

*Government Strategy Associates
4023 Terramere Avenue
Arlington Heights, Illinois 60004*

MEMORANDUM

To: Brian Lawlor
Matt Kincaid

From: Terry Steczo
Maureen Mulhall

Re: Legislative Report

Date: July 31, 2015

Respiratory Care Sunset Bill Goes to Governor

Within the next 30 days the Governor will have acted on the ten year extension of the Respiratory Care Practice Act (Senate Bill 973). Hard work and copious amount of time were devoted to making relevant, important changes to the Act. Conversations with potential opponents proved fruitful and as a result the legislation was overwhelmingly approved by both the Illinois House and Senate.

The Governor is the final step in the process. While there is no reason to believe that he has any objections, an outpouring of support of each and every ISRC member possible will help to convince he and his staff that there is widespread support. Therefore, it's of vital importance that as many ISRC members as possible contact him and request his approval of Senate Bill 973. A short note can be sent to Governor Bruce Rauner, 207 State House, Springfield, Illinois 62706. When writing please include the bill number. A simple line or two as to why his approval is important is sufficient. For example, "Senate Bill 973 will enhance health care for Illinois citizens. Your approval would be appreciated."

Groundhog Day

Two months into the overtime legislative session and there has been absolutely no sign of cooperation from either the Governor's Office or from legislative leadership. In fact, it appears that the opposite has been evident. When a legislative leader holds a press conference and the Governor's Office starts launching a verbal attack before the press conference is half over, as happened to Senate President John Cullerton last week, it's not a good sign.

Over the last month Democrats in each chamber did manage to cobble together a one-month budget and sent that to the Governor ... who said he would veto it. The General Assembly may be planning to try it again over the next week or two but there is little doubt that the message

from the Governor's Office will be the same. And even though Democrats hold a veto proof majority in both chambers the reticence of one or two of their members in the House to override budgetary items has tilted that playing field in favor of the Governor. So the impasse continues.

Where does everything stand? Over the past four weeks the House has met weekly for one or two days and has taken testimony of portions of the Governor's "Turnaround Agenda" relating to business reforms and took votes on Democratic versions of those plans. None were approved. The Senate did the same and with the same result. More one or two day session days per week are on tap for the House moving forward with the Senate returning to Springfield "at the call of the Senate President". And more of the same posturing is expected with Democrats calling bills for a vote that somewhat reflect the Governor's proposals that result in Republican grouching that it's not truly representative of the Governor's plan ... and voting "present".

There are a number of interrelated areas that have intersected and have caused the current impasse. Ironically, the budget is not one of them. Most probably the budget could be negotiated in a matter of days if the conditions are right. It's other, tangential, policy and politically related issues that have caused the breach and the stalemate.

Policy-wise, the issues on the Governor's "Turnabout Agenda" are nothing new. Going back to the 1970s to today business interests have had tort reform along with workers compensation and unemployment compensation reform at the top of their agendas. In that time they have had little support from most Democrats and a number of Republican legislators. In the past both workers compensation and unemployment compensation were negotiated in an "agreed bill" process that was begun by Speaker Madigan in the 1980s. That process no longer exists but those who want to see an end to the stalemate have suggested that it be resumed, so long as all parties, including the Governor, support the result of the discussions. Thus far there has been no progress on reestablishing that procedure. Tort reform is a more difficult issue with Democrats, along with labor and trial lawyer allies, arguing about diminishing access to the judicial process and Republicans, along with business interests, citing the need to bring down business costs and enhancing the state's business climate to attract jobs.

The other issues are more squarely placed in the political arena than policy. More than state budget considerations, at the heart of the Governor's continual harping about labor unions is the attempt at damaging the strong bond between state Democrats and organized labor. Illinois has been a "blue state" for over twenty years and the GOP has been on the outs. They feel that one way to get back "in" is by crimping Democratic resources and organized labor has been one of the stalwarts. One has only to look at Wisconsin to see that the GOP would like to see Illinois become a carbon copy. However, the anti-labor legislation that was enacted in Wisconsin over the last few years was attributable to a Republican majority in the legislature that doesn't exist in Illinois so if dismantling unions is the goal then it's not going to be easy.

Politically speaking, Democrats are also aware that Governor Rauner's ability to raise money for elections is almost limitless and certainly beyond what legislative leaders can amass. By trying to force Republican legislators to take bad votes during the overtime session, as had been the case, Democratic leaders may be hoping that a good chunk of the Governor's money will toward defending GOP seats rather than taking away theirs.

Another factor that will hold up any resolution to the stalemate is trying to predict what may or may not be on the negotiating table in the future. Whatever Democrats give up by way of policy

considerations to the Governor in order to end the impasse it will serve as the floor for future sessions and negotiations. Democrats are going to tread very carefully and try to avoid the future slippery slope.

Two non-business issues that appear on the Governor's agenda are term limits and redistricting reform. Both, to succeed, would have to be approved by voters as a Constitutional Amendment. There has been some suggestion that at some point in the process legislative Democrats should announce that they will vote to put each on the 2016 ballot, make the provisions effective after the next census (2022 elections) and tell the Governor that's the extent to which they are willing to give. According to polls those are the two agenda issues that resonate with Illinoisans, not the other policy questions. It would be interesting to see if that could help move toward meaningful budget discussions.

Backdoor Budgeting

Senate President John Cullerton held a press conference last week and provided some interesting information about the lack of an officially approved state budget, "officially" meaning enacted by approval of the General Assembly and signed into law by the Governor. Cullerton mentioned that through continuing appropriations, judicial consent decrees, and court rulings regarding employee salaries and certain hospital payments approximately 61% of the state budget has been exempted from the legislative process. Other exempted areas, in addition to employees and hospitals include pension payments, teacher health care costs, debt service, governmental transfers, and K-12 school funding. The remaining 39% includes some big ticket items such as Medicaid, human services programs and grants, group insurance, and higher education funding. Cullerton's message and idea was to have all parties throw their old budget proposals away and start from scratch to try to find some agreement. The effort was for naught as the Governor's press spokesperson began to send out disparaging emails halfway through Cullerton's presentation.

Because some aggrieved parties have been able utilize the judicial system to circumvent the budget process and segregate their funds it suggests that it will take much longer to begin the process of finding some common ground and work toward an agreed budget for FY 2016.

Shhhhhhhhh

Over the last number of years, especially with the advent of the internet, governmental "transparency" has been in the forefront as both entities and elected officials have made efforts to expand the availability of information to citizens and the press. The law allows certain kinds of information must be withheld from the public but it seems that generally most everything else is available for public access or to the press. Public officials frequently pat themselves on the back for their new found openness. Well, most anyway.

Oddly, this rush to be transparent has been somewhat lacking in the Governor's Office during the first seven months of the Rauner administration. First, it was the Governor's "Turnaround Agenda" proposals that were announced in the early weeks of the administration. He travelled statewide advocating for them but never had the bills drafted so the legislature and the public could look at exactly what he was proposing. After all, it's all in the details and details were (and have been) nowhere to be found.

Next it was the creation of "working groups" to try to hammer out differences on the various agenda issues. Working groups have been a mainstay at the Capitol but the Governor's insistence that their existence, their membership and their discussions be kept secret or the plug would be pulled on the process was disconcerting to many. While the existence of these groups became public knowledge the extent of the discussions still has been shielded from public view.

The third instance relates to the Governor's schedule. For years, perhaps decades, most of the Governor's meeting schedule has been available via the Freedom of Information Act. Not so anymore. Efforts by the press to access about who the Governor has met with has been denied and according to one publication the reason for the denial given by the Governor's attorneys was that the information could be used to "determine the substance and direction of his (the Governor's) judgment and mental processes." The courts may have the final say on this one.

August Deadline Approaches

By the time the May 31 General Assembly deadline occurred a little over 500 bills had been approved and sent to the Governor for his consideration. From the date a bill receives final action the Constitution requires the legislature to certify that it has met all necessary requirements. It then must be forwarded to the Governor no later than 30 days after the final action date. The Constitution also requires that the Governor act on any bill he receives within 60 days (in the rare instance that no action is taken the bill becomes law).

Most legislation receives final action by the General Assembly between the middle and end of May. Most bills are transmitted to the Governor at or just shy of the 30 day deadline. Likewise, in most cases the Governor's Office waits until the 60 day deadline approaches to make final decisions on bills. All this means that August is normally a very busy month for bill signings, especially the period from mid-month to August 30.

As of July 31 the Governor had over 300 bills on his desk awaiting a decision. There will be a number of bill signing events over the next few weeks, as there usually are, but most will be signed privately with no pomp, news headlines or spectacle.

Session Schedule/Deadline Dates

Here are the relevant upcoming legislative schedule and deadline dates:

- House/Senate Overtime Session: Times TBA
- August 30 - Final deadline for Governor to act on legislation from regular session
- Veto Session: Time TBA

Legislation of Interest

HB 3531 – Rep. Golar/Sen. Link - Provides that it is a violation of the Act for any person to smoke tobacco in any area of a day care center, day care home, or group day care home (removing qualifying language regarding services being provided or children being present).
(Status – Sent To Governor)

SB 32 – Sen. Morrison - Amends the Prevention of Tobacco Use by Minors and Sale and

Distribution of Tobacco Products Act. Provides that a person under 18 years of age shall not possess an alternative nicotine product. Establishes penalties. **(Status – Passed House; Senate - Concurrence)**

SB 785 – Sen. Harris, N./Rep. Evans - Exempts certain health care professionals licensed to practice in another state or country from State licensure requirements if the professional is practicing in the State while under contract to provide services to an athletic team. Defines "athletic team". Limits the services the health care professional may provide. Limits the licensing exemption period to 10 days per sporting event. Authorizes the Secretary of Financial and Professional Regulation to grant one 20-day extension to the exemption period. Provides that an exempt health care professional is not authorized to practice at a health care clinic or facility. Effective September 1, 2015. **(Status – Sent To Governor)**

SB 973 – Sen. Althoff/Rep. Tryon - Amends the Regulatory Sunset Act. Extends the repeal of the Respiratory Care Practice Act from January 1, 2016 to January 1, 2026. Makes changes in provisions regarding definitions, exemptions, restrictions and limitations, powers and duties of the Department of Financial and Professional Regulation, the Respiratory Care Board, examinations, license restoration, grounds for discipline, notice of hearings, transcript of formal hearings, hearing officer proceedings, restoration of suspended or revoked licenses, summary suspension of licenses, administrative review, costs, and the Illinois Administrative Procedure Act. Adds provisions concerning durable medical equipment use and training. Provides that parties involved in disciplinary or other proceedings may enter into negotiated consent orders. **(Status – Sent To Governor)**

SB 1862 - Sen. Rose - Amends the Hospital Licensing Act. Requires hospitals to adopt, implement, periodically update, and submit to the Department of Public Health evidence-based protocols for the early recognition and treatment of patients with sepsis, severe sepsis, or septic shock that are based on generally accepted standards of care. Requires the protocols to contain certain components, including components specific to the identification, care, and treatment of adults and of children. Requires hospitals to submit the protocols to the Department no later than 6 months after the effective date of the amendatory Act. Provides that protocols shall be resubmitted at the request of the Department, but not more frequently than once every 2 years unless the Department identifies hospital-specific performance concerns. Requires hospitals to report certain sepsis-related data to the Department. **(Status – Senate – 3rd Reading)**

SB 1919 – Sen. Morrison/Rep. Evans - Amends the Cigarette Tax Act and the Tobacco Products Tax Act of 1995. Provides that a person who is both a licensed distributor and a licensed retailer shall be issued a single license number by the Department of Revenue. Provides that records may be kept electronically and may be kept at an out-of-state location so long as those records are made available upon reasonable notice for the purpose of investigation and control by the Department of Revenue. Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. In provisions that provide for increased penalties for retailers that do not have training programs, provides that those training programs may be conducted electronically. Provides that, if a retailer has a training program in place prior to the effective date of the amendatory Act, has a training program approved by another state, or follows the guidelines set forth by the federal Food and Drug Administration, then that training program shall be deemed to meet the minimum standards in this State. Effective January 1, 2016. **(Status – Passed Senate; House – 2nd Reading)**