



Legislative Update

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Calm Before the Storm: A Budget Détente

Legislative activity died down over the summer due to the General Assembly's approval of a budget. This early-summer occurrence was a rarity, at least based on recent years' experience. In Illinois, our state constitution requires a balanced budget. The process is straightforward. The governor submits the budget to the General Assembly. Ill. Const. art. VIII, § 2(a). The General Assembly then makes appropriations for the expenditures of public funds. *Id.* Importantly, these appropriations "shall not exceed funds estimated by the General Assembly to be available during that year." *Id.* at § 2(b). While the constitutional text suggests that this is not an onerous process, it is highly contentious in actuality. Illinois operated without fully enacted General Funds Budgets for fiscal years (FY) 2016 and 2017, and the FY 2018 budget was enacted over the governor's veto.

The budget approval process is difficult for many reasons—one being that the General Assembly uses gimmicks to avoid living within its means. This results in regular infighting over the extent of those gimmicks and who should benefit. By way of example, consider the fact that the state claims it can balance the budget by borrowing money, which essentially defeats the purpose of the balancing requirement. If you spend \$4,000 per month, earn \$3,000 a month from your job, and "generate" \$1,000 by cash advancing your credit cards, you are not operating with a balanced budget. Nonetheless, Illinois counts borrowed money (secured by state bonds) as revenue. Thus, for FY 2018, the General Funds Budget was "balanced" by the inclusion of revenue from bond issuance, "authorized fund reallocations" (moving money around), and "interfund borrowing" (moving money around and calling it debt). *See* Bond Offering for Series of May 2018 State of Illinois General Obligation Bonds (available on the Illinois.gov website). The State's recent \$550 million Bond Offering documentation, which is a reliable source of financial information because securities laws prevent the state from bending the truth of its financial plight when it makes representations to prospective investors, explains that in reality, the "underlying structural deficit" for FY 2018 was \$1.5 billion. Also notable, in FY 2018 there were \$6 billion in bond authorizations to handle unpaid bills from prior years, and that notwithstanding these authorizations, as of March 1, 2018, the state still had about \$8.1 billion in unpaid bills outstanding.

With respect to FY 2019 (July 1, 2018 to June 30, 2019), a deal was reached to "balance" the budget, notwithstanding the prior difficulties. Governor Rauner signed a \$38.5 billion FY 2019 budget into law on June 4, 2018, with bipartisan support. That support was arguably easier to obtain than in past years because under the FY 2019 budget, the General Assembly had an extra \$4.5 billion to spend. This projected \$4.5 billion in revenue comes from the 32% income tax increase that was passed last year over the governor's veto. However, it must be noted that under the recently signed FY 2019 budget, the entirety of the tax increase money was spent. So, if, for example, the tax increase was rolled-back (a position the governor and other politicians are advocating for), budget cuts in the amount of the roll-back would be necessitated, meaning a future budget impasse would be all-but-assured. Thus, in the event of a tax roll-back, we can all look forward to the exact same financial difficulties, political finger-pointing, and probable lack of a budget in the years to come. Critics of the FY 2019 budget have also noted that it did not fully address the bill backlog, and it relied on



certain revenue streams, such as the sale of the Thompson Center in Chicago, which were far from certain to be realized. Nonetheless, this is the deal we got.

Legislators did not simply go on summer vacation following the June political détente created by passing a budget, as the upcoming November elections loom for all members of the General Assembly. Apart from the hotly contested governor's race, each party has significant interests in the General Assembly election outcomes, where the Democrats seek to obtain a super-majority in the House and maintain their Senate super-majority (they currently control 67 House seats and 37 Senate seats), and Republicans seek to maintain or increase their minority position (they currently control 51 House seats and 22 Senate seats). Although formal legislative activity is at a lull, members of the executive and legislative branches are accordingly engaged in a full-court electoral press by getting messaging out to constituents, interacting with prospective donors, and strategizing for a highly contentious election season. Both major parties will keep your mailboxes full and your screens occupied until the polls close in November.

Regardless of any particular electoral outcome, the election will bring about a number of changes that the IDC Legislative Committee will monitor closely. When the General Assembly convenes for session in January of 2019 (on the second Wednesday, as per the Illinois constitution), the respective houses will enter as the 101st General Assembly of our state. As the House and Senate re-enact their respective rules, they will also reconsider all committee appointments, including appointments to their Judiciary Committees, which consider an extensive number of issues of significant interest to the IDC. As with any committee changes, new legislators will bring the potential for new areas of committee focus and concern, and the IDC Legislative Committee will look forward to engaging with these legislators on new initiatives and other matters that come before them.

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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