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M E M O R A N D U M

To: Brian Lawlor
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From: Terry Steczo
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Re: Legislative Report

Date: November 25, 2015

November 18 Pow Wow Moved To December 1

December 1 is the new date for the first meeting of the Governor and legislative leaders since last May. The meeting had originally been scheduled for November 18 but had to be postponed due to the passing of Speaker Madigan's father-in-law. Just prior to the postponement, however, the Governor did release his proposed meeting agenda which offered a "compromise" between those (the good government groups who initially proposed the get together) and business groups who pushed for a private meeting as a way to try to promote forthright, meaningful discussions that simply can't be done in public. The Governor's proposed agenda included a first hour of the meeting that would be conducted in the presence of a pool camera that would deliver a live feed to state media outlets. During that hour each participant would be allowed ten minutes to make their cases, "uninterrupted and unfiltered." After the first hour the pool camera would be removed and private negotiations would ensue. Thus far, there has been no suggestions from the other participants that the proposed process be altered.

Perhaps in anticipation of the now changed November 18 meeting there was an announcement a week before heralding an agreement on Unemployment Compensation reform by a group of labor and business interests plus legislators. Since Unemployment Compensation reform is one of the Governor's Turnaround Agenda items it provides a spark of hope that other parts of that agenda can be addressed. One interesting point is that part of the agreement calls for no further activity on further action on unemployment compensation reforms until January 1, 2018. Assuming other reform issues attached to the Turnaround Agenda include the same proviso it would signal two years of peace after the current plate of issues are dispensed with ... unless, of course, there are other issues in hiding that will pop out once the current ones are addressed.

Once the participants do begin serious discussions their plates will be teeming with big decisions that will be interlocked and dependent on actions taken on all the others. The heaping plate contains the remaining Turnaround Agenda items, the budget and ... the 5,000 pound gorilla, revenues. There will be no one and two without number three, and revenues will by far the toughest issue to tackle because of the reluctance of most rank and file legislators to vote for tax increases. And with both the Governor's original budget proposal ($2.2 billion) and the General Assembly's budget ($4 billion) unbalanced new revenues are going to have to be part of the discussion and both the Governor and leaders are going to have to find and persuade legislators to vote in favor.

If there is any progress made either on December 1 or after it would be expected that no legislative action would be taken prior to January 1. With the new year comes a lesser vote requirement to pass bills with immediate effective dates. It's much easier to find a majority of votes in the General Assembly than three-fifths. But, in order to get to that point there has to be agreement on the other issues that have been holding up budget talks. And that will be a tall order unless everybody in the room on December 1 comes to the conclusion that the impasse has gone on far enough and it's time to get on with trying to restore fiscal sanity.

Unemployment Compensation Agreement Reached

One of the priorities for the Governor has been his Turnaround Agenda, a list of business related issues that he feels will help the business climate in Illinois. One of the major items on the list is reforms in the unemployment compensation program, always high on the list of business interests. After months of negotiations on the issue there was an announcement two weeks ago that an agreement among all parties involved had been reached.

Under the agreement, persons leaving employment would be ineligible to receive compensation if they:

- Damaged an employer's property through grossly negligent conduct;
- Consumed alcohol, illegal or non-prescribed drugs during work hours in violation of an employer's policies;
- Provided false information in an employment application;
- Endangered the safety of himself/herself through grossly negligent conduct;
- Knowingly and repeatedly violated reasonable written attendance policies;
- Refused to obey an employer's reasonable and lawful instructions unless the refusal is due to the lack of ability, skills or training of the worker or if the instruction would result in an unsafe act; or
- Did not maintain required licenses, registrations and certifications required by law for the specific job.

Also, the agreement allows recently separated workers who are eligible for Social Security to receive a full unemployment insurance benefit. Under current law, fifty percent of the amount an older worker received is subtracted from the potential unemployment insurance benefit. It is estimated that this change will return $25 million to Illinois seniors. The agreement also calls for no further reforms to be discussed until after January 1, 2018.

The method used to come to this agreement mirrored the former "agreed bill process" that the Democratic General Assemblies used to employ when there was a GOP governor. Business and labor interests bargained and the legislature and governor would ratify those agreements. The practice worked and pretty much ended the constant warfare that would be continually waged between the groups and between the parties. More importantly, legislative leaders were heavily committed to make the process work and had techniques that they could utilize if one side or another got too far afield or looked like they were subverting the discussions.

The question now, after one negotiation has been successfully concluded, is will it work for the other "Turnaround Agenda" items. Nothing on the remaining list (workers compensation, tort reform, property taxes, local government collective bargaining, term limits and redistricting reform) are untouchable, especially if there is a snowball effect and real progress starts being made on a few other remaining issues.

Hero or Villain?

"Veto proof " majorities were the way that Democratic majorities in the General Assembly were supposed to be able to take the ideological fight to Governor Rauner. But , looking back at Rauner's almost completed first year in office it hasn't quite worked out that way. When the dust settled on the 2014 elections Rauner thumped Pat Quinn to become the first GOP Governor in 12 years. Yet Democrats in the legislature, despite predictions to the contrary, retained every seat won two years prior and kept their House and Senate seats at 71 and 39 respectively. With 71 House seats and 36 Senate seats representing the magic numbers for "veto proof" the House had no votes to spare in order to "wield their power."

Since last January the Governor has vetoed or amendatory vetoed 66 bills that were sent to him by the legislature. Of that number only one (House Bill 1 - the large heroin abuse package) was overridden and only because the Governor lifted the brick after a public and editorial outcry opposing his amendatory veto. It indicates that legislative Republicans have protected the Governor's flank on vetoed issues. It also shows how difficult it can be to keep all of the "veto proofers" with the program, especially when one decides to forge his or her own path.

Since last June 1, when the General Assembly completed its scheduled spring session, there have been three large override votes that legislative Democrats and their constituencies had deemed top priorities: Senate Bill 1229 that would have allowed AFSCME to seek binding arbitration in contract negotiations with the state; House Bill 2482 which lowered the Determination of Need (DON) score to qualify for state assistance (back to 29 from a level of 37) that the Governor was seeking to impose; and Senate Bill 570 that would have restored changes in child care rules that the administration had previously issued. All three override attempts failed ... Senate Bill 1229 by three votes and House Bill 2482 and Senate Bill 570 by one. In all three there is one common denominator: Rep. Kenneth Dunkin. And with Dunkin on the sidelines two other bills important to Democratic constituencies, Senate Bill 2046 (funding human services not covered by court orders) and House Bill 4150 ($85 million for human services for the first four budget year months) were not called for a vote in mid-November because the handwriting of doom was on the wall.

When the override vote of Senate Bill 1229 was held in September, Dunkin was in New York even though he intimated he would be there to vote. He played coy when asked if the Governor had convinced him to stay away. However, just prior to the scheduled vote two weeks ago on Senate Bill 570 and House Bill 2482, the Governor released a letter thanking Dunkin for his efforts to negotiate amended child cares rules. At the same time the Governor also announced his withdrawal of the DON score increase. As a result of these two actions, Dunkin made the decision to be a non-voter on each of the two override motions that failed by that single vote.

Democrats, obviously, were furious about both of Dunkin's actions, or lack thereof. He responded by saying that he was able to do more by negotiating than by sending legislation to the Governor that would obviously be vetoed. Dunkin explained that in the case of a veto there probably would be no chance to override for sixty days, and then with no guarantee of success. He was able, he said, to effectuate an acceptable compromise that would take effect immediately and overturn much of what the Governor had sought to do. And when the gavel came down on the November 10 session, Dunkin's position was the one that prevailed.

Interestingly, when the ink dries on any final budget agreement it may be that fingers point to Dunkin as one of the sparks that set the stage for the impasse discussions to heat up. Dunkin, no doubt, has tipped the playing field slightly in the Governor's favor. However, that playing field had already been tipped when you consider that 65 of 66 (98%) veto override attempts failed since June 1. But what Dunkin may have also done is set the stage for meaningful discussions. In the period from 1977-2003, with the exception of 1995-96, Illinois government was split with a GOP Governor and Democratic General Assembly. Yet, issues were resolved and accomplishments attained through cooperation and negotiation - some easy and some difficult. Even though Governor Rauner appears to be more rigid and steadfast than former Governors Thompson, Edgar and Ryan, it could be that the table may have been set for some meaningful conversations.

As for Dunkin, who has represented the south side of Chicago since 2002, it's questionable whether or not his motives have been completely altruistic. By single handedly breaking up the "veto proof" majority he's certainly put himself in a "catbird seat," at least temporarily. Legislators salivate at the prospect of sitting at the right hand of any governor because of the favors and special considerations that go along with it. Dunkin seems to have accomplished what many would wish for, even though his party colleagues have other, less kindly, opinions of him. The question now is how long he will remain in the good graces of the administration. There's no question that the Governor and the state GOP will be looking to defeat Democratic incumbents wherever possible in the November, 2016 elections. If they defeat just one House member then the "veto proof" majority vanishes. If that occurs, and if Dunkin survives a primary election challenge this coming March, then Dunkin's value to the administration will have been obviously diminished. But that's the sequel when the first chapter has yet to be completed.

What the "End Game" May Look Like - A Grand Bargain?

Since even before the budget impasse began legislators and observers have been asking what the end game might look like. Every guess and scenario discussed and conceived before June 1 and since have been so far off target that they didn't even hit the dart board. But over the last few weeks there have been reports about a few comprehensive plans that have been proposed, intended to get discussions and feedback started. One plan, offered by a group called IllinoisGO, was the subject of a recent story in Crain's Chicago Business and has not been seriously discussed by anyone but the group's executive director. The second plan, as reported by Capitol Fax blog, has apparently been the subject of discussions by an ad hoc bipartisan working group of legislators who got together on their own to see if they could craft a credible plan. It is important to note that the working group plan has been rejected by the Governor apparently because of his desire to see more cuts. Nevertheless, if any breakthrough does occur that results in the Illinois version of a Grand Bargain it might be interesting to see what it might look like. Here are the details of the two proposals that have been reported on. Remember, these are only thoughts and ideas that have been offered to end the stalemate and have not been accepted. But, as there will no doubt be some resolution in the next number of months and it might be interesting to see how that final deal may compare with these two "offerings". So, get your pencils and scorecards ready.

IllinoisGO Proposal (From Crain's Chicago Business):

- Increase personal income tax rate to 4.75% applied retroactively from July 1, 2015, for FY 2016;
- Gradually increase Earned Income Tax Credit to 15% of the federal amount by FY 2018 from the current 10%;
- Increase corporate income tax to 5.75% retroactively from July 1, 2015, for FY 2016;
- Maintain the Local Distributive Fund Share Rate at 8% (Personal) and 9.14% (Corporate);
- Eliminate corporate loopholes by limiting EDGE tax credits, eliminating tax breaks for companies investing out of state by decoupling Illinois's exemption from the federal domestic production deduction, taxing income held offshore as domestic income, taxing companies in Illinois for offshore drilling, and closing accounting loopholes like requiring combined reporting;
- Expand the sales tax to consumer services, excluding professional and business-to-business services;
- Cut $1 billion from expenditures. Cuts should hold harmless education funding and funding for human service providers, which was not funded through a mandatory appropriation or court order, and thus have already been subject to massive cuts;
- Restrict discretionary spending growth from the 2.7% level shown in its three-year projections to 2.0%, closer to the rate of inflation. Funding for K-12 education should not be subject to mandatory cuts;
- License Chicago to Operate a Casino;
- Increase K-12 education funding with revenues from a retirement tax and commit to reforms;
- Tax retirement income on a graduated basis for adjusted gross incomes over $50,000 to benefit K-12 education. The whole of this tax should go to education;
- Reform education funding with a single, fair, and need-based funding formula that should replace the current opaque and complex system which has not updated since 1997;
- Provide relief for Chicago public schools and create school district mandate parity by requiring the state to pick up the $200 million annual "normal costs" of Chicago teachers' pensions for two years, at which time the state-wide education funding reform process will consider the future treatment of Chicago Teacher's Pension Fund;
- Pass the Cullerton pension reform plan where state workers should choose between two options: keep the 3% annual compounded interest on cost-of-living adjustments (COLAs) and give up the ability to count pay raises toward pensions or continue counting salary increases toward pensions and take a decreased, non-compounded COLA.;
- Study the consolidation of local pension funds;

- Create a realistic repayment timeline for the state's five pension funds and for fire and police funds across Illinois;
- Increase the state minimum wage to $11 an hour by 2019. The minimum wage would increase to $9 immediately, with the wage go up by 50 cents annually until it hits $11 in 2019;
- Reform workers compensation in a bipartisan manner by looking at tighter causation definitions and applying the rates of reimbursement to control costs; and
- Reform the collective bargaining scope for public employees by allowing units of government to curb rising public employee costs by limiting collective bargaining for specific personnel issues, including health benefits and work rules.

Apparent "Working Group" Discussion List (From Capitol Fax Blog)

- $36B FY16 spending level – below the General Assembly budget passed in May – with reductions in group health, transfers & discretionary spending this year and over $900 million additional operational reductions in FY17;
- Pay off bill backlog over 5 years;
- Make full pension payment;
- Ensure childcare, community care and other social service programs are funded;
- Provide stability and certainty for at least 5 years;
- Enact an emergency reserve fund;
- Eliminate future rolling of bills;
- Pass a revenue plan that provides $3 billion in FY16 and grows to $5 billion;
- Broaden sales tax base to cover services similar to Wisconsin;
- Tax retirement income over $50,000;
- Increase personal income tax rate to 4.5%;
- Expand the Earned Income Tax Credit (EITC) 50%;
- Raise corporate income tax rate to 6.75%;
- Eliminate 3 corporate tax credits (domestic production, noncombination rule and offshore drilling) & make R&D credit permanent;
- Eliminate corporate franchise tax and lower LLC fees;
- Recouple inheritance tax with the federal government;
- Repeal E-10 (ethanol) subsidy (ethanol);
- Develop a capital program to fund much needed water, sewer, road, public transit, school and other public infrastructure needs;
- Create a vehicle miles travelled pilot;
- Apply any road portion to local roads as well as state roads w/criteria for accessing state dollars;
- Allow (but not require) all school districts to bargain over 3rd party contracting layoffs, class size, school year & technology (like CPS);
- Enable school districts to enter into 3rd party contracts;
- Modify arbitration selection process;
- Make contracts subject to appropriation;

- Enable a “reset” for healthcare & prohibit employers from awarding plans that would impose the “Cadillac tax”;
- Broaden local preference for Project Labor Agreements and ensure PLAs apply to construction only (not maintenance) projects;
- Set $150,000 threshold for prevailing wage, enabling diversity in participation, and clarify homes in TIF districts are not subject to the prevailing wage;
- Allow municipalities to form health care co-ops;
- Create disincentive for schools to pickup employee share of pension costs;
- Enact a 2 year property tax freeze excluding public safety;
- Establish pension parity for CPS w/sunset & alter CPS pension ramp;
- Sunset General State Aid formula 6/1/17 and create a stakeholder committee to propose new formula by 12/31/16 and identify needed $ to prevent any district from losing;
- Implement substantive workers compensation reforms;
- Modify unemployment insurance to alter the definition of misconduct, eliminate the social security offset, & extend “speed bumps”;
- Raise the minimum wage to $11 over time;
- Mandate reporting from contractors on minority workforce participation;
- Establish a tier 3 cash balance plan;
- Fix Tier 2 to link salary cap to social security wage base;
- Address pension spiking; and
- Modify police and fire pension ramp schedules.

Both "plans" have similarities and differences and it will be interesting to see what elements are included and how similar these lists may be to any final agreement that is reached in the coming months.

Legislative Transition

Sen. Laura Murphy (D-Park Ridge) has been appointed to replace Sen. Dan Kotowski who resigned.

Sara Wojcicki Jiminez (R-Springfield) has been appointed to replace Rep. Raymond Poe who resigned.

Session Schedule/Deadline Dates

December 2 - House/Senate session.

Here are relevant dates for the 2016 legislative session:

- January 27 – Governor’s State of the State Address
- February 17 – Governor’s Budget Message
- February 11 – House Bill Introduction Deadline
- February 19 – Senate Bill Introduction Deadline
- April 8 – House/Senate Committee Deadline
- March 21 – April 3 – Spring/Easter Recess

- April 22 – House/Senate 3rd Reading Deadline
- April 25 - May 1 - Passover Recess
- May 13 – House/Senate Committee Deadline (Bills from other chamber)
- May 27 – House/Senate 3rd Reading Deadline (Bills from other chamber)
- May 31 – Session Adjournment

Legislation of Interest

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 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)**