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MAJORITY LEADER
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HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Ethics, Chair
House Administration, Chair
House Rules, Chair
Gaming & Pari-mutuels
Veterans Affairs

House Administration Committee
Meeting Minutes
May 12, 2010

Chairman Schwartzkopf called the meeting to order at 3:30 pm. Members present included Speaker Gilligan and Representatives D. Short, Cathcart and Longhurst. For a list of guests present, please see attached.

After calling the meeting to order, Chairman Schwartzkopf brought up **HOUSE BILL 384 AN ACT TO AMEND THE DELAWARE CODE RELATING TO STATE GOVERNMENT** and recognized Representative Keeley, the bill's sponsor. Rep. Keeley explained that the bill would ensure that incarcerated citizens are counted for population purposes at their home address to ensure an accurate count of citizens within given districts. Chairman Schwartzkopf asked how this would relate to prisoners who are citizens of other states, to which Rep. Keeley replied that only incarcerated citizens of Delaware would be counted toward Delaware's population total.

Rep. Longhurst motioned to release the bill from committee; Rep. Gilligan seconded the motion. The bill was released from committee on a vote of 3-0-0.

Chairman Schwartzkopf then called upon Rep. Hudson to introduce **HOUSE BILL 353 AN ACT TO AMEND TITLE 16 AND TITLE 29 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND DUTIES OF THE ATTORNEY GENERAL**. Rep. Hudson stated that this bill specifies that Delawareans can choose or decline to choose healthcare and will not be penalized by federal government if they decline. This bill also directs the Attorney General to defend the state and to uphold this law. She then stated that 38 states have filed similar bills, three have it on a ballot for discussion and three have passed it (Virginia, Idaho and Arizona).

Meredith Stewart, Attorney for the House Majority Caucus, then pointed out that there may be issues with this bill. She stated that the enforcement provision may violate the separation of powers principle. She commented that a state government cannot challenge the enforcement of a federal law in the Supreme Court.

Ron Smith, Attorney for the House Minority Caucus, stated that the federal healthcare reform imposes on states' sovereignty and many laws that go along with the commerce clause, such as this one, have been stricken. He then commented that this bill gives Delaware the power to intervene and protect state sovereignty. Rep. Hudson that asked

Mr. Smith whose constitutional right it is to direct healthcare. He stated that if the federal government does not have authority, than the right is given to the state.

Ms. Stewart then stated that the state of Delaware cannot challenge this law. She commented that federal healthcare gives states an option and not a mandate. Chairman Schwartzkopf then took a short recess for members to cast a vote in another committee.

After calling the meeting back to order, Chairman Schwartzkopf asked Mr. Smith if the federal healthcare bill says anything about Social Security and since Social Security has been held to be constitutional, what is the difference between the federal healthcare bill and Social Security? Mr. Smith then replied by saying that the federal healthcare bill is not the federal government providing insurance; it simply is a mandate that requires every American to obtain health insurance. Mr. Smith continued by saying that the federal healthcare bill includes a tax for inactivity, and the bill is completely different from any previous legislation.

Rep. Cathcart then stated that states are taking action by passing bills similar to this because the majority of the public does not know all the ramifications of this bill. He then asked that this bill be released to be discussed more seriously on the House floor, because it is so important.

Chairman Schwartzkopf asked for any more comments. Rep. Hudson then commented that she is not criticizing the healthcare plan; she just wants Delawareans to be able to opt out. She asked for the bill to be released and discussed on the House floor.

Speaker Gilligan then asked about the difference between the federal healthcare legislation and Social Security, Medicare and Medicaid. He stated that all of these bills were found to be legal and have held up through the years. Mr. Smith followed up by saying that the government has the right to pass the legislation, and he thinks this will get stricken from the commerce clause. He commented that currently, Americans do not have to pay for Social Security if they are not working, but under the federal healthcare legislation they will.

Speaker Gilligan then stated that most of the federal healthcare legislation has not even been implemented yet, and these types of comments cannot be made at this time. Rep. Hudson commented that there are so many new statements being thrown around about this federal healthcare bill, and Delawareans should have the ability to opt out of whatever the final bill is. Ms. Stewart then stated that the bill is long and that it states that there are tax credits available for people under a certain poverty level. Rep. Cathcart then commented that it does not say these people do not have to pay.

Ms. Stewart then followed up by stating that there will be law suits by individuals against this bill and states do not have the authority to bring up such suits against the federal government. Rep. Hudson then stated that this bill is model legislation and has been tested in other states.

Rep. D. Short then commented that the federal healthcare bill is a self-funding bill, and he would like to see Delawareans have the ability to opt out and the state have the ability to set its own regulations. He stated that it would be best if HB 353 was discussed on the House floor.

Chairman Schwartzkopf then asked for any questions or comments from the public. Bill Walker, of the 912 Delaware Patriots, commented that this bill looks at all of the states' healthcare issues. He stated that this legislation goes against the federal healthcare bill's mandates that require citizens to go to a third-party insurance source. He concluded by saying that lawyers should further look into this bill down the road.

Chairman Schwartzkopf then asked for a motion. Rep. Cathcart motioned to release the bill from committee; Rep. D. Short seconded the motion. The motion failed, and HB 353 was not released from committee.

After the vote Brian Steilkie of the 9/12 Delaware Patriots stated that he had a petition with 3,000 signatures in favor of HB 353.

Rep. Hudson then asked if the bill could be tabled so that there could be time for the Attorney General to look at it. Chairman Schwartzkopf commented that HB 353 is a model. That the other states have passed and that the lawsuits that were being brought forth in those states would cover all of the states. Chairman Schwartzkopf stated that he did not see any reason to spend taxpayer dollars on a lawsuit when any ruling by the supreme court would cover all of the states.. He then commented that if Rep. Hudson wants to draft a letter to the Attorney General about the bill, he will sign off on it if he agrees with the wording.

Chairman Schwartzkopf then called up Rep. Brady to speak on behalf of **SENATE BILL 225, AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE REGARDING ABSENTEE VOTING AND ASSOCIATED ISSUES**. He stated that this bill defines what will happen to overseas troops with respect to absentee voting. Rep. Brady commented that the bill protects email addresses and makes a permanent absentee ballot for the many disabled and overseas troops to use. The bill also provides more time between the withdrawal deadline and the date of a primary election. In addition, it also mandates the creation of a free-access Internet accessible system for absentee voters to determine the status of their absentee ballots.

Chairman Schwartzkopf then asked for any questions or comments from the public. Sandy Spence, of the League of Women Voters, then commented that it is important to protect the overseas troops' email addresses, and the league fully supports this bill.

Chairman Schwartzkopf then asked for a motion. Rep. Longhurst motioned to release the bill from committee; Speaker Gilligan seconded the motion. SB 195 was released from committee on a 0-3-0 vote.

Chairman Schwartzkopf adjourned the meeting at 4:25 pm.

Respectfully submitted by,

Trevor Felix