crucial to the fate of the bill.
- Because of factors such as committee action or amendments, the inclusion of a vote on a bill in one house doesn't necessarily mean that it will be a record vote in the second house.
- ✓ Votes are often weighted according to their importance to the business community. See voting record chart for specific point values.
- ✓ Each term stands alone. Every legislator has an equal opportunity for a good four-year record, despite historical voting patterns.
- ✓ The annual and cumulative voting average is based upon the number of points actually earned, compared to the number of points that could have been earned over the period.
- ✓ Legislators are not penalized in LABI voting records for absences due to hospitalization or immediate family illness or death, nor for abstentions due to conflicts of interest.
- ✓ The voting record is based on printouts from the House and Senate voting machines and personal privilege corrections recorded in the Official Journal.

Legislative Sessions

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HB 2 Sales Tax on Mfg. Machinery & Equip. Concur With Senate Amendanents HB 2 Sales Tax on Mfg. Machinery & Equip.	Adopt Conference Report HB 3 Corporate Franchise Tax. Final Passage HB 75 Loser Pays/Cuts Both Ways. Final Passage HB 191 WC Fraudulent Claim Penalty. Final Passage HB 192 Abandoned Actions. Final Passage HB 152 Abandoned Actions. Final Passage HB 1514 Commercial Insurance Rating System. Final Passage HB 1523 Bid Preferences. Final Passage HB 1708 River Pilot Regulation. Final Passage HB 1708 River Pilot Regulation. Concur With Senate Amendments SB 334 Mandate-Free Health Insurance. Final Passage SB 334 Mandate-Free Health Insurance. Final Passage SB 334 Disest Fuel Local Sales Tax Exemption. SB 579 Public Records in Economic Development. Final Passage SB 865 Hospital Fees. Motion to Recommit	HB 52 Eliminating/Increasing Special Assessment Level Income Test, Final Passage HB 52 Eliminating/Increasing Special Assessment Level Income Test, Reconsideration HB 187 Property Tax on Motor Vehicles Exemption. Reject Senate Amendments HB 273 Limiting the "Roll-Forward" of Property Tax Millages. Final Passage HB 311 State Retirement Reform. Final Passage HB 381 Utility Antitrust Limitation. Final Passage HB 583 Increase Homestead Exemption. Final Passage HB 613 School Choice. Final Passage HB 688 Local Communications Excise Tax. Final Passage SB 96 Taxpayer Notice of Property Tax Assessments. Final Passage SB258 Governmental Liability, Final Passage Percentage 2005 Cumulative Voting Record 2004-2005 and Bay Assessments be papa tunapassage Cumulative Voting Record 2004-2005 and Bay Assessments be papared by Bay Bay Bay Bay Bay Bay Bay Bay Bay Ba
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Legislative Sessions

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S E N A T E	HB 2 Sales Tax on Mfg. Machinery & Equip. Final Passage	HB 2 Sales Tax on Mfg. Machinery & Equip.	Adopt Conference Report HB 3 Corporate Franchise Tax. Final Passage	SB 114 Repeal Term Limits. Final Passage	SB 225 Wrongful Death. Final Passage	SB 322 Increase Homestead Exemption. Final Passage	SB 334 Mandate-Free Health Insurance. Final Passage	SB 369 Bid Preferences. Final Passage	SB 394 Diesel Fuel Local Sales Tax Exemption. Adopt Conference Report	SB 420 Loser Pays/Cuts Both Ways. Final Passage	SB 472 River Pilot Regulation. Dardenne Amendment	SB 472 River Pilot Regulation. Hollis Amendment	SB 579 Public Records in Economic Development. Final Passage	SB 672 Exclusive Remedy/Workers Comp. Final Passage	SB 833 Extra Appeal Bond/Loser Pays. Final Passage	SB 865 Hospital Fees. Final Passage	HB 619 Incumbent Worker Training Program. Dardenne Amendment	HB 1211 Health Insurance Mandates. Irons Amendment	HB 1514 Commercial Insurance Rating System. Final Passage	HB 1708 River Pilot Regulation. Final Passage	Percentage 2004	SB 96 Taxpayer Notice of Property Tax Assessments. Final Passage	SB 258 Governmental Liability. Final Passage	HB 311 State Retirement Reform. Final Passage	Percentage 2005	a° L	Vas absent when ABI needed a yes" vote Was absent when ABI needed a no" vote
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