



Legislative Update

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Start Your Engines

After four years of stalemates on major legislative issues, Illinois is going to need to buckle up for a big change of pace. November's election placed the Democratic Party firmly in control of the state, with all statewide executive branch offices now held by Democrats, and with Democrats retaining majorities in both chambers of the General Assembly. In the Senate, Democrats picked up 3 seats, and they accordingly now hold 40 of the 59 seats (67.7 percent of the total), against 19 seats held by Republicans. In the House, Democrats picked up 7 seats, resulting in them holding 72 of the 118 seats (61 percent of the total), against 46 seats held by Republicans.

Given an alignment of interests (based on their election platforms) between Governor JB Pritzker and the Democratic majority, there probably will not be significant tension between the governor and the General Assembly during this two-year session, comparable to what existed during the Rauner Administration. To the extent that any daylight develops between the Governor's interests and the interests of the leaders of each chamber—Speaker of the House Mike Madigan and President of the Senate John Cullerton—those tensions will almost assuredly resolve against the governor. Under the Illinois Constitution (Art. IV, §9(c)), the governor's veto can be overridden by a 60% super-majority vote of both houses (36 votes in the Senate and 71 votes in the House), meaning that the prospects for an override in the event of disagreement are fairly high, assuming no party members defect from the Democratic Leaders on particular issues.

As the 101st General Assembly gets started, some of the bills that stalled under the Rauner Administration may be refiled. Workers' compensation bills, such as the bill which seeks to create a state-funded insurance company to offer workers' compensation insurance to Illinois businesses (HB4595), are likely to find traction that they lacked during the last several years. We may also see additional worker protection legislation (laws that create liability risks for employers), as well as blockchain legislation (such as HB5553), self-driving/autonomous vehicle legislation (such as SB1432), and legislation pertaining to healthcare/insurance issues (such as HB4116, pertaining to the cost to obtain medical records). The IDC looks forward to working to help ensure that any new or reinvigorated legislation is consistent with the defense bar's interests in maintaining an efficient and effective judiciary and ensuring that defendants in civil cases are faced with a level playing field in all aspects of litigation.

Even before the 101st General Assembly members started their January 2019 session, there was significant post-election activity in the legislature. Each year a "veto session" is held, where vetoed bills are returned to the chamber from which they emanated for possible super-majority override. This year, some notable workers' compensation override votes occurred. Perhaps the most contentious was Senate Bill 904, which was opposed by the IDC and more than 20 interested groups, including the Illinois Chamber of Commerce, the Illinois Manufacturers Association, the American Insurance Association, the Illinois Insurance Association, and the Illinois Municipal League. This bill amended the workers' compensation laws to permit health care providers to bring legal actions in circuit court relating to workers' compensation matters, without first going through an administrative review process. No other state appears to allow this type of direct action. Opponents of this bill argued that this change to the law will burden Illinois courts by permitting significant



litigation activity that is unnecessary and wasteful. Both the House and the Senate voted in favor of an override for SB904, and it became law on November 29, 2018. Certain workers' compensation issues, including rate regulation, were also poised to either be the subject of overrides, or perhaps new or additional legislation next session (for example, SB1737, which includes changes to rate regulation, was enacted via override, and HB200, which also addresses rate regulation, was passed and was on the governor's desk at press time). These changes may impact a great many of the IDC members and their clients, and IDC will accordingly continue to monitor these developments.

Lastly, the IDC is looking forward to working with all present and new members of the House and Senate Judiciary Committees as we move into the 101st General Assembly's spring 2019 session. With the election of Attorney General Kwame Raoul, there will be changes to the Senate Judiciary Committee, which AG Raoul chaired during his time as a senator. Many of AG Raoul's campaign issues were focused on criminal and family law issues, but he has also indicated an interest in working on issues that may impact Illinois employers and Illinois property owners, including issues pertaining to wages, worker rights, and environmental issues. The IDC looks forward to engaging on all pertinent matters that may impact our members' interests, in an effort to ensure transparency, fairness, and equity.

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.

About the IDC

The Illinois Association Defense Trial Counsel (IDC) is the premier association of attorneys in Illinois who devote a substantial portion their practice to the representation of business, corporate, insurance, professional and other individual defendants in civil litigation. For more information on the IDC, visit us on the web at www.iadtc.org or contact us at PO Box 588, Rochester, IL 62563-0588, 217-498-2649, 800-232-0169, idc@iadtc.org.