



# Capitol Journal

News & Views from the 50 States

April 7, 2014



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### Top Story

*Congress, the White House and the Supreme Court have all taken stabs at dealing with so-called patent trolls. Now the states are getting into the act we well.*

## SNCJ Spotlight

### States getting in on patent infringement fight

For all intents and purposes, patent law reform is an issue that has long been the purview of the federal government and the court system. But with intense pressure building at all levels of government to combat so-called “patent trolls” — companies that exist primarily to sue other companies over often-questionable patent infringement claims — a growing number of states are now jumping into the fray.



By Rich Ehsen



and sending it to someone via email with a single push of a button. Those letters demand the companies pay between \$1,000 and \$1,200 per employee to “license” the machines for use or face a lawsuit. None of the companies receiving the letter actually built the scanners in question, but MPHJ claims that isn’t the issue anyway; they say the infringement happens when users connect the machines to the Internet.

That drew the threat of a deceptive practices lawsuit from the FTC. But MPHJ was anything but cowed; in January the company beat the agency to the punch, filing a suit against the FTC claiming it was illegally preventing it from enforcing its patent holdings.

None of this has occurred in a vacuum. Congress passed a moderate reform measure in 2011, the America Invents Act, which created a “first to file” system that gives patent ownership to the person who filed their application first regardless of whether someone else later claims they invented the product beforehand. The first major Congressional patent reform in over half a century, it also allows vendors — for example the maker of the copying machine — to wade into the legal fight on behalf of their customers.

President Barack Obama followed that in 2013 with five executive orders that, among several things, push the U.S. Patent and Trademark Office to tighten up requirements for issuing patents in the first place. The U.S. House of Representatives took action as well, passing HB 3309, the Innovation Act of 2013, last December. That measure would force patent infringement litigants to name the product they say is being infringed upon by its specific name and patent number. It also would require disclosure of the entity that actually owns the patents and stands to gain financially from the litigation (MPHJ, for instance, has over 101 subsidiaries it uses to conduct its activities) and impose a fee-shifting element that would force a failed litigant to pay the winner’s legal fees. A handful of bills are also pending in the U.S. Senate, though how closely whatever passes there will resemble the House version — which President Obama favors — remains to be seen.

All this would naturally lead one to presume that anyone pursuing a patent infringement suit is a patent troll and that such suits have become epidemic. Neither assertion, however, is entirely correct.

Many reform advocates again cite the Boston University study, which also claims that PAE suits make up about two thirds of all patent infringement cases. But that figure encompasses just suits filed by patent holders that aren’t also a manufacturers of products, including universities, individual inventors and other research facilities. A 2013 report from the U.S. Government Accountability Office that excludes those entities places the figure at less than 20 percent of all those filed from 2007 to 2011.

“There is a large debate right now over exactly how big of a problem this actually is,” says Peter Lee, a law professor at the University of California, Davis who specializes in patent law. “It really depends on the definition we use. Are universities patent trolls? And what about large incumbent technology companies? They produce products, but many also have enormous patent portfolios that they use in a leveraged manner.”



“I would be skeptical of taking any particular figure at face value,” he adds.

Even so, states are now getting into the game as well. Last year, Vermont became the first state to pass legislation (HB 299 2013) that bars so-called “bad faith” infringement suits or threats. The law gives judges a variety of conditions and factors designed to help them determine what does and does not constitute a bad faith suit. The law also allows the infringement target to countersue someone found to be suing in bad faith and authorizes the attorney general to bring civil actions against that individual as well.

Several states have followed suit this year, including Idaho, Oregon, and South Dakota. At least five more — Georgia, Virginia, Utah, Wisconsin and Alabama — have sent bills to the governor, with Maryland expected to do so any day now. Bills are still pending in at least 14 states, including Kentucky, Missouri and New Hampshire, where they have all cleared at least one chamber.

“This is an indication of how broadly the pro-reform lobby is pushing its agenda,” says Russ Merbeth, Chief Policy Counsel for Intellectual Ventures, Inc., a PAE that is often cited as a patent troll by reform advocates. “There are a lot of big tech companies

that have found it to be much more cost effective to take their liability issues to Congress or state legislatures to deal with than to deal with them in the marketplace.”

Merbeth also insists that without companies like his, many individual inventors and small businesses would not have the means to enforce valid patents they legally hold when a larger company infringes on those patents. He says most PAEs are fine with new rules that rid the playing field “of the bad actors out there,” but called the

current Congressional bills “omnibus, blunderbuss” proposals that would do more harm than good.

How much state actions impact what happens in Congress remains to be seen. Law professor Lee says questions still remain over how much authority states have to police bad faith infringement cases, but he believes they will play a big role in whatever reforms eventually do come out of Congress.

“This action at the state level could definitely spark more federal action,” he says, noting that it also wouldn’t necessarily be a bad thing if PAEs had to deal with varying state laws.

“Not being certain of how bad faith is defined state to state could have a chilling effect on those that operate like trolls,” he says.

The United States Supreme Court is also a major player, having already heard oral arguments in multiple patent cases this year. One of those, *Alice v. CLS*, came just last Monday and seeks to define just how broadly a software application can be applied. Alice Corp., an Australian-owned company, claims CLS Bank illegally used Alice-patented software in some of its computer programming. CLS counters that the

**“About 40 percent of all the patents challenged in litigation should never have been granted in the first place.”**

program in question is ubiquitous and not worthy of specific patent protection. The High Court's rulings are due in June.

Some reformers believe a ruling in favor of CLS Bank would be a severe blow to PAEs, though nothing resembling a fatal one. And regardless of whatever reforms the states, the courts and Congress devise, they won't solve what Lee says is the underlying issue: too many patents already in the system.

"About 40 percent of all the patents challenged in litigation should never have been granted in the first place," he says. "Even if we reduce now the number being issued, there are still tons out there that will be around for decades. So we're not really close to the end on this issue at all."

— By *RICH EHISEN*

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## Budget & taxes

**CIGARETTE TAXES SPURRING COSTLY CRIME:** Forty-seven states, the District of Columbia and New York City have increased their tobacco taxes a total of 113 times since 2000, according to the Federation of Tax Administrators. All that activity has created wide disparities in the price of a pack of cigarettes, which in turn has fostered cigarette smuggling and other crimes that are depriving states of billions of dollars in tax revenues.

New York, which imposes a \$4.35 per-pack tax — multiples of the amount charged in tobacco-producing states like Missouri (17 cents) and Virginia (30 cents) — has been particularly attractive to smugglers. Jeff Cohen, associate chief counsel for the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives in Washington, said criminals who buy 200 cases of cigarettes in North Carolina or South Carolina and sell them illegally in New York can clear as much as \$500,000. The Midland, Michigan-based Mackinac Center for Public Policy estimated that nearly 57 percent of the cigarettes smoked in the Empire State in 2012 were smuggled.

According to the ATF, smuggling now costs federal and state governments \$7 billion to \$10 billion in tax revenues each year, up from \$5 billion a few years ago. Cigarette smuggling is even cutting into the money states receive under the 1998 tobacco settlement with the nation's four largest tobacco companies because some states and cities have issued bonds against the payments they receive, which are based on cigarette shipments. The Massachusetts Attorney General's Office has estimated the state loses about \$1,000 in settlement money for every million cigarettes that go untaxed.

Besides costing states revenue, the smuggling is also spurring other crimes, such as identity theft and credit card fraud, by which criminal rings are able to buy cigarettes in





But the production may not have too much to worry about. The state’s Senate isn’t likely to agree to the property grab, after already having passed a measure increasing the amount of film production tax credits available in the coming year from \$7.5 million to \$18.5 million by a vote of 45 to 1.

And even Frick admitted he’s a big fan of the show. “It’s a terrific show. I love it. You probably love it,” he said on the House floor.

But he added that the threat from Media Rights Capital just “went a little far.” (BLOOMBERG, WASHINGTON POST, STATE NET)

**BUDGETS IN BRIEF:** With a \$1 billion surplus projected for his state by June 2015, **WISCONSIN** Gov. Scott Walker (R) signed a \$541 million income and property tax cut bill last month. The action marked the third time the state has lowered taxes in less than a year (MILWAUKEE JOURNAL SENTINEL). • **NEBRASKA** Gov. Dave Heineman (R) signed property, sales and income tax cut measures representing \$412 million in total reductions over five years. The governor also called for more tax relief in the future (OMAHA WORLD-HERALD).

• To help plug his state’s current budget gap, **NEW JERSEY** Gov. Chris Christie (R) altered the funding formula for calculating the state’s pension contribution. Fitch Ratings downgraded the state’s credit outlook from “stable” to “negative” largely due to the change, which will reduce the state’s pension payments by \$900 million over the next four years, adding to its existing \$51 billion unfunded pension liability (NJSPOTLIGHT.COM, BLOOMBERG). • A pair of Republican **COLORADO** lawmakers have proposed a ballot initiative that would prevent municipalities in the state that ban oil and gas drilling from receiving a share of state severance tax revenues (DENVER POST). • The **ARKANSAS** General Assembly voted to override Gov. Mike Beebe’s (D) veto of a portion of a budget bill exempting sand used by oil and gas drillers from the state sales tax (ARKANSAS NEWS BUREAU, STATE NET). • The **NEW YORK** Legislature approved a \$138 billion state budget for the fiscal year that began April 1 that includes \$1.5 billion in property tax relief (ALBANY TIMES UNION). • **TENNESSEE** officials say a growing hole in the state budget may be due to companies taking advantage of tax loopholes. Despite an improving economy and a surge in the stock market, the state’s franchise and excise taxes — the third-largest source of revenue in the state behind

## In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here’s a snapshot of what’s in the legislative works:

**Number of 2014 Prefiles last week:** 206

**Number of 2015 Prefiles last week:** 1

**Number of Intros last week:** 2,564

**Number of Enacted/Adopted last week:** 2,409

**Number of 2014 Prefiles to date:** 20,215

**Number of 2015 Prefiles to date:** 77

**Number of 2014 Intros to date:** 67,778

**Number of 2013 Session Enacted/Adopted overall to date:** 40,747

**Number of 2014 Session Enacted/Adopted overall to date:** 11,348

**Number of bills currently in State Net Database:** 165,525

— Compiled By FELICIA CARILLO  
(measures current as of 4/3/2014)  
Source: State Net database



federal aid and sales taxes — were short of projections by 20 percent, or over \$200 million (TENNESSEAN [NASHVILLE]). • **ARIZONA** has hit a three-way budget impasse, with both the state House and Gov. Jan Brewer (R) refusing to support the latest version of the budget passed by the Senate (REPUBLIC [PHOENIX]).

— *Compiled by KOREY CLARK*

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# Politics & leadership

**D**EMS DECLARE CLASS WAR IN IL: Days after multimillionaire businessman Bruce Rauner claimed a narrow victory in Illinois' Republican gubernatorial primary last Tuesday, the state's Democrats, who currently hold a monopoly on the government, declared class warfare as their election-year campaign theme.

House Speaker Michael Madigan launched the first salvo last Thursday, announcing in a rare news conference that he wanted lawmakers to place a question on the Nov. 5 ballot asking voters if the state should raise the income tax 3 percent on residents who earn over \$1 million a year to generate more than \$1 billion for public schools.

"We've done this because we feel that the millionaires in Illinois are the ones that are better equipped to support education than others," he said.

Rauner, who previously disclosed he made \$53 million in 2012, responded to Madigan's proposal by reiterating his own campaign themes that Democrat-run Springfield is in need of a shake up and that Democrats raised the income-tax rate for all Illinoisans 67 percent four years ago.

"[Rauner] doesn't support what looks like a first step towards empowering Mike Madigan and Pat Quinn to raise taxes on the middle class, small businesses and family farms," Rauner's campaign manager, Chip Englander, said in a statement. "The last time they raised taxes, they hit every Illinoisan with a 67 percent increase, and they still turned around and cut funding for education."

The next shot came from the Senate, where a key Democrat-controlled panel approved a bill — on a 10-5 straight party line vote — that would phase in an increase in the state's minimum wage from \$8.25 an hour to \$10.65 an hour over two years. Rauner had stumbled on the issue during his primary campaign, telling an audience that he supported having the state's minimum wage match the federal rate — which would actually require a \$1-per-hour wage cut for Illinois' workers. He later said he would support increasing the federal rate to match Illinois' or raising the state's rate higher if several other actions were taken, including providing tax relief for businesses.

Democratic Gov. Pat Quinn's campaign went with a more personal attack, running a web ad likening Rauner to one of America's most infamous rich guys, C.

Montgomery Burns of the long-running animated series “The Simpsons.” The ad features snippets of Burns in the fictional Springfield-with a narrator asking: “Do you want someone like Mr. Burns representing you in Springfield?”

The ad got the campaign into hot water with Fox Networks, which owns “The Simpsons,” because it failed to obtain permission to use clips from the show. The Rauner campaign seized on the gaffe to take a shot at the governor.

“Gov. Quinn is running his campaign as poorly as he is running state government,” said campaign spokesman Mike Schrimpf. (CHICAGO TRIBUNE)

**GOP HOLDS BIG ADVANTAGE IN BATTLE FOR US HOUSE:** Democrats face an uphill battle to retake control of the U.S. House in November regardless of the candidates they field, the money they raise or the campaigns they run, because of Republicans’ success with a plan they spent years developing to take advantage of the 2010 census.

The plan, known as the Redistricting Majority Project, or REDMAP, called for targeting legislative races in states like Ohio, Michigan, North Carolina, Pennsylvania and Wisconsin that were expected to gain or lose congressional seats following the census and then using their legislative majorities to redraw congressional districts in their favor.

Such gerrymandering has been used enthusiastically by both Democrats and Republicans throughout America’s history, but the overwhelming success of the GOP’s employment of the practice in this particular instance was demonstrated by the party’s ability to maintain its 33-seat majority in the U.S. House in 2012, despite Republican candidates having received 1.4 million fewer votes than their Democratic opponents. According to the U.S. House clerk, it was just the second time since World War II that the party that received the most votes failed to obtain a majority of the chamber’s seats.

“The fact that Republicans controlled redistricting [after 2010] meant that they were able to build up a wall, stopping a lot of the tide from running out,” said Justin Levitt, a professor and redistricting expert at Loyola Law School in Los Angeles.

That wall is likely to help Republicans again this year, regardless of which way the tide flows. (ASSOCIATED PRESS)

**INDEPENDENT INVESTIGATION OF KANE STING UNLIKELY:** Last month news broke that Pennsylvania Attorney General Kathleen Kane (D) shut down a sting operation that allegedly ensnared four Democratic members of the state’s House (see STING SPURS CONTROVERSY IN PA in March 24 issue of SNCJ).

Since then House leaders from both parties have informed the House Ethics Commission of their willingness to conduct an ethics investigation into the matter, while good-government groups have called for an independent investigation. An ethics panel could only consider whether the involved lawmakers committed ethics



violations. It would not be able to weigh whether they committed any crimes. It also wouldn't have jurisdiction to review Kane's role or that of the previous attorney general.

But the alternative of an independent investigation seems unlikely at the moment. The state law authorizing the General Assembly to appoint an independent prosecutor expired over a decade ago. And it hasn't been renewed because it hasn't been used in so long and because of fears it could be used for partisan reasons.

Ellen Kaplan, vice president for the Committee of 70, a good-government group based in Philadelphia, said her group didn't have a position on whether the law should be reinstated, but she maintained an independent review was the only way to uncover the truth about the matter.

"Without an independent counsel, without any partisan or personal interest in the outcome of the case, who will investigate the facts in a way the public can trust?" she said. (PHILADELPHIA INQUIRER)

**POLITICS IN BRIEF: INDIANA** House Speaker Brian Bosma (R) has called for an ethics investigation into fellow Republican Rep. Eric Turner's role in killing a measure that would have imposed a moratorium on nursing home development in the state. The moratorium was opposed by Turner's 36-year-old son, Zeke Turner, chairman and CEO of Carmel, Indiana-based health care facility developer Mainstreet Property Group (INDIANAPOLIS STAR, STATE NET). • **RHODE ISLAND** House Speaker Gordon D. Fox (D) resigned his leadership post last month after state police and federal agents raided his office and Providence home for an undisclosed reason. House Majority Leader Nicholas A. Mattiello (D) was elected as Fox's replacement (PROVIDENCE JOURNAL, STATE NET). • **FLORIDA** Secretary of State Ken Detzner (R) has suspended the state's controversial election-year purge of noncitizens from its voter rolls, citing the redesign of the U.S. Department of Homeland Security's SAVE database the state has been using to verify citizenship, which won't be completed until 2015 (MIAMI HERALD). • **CALIFORNIA** state Sen. Leland Yee (D) was indicted last month for allegedly soliciting campaign contributions from an undercover FBI agent in exchange for setting up a deal with international arms dealers. Yee, an outspoken advocate of both good-government initiatives and gun control, has not only destroyed his chance of being elected Secretary of State this year, but also further threatened his party's efforts to restore their supermajority in the Senate, broken by two other lawmakers who are facing criminal charges (CONTRA COSTA TIMES). • Detroit Emergency Manager Kevyn Orr proposed cutting public retirees' pensions by 14 percent if they fail to support a proposed bankruptcy

## Upcoming elections

(4/4/2014 - 4/24/2014)

04/08/2014

### Florida Special Election

House District 44

04/11/2014

### Connecticut Special Election

House District 61

04/22/2014

### Florida Special Primary

US House Congressional District 19



restructuring plan that includes a 10-percent pension cut (DETROIT NEWS). •  
**NEBRASKA** Gov. Dave Heineman (R) signed a bill (LB 661) into law last month  
 that will enable online voter registration by the middle of 2015 (OMAHA.COM).

— *Compiled by KOREY CLARK*

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# Governors

**BRYANT SIGNS OFF ON MS SENTENCING OVERHAUL:** Mississippi Gov. Phil Bryant (R) signed prison sentence reform legislation last week that supporters say could save the Magnolia State \$266 million over the next decade. The bill, HB 585, requires those convicted of a violent offense to serve at least 50 percent of their sentence, while anyone convicted of a nonviolent offense will serve at least 25 percent before being eligible for parole. The measure also allows judges greater flexibility to impose alternate sentences, including sending convicted drug users to treatment instead of jail. Circuit courts will also be authorized to establish treatment programs for military veterans suffering from mental health problems like clinical depression, drug and alcohol problems or even traumatic brain injuries.

Mississippi follows a host of other states to make major sentencing changes in recent years, including Texas, Georgia and West Virginia. As with many of those efforts, the driving force was budgetary. Mississippi has the second highest incarceration rate in the country, trailing only Louisiana, and as prison rolls have grown so has the portion they take out of the state budget.

“The growing cost of corrections is unsustainable for Mississippi taxpayers,” Lieutenant Governor Tate Reeves (R) said at the signing ceremony for the measure. “Our goal with this legislation is to rein those costs in while continuing to protect the public from violent offenders.”

The reforms also drew praise from the Pew Charitable Trust, which said the law “places Mississippi among the leaders of a growing number of states advancing data-driven, research-based policies that improve public safety and reduce public spending on prisons.”

In addition to sentence reforms, the new law for the first time defines which crimes are classified as violent and creates a state oversight council that will track the outcomes of those reforms.

The new law goes into effect on July 1. (CLARION LEDGER [JACKSON], BILOXI SUN-HERALD, MISSISSIPPI GOVERNOR’S OFFICE)

**NORTHEAST GOVS RESTRICT PAINKILLER:** Vermont Gov. Pete Shumlin (D) issued new emergency rules last week that greatly restrict how Green Mountain



State health care providers prescribe new painkillers like Zohydro, a high-dose narcotic approved last year by the Food and Drug Administration. Shumlin's announcement came a week after Massachusetts Gov. Deval Patrick (D) banned Bay State doctors from prescribing or dispensing Zohydro until it state health officials have sufficient safeguards against abuse are in place. Resistance to Zohydro has been growing in states, many of which are struggling to combat growing prescription medication addiction issues among their citizens. Last year, 28 state attorneys general sent a letter to the FDA asking the agency to revoke the drug's approval or require the manufacturer to reformulate the drug so it is more difficult for abusers to crush for snorting or injection. U.S. Sen. Joe Manchin (D-West Virginia) and Rep. Stephen Lynch (D-Massachusetts) have introduced bills (SB 621 and HB 1285) that would compel the FDA to withdraw the drug. (WASHINGTON POST, BURLINGTON FREE PRESS, STATE NET, TIMES-ARGUS [BARRE MONTPELIER])

## Upcoming stories

Here are some of the topics you may see covered in upcoming issues of the *State Net Capitol Journal*:

- **Bitcoin regulation**
- **Tesla**
- **ACA**

**GOVERNORS IN BRIEF:** After not vetoing a single bill last year, **COLORADO** Gov. John Hickenlooper (D) vetoed two last month. Both bills, HB 1108, which would have limited the co-payments required by insurance companies for visits to physical therapists and naturopathic doctors, and SB 89, a property tax bill, were authored by Democrats (DENVER POST). • **CALIFORNIA** Gov. Jerry Brown (D) told a gathering of law enforcement officers last week that he is open to making changes in his signature prison realignment program, but was not specific about what those changes might look like. Brown and lawmakers adopted the realignment plan in 2011 as a way to reduce the state's wildly overcrowded prison system. It has since reduced that population by over 25,000 inmates but has drawn criticism from law enforcement agencies because many of those offenders have since been reinterred in county jails, some for years-long sentences (SACRAMENTO BEE). • Also in **CALIFORNIA**, Gov. Brown signed AB 800, a bill that gives the state Fair Political Practices Commission and the Franchise Tax Board the power to start audits of campaigns suspected of illegal activities, even if campaign statements or finance reports have not yet been filed (STATE NET). • **MAINE** lawmakers voted to override two vetoes issued by Gov. Paul LePage (R): HB 1208, which will create a study group to strengthen the state's response to child abuse and neglect, and HB 1168, which allows lawmakers and other elected officials to visit medical marijuana dispensaries and caregivers' growing operations to learn more about how they work. The vetoes were just the 9<sup>th</sup> and 10<sup>th</sup> of the 122 he has issued to be overridden by lawmakers (BANGOR DAILY NEWS). • **UTAH** Gov. Gary Herbert (R) vetoed a handful of bills last week, including HB 414, which would have given the legislature more power to enforce its own subpoenas. Lawmakers passed the bill in the wake



of their investigations into former attorney general John Swallow (R), who resigned amidst corruption allegations last November. Gov. Herbert called the bill “an overreach” and said it would violate the civil rights of those lawmakers subpoena (SALT LAKE TRIBUNE).

— *Compiled by RICH EHISEN*

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# Hot issues

**B** **USINESS:** The **MISSOURI** Senate approves SB 741, which would allow gambling casinos to extend credit to their high-end customers. The measure, which would require applicants to qualify for at least \$10,000 in credit, moves to the House (ST. LOUIS POST-DISPATCH). • **CONNECTICUT** Gov. Dannel P. Malloy (D) signs SB 32, legislation that raises the Constitution State minimum wage to \$10.10 per hour by 2017. The wage will climb incrementally from the current \$8.70, with 45-cent increases in 2015 and 2016 and a final 50-cent increase on Jan. 1, 2017 (CONNECTICUT GOVERNOR’S OFFICE, REUTERS). • **WISCONSIN** Gov. Scott Walker (R) signs AB 19, a bill that requires those filing an asbestos exposure lawsuit to reveal how many businesses they plan to sue in their case and to also litigate against special asbestos trusts before seeking more money from the courts (INSURANCE JOURNAL, STATE NET). • The **OHIO** Senate approves SB 260, which would authorize electric car manufacturer Tesla to continue operating its two current stores in the Buckeye State and open a third in Cleveland, with no other stores allowed. The measure moves to the House (COLUMBUS DISPATCH).

**CRIME & PUNISHMENT:** The **WISCONSIN** Senate gives final approval to SB 196, a bill that would bar law enforcement from using drone aircraft in their investigations without first obtaining a warrant. It moves to Gov. Scott Walker (R) for review (MILWAUKEE JOURNAL-SENTINEL). • **WASHINGTON** Gov. Jay Inslee (D) signs SB 5064, legislation that abolishes automatic life sentences for convicted murderers 15 years old or younger, instead making them eligible for parole after 25 years. Judges would still be able to, at their discretion, issue life without parole sentences to 16- and 17-year olds (TACOMA NEWS TRIBUNE). • **WASHINGTON D.C.** Mayor Vincent Gray signs legislation that would decriminalize possession of small amounts of marijuana. Under the measure, possession of less than an ounce of pot would be punishable by only a \$25 fine, though smoking weed in public could still get the user six months in jail and a \$1,000 fine. The bill now undergoes a 60-day review by Congress (WASHINGTON POST). • The **FLORIDA** Senate approves a bill that would grant criminal immunity

to people with clean criminal records who fire a warning shot or threaten to use deadly force in self-defense. It moves to the House (MIAMI HERALD).

**EDUCATION:** The **MARYLAND** Senate approves HB 727, a bill that would require all school construction projects that get at least 25 percent of their money from the state to pay workers the prevailing wage. It moves to Gov. Martin O'Malley (D) for review (CAPITAL GAZETTE [ANNAPOLIS]). •

**INDIANA** Gov. Mike Pence (R) signs SB 91, a bill that makes the Hoosier State the first to legislatively opt out of the multi-state Common Core curriculum standards for math and English. Indiana was one of 45 states to adopt the Common Core standards, a project of the National Governors Association and various state education superintendents (INDIANAPOLIS STAR).

• **MISSISSIPPI** Gov. Phil Bryant (R) signs HB 116, which extends trade-secret protections to Magnolia State universities and community colleges by exempting materials tied to any commercial, scientific or technical research from the state's Open Records Act before the research is published. The law takes effect July 1 (INSURANCE JOURNAL).

**ENERGY:** **INDIANA** Gov. Mike Pence (R) allows SB 340 — a bill that will shut down the Energizing Indiana program, which allowed energy auditors to visit homes and businesses and recommend ways to reduce energy consumption — to become law without his signature (INDIANAPOLIS STAR).

**ENVIRONMENT:** The U.S. Supreme Court declines to hear an appeal by **ALASKA** officials of a lower court's ruling that the federal government has final authority over the use of inland state waters for subsistence hunting by Alaska Natives. The court did not issue a reason for rejecting the case (FAIRBANKS NEWS MINER).

**HEALTH & SCIENCE:** The **KENTUCKY** Senate gives final approval to SB 124, which would allow the University of Kentucky and University of Louisville medical schools to conduct research using marijuana oil to treat seizures in children and allow anyone enrolled in a U.S. Food and Drug Administration trial to be treated with the marijuana derivative. It goes to Gov. Steve Beshear (D), who has said he will sign it into law (LEXINGTON COURIER-JOURNAL). • The **WISCONSIN** Senate approves AB 726, which would also allow the use of cannabis oil to treat seizures in children. It moves to Gov. Scott Walker (R) for review (MILWAUKEE JOURNAL-SENTINEL). •

## The week in session

**States in Regular Session:** AK, AL, AZ, CA, CO, CT, DC, DE, FL, HI, IA, IL, KS, LA, MA, MD, ME, MN, MO, MS, NE, OH, OK, PA, PR, RI, SC, TN, US, VT, WI

**States in Special Session:** VA "a", WI "c"

**States in Recess:** KY, MI, NH, NJ, NY

**States currently prefilng for 2015 Session:** MT

**States adjourned in 2014:** AR, CA "a", DE "b", GA, HI "a", HI "b", ID, IL "a", IL "b", IN, KS "a", MO "a", NH "a", NJ "2011-12 session", NJ "a", NM, OK "a", OR, PR "a", PR "b", SD, UT, VA, WA, WA "a", WA "b", WA "c", WI "a", WI "b", WV, WV "a", WY

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO  
(session information current as of 4/3/2014)  
Source: State Net database



Staying in **WISCONSIN**, the Senate approves SB 300, which would require insurers to cover oral chemotherapy the same way they cover chemotherapy administered through IVs at hospitals or clinics. It moves to Gov. Walker, who has said he will sign it (**MILWAUKEE JOURNAL-SENTINEL**). • Also in **WISCONSIN**, the Senate approves AB 120, a bill that would bar apologies and other statements of contrition from being used as evidence against doctors in lawsuits and other proceedings. It moves to Gov. Walker for review (**MILWAUKEE JOURNAL-SENTINEL**).

## In case you missed it

Congress has not passed comprehensive immigration legislation since 1986. Efforts to do so this year have broken down, putting intense pressure on the states.

In case you missed it, the story can be found on our Web site at

[http://www.statenet.com/capitol\\_journal/03-24-2014/html#snj\\_spotlight](http://www.statenet.com/capitol_journal/03-24-2014/html#snj_spotlight)

**SOCIAL POLICY:** U.S. Attorney General Eric Holder announces the federal government would recognize approximately 300 same-sex couples in **MICHIGAN** who were married on March 22 after U.S. District Judge Bernard Friedman ruled the Wolverine State’s ban on those unions was unconstitutional. The 6<sup>th</sup> U.S. Circuit Court of Appeals has stayed that ruling pending further appeals (**DETROIT FREE PRESS**). • A federal judge upholds an **ARIZONA** law that bans pill-induced abortions after seven weeks of pregnancy. U.S. District Judge David C. Bury said overturning the law was “not in the public interest,” allowing it to go into effect last Tuesday (**AZCENTRAL.COM**). • The **TENNESSEE** Senate approves SB 1699, legislation that would bar ATMs in or near businesses that provide bail bonds, tattoos and body piercing from dispensing cash to people with welfare benefit cards. It is now in the House (**STATE NET, CHATTANOOGA TIMES FREE PRESS**). • **WEST VIRGINIA** Gov. Earl Ray Tomblin (D) vetoes HB 4588, a bill that would have barred most abortions after the 20<sup>th</sup> week of pregnancy. Gov. Tomblin cited several recent court decisions ruling similar laws in other states to be unconstitutional (**CHARLESTON GAZETTE**). • The **MISSISSIPPI** House and Senate give final approval to HB 1400, which would bar women from obtaining an abortion after the 20<sup>th</sup> week of pregnancy. The bill, which contains no exceptions for cases of rape or incest, moves to Gov. Phil Bryant (R), who has said he will sign it into law (**CLARION LEDGER**).

**POTPOURRI:** **MICHIGAN** Lt. Gov. Brian Calley (R) signs a suite of 15 bills that collectively remove the terms “mentally retarded” and “mental retardation” from state statutes and replace them with terms such as “developmentally disabled” or “intellectually disabled” (**DETROIT FREE PRESS**). • **VERMONT** Gov. Pete Shumlin (D) signs SB 27, which replaces similarly antiquated and hurtful language in Green Mountain State statutes. The law takes effect on July 1 (**RUTLAND HERALD, VERMONT GOVERNOR’S OFFICE**).

— Compiled by *RICH EHISEN*

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# Once around the statehouse lightly

**A** **REPUBLICAN HIPSTER?** Most outreach efforts political parties make to America's youth come across as kind of dorky. But few can top the Republican National Committee's recent campaign aimed at Millennials. Or, more precisely, those irony-loving, too-cool-for-school hipsters. The video shows a 20-something guy wearing fashionable tortoise-shell glasses, a leather jacket and a really hip striped shirt explaining why he's a Republican. He touches on all the usual GOP talking points, yada, yada, yada. But he could be reciting the Pledge of Allegiance and it wouldn't matter because it is virtually impossible to watch without thinking, "A Republican *hipster*? Really? Why not a unicorn? Or Sasquatch?" Wait, scratch that — there might actually be a Sasquatch somewhere. In any case, with such rich source material, it didn't take long for a parody to follow. HBO comedian John Oliver obliged, releasing a *YouTube* video poking fun at it. You should check it out. But coming from a cable guy, let's say it's NSFW. The real hipsters know what I mean.

**SOMETHING REALLY STINKS HERE:** The California Capitol was recently infected with an awful, acrid odor, a stench that wafted from floor to floor until it was simply intolerable. No, we're not talking about the nefarious activities of Democratic state Senators Ron Calderon and Leland Yee, who have recently been indicted on major corruption charges, or Sen. Rod Wright, who has been convicted of lying about not living in his district. As the *Sacramento Bee* reports, the culprit this time was a wily skunk that had taken up residence in the bushes outside the north entrance. He was eventually captured and removed from the grounds. As were the three miscreant lawmakers, whom the Senate suspended last week pending the outcome of their cases (Wright's is under appeal). They all might end up in stripes as well.

**COLLATERAL DAMAGE:** Regular *SNCJ* readers might also recall a recent story yours truly did regarding child sex trafficking "Safe Harbor" laws. A big part of the focus in that piece was California Senate Bill 738, which had cleared its home chamber and was set to begin the path in the Assembly. Unfortunately, the bill's author is a guy named Yee...the same Sen. Leland Yee mentioned above. Doh! With Yee now suspended indefinitely, the bill has moved into legislative limbo and is probably headed to the scrap heap unless a new author can be found. Yep, the fat lady isn't singing yet but she's definitely clearing her throat.

— By *RICH EHISEN*



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