

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

**MEMORANDUM**

To: Brian Lawlor  
Matt Kincaid

From: Terry Steczo  
Maureen Mulhall

Re: Legislative Report

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**Lots of Questions, Few Answers**

The next 38 days may speak volumes, but then again the pages of those volumes may be blank. As November 8 looms most, regardless of what side of the political spectrum people are on, the hope is that the results on Election Day might definitively provide some impetus to ending the political squabbles that have dogged Illinois for the past two years. Will the election results prompt a permanent budget for FY 2017? Will there be an overall budget/revenue solution? Will the Governor blink? Will legislative Democrats blink? Will the Democrats be able to hold on to their three-fifths majorities in the House or Senate or will the Governor succeed in removing the veto-proof threat? Will whatever result occurs on November 8 help end the stalemate? Those are easy questions to ask, but the only one that will be answered on Election Day is the status of the Democratic three-fifths majority in both chambers of the Illinois House and Senate. The rest will have to wait. For how long? Hopefully sooner rather than later.

During the next month the Governor and his supporters will be trying to break the Democratic three-fifths majorities in both legislative chambers and are spending oodles of cash trying to achieve their objective. In years past Democrats have generally had the upper hand in fundraising and ground troops but not so this year. The GOP election apparatus has received a mountain of money from Governor Rauner's political committees. In fact, of the \$21 million in the GOP coffers contributed so far this election season \$20 million has come in some way from the Governor and with probably more on the way. With a seemingly limitless access to funds every effort is being made to use that to their advantage. Whether they can create ground operations as savvy as the Democrats traditionally have had is another question. Effective door-to-door campaign structures can't be put together overnight.

Can Republicans break the Democratic legislative stranglehold? In the Senate it appears that the Democratic majority is not in play and their three-fifths majority may hold as well. Senate Democrats currently hold 39 seats, three over the three-fifths mark. The GOP will capture one

seat for certain, that of retiring Democratic Senator John Sullivan (D-Quincy). Former State Rep. Jil Tracy is the Republican candidate and has no opposition. Republicans are targeting the seats of Sens. Jennifer Bertino-Tarrant (D-Plainfield), Melinda Bush (D-Grayslake), Tom Cullerton (D-Villa Park), Gary Forby (D-Benton), and Laura Murphy (D-Park Ridge). Democrats are hoping that a strong showing by Hillary Clinton and a backlash against Donald Trump will help save their targets and protect their supermajority. Democrats, on the other hand, have one major targeted seat, that the seat being vacated by retiring Sen. David Luechtefeld (R-Okawville).

In the House Republicans need to pick up one seat to break the Democratic supermajority. In reality, with up to three members generally voting against their caucus position for the past two years, the Democratic supermajority has been one on paper only. Hence, the reason that 43 of the Governor's 44 vetoes have been sustained. It's also likely that the GOP will pick up the seat being vacated in McHenry County by retiring State Rep. Jack Franks. They are also honing in on the seat of retiring Rep. Pat Verschoore in the Quad Cities looking for a pickup. As far as the other targeted Democratic incumbents, the Republican game plan is to tie them to Speaker Madigan, who the GOP casts as the devil incarnate. Similar efforts in the past have been tried and have failed but these are odd times and the feeling seems to be that with enough money fueling the messaging it may work. In addition to the two retirement seats the GOP has targeted at least ten other Democratic legislators. If they were to run the table on all of their targets they would take the House majority but that's not likely in a presidential election year in a blue state. In the meantime, Democrats have also targeted five seats hoping to keep their current numbers and add enough others to overcome the votes of the three defectors (two of whom will not be back in 2017).

Democratic incumbents targeted by the GOP are: Reps Dan Beiser (D-Alton), John Bradley (D-Marion), Katherine Cloonan (D-Kankakee), Deb Conroy (D-Villa Park), Marty Moylan (D-Des Plaines), Michelle Mussman (D-Schaumburg), Carol Sente (D-Vernon Hills), Michael Smiddy (D-Port Bryan), Andy Skoog (D-Peru) and Sam Yingling (D-Grayslake). Republican incumbents being targeted are: Reps. Avery Bourne (R-Litchfield), Terri Bryant (R-Mount Vernon), Sara Jimenez (R-Springfield), Dwight Kay (R-Edwardsville) and Michael McAuliffe (R-Chicago).

So what happens after the dust settles on election day? Is the state's long nightmare over? If the Governor's strategy backfires and the Democrats maintain their supermajorities does he take his Turnaround Agenda off the table and get to the business of a permanent budget solution? If Democrats take a beating do they find a way to compromise with the Governor on his issues? How would a possible Trump victory affect the deep chasm between the sides? Would Democrats become intransigent thinking that a Trump Presidency would heavily tilt the 2018 midterm elections, where the Governor would be seeking reelection, in their favor? Those are all things to keep in mind as election day draws closer and candidates look for any advantage to successfully cross the finish line.

### **Pension Reform Will Be On The Table**

One of the agreements made in order to get the stopgap budget passed was one that would have a new pension reform proposal approved by the General Assembly before the end of the year. If that deadline is to be taken literally then, unless a special session is called, any action must be taken during the post-election veto session that scheduled for the week before and the week after Thanksgiving. This arrangement came about as Chicago was looking for more money for its schools. The Governor capitulated on the condition that a pension reform bill be approved before

the end of the year. In fact, a portion of the Chicago school funding was held to until the reform bill passes in order to provide the impetus.

Pension reform is a slippery slope as the legislature has been taught in the wake of a spate of recent Illinois Supreme Court rulings. Every effort by the General Assembly to rein in costs that includes current retirees has been chucked by the Court. Even mandated retiree health care, an issue that everyone thought could be modified and that would withstand a court challenge was ruled unconstitutional. If that issue couldn't get past the Court then finding the right path is going to be like threading a very, very thin needle.

When the Court was considering recent legislation legislative leadership and the Governor were hoping that if there were questions of constitutionality the Court would provide a roadmap for future efforts. If the Court did it's a matter of conjecture. Justice Burke, in a speech after the last bill was ruled unconstitutional, stated that a roadmap was there. Upon review, if there is a roadmap included it's hiding in plain sight and maybe more reminiscent of finding the clues in the Da Vinci Code. There is one subtext reference to the term "consideration" but that hardly is a big neon arrow pointing to the right path. "Consideration" refers to trading one benefit for another and is a theory that Senate President John Cullerton and staff have advocated as a possible constitutional way to achieve reform. Since most of the cost of pensions relates to the 3% compounded annual COLA that state retirees do or will receive the "consideration" idea of Cullerton's relates mostly to that issue and making a change to either simple interest or some percentage to the actual cost of living increase and providing some less costly benefit. If this type of change were to be permissible it would save huge dollars and could go a long way toward pension fund solvency. But, there are some legal scholars who debate the wisdom of such a change and who feel that the "consideration" approach doesn't stand a chance. They don't say what they think would be appropriate, but they think they know what won't.

The best guess looking forward is that the "consideration" issue will be the focal point of any pension reform that the legislature debates when they return to Springfield after the elections. It's not going to be an easy discussion, especially when there are numerous differences between what the legislature may be willing to approve (continuation of defined benefits with modifications) and what the Governor may want (shifting all employees to 401k type plans) which means a lot of work and discussion will have to take place, and open minds will have to prevail between November and January to make the end of the year goal.

And the bad news? The Governor says often that he needs pension reform to help balance the budget. That much is true. Successful pension reform legislation can help free up a goodly sum of dollars that can be utilized for other purposes. However, no matter what the legislature approves there is no doubt that a court challenge will follow. And, as has been the case with the last two cases, it will take at least two years for that challenge to make its way to a final ruling by the Supreme Court. So any saving, if the bill were to be held constitutional, would be seen until FY 2019. That doesn't help resolve the current fiscal situation a bit. And, if the latest effort were to be held unconstitutional once again it wouldn't provide any fiscal relief at all. There's a lot riding on cooler heads prevailing and giving some deep thought to finding the right balance that the Supreme Court will accept. The question now is whether or not the powers that be can rise to the challenge.

Also of note in the area of pension reforms is a bill, House Bill 4259, that was recently signed into law by the Governor. It stops those situations where employees of various non-state

government organizations were able to qualify for state pension benefits. Beginning on the effective date of the new law it removes employees of the Illinois Municipal League, the Illinois Association of Park Districts, the Illinois Supervisors, County Commissioners and Superintendents of Highways Association, an association or not-for-profit corporation, the Township Officials of Illinois, the United Counties Council, or Will County Governmental League from collecting IMRF, SURS, or TRS, benefits. Those who currently qualify from any of these organizations will maintain their status.

### **Mixed Signals**

A number of media outlets, commentators and columnists have expressed great wonder at the Governor's ability to stick to his script regardless of the questions asked or the topic covered. Ask the Governor any question about anything and he'll segue into the "need for reform" in Illinois. He's been very adept at making sure that his message about "reform" and his Turnaround Agenda is first and foremost. He never wavers in citing the need. But in the midst of the focused reform message he has a tendency to confuse people as to the exactness of the priorities that he's seeking.

A few weeks ago within a span of a few days while giving his "reform" message the "top priority" he cited changed from redistricting reform, to fiscal discipline, to term limits, to pension reform. Understanding that there are all part of his Agenda, there still need to be some structure to his message so as not to confuse legislators and taxpayers alike. Moreover, with the state in severe crisis as a result of budget woes, hearing redistricting and term limits outweigh fiscal discipline may not set too well with Illinoisans who are frustrated with the fiscal stalemate that is now approaching two years. In order to find a resolution to the state's fiscal mess and to see some movement in the discussions relating to desired reforms it tough to hit the target when it keeps moving.

### **Legislative Transition**

Sen. Tom Rooney (R-Rolling Meadows) has been selected to replace Sen. Matt Murphy who resigned.

### **Session Schedule/Deadline Dates**

Here are relevant dates for the 2016 legislative session:

- November 15, 16, 17 - 1st Fall Veto Session week
- November 29, 30, December 1 - 2nd Veto Session week
- Early January Session - TBA
- January 11 – 99<sup>th</sup> General Assembly Ends
- January 12 - 100th General Assembly Begins