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# COOK-WITTER REPORT

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## Veto Session Offers Landmark Legislation

The veto session was busier than usual this November and resulted in the passage of some monumental legislation. The General Assembly considered 115 bills vetoed by Governor Blagojevich since the spring legislative session ended in May. It was pretty evenly divided with 58 house bills and 57 senate bills under review. Between June 1st and November 21st, 135 house bills and 44 senate bills were introduced. Dealing with new legislation during the fall veto session is fair game, in addition to the usual practice of responding to Governor Blagojevich's numerous vetoes. The proposed six day veto session that began Tuesday, November 4th, ended a day late on Friday, November 21st. In addition to the usual drama, some unusual events took place unrelated to the politics in the chambers. Representative David Wirsing passed away on the Sunday before the final week of veto session; his funeral was held Friday morning on the last day of session. Later that same day, Representative Bill Black collapsed on the floor with back muscle spasms and was carried out on a stretcher. Fifteen minutes later, a fire alarm was triggered by work done in the Capitol attic, causing further delay.

Some of the more controversial issues addressed in November included death penalty reform, ethics reforms, and the failed utilities merger between Illinois Power and Commonwealth Edison. The utility companies were seeking passage of legislation to shorten the Illinois Commerce Commission's review period of the proposed merger and a rate hike for consumers. No legislation was passed prior to adjournment to facilitate the merger, and the \$2.2 billion buyout has since been scrapped. The agenda included the often contentious issue of pay raises for judges, as well as millions in state spending. A bill allowing undocumented immigrants to obtain a driver's license without a Social Security number failed to make it out of the Senate. Legislation prohibiting discrimination based on sexual orientation also made it on the agenda during the veto session, but Senate Bill 101 was never called for a vote. Lawmakers worked out details of the ethics reform package, although late in the veto session the status was questionable with details needing to be worked out concerning unpaid government advisors or sometimes called "shadow government" filing economic disclosure forms. Legislators and



the Governor debated over vetoes of millions of dollars in state spending. Regarding the general budget, Governor Blagojevich cut \$222 million, and almost \$556 million was cut from capital projects. A supplemental spending bill was approved, authorizing state agencies to spend \$171 million in federal anti-terrorism funds, and House Bill 810 (Hoffman) allows the state to borrow up to \$1.4 billion for the unemployment insurance fund. Below are highlights of some new laws resulting from veto session action.

### Death Penalty Reforms Become Law

Legislators reached a compromise on death penalty reforms during the fall veto session. Nonetheless, Governor Blagojevich does not plan on lifting the moratorium on executions imposed earlier by former Governor George Ryan. In July, Governor Blagojevich amendatorily vetoed the death penalty reform package because of a provision that dealt with police officers who lie in murder cases. Blagojevich shared the police officers' concerns that the officers accused of lying could lose their badges without being convicted of perjury in court. According to the Governor, "the legislature passed a good bill with one provision that needed work." The General Assembly overrode **Senate Bill 472**, the legislation that the Governor amendatorily vetoed. This legislation implements reforms in the capital punishment system to prevent innocent people from being sent to death row.

**House Bill 576**, a companion piece of legislation, contains compromise language spelling out how to handle a situation in which a police officer is accused of lying. The Illinois Labor Relations Board will decide whether an officer should be decertified for lying. In the original version, the Law Enforcement Training and Standards Board (LETSB) would have made decisions regarding perjury, but critics maintained that this Board was not qualified to review perjury allegations. The Illinois Labor Relations Board will consider recommendations from the administrative law judge assigned to hear the cases. Governor Blagojevich states "we found a way to address police perjury while respecting the rights of the police."

Defendants will be granted greater access to DNA database

searches; judges can rule out the death penalty in cases that rely mainly on a single witness or an informant; executing people with mental retardation is banned; and closer scrutiny of the testimony given by jailhouse informants will be required. The Illinois Supreme Court will also be able to overturn death sentences it finds fundamentally unjust in a particular case.

### Landmark Ethics Reform Package Passed

On December 9<sup>th</sup>, Governor Blagojevich signed the ethics reform bill after a year-long process. Governor Blagojevich was joined by Lieutenant Governor Pat Quinn, Attorney General Lisa Madigan, Secretary of State Jesse White, Comptroller Dan Hynes, the legislative leaders, and bill sponsors at Chicago's Bilandic State Office Building in a ceremony to witness the signing of this important piece of legislation. Earlier, the General Assembly had voted to override Governor Blagojevich's amendatory veto of House Bill 3412 by the required three-fifths margin; it became law as **Public Act 93-615**. Additional stronger legislation was introduced as part of the ethics reform package in the form of Senate Bill 702 (Garrett/Madigan, Cross). This bill, which contained recommendations the Governor had made in his veto message of HB 3412, was approved by the House 111-0 and passed the Senate 56-1. Governor Blagojevich suggested numerous changes in a pages-long veto message of HB 3412 over the summer in response to the ethics bill passed in the spring. In his veto message, he stated that the bill needed "substantial improvement" and "lacks certain fundamental components present in states with respected ethics laws." HB3412 requires all state employees to receive annual ethics training; provides protection to whistle blowers; and bans state employees from doing political work on state time. SB 702 was signed into law December 9<sup>th</sup> as **Public Act 93-617**. This law will affect every aspect of state government and have far-reaching consequences for how the business of state government is conducted from now on. Following are some key aspects of the ethics reform legislation.

- Ethics commissions will be established for the executive and legislative branches.
- Constitutional offices and the legislature will appoint an executive inspector general (EIG) to review complaints of wrongdoing. The EIGs will possess subpoena powers and will report to an independent ethics commission.
- Lobbyists and their spouses will be prohibited from serving on state boards or commissions.
- State employees with regulatory powers can not work for any regulated entity for one year after they leave state employment. (known as the "revolving door" prohibition.
- The law strengthens the Gift Ban Act by removing exemptions, specifically for golf and tennis, and limiting

lobbyists' gifts of food and drink to \$75 per state employee per day.

- Unpaid advisors of constitutional officers ("shadow government") must file Statements of Economic Interest. All ex parte communications between state regulators and licensing agents must be disclosed.
- Members of state boards and their spouses are prohibited from having a contract with any state agency.
- The work time of state employees will be strictly documented.
- For persons found guilty of impropriety by the ethics commission, the law establishes penalties such as fines, potential dismissal, and a possibility of criminal charges (Class A misdemeanor).
- The legislation provides protections from retaliation by supervisors for those who report wrongdoing.

### Office of the Architect of the Capitol Created

Governor Blagojevich signed **Senate Bill 1656** creating the **Office of the Architect** for the state capitol. The architect and staff would replace the Legislative Space Needs Commission, which is a bipartisan group of twelve lawmakers. The group reviews Capitol complex building projects and oversees real estate purchases. The Capitol complex is bordered by Washington, Third, Cook, and Pasfield Streets. The architect will report to the Office of the Secretary of the Senate and the Office of the Clerk of the House of Representatives. A 10-member Capitol Historic Preservation Board will be appointed by the legislative leaders, the governor, attorney general, secretary of state, the chief justice of the Illinois Supreme Court, and the mayor of Springfield. The Board will serve as an advisory board to the Architect of the Capitol.

This legislation also eliminates the Pension Laws Commission and the Illinois Commission on Intergovernmental Cooperation. Reviewing pension legislation will now take place by the Economic and Fiscal Commission. The Legislative Research Unit will do the tasks previously done by the Commission on Intergovernmental Cooperation.

On December 26<sup>th</sup>, Governor Blagojevich signed House Bill 810 (Hoffman) into law. **Public Act 93-0634** allows the state to borrow up to \$1.4 billion to help the unemployment insurance fund currently facing a deficit. The legislation proposes to return the fund to solvency by the end of 2009. In addition to issuing \$1.4 billion in revenue bonds, the plan incorporates employer tax increases and benefit constraints to solve the insolvency problem. Governor Blagojevich explains "The improvements to our Unemployment Trust Fund will aid businesses and workers by providing financial stability and avoiding future financial predicaments."

The Governor signed Senate Bill 978 (Welch) into law on December 19<sup>th</sup>. This law amends the Illinois Vehicle Code to allow the Illinois Department Of Transportation (IDOT) to lower speed limits on state highways near schools. If the school district requests, IDOT can lower the speed limit for the area next to the school and one-quarter of a mile beyond the school. **Public Act 93-0624** is effective June 1, 2004.

A piece of legislation received approval by both chambers in the final two days of session. If signed, the legislation would result in more federal Medicaid dollars for hospitals and nursing homes by taxing hospitals for two years. **House Bill 701** (Madigan/Schoenberg) restores part of the rate cuts affecting nursing homes two years ago. The state's hospitals would pay an annual assessment to the state; this money would then be used to obtain federal matching funds. Both the assessment and federal match would then be returned to the hospitals. The bill currently awaits Governor Blagojevich's signature.

### Override Attempt Fails

**Senate Bill 100** received a total veto by the Governor. This legislation would have given judges a 3.8% cost-of-living increase retroactive to July 1, 2002, stating that Illinois' current budget crisis would not allow for judges or any top state official to receive a raise. Under the Illinois Constitution, however,

judges can not be subject to any pay reductions. In the spring of 2002, the General Assembly rescinded the 3.8% cost-of-living adjustment. When judges threatened to sue this past spring, the General Assembly passed a retroactive granting of the pay raise. The attempt to override the veto in November failed. The courts will now need to make a decision on this contentious issue.

### Override Becomes Law

Of the 18 house bills and 27 senate bills that received amendatory vetoes, seven senate bills and three house bills had the vetoes overridden by the required 3/5 majority. Governor Blagojevich's amendatory vetoes on five senate bills and eight house bills were accepted by the General Assembly. The General Assembly voted to override Governor Blagojevich's amendatory veto of **House Bill 3556** (O'Brien). The legislation requires sex offenders to submit to treatment as a condition of parole or probation. The Governor had suggested that the measure would be too expensive. HB 3556 became law under **Public Act 93-616** on December 3.

### Total Veto Override

The legislature voted to override the total veto of **House Bill 429** (Leitch). The legislation set up a panel to implement a non-emergency telephone number, which will provide callers with information about human services. Governor Blagojevich

## General Assembly's Response to Governor's Vetoes 1999-2003

Gov's Action	General Assembly's Response	2003		2002		2001		2000		1999	
		#	%	#	%	#	%	#	%	#	%
Veto	Fail to override	48	89	13	100	25	89	3	100	44	88
	Override	6	11	0	0	3	11	0	0	6	12
	<i>Total</i>	54	100	13	100	28	100	3	100	50	100
Amend. Veto	Fail to do anything	22	49	3	23	4	22	1	17	12	35
	Accept amendment	13	29	8	62	14	78	5	83	22	65
	Override	10	22	2	15	0	0	0	0	0	0
<i>Total</i>		45	100	13	100	18	100	6	100	34	100
Item Veto	Fail to Restore	3	100	0	0	0	0	0	0	1	100
	Override	0	0	0	0	0	0	0	0	0	0
	<i>Total</i>	3	100	0	0	0	0	0	0	1	100
Item Reduction	Fail to restore	6	100	0	0	0	0	0	0	0	0
	Override	0	0	0	0	0	0	0	0	0	0
	<i>Total</i>	6	100	0	0	0	0	0	0	0	0
Item veto & Reduction	Fail to restore	2	29	0	0	0	0	0	0	0	0
	Override	5	71	0	0	0	0	0	0	0	0
	<i>Total</i>	7	100	0	0	0	0	0	0	0	0

*Data is from the Legislative Information System, Index Division of the Office of the Secretary of State, and Creative Resources. Calculations by Cook-Witter, Inc.*

vetoed it because he thought it involved spending state funds. Illinois will be seeking federal money to set up information-referral centers. People would dial 211 whereby they could learn about the availability of governmental and non-profit services. Effective December 3, 2003, it became law as **Public Act 93-613**.

Senate Bill 1085 received the necessary votes to override Governor Blagojevich's veto. **Public Act 93-608** requires the Department of Natural Resources (DNR) to conduct a study of each aquifer in Illinois and to develop geologic and groundwater flow models for all underground aquifers in Illinois.

### Veto Stand, Bills Die

Of the total vetoes, 24 senate bills and 24 house bills are now dead. Five senate bills and one house bill were overridden. Following is a sampling of some of the bills with total vetoes allowed to die. Governor Blagojevich vetoed **House Bill 1186** because of concern about safety issues. The legislation would have allowed trucks to go 65 miles per hour on interstate or 4-lane divided highways in rural areas. The legislation did not receive the necessary votes to override the veto.

**Senate Bill 1765** (Obama) would have created the Tax Expenditures Commission, which would have had the responsibility to consider existing tax expenditures that reduce tax revenue for the state and make recommendations to curb revenue loss or promote economic development.

**Senate Bill 371** (Hunter) would have prohibited manufacturing, selling, or distributing mercury fever thermometers.

Fifteen senate bills and seven house bills with amendatory vetoes were allowed to die. One of these, **House Bill 1087** (Daniels), would have required the Department on Aging to establish a program to provide financial assistance to older Illinois residents, who are the primary caregivers of family members with developmental disabilities. In the Governor's veto message, he recommended that the Department determine the costs of establishing such a program.

**House Bill 200** (Monique Davis) proposed to require the Department of Public Health to prepare and disseminate public service announcements (PSAs) promoting screening for AIDS/HIV. In his veto message, Governor Blagojevich states that the bill should be amended calling for DPH to use any available funds to disseminate the PSAs.



## VETO SESSION OPTIONS

Governor's Action	Legislature's Options	Vote Required In Each House	Result
Sign the bill	-----	-----	Bill becomes law
Do nothing for 60 days	-----	-----	Bill becomes law
Veto the bill	Override	Three-fifths	Bill becomes law As originally passed
	Fail to override	Less than three-fifths	Bill dies
Amendatory veto	Override	Three-fifths	Bill becomes law As originally passed
	Accept	Majority	Bill becomes law with Governor's changes
	Do nothing	-----	Bill dies

