Illinois’ Budget Impasse: What’s Next

By John F. Schomberg / Jun 09, 2015

As has been widely reported in the news media, Illinois Republican Governor Bruce Rauner is currently in a budgetary standoff with Democratic House Speaker Mike Madigan and Democratic Senate President John Cullerton, the majority leaders of the Illinois General Assembly. The Democratic leaders have passed a budget that they acknowledge, absent additional State revenue and even with cuts, is still more than $3 billion above current State revenue estimates. Governor Rauner has stated that he will not discuss increasing State revenue and would veto the budget passed by the General Assembly unless some form of his turnaround agenda (e.g. workers’ compensation reform, a property tax freeze, right-to-work zones, tort reform, political mapping, term limits) is passed. Last Tuesday, the Office of the Governor stated that, in order to begin balancing the budget passed by the General Assembly, the Governor is implementing cuts, including facility closures, reduced access to home services for seniors, stopping construction of the Illiana Expressway, and stopping intake and increasing parental costs for the State’s Child Care Assistance Program.

As we await resolution of the budgetary standoff, here are some items to note regarding the current budget bills, any new budget bills, and what happens in the absence of a budget by July 1, the start of the next fiscal year:

- **Ordinary Time to Deliver and Act on Bills:** Under the Illinois Constitution, the General Assembly has 30 days to present passed bills to the Governor and the Governor has 60 days after that to act on those bills or they automatically become law. Historically, unless a budget agreement could not be reached, budget bills have been both delivered by the General Assembly and acted upon by the Governor prior to the start of the new fiscal year, well before the 30 and 60 day constitutional deadlines.

- **Time to Deliver and Act Tolled by Motions to Reconsider:** This year, pursuant to Illinois House and Senate rules, Democratic leaders have filed motions to reconsider on the passed budget bills, tolling the 30 days they have to present the bills to the Governor.

- **Governor and General Assembly Budget Bill Options:** If and when the Governor receives a budget bill (also called an appropriations bill), he has three options with each line item of appropriation: (i) he can leave it alone and sign it into law, (ii) he can reduce that item to a lower number, or (iii) he can veto that item. Reduced items become immediately available upon action by the Governor and only require a majority of each house of the General Assembly to be overridden and restored to the original, full appropriation made by the General Assembly. Vetoed items (i.e. those lines reduced to zero), however, can only be overridden by a supermajority (3/5) of each house of the General Assembly.

- **What Will Happen to the Current Budget Bills:** It is an open question as to whether, absent an agreement between the Governor and Democratic leaders, the Democratic leaders will withdraw their motions to reconsider and deliver the current budget bills to the Governor prior to July 1, the beginning of the new fiscal year. (Even if there is an agreement, in all likelihood, new budget bills would be passed.) The Governor has stated that he would veto the current bills. Because none of those bills were passed with a supermajority of votes (requiring 36 votes in the Senate and 71 votes in the House), it would be difficult for the General Assembly to override a total veto of all budget lines by the Governor. Although the Democrats have supermajorities in both houses (39 in the Senate and 71 in the House), it is far from a given that all would vote on party lines, as already reflected in the original budget bill votes.

- **To Be Immediately Effective, Any New Bills Passed After May 31st Require a Supermajority:** Unless the current budget bills ultimately become law, any new budget bills, passed after May 31, would require a supermajority (and, most likely, bi-partisan) vote in both houses to become immediately effective. Bills passed after May 31 with only a simple majority do not become effective until June 1st of the following year. This provision of the Illinois Constitution creates the incentive for budget agreements to be reached and budget bills to be passed by May 31st.

- **What Happens Without a Budget on July 1st:** As a general matter, absent a court order, without a budget, the Governor and State agencies have no authority to spend on or after July 1. With limited exceptions, in the absence of a budget, ordinary State payments, like vendor contract payments, General State Aid payments to schools, State employee salaries, and grant payments cannot be paid. Historically, on some occasions, the General Assembly has passed and the Governor has signed short-term, temporary budgets while budget negotiations continue beyond July 1, however that cannot be assumed.

It is notable that even when a budget is passed, a budget is simply appropriation authority (i.e. the authority to spend) provided by the General Assembly to the executive branch. It does not mean that the actual cash is there—which it must be, in order to be spent. Likewise, it does not mean that, absent a statutory mandate or consent decree, the Governor or other constitutional officers have to exercise that authority. Rather, it is in their discretion, absent a mandate, to leave appropriations unexercised and, as a consequence, money unspent.

If you have any questions about navigating State of Illinois government processes or about responding to government investigations, please contact Clark Hill Government & Public Affairs attorney John Schomberg at jschomberg@clarkhill.com or 312-985-5517.