



Legislative Update

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The 2017 Veto Session

Each fall, the Illinois General Assembly closes the legislative year by reconvening to address the bills vetoed by the governor and to consider any attempts to override the governor's veto. This aptly named "veto session" is short—less than two weeks during October and November—but it can have major implications because vetoed bills can represent some of the most contentious public policy issues of the year. Even when efforts to override the governor's veto fail, significant energies directed at attempting an override can provide a preview of the issues that may be a battleground for the next year's legislature.

How the Veto Session Works

Under the Illinois Constitution, every bill passed by the General Assembly must be presented to the governor within 30 days after its passage. Ill. Const. art. IV, § 9(a). The governor then signs those bills that he approves. Unlike the federal system, however, the governor cannot "pocket veto" a bill by declining to sign it. Instead, the Illinois Constitution provides that any bill that the governor does not veto within 60 days becomes law. Ill. Const. art. IV, § 9(b).

Illinois governors have significant veto powers. The Illinois Constitution provides four veto mechanisms. The first is the most traditional—a straightforward, complete veto of the bill. *Id.* If the governor exercises this option, the bill returns to the chamber in which it originated, and that house has the opportunity to attempt to override the veto by a three-fifth's vote. Ill. Const. art. IV, § 9(c). If such a vote is successful, then the other house has 15 days to pass an override of bill's veto by a three-fifth's vote. *Id.* In the House of Representatives, a three-fifth's supermajority is 71 votes, and in the Senate a supermajority is 36 votes. At present, democrats have a super majority in Senate but not the Illinois House of Representatives. Accordingly, some republicans must joint their democratic colleagues for an override to occur.

Apart from the traditional complete or "total" veto, there are three other veto mechanisms provided by the Illinois Constitution, all of which allow the governor to alter bills that have been passed by the General Assembly. Two of the mechanisms are specific to appropriations bills. Ill. Const. art. IV, § 9(d). First, the governor may reduce any item of an appropriations bill, and second, he or she may also elect to veto any item in an appropriations bill. Under these mechanisms, the remainder of the bill becomes law. However, in either case, the bill returns to the General Assembly as to those items reduced or vetoed, and the General Assembly has the opportunity to restore them. Unlike with a total veto, a simple majority of the members in each house can restore an appropriations specific item vetoed by the governor. *Id.* Thirdly, Illinois governors also possess the right to effect amendatory vetoes. The governor may return a bill with specific recommendations for a change. These amendatory recommendations are then considered, and may be accepted by a majority vote in each house. Ill. Const. art. IV, § 9(e). If accepted and the governor certifies the changes were made in accordance with his recommendations, the amended bill becomes law. If he or she does not so certify, then the bill is a vetoed bill, subject to supermajority override (like any other "totally" vetoed bill).



The 2017 Legislative Session

During this session, Governor Rauner vetoed 21 House Bills and 19 Senate Bills. Apart from these total vetoes, he also issued amendatory vetoes of 10 other bills. There were no item or reduction vetoes this session (there was only one appropriations bill during the session, and that bill was one of the 40 bills that received a total veto). For frame of reference, 352 House Bills became law and 203 Senate Bills became law during the session. *See* Illinois General Assembly, <http://www.ilga.gov/reports> (last visited November 20, 2017).

Of the total vetoes, nine House Bills and six Senate Bills became law as the result of override votes. None of the amendatory vetoes were accepted (meaning they became total vetoes), and three of those were overridden and became law. The 18 overrides included a bill to require students to be taught cursive writing before completion of fifth grade (HB2977), an amendment to the State Prompt Payment Act, which adds certain human services providers to the list of those eligible for interest penalty payments from the state (HB3143), a bill that punishes companies that utilized certain tax structures (inverted domestic corporations) by precluding them from bidding on state contracts (HB3419), a bill creating the Student Loan Servicing Rights Act (SB1351), and, of course, the budget-related bills (previously addressed in earlier columns) (SB006 and its corollaries).

One of the notable, and contentious, bills that was vetoed and not overridden was HB2622, which would have created a state-run workers' compensation insurance company. The bill would have loaned \$10 million to a new entity called Illinois Employers Mutual Insurance Company. Those funds would have been insufficient for the new company and represented only start-up costs and initial capitalization. Critics felt that HB2622 was not the right solution to Illinois' workers' compensation premium issues, and that a state-run insurer would find itself in the same financial trouble as the rest of Illinois. Given the pressing political need to "do something" on workers' compensation issues, this bill may find itself re-filed with a new name and number during 2018.

Other vetoed bills focused on Illinois' business environment that were not overridden but may resurface next year include a proposed an increase in the minimum wage (SB0081), an Equal Pay Act amendment that would prohibit employers from inquiring into prior wage/salary history (HB2462), and a Collective Bargaining Freedom Act, which would prohibit local governments from enacting "Right-to-Work" ordinances (SB1905). This union-supported law would have prevented local governments from using ordinances to restrict unions' ability to require employee membership in the union and/or to pay union dues. It is expected that Illinois will see these and other pieces of contentious business and fiscal policy legislation as a centerpiece of the 2018 legislative session, as politicians on both sides of the aisle advocate for policies they believe will be in Illinois' best economic interests. Tort and other civil justice reforms will likely take a back seat given political pressure to put economic matters at the forefront of the political arena, particularly in an election year.

Early 2018 Activity

Given the primary contests set to occur in March of 2018, Illinois legislators are likely to limit substantive activity as we move into the New Year. Bills will likely be filed en masse, as usual, but without knowing the upcoming election outcomes, pols may shy away from pushing to pass anything contentious during the beginning of the session. Compromise will likewise probably be in short supply, given posturing for the November 2018 election cycle. If there is any certainty to be had, however, it is that we will hear a lot in 2018 about what all General Assembly members promise



to accomplish in the future. With the issues facing our State, hopefully the best of the ideas will come to fruition much sooner than later.

About the Author

John Eggum is a partner at *Foran Glennon Palandech Ponzi & Rudloff P.C.*, where he concentrates his practice on insurance coverage matters and commercial litigation. He represents insurers, TPAs, brokers, and captive managers in professional liability disputes, and also litigates cyber/technology liability claims. Mr. Eggum's law degree was obtained, with distinction, from The University of Iowa College of Law, and following law school, he served as the law clerk to the Hon. Bruce A. Markell in the United States Bankruptcy Court for the District of Nevada, in Las Vegas. Mr. Eggum serves as the Vice-Chair of the IDC Legislative Committee and the Vice-Chair for the IDC's Young Lawyers Division.

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