

- ADMIRALTY & MARITIME
- ANTITRUST & TRADE REGULATION
- AVIATION
- APPELLATE LITIGATION
- BANKING, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
- BUSINESS & COMMERCIAL LITIGATION
- COMMERCIAL LENDING & FINANCE
- CONSTRUCTION
- CORPORATE & SECURITIES
- EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
- ENERGY
- ENVIRONMENTAL & TOXIC TORTS
- ERISA, LIFE, HEALTH & DISABILITY INSURANCE
- LITIGATION
- GAMING
- GOVERNMENT RELATIONS
- HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
- INTELLECTUAL PROPERTY & E-COMMERCE
- INTERNATIONAL
- LABOR RELATIONS & EMPLOYMENT
- MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
- MERGERS & ACQUISITIONS
- PRODUCTS LIABILITY
- PROFESSIONAL LIABILITY
- PROJECT DEVELOPMENT & FINANCE
- PUBLIC FINANCE
- REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
- TAX (INTERNATIONAL, FEDERAL AND STATE)
- TELECOMMUNICATIONS & UTILITIES
- TRUSTS, ESATES & PERSONAL PLANNING
- VENTURE CAPITAL & EMERGING COMPANIES

## 2002 REGULAR SESSION BEGINS APRIL 29<sup>TH</sup>

### ECONOMIC DEVELOPMENT SPECIAL SESSION TO PRECEDE

The new year should see at least two sessions of the Louisiana Legislature, a Regular Session beginning at the end of April running through early June and a universally anticipated Special Session preceding it. In even numbered years, Regular Sessions are limited to fiscal matters defined, generally, as appropriations, capital outlay, taxes and tax exemptions or credits.

The Governor has said that he will call a Special Session to focus on economic development measures. Indications are that it will convene on Monday, March 25, 2002 and will adjourn on Friday, April 19, 2002. The content of a Special Session is limited by the call for the Session, i.e. what the Governor wants to consider and nothing more. Governor Foster has made economic development the theme of his last two years in office and we should anticipate action on the New Orleans Saints retention package, an inducement package for the Charlotte Hornets NBA franchise, the development of a "closing fund" in the Department of Economic Development and legislative authorization for the funding of a still conceptual biotech initiative.

Historically, the Governor has also included various local matters in a Special Session when area legislators have requested it and can demonstrate unanimity within their local delegation. **READ:** He doesn't want any parochial fights messing up his program. Similarly, there are several measures under discussion which may arise in the Special Session necessitated by court decisions during the last year which appear at odds with legislative intent. These could include a reform of the law on non-competition agreements in employment contracts and attempts to clarify the legitimacy of certain arbitration clauses. Finally, several interim study committees will be rendering reports which may require legislative action.

When the Regular Session convenes in late April, the focus will be on taxes. The "temporary" taxes passed in the 2000 Session are all up for renewal and the Administration intends to ask for the full \$600 million. The real battle will be over continuing the suspension of two exemptions: the fourth penny of sales tax on food and utilities and the elimination of one-half of the itemized deduction on income tax returns. The first is worth \$110 million and the second about \$90 million. Failure to secure these two causes significant budget problems, but coming off a year with a \$200+million surplus and staring a 2003 election in the face, the odds are long on both suspensions passing. Give

- ADMIRALTY & MARITIME
- ANTITRUST & TRADE REGULATION
- AVIATION
- APPELLATE LITIGATION
- BANKING, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
- BUSINESS & COMMERCIAL LITIGATION
- COMMERCIAL LENDING & FINANCE
- CONSTRUCTION
- CORPORATE & SECURITIES
- EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
- ENERGY
- ENVIRONMENTAL & TOXIC TORTS
- ERISA, LIFE, HEALTH & DISABILITY INSURANCE
- LITIGATION
- GAMING
- GOVERNMENT RELATIONS
- HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
- INTELLECTUAL PROPERTY & E-COMMERCE
- INTERNATIONAL
- LABOR RELATIONS & EMPLOYMENT
- MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
- MERGERS & ACQUISITIONS
- PRODUCTS LIABILITY
- PROFESSIONAL LIABILITY
- PROJECT DEVELOPMENT & FINANCE
- PUBLIC FINANCE
- REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
- TAX (INTERNATIONAL, FEDERAL AND STATE)
- TELECOMMUNICATIONS & UTILITIES
- TRUSTS, ESATES & PERSONAL PLANNING
- VENTURE CAPITAL & EMERGING COMPANIES

the edge to the fourth penny.

The Regular Session may shape up to be another battle between the business community and the governmental sector over the announced efforts by LABI (Louisiana Association of Business and Industry) to phase out the franchise tax on debt and eliminate the sales tax on business machinery and equipment sales. The initial proposal contemplates a multi-year phase out and the structure of the implementation will probably determine its chances of success, i.e. the smaller the immediate fiscal impact, the better the chances. The proposal surfaced at the LABI annual meeting conceivably could even get administration support because of a phase out that begins in 2004 after Governor Foster leaves office.

Talk has resurfaced about a renewed effort by Sen. Foster Campbell, et al to pass some version of an oil and gas processing tax. Although a perennial issue that is perennially defeated, it picks up a little more momentum each year and one session before too long will become the major issue. Sen. Bill Jones is continuing to discuss his concerns about unitary taxation, but this may take the form of efforts to standardize assessment and collection rules. In this regard, the Special Session could see a renewed effort to pass a Taxpayer's Bill of Rights designed to streamline the state's much maligned current structure and improve Louisiana's business climate.

All in all, 2002 should witness the Legislature in session from early April through early June, with most of the fireworks at the end. Unique among states this year, Louisiana has not suffered the sharp revenue shortfalls witnessed elsewhere. This will ameliorate the budget difficulties, but certainly not eliminate them. For anyone who endured the last fiscal session in 2000, recollections of the "Session from Hell" are only too clear. The mix of budget pressures, tax votes, impending elections and lack of good options could make this year worse.

Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:

F. Charles McMains, Jr.  
Jones Walker  
Four United Plaza  
8555 United Plaza Boulevard  
Baton Rouge, LA 70809-7000  
ph. 225.248.2114  
fax 225.248.3114  
email ccmcains@joneswalker.com