

# ILHIC Legislative Committee Update

November 6, 2020

## November Election Update

In an election that saw the record voter turnout, the lesson we are all learning is that it isn't quite over until the last ballot has been counted. Especially in states like Illinois where a mail-in ballot postmarked by election day can still be counted if it arrives within the next two weeks.

Record-breaking voter turnout here delivered an expected Biden win, but the corresponding Blue Wave did not materialize in the way many state pollsters had predicted it might in an already Blue state like Illinois. Voters resoundingly rejected the state's graduated income tax proposal known as the Fair Tax Amendment. Many thought it would be close, but few thought it would be defeated by a 10 point margin, delivering a significant defeat to Democrat Governor Pritzker who had personally invested more than \$50 million in support of the measure.

Outstanding mail-in ballots cannot reverse the fate of the Fair Tax Amendment, but they just might turn the tide in a couple of state legislative races, as well as a congressional race. Even with those reversals, state Democrat wins will fall short of projections headed into election day.

House Democrats drastically outspent Republicans and were expected to pick up as many as 10 seats, but they were instead handed a net loss of two seats as of Wednesday morning. Mail-in ballots left to be counted in at least two districts may reverse that net loss to one seat or a break even, but either way, failure to show any net gains given the dollars invested could have a downstream effect on the long-time Speaker's ability to hold onto that position.

The Senate Democrats also outspent their Republican counterparts and fared much better headed out of Tuesday, picking up one seat while holding the line on two other incumbents. They will add to their supermajority status to give them 41 members to the Republicans 18 seats; an outcome which has led to a shake-up in the Senate Republican Leadership (more below).

In short, the post-mortem analysis on Tuesday at the state level is still being conducted, but it appears that the anti-Speaker Madigan sentiment coupled with the larger than anticipated opposition to the Fair Tax seemed to reign supreme over the anti-Trump sentiment, tamping down Democrat victories in the Illinois House, a sizeable win for Illinois Congressman Rodney Davis in a rematch with what had been termed a "Madigan" Democrat candidate, and the defeat of a veteran downstate state Supreme Court Justice in his retention bid because Republicans were able to connect him to Madigan.

## Graduated Income Tax Proposal

Lawmakers cleared the way for the graduated income tax constitutional amendment to go before voters this fall last May, delivering upon one of Governor Pritzker's campaign platforms. Illinois is currently one of 11 states that have a flat income tax rate, taxing individuals at 4.95% and corporations at 7.0%.

The General Assembly also enacted a new graduated rate structure to replace the flat tax last June ([Public Act 101-0008](#)) with a proposed tax structure that would have reduced the current rate for those with net incomes at or below \$100,000; maintained the current rate for those with incomes between \$100,001-\$250,000; and increased the income tax rate between 7.75% - 7.99% for those with incomes in excess of \$250,000.1. Corporations were held to the highest tax rate of 7.99% that income earners making over \$750,000 will pay, but

given the failure of the Fair Tax amendment, the graduated income tax rates enacted under P.A. 101-0008 are rendered moot.

The graduated income tax proposal was expected to generate more than \$3 billion in new revenue in 2021 (approximately \$1.8 billion of that would be attributed to the current Fiscal Year 2021); a new revenue source that Governor Pritzker and many Democrat lawmakers had banked on to fill budget deficits that existed even before the public health emergency further eroded Illinois' already precarious financial situation.

The Governor has already issued dire warnings about painful budget cuts and the possibility of an increase in the flat tax rate, as well as other new taxes (such as a new tax on services). Either way, the prospects of increasing taxes on a larger percentage of the population than Democrats had hoped for is not an ideal political position to be in. Opponents to the Fair Tax successfully argued that raising taxes on businesses still struggling to find their footing in a pandemic and economic crisis is ill-timed at best, but raising taxes period is never politically advantageous, let alone on a populace that is still reeling from the pandemic in general. Especially if tax increases happen to hit that populace at the same time public health emergency-related relief – like moratoriums on rent payments and utility bills – run their course.

In short, the state budget and revenue options will weigh heavy over the legislative session in 2021, whatever that may look like.

### **State Legislative Race Results – House of Representatives**

All 118 House seats were on the ballot with less than half of those seats uncontested. Of the 66 seats with contested races, 31 of those were held by Democrats and 35 by Republicans. House Democrats outspent House Republicans by nearly 3 to 1 and in some races by even larger margins, but those investments did not pay off in the way they had hoped. At this time, Republicans have picked up two downstate Democrat seats and two seats in the Chicago suburbs while losing two of their own suburban seats.

***If the numbers hold once all the votes are tallied, then House Democrats will have a net loss of 2 seats to reduce their supermajority numbers from the current 74-44 to 72-46.***

As referenced earlier, there are still a two legislative races – one currently held by a Republican and one held by a Democrat – that could still flip those results. Incumbent Republican Representative John Cabello (R-Loves Park) has seen his lead shrink since Tuesday night to only a little more than 350 votes and mail-in ballots are still being processed. In the meantime, incumbent Democrat Representative Mary Edly-Allen (D-Libertyville) came out of election day losing to her Republican opponent by nearly 4,400 votes with Lake County reporting on Thursday that it had only processed half of what maybe a sizeable number of mail-in ballots, which could in theory, close or even reverse that deficit. We will likely not know the final results of that race until as late as November 17.

There is also late word about the race between incumbent Republican Representative Tom Morrison (R-Palatine) and his repeat Democrat challenger being closer than appears to be. Representative Morrison is currently ahead of Democrat Maggie Trevor by just over 4,000 votes, but Cook County has also reported a large number of mail-in ballots that have yet to be counted.

Either way, House Democrats will still hold a supermajority, but it won't be anywhere close to the supermajority many had predicted they would have when this election came to a close. And if the numbers hold, the House will welcome 14 freshmen members when the 102<sup>nd</sup> General Assembly convenes next year.

What this means for the long-time House Speaker Michael Madigan is not yet clear. U.S. Senator Dick Durbin publicly laid blame for the state Democrats poor showing on Tuesday at the Speaker's feet on Wednesday due

to the ethical and legal dark clouds that surround him currently. Several House Democrats have made previous statements indicating they would not support him for Speaker in 2021. Women will also make up a majority of the House Democrat caucus in 2021, which may not bode well for him given the fact that many of them ran on a platform of reform if they had not already publicly challenged his role as Speaker.

As for the House Insurance Committee members, Republican Representatives Mark Batinick (R-Plainfield) and Tom Morrison (R-Palatine) (for now) were able to fend off tough challenges to hold their seats. Republican member Representative Allen Skillicorn lost to his Democrat challenger and all others were unaffected by the election. A new committee will be selected and seated in the 102<sup>nd</sup> General Assembly.

### **State Legislative Race Results – Senate**

The Senate only had 22 of the 59 seats on the ballot this year (two of those seats due to early retirements) and only half of those seats had at least one challenger. Spending was still lopsided with Senate Democrats outspending Senate Republicans nearly 2 to 1, but at this time, it appears they may have only netted one seat vacated by Senate Republican Jim Oberweis (R-North Aurora) whose own race against incumbent Democrat Congresswoman Lauren Underwood remains uncertain given outstanding mail-in ballots.

Incumbent Democrat Senator Bob Martwick (D-Chicago) who was appointed to the former Senate Insurance Chairman John Mulroe's seat was only holding onto a lead of less than 30 votes against his Republican challenger on Wednesday, but that lead had since grown to a slightly more comfortable 226 after more outstanding ballots were counted on Thursday.

If those current numbers hold, the Senate Democrats will increase their supermajority to 41 members to the Republicans 18. Three freshmen senators will join their ranks in 2021 in addition to 4 members that previously served in the House (including Representative Karina Villa who appears to have won the Oberweis seat).

Senate Republican Leader Bill Brady (R-Bloomington) announced on Wednesday that he would not seek re-election as the caucus leader. The caucus in turn called a special meeting on Thursday and elected Republican Senator Dan McConchie (R-Hawthorn Woods) as the new Senate Republican Leader-elect and Senator Sue Rezin (R-Morris) as the new Deputy Leader replacing Senator Dave Syverson (R-Rockford) who remains Dean of the Caucus.

Senator McConchie currently serves on the Senate Insurance Committee. All current members of the Senate Insurance Committee retained their seat and Republican Senator Dale Righter will resign at the end of the year. Like the House, a new Senate Insurance committee will be selected and seated in the 102<sup>nd</sup> General Assembly next year.

### **Veto Session Update**

The fate of the fall veto session, which is scheduled to get underway on November 17 with lawmakers scheduled to return for the second and final week on December 1, is still uncertain. The fall veto session is traditionally designed to address any gubernatorial vetoes, but there are no vetoes this year. Furthermore, members of the legislative Black Caucus had previously demanded lawmakers take up their policy agenda items during veto session, but those policy initiatives have yet to materialize into any legislative language.

COVID cases are also spiking all across Illinois with all 11 regions now under mandatory mitigations that do not impact the General Assembly, but have created concern for lawmakers who were already nervous about returning to Springfield during the brief special session in late May when cases were not nearly as high.

The House also does not have the statutory authority to conduct their business remotely after legislation allowing for virtual voting failed to pass during the special session. The Senate is only able to do so after they amended that chamber's procedural rules, which has allowed them to hold virtual committee hearings and accommodate Senators not able to travel to Springfield to record a floor vote remotely. House members, however, will need to physically be in Springfield to record a floor vote.

Other policy issues that could be on the agenda should lawmakers attempt a return this fall include ethics reform proposals and budget and revenue-related proposals. Telehealth reforms and any attempts to revisit codifying the Governor's [EO 2020-09](#) are not expected to surface if there is to be a fall veto session.

Lawmakers could hold off until January for an extended lame duck session before members are inaugurated into the new 102<sup>nd</sup> General Assembly. A January session also resets the vote threshold needed for passage for legislation with an immediate effective date from a 3/5<sup>th</sup> majority vote to a simple majority.

**UPCOMING MEETINGS/IMPORTANT DATES:**

November 17-19 – First Week of Fall Veto Session

December 1-3 – Second Week of Fall Veto Session