

Legislative Update October 2007

Illinois General Assembly Remains in Session

The Session that never ends has no end in sight. Continued infighting between Governor Blagojevich, Senate President Jones and House Speaker Madigan has resulted in a record breaking 48-day overtime session and created a situation in the state Capitol where there has been a lot of friction and smoke, but no fire.

The fiscal year 2008 budget remains in limbo as the House overrode the vast majority of the Governor's vetoes and reduction vetoes and the Senate acted only on a few.

In the meantime, the CTA/RTA fiscal meltdown continues and the gaming expansion and a capital construction program look further from reality than ever.

Fortunately for the insurance industry there have been no significant issues caught in the crossfire between the states three most powerful Democrats.

Budget

In a bipartisan message to the Governor, the Illinois House and Senate passed a Fiscal Year 2008 budget with veto-proof majorities on August 10th. The bill was negotiated without participation from the Governor's Office. The Governor had 60 days to act on the budget bill and had four options available: 1. Sign it. 2. Do nothing, and after 60 days it becomes law. 3. Veto it outright, or 4. Delete various appropriations by amendatory veto.

The Governor subsequently cut approximately \$500 million (amendatory and line item vetoes) from the budget and announced he would enact parts of his Illinois Covered health plan with vetoed money. State Senate President Emil Jones, who agreed to override any vetoes but was later angered when the gaming/capital construction bill fell apart, announced that regardless of any overrides in the House, he would not consider any overrides in the Senate – thus ensuring the Governor's action would stand.

During the second week of the veto session, Jones allowed overrides on a few selected budget items for the Judicial System and the Auditor General's office.

One of the great ironies in the process is that the Governor cut out hundreds of millions for state and local health care initiatives to fund his own health care proposal.

Illinois Covered

The Governor's refusal to move off his massive plan to mandate coverage for employers through a 3% payroll tax is the major reason the General Assembly remains in a record overtime session.

The Governor's office amended the bill to phase it in over a longer time period, but to date it has not garnered enough support to pass the State Senate.

Our agent/broker coalition, in coordination with the employer community and insurers continue to oppose the 3% payroll tax and the guaranteed-issue, rate restrictions and over-regulation of health plans.

As noted above, the Governor, without statutory authority, announced he will move ahead with the Medicaid expansion provisions contained in Illinois Covered.

The Governor has indicated he will accomplish this by seeking rule making authority from the Joint Committee on Administrative Rules (JCAR). Since JCAR is a bipartisan panel of state legislators, he may not get approval there either.

JCAR Defeats Governor's Proposed Regulation on Health Insurer Data Reporting / Individual Health Insurance Rate Regulation Still Pending

The Governor's proposed regulation requiring substantial data reporting by health insurers was rejected by the Joint Committee on Administrative Rules (JCAR) this week on a 9-1 vote. Announced over the summer, as his Illinois Covered health plan languished in the legislature, the regulation would have required health insurers to report gross quarterly premium statements and enrollment data, direct losses incurred, the company's loss ratio, and the number of primary insured persons and dependents the company covers. Insurers and their trade associations were united in opposition to the rule.

The second and more significant rule regulating individual health insurance rates and underwriting is scheduled to be voted on at the JCAR meeting on November 13th. Our agent/broker coalition is opposed to the rulemaking and has urged JCAR members to reject it also.

Administrative Hearing on 1st Farm Credit Rebating Scheme Concluded

The PIIAI and Independent Farm Agents of Illinois (IFAI) have been working for over a year to prohibit 1st Farm Credit from proceeding with their "patronage program" which constitutes a clear violation of Illinois' Anti-rebating Statute.

To date, we have been successful as the Division of Insurance has agreed with us and ordered 1st Farm to discontinue the program. However, 1st Farm challenged the Division's position and has requested an administrative hearing to overturn its ruling.

The PIIAI and IFAI requested, and were granted, intervener status by the Division and as such, are now a full party to the administrative hearing.

The administrative hearing began on June 13th in Chicago and continued on August 9th. Closing arguments were presented on September 14th. The hearing officer must now prepare his report and recommendations to the Director of Insurance, who must then approve or amend the hearing

officer's report and issue a final order. Final orders can be appealed to the courts.

The PIIAI / IFAI are represented in the hearing by Richard Waris and Matt Tibble of Pretzel and Stouffer. Brian McSherry testified on behalf of the PIIAI/IFAI. Several associations including the Community Bankers Association of Illinois, the Illinois Bankers Association, Country Insurance and Financial Services, The Risk Management Agency and the National Association of Insurance Commissioners filed briefs in support of the Divison's (and our) position.

While a final decision may not be announced until November or December, and we anticipate a favorable outcome, the fact is that 1st Farm has been prohibited from offering patronage rebates for federal crop insurance.

Governor Acts on Several Insurance Related Bills

Despite the continuing turmoil between the Governor and the General Assembly, the Governor recently acted on several pieces of legislation affecting the insurance industry.

The following is a synopsis of other legislation the Governor has signed.

Property & Casualty

HB 1439 (PA 95-0211) Mandatory Insurance. Increases from 1 to 3 years the amount of time a person who received court supervision for driving an uninsured vehicle and those convicted a third time for driving an uninsured vehicle must file proof of financial responsibility with the Secretary of State. Effective 1/1/2008.

HB 1795 (PA 95-0026) Creates the Employee Classification Act. The intent is to address misclassifying independent contractors. May impact work comp and general liability rates for contractors. Effective 1/1/2008.

SB 484 (PA 95-0533) Rewrites Commercial Renewal / Non-Renewal Statute. Effective 6/1/2008.

SB 555 (PA 95-0334) Mine Subsidence Coverage. Permits the IL Mine Subsidence Fund to establish the maximum amounts of reinsurance for residential and commercial buildings. Effective 1/1/2008.

SB 1208 (PA 95-0395) Auto Insurance. Prohibits drop-down (lower) limits for permitted drivers for private passenger automobile insurance. Effective 1/1/2008.

Health Insurance

HB 147 (PA 95-0189) Mandates coverage for comprehensive breast examinations. Applies to individual and group coverage. Effective 8/16/2007.

SB 21 (PA 95-0230) Prohibits health benefit plans from excluding coverage for treatment related to an injury acquired while an insured was intoxicated or under the influence of narcotics when the exclusion is based solely on the insured being intoxicated or under the influence of narcotics. Effective 1/1/2008.

SB 873 (PA 95-0436) Medicare Supplement. Changes eligibility requirements for Medicare Supplement policies for individuals with disabilities. Effective 6/1/2008.

SB 935 (PA 95-0520) Mandates coverage for non prescription amino acid-based elemental formulas. Effective 8/28/2007.

SB 1365 (PA 95-0431) Mandates detailed mammogram coverage for women under 40.

Life, Benefits, Financial Planning

HB 376 (PA 95-0023) Creates tax deductibility for distributions from out-of-state College Savings (529) Plans. Effective 8/3/2007.

HB 517 (PA 95-0200) Creates the Illinois Long-Term Care Partnership Program Act. Effective 8/16/2007.

HB 2786 (PA 95-0163) Establishes underwriting limitations for life insurers regarding an individual's past and future lawful travel plans. Effective 1/1/2008.