

Illinois Business Journal

Vol. 13, No. 8 • May 2013

www.ibjonline.com

(618)659-1997

Bullish, large manufacturers push loan levels back to near pre-recession levels

By ALAN J. ORTBALS

Manufacturers are finding some wind in their sales, with certain sectors providing the gust. According to the Federal Reserve Bank of St. Louis, commercial/industrial loan volume increased \$8 billion in February and another \$20 billion in March, driving the total nearly as high as it had been before the financial collapse.

"Credit dried up pretty dramatically during the financial crisis," said Chad Moutray, chief economist at the National Association of Manufacturers. "You saw those numbers plummet pretty dramatically in 2008 and 2009. You've seen that come back to where it was, I think, for several reasons. Certainly the economy is better than it was in 2009. Interest rates are lower, so that certainly makes borrowing attractive."

Mark Denzler, vice president and chief operating officer of the Illinois Manufacturers' Association, agrees. After a long, cold recession, manufacturers are investing again, he says, particularly in certain segments. The auto industry's return to health has been getting a lot of news, according to Denzler. But what is not as well known are investments taking place in the railroad, chemical and fertilizer industries. And those, he says,

are all tied to hydraulic fracturing or "fracking."

"Fertilizer is comprised of about 70 percent to 75 percent natural gas," Denzler said. "You're seeing some substantial reinvestment in the fertilizer market in the United States because hydraulic fracturing has created low-cost sources of natural gas for years to come."

One such company is Delaware-based Cronus Chemicals LLC. According to media sources, it is planning a \$1.2 billion fertilizer plant and is considering sites in either Illinois or Iowa. Iowa officials have reportedly offered the company an incentive package worth \$35 million. Illinois State Rep. Adam Brown (R-Champaign) is sponsoring legislation that would provide a variety of tax incentives including tax exemptions, tax credits and tax abatements in an effort to bring the plant to a site near Tuscola, Ill.

According to Bloomberg News, another mega-project that's being driven by cheap natural gas as a result of fracking is a multi-billion-dollar chemical plant being planned by Shell Oil Co. about 40 miles north of Pittsburgh. Referred to as



photo courtesy of The Associated Press

Cheap natural gas from hydraulic fracturing is fueling investment in manufacturing and industry.

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photo courtesy of The Associated Press

Lower electric rates are on the way as more voters across Southwestern Illinois approved municipal aggregations in the elections on April 9.

More cities jump on the aggregation bandwagon in April election

By ALAN J. ORTBALS

Another 100,000 households and small businesses are going to start saving money on their electric bills as a result of last month's election, according to Philip Carr, business development director for Good Energy, an energy consulting firm that has been shepherding municipalities through a process called "community aggregation."

Those 100,000 are located in communities that passed a referendum on aggregation on April 9 and they join approximately 200,000 that did so in last November's election. It brings the total to nearly 500,000 that Good Energy has taken through the aggregation process in Ameren's service territory, Carr says.

"Almost all of the large municipalities are in these government aggregation

programs," Carr said. "Our goal now is to take these townships from Madison County, the city of East St. Louis, the city of Bloomington and all the other guys we've got in this round to get them through the process and into low-price electricity contracts as soon as possible."

Aggregation has produced significantly lower electric rates for residents and small businesses, Carr says. Those communities that passed the referendum in November were able to bring the price down from approximately 5.7 cents per kilowatt hour to around 4 cents per kilowatt hour.

Under Illinois law, aggregation allows municipalities to negotiate electric rates and enter into supplier agreements on behalf of their residents and small business owners. Those local governments

have to hold a referendum, and the voters have to authorize the government to negotiate on their behalf.

Carr estimates that the total savings for those who have passed aggregation has already reached between \$50 million and \$80 million. While a variety of companies have been offering deals to individual households and small business owners, these deals - what Carr refers to as "street rates" - can't compare with the power of grouping hundreds of thousands together.

"If you want to save money," Carr said, "who are you best served by? Are you best served by a street offer coming through your mail box? Are you best served by a phone call or a door-to-door

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Employers wait to see how Supreme Court marriage decisions impact employee benefits

By ALAN J. ORTBALS

Spousal benefits and a host of other laws and regulations are the crux of two cases that were heard by the U.S. Supreme Court in March. The decisions could impact employers across the country, particularly here in Illinois.

There are many ways that the Supreme Court's decision could impact spousal benefits, according to Thomas E. Berry Jr., a shareholder with Sandberg Phoenix & von Gontard.

"During the oral argument," Berry said,

"Justice Kennedy made the observation that right now, under the federal code, there are over 1,100 statutes that regulate business behavior or are impacted by who is a spouse or not - things like taxes or the Family and Medical Leave Act or COBRA (Consolidated Omnibus Budget Reconciliation Act). For right now, until DOMA (Defense of Marriage Act) is ruled unconstitutional, the employer cannot recognize that domestic partner or the same-sex partner as a spouse for

federal law purposes."

According to Paul Venker, a partner with the law firm of Williams Venker & Sanders, the original intent of DOMA was to leave questions of same-sex marriage up to the states, but Congress tacked a definition of marriage onto the act, limiting it to persons of the opposite sex. That, he says, has created a patchwork quilt of laws and regulations as some states have not changed their marriage laws, some have established

civil unions and others have legalized same-sex marriage.

Meanwhile, under DOMA, the federal government has its own definition of marriage that governs federal agencies.

One state that has taken action is California. In 2008, its voters passed Proposition 8, a ballot initiative that amended the state constitution to limit marriage to only couples of the opposite

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MANUFACTURERS

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a "cracker plant," it will convert natural gas into more profitable chemicals such as ethylene, which is used to make plastics, tires, antifreeze and more.

BNSF Railway recently announced that it will be working with General Electric and Caterpillar's Electro-Motive Diesel Inc. to develop natural gas engine technology to power their locomotives.

"Hydraulic fracturing is becoming a major driver in the railroad industry and it's going to be a long-term growth opportunity for them," Denzler said.

"Illinois is a major rail car manufacturer. We have a number of facilities that make the cars, make the wheels and make other

components. When you have a half-billion-dollar investment announced the other day by rail (BNSF), a lot of that will come to Illinois, and that's directly attributable to high volume hydraulic fracturing."

Although large businesses are aggressively investing, small businesses are still holding back, according to Moutray.

"We just did a survey with *Industry Week* magazine that came out in March," Moutray said. "The survey revealed a definite split between small and medium-sized manufacturers and their larger counterparts when it came to capital spending. According to our survey, the

larger manufacturers were much more optimistic about sales and about the overall economy than their smaller counterparts. You could see that really come through pretty strongly when you looked at capital spending intentions."

Moutray thinks one issue hampering smaller manufacturers is the lack of availability of credit. Small businesses (defined as those with fewer than 500 employees) have fewer options, he says, when it comes to accessing the credit markets, and conventional loans are not as easy to come by as they were prior to the recession.

Another issue, he adds, is that small

business owners simply aren't as bullish on the economy as their big brothers.

"There continues to be an awful lot of anxiety on the part of manufacturers," Moutray said. "A lot of it is policy driven with all of the fiscal cliffs and sequestration as well as the tax and regulatory environment. Many smaller manufacturers just saw their taxes go up in January," he added. "They're also probably more likely to be subject to - or worried about - the Affordable Care Act. There are probably a lot of things that are perhaps more unique to the small to medium-sized business that your larger businesses might just shrug off."

AGGREGATION

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person? Or are you best served by having your local government having done its due diligence on a consultant to secure the lowest possible rate in the market, the best contract terms where there's no obligation to participate and in which you can leave at any time with no fee?"

While it sounds like a clear and simple choice, some communities have voted the referendum down, denying the municipal government the ability to negotiate better rates.

Granite City was one municipality that voted it down in a primary election in March of 2012 but came back and passed it in November.

"When you think about it and you go back and look at it," said Granite City Mayor Ed Hagnauer, "it's like, why would people even think about not supporting this? It's almost impossible to not see that there's a big savings...and it's huge in the summer," he added.

Hagnauer acknowledges that he and the city council made some mistakes in the run up to the March 2012 election. One was timing. He says they'd made the decision to put aggregation on the primary ballot because voter turnout in primary elections is typically low and dominated by senior citizens. The thinking, says Hagnauer, was that seniors would be eager to save money on electric bills.

"The first time we went through, we went through during the primary," Hagnauer said. We ran it through with a purpose. We thought that when seniors see this, they're going to jump all over it. Well, that backfired on us because the seniors are the ones that have always been with Illinois Power and then Ameren. And, we didn't do a good job of letting them know that Ameren was still going to be there and still be part of the process. If they would have service problems, Ameren would still be the ones to address

them. So that's where we kind of failed."

When the Granite City Council voted to put it back on the ballot in November, Hagnauer says, they learned from their mistakes and knew they had to do a better job of communicating with the public. He said that they organized speakers to talk at various functions, ran public service announcements in the city-owned movie theater and used Carr to help explain and answer questions.

The result was success at the polls on November 6, 2012 and a new electric rate of 3.999 cents per kilowatt hour. The supplier is Homefield Energy, a subsidiary of Ameren. While the Homefield rate is much lower than the Ameren rate, it also comes with a fail-safe mechanism, according to Hagnauer.

"The key for people to understand also is that, if Ameren comes in and they're at 3.555 and we're at 3.999," Hagnauer said, "Homefield either has to match it or let us

all out and we go back to Ameren. There's no way that you can lose in this process. I think once the voters thought about it, they finally realized it's a good thing."

According to the Web site, www.pluginillinois.org, more than 1.9 million residential customers have switched to a retail electric supplier. It's been so successful, according to Carr, that other states are looking to follow Illinois' lead.

"Government aggregation has been an enormous success in the Ameren service area," said Carr. "It's been so successful that now there are other states that have had a similar law in place but were never quite sure whether to move forward with it. Now they are doing so. They're seeing what's been happening in Illinois and now there are communities in New Jersey that are waking up and taking a serious look at it. They are moving forward with aggregation for their residents because it's just a no-brainer."

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MARRIAGE

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sex. Multiple lawsuits were subsequently filed challenging the constitutionality of what's become known as Prop 8. The case of *Hollingsworth v. Perry* was the one that ultimately was heard by the U.S. Supreme Court in late March.

Berry says that although both cases deal with same-sex marriage, the legal and constitutional questions are somewhat different - and maybe even conflicting.

"If, on the one hand, the Supreme Court would strike down Proposition 8 and conclude that the constitutional freedom to marry includes adult same-sex couples," Berry said, "and also strikes down DOMA, then it probably will simplify and ease the burdens on the businesses because at least we'll have one set of rules. Right now, particularly in Illinois, employers have to balance spousal rights for civil union partners in their state law while complying with the rejection of spousal rights under federal law for same-sex couples under DOMA."

It becomes even more complicated, adds Berry, because some states, like Iowa, have legalized same-sex marriage.

Berry cites an example in which a couple enters into a same-sex marriage in Iowa but then moves across the river

into Illinois. Right now, if they do nothing else, under Illinois law they're not considered to be spouses because Illinois does not recognize same-sex marriages from another state. That means the Illinois employer doesn't have to recognize it either for benefit purposes. According to Berry, if that same couple then enters into a civil union in Illinois, it is treated as a spouse for Illinois purposes. In that instance if the employer provides health insurance coverage for its employees, it would have to offer the domestic civil union the opportunity to go on the employer's health insurance, like any other spouse.

"How an employer is impacted is probably unique to each employer and their benefit plans," said Venker, "but one of the things that draws employees to certain employers is how rich or meager their employee benefit packages are - and that involves family members. If you have a non-traditional family, it's not going to be recognized in the same way as traditional families for benefit purposes."

This concern was addressed in an amicus curiae brief filed with the U.S. Supreme Court in the DOMA case on behalf of 286 employers and organizations

ranging from Apple Inc. to The Walt Disney Co. In the brief, the employers argued that DOMA made it difficult for them to recruit top talent from around the globe because of the lack of standing for same-sex couples and asked the court to strike it down.

There are multiple directions in which the Supreme Court might proceed in its decisions, according to Berry. With regard to DOMA, the Court's decisions could range everywhere from leaving DOMA stand to striking it down and preventing states from adopting traditional marriage laws.

"If they strike down DOMA and then don't reach the broader question in the California case," Berry said, "we'll still

have a lot of uncertainty for an employer who has employees in multiple states having to juggle their employee benefits for domestic partners. They would still have to ask the question, is this person a spouse under all 50 states when they come to work for us?"

IBJ Business News

Wolff joins Southern IL Real Estate Title

The management and board of directors of Southern Illinois Real Estate Title Center announce the recent hiring of Denise Wolff as the company's agency operations manager.

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Government Affairs Report: Illinois State Chamber of Commerce

By **DOUGLAS L. WHITLEY**
President and CEO
Illinois State Chamber
of Commerce

Concealed Carry

One of the most anticipated votes last month was on **HB997**, legislation that would allow concealed carry of firearms in Illinois. The legislation needed 71 votes to pass out of the House as it would preempt Home Rule and to become law by June 9 to meet a court-imposed deadline to enact legislation to



Whitley

regulate concealed carry in Illinois. The version of the bill debated a few weeks ago, Amendment #9, was actually one of the more restrictive versions offered for debate. Businesses would be allowed to prohibit concealed carry of firearms on premises under their control; however, businesses would still be required to allow those employees who are licensed to concealed carry to have their firearms in a locked box in their vehicles in employers' parking lots. Employers would also be held immune from liability if they prohibit concealed carry on their premises. Also, it would not allow concealed carry of firearms in taverns, schools, casinos, stadiums, childcare facilities, universities and government buildings - including courthouses, police stations and the Capitol - however, it would be allowed on mass transit buses and trains. The initial vote garnered only 64 votes,

coming up seven votes short. The April 18 vote actually received less support than a previous "test vote" on an amendment that received 67 votes back in February. It is believed Speaker Michael Madigan pulled some of his members' support off the bill in order to send the NRA a message that they cannot pass a concealed carry bill out of the House on their own before the June 9 deadline without coming to the bargaining table to alleviate concerns from Chicago Democrat legislators. We will continue to monitor the legislative progress and future amendments on **HB997** and keep you posted on further implications to the business community.

Apprentice Requirements for Local Projects Narrowly Passes House

Rep. Jay Hoffman's legislation, **HB924**, that would require that contractors and subcontractors bidding for public works

projects from local units of government to have labor apprenticeship programs and report the estimated total number of hours of work to be performed by minority and female employees, narrowly passed the Illinois House on April 18 by a vote of 60-50-3.

Under Amendment #2 to **HB924**, local government units will require small contractors to participate in an apprentice program on IDOT and CDB projects. It will significantly reduce the ability of local small contractors and their workers to bid and perform work in their communities. Fewer contractors bidding on local projects will reduce competition and increase the costs of public works projects for local governments and their taxpayers. The Illinois Chamber and NFIB very much opposes this legislation and will continue to oppose it in the Senate.

Illinois Government Affairs Report: The St. Louis Regional Chamber

By **KEVIN RIGGS**
Consultant to the
St. Louis Regional Chamber



Riggs

Conceal and Carry

HB997 would allow concealed carry of firearms in Illinois. The legislation needed 71 votes to pass out of the House as it would preempt Home Rule and to become

law by June 9 to meet a court-imposed deadline to enact legislation to regulate concealed carry in Illinois. Amendment

#9 was actually one of the more restrictive versions offered for debate. Businesses would be allowed to prohibit concealed carry of firearms on premises under their control. However, businesses would still be required to allow those employees who are licensed to concealed carry to have their firearms in a locked box in their vehicles in employers' parking lots. Employers would also be held immune from liability if they prohibit concealed carry on their premises. Also, it would not allow concealed carry of firearms in taverns, schools, casinos, stadiums, childcare facilities, universities and government buildings, including courthouses, police stations and the Capitol. Concealed carry would be allowed, however, on mass transit buses and trains. The bill only received 64 of the required 67 votes it needed to pass.

Construction & Labor

HB924 would require that contractors and subcontractors bidding for public works projects from local units of government to have labor apprenticeship programs and report the estimated total number of hours of work to be performed by minority and female employees narrowly passed the Illinois House April 18 60-50-3. Amendment #2 to **HB924** - which continues to require local government units to require small contractors to participate in an apprentice program - only applies to Illinois Dept. of Transportation and Capitol Development Board projects.

Transportation

SB2243 is Gov. Pat Quinn's six-year, \$12.6 billion, Multi-Modal Transportation

Improvement Program for IDOT. The bill passed out of the Senate Revenue Committee 4-0-0 and now moves over to the House.

Medicinal Marijuana

HB1 would authorize a four-year pilot program allowing the use of medical marijuana for patients diagnosed by a physician with a debilitating medical condition. The legislation passed 61-57. Employers are not prohibited from adopting reasonable regulations concerning the consumption, storage or timekeeping requirements for patients using medicinal marijuana. Further, employers are still allowed to use drug testing or enforce zero-tolerance and drug-free workplaces. Employees can be disciplined for violating a workplace drug policy.



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