



2021 Lamé Duck Session - Action Summary

January 13, 2021

The House and Senate concluded the 101st General Assembly on Wednesday, January 13 after pulling an all-nighter on the final day of a 5 ½ day “lame duck” session and just shortly before the new 102nd General Assembly is inaugurated. All pending legislation (that has not gone to the Governor for action) has now expired and will have to be reintroduced in the 102nd General Assembly, which gets underway at noon today.

Legislators tackled a lot of major policy issues in a very short amount of time (most of which occurred during the wee hours of January 13th), including passing MOST of the Legislative Black Caucus’ legislative agenda items that were built on four pillars: 1) criminal justice reform; 2) economic equity; 3) health and human services reforms; and 4) education reform. Other major policy issues lawmakers took on included provisions that may allow for virtual legislative session, new ethics reforms, and a budgetary measure that would decouple the state from several COVID-related tax relief provisions (the measure failed to garner enough support).

Although many of the legislative items under consideration did not directly target life and health insurers, *with the exception of a late-breaking provision*, there were several key issues that passed both houses that do have some implications for ILHIC members that have been summarized below.

Health Insurance Coverage – Routine COVID Testing for Nursing Home Employees

Lawmakers took up a measure in the early morning hours of the final day of the lame duck session that address new private insurance coverage requirements for the routine COVID testing of nursing home employees. The provisions were included in a larger package addressing Medicaid funding for a new hospital transformation initiative to assist safety-net hospitals better address community health care needs.

[SB 1510, as amended](#), would prohibit health plans from imposing utilization management requirements for COVID diagnostic tests performed for routine purposes for nursing home employees and would further restrict a plan’s ability to delegate risk to the facility for the testing. The provisions also impose certain reimbursement requirements on insurers.

ILHIC was able to secure a commitment from the House sponsor to work on clean-up language in the 102nd that, at the very least will try to address some of the reimbursement requirements set forth in the bill, and apply a sunset date.

The requirements, however, are effective immediately upon signature of the Governor and the bill has passed both houses.

Economic Equity – Equal Pay and State Procurement Diversity Reforms

One of the four pillars of the Legislative Black Caucus’ legislative agenda, the economic equity package was ultimately split between four different bills. [SB 1480, as amended](#), contained employment law changes first set forth in [Senate Amendment #3 \(Belt\) to HB 2685](#) and [HB 5871 \(Harper\)](#). These provisions include a new requirement that any business with more than 100 employees obtain an equal pay registration certificate from the Department of Labor within 3 years after the effective date of the Act and to be renewed every 2 years thereafter.

The certification is subject to a \$150 filing fee and the compliance statement must be signed by a corporate officer, legal counsel, or authorized agent of the business for each county in which the business has a facility or employees asserting compliance with existing IL statutes governing equal pay, civil and human rights, as well as information regarding how compensation is set. The Department of Labor has the authority to audit for compliance and if the Department determines a company is not in compliance, the Act authorizes the Department to impose a penalty of up to 1% of “gross profits.”

SB 1480, as amended, also makes changes to the Illinois Human Rights Act as it relates to employer hiring practices and policies governing the hiring of individuals with criminal convictions. The provisions, however, appear to acknowledge federal laws, such as the federal Omnibus Crime Control Act, that prohibits insurance companies from hiring individuals with certain felony convictions.

[SB 1608, as amended](#), contains state procurement reforms targeting enhanced diversity in contracting goals that will have an impact on those companies seeking to do business with the state. The proposal increases existing state diversity contracting goals to ensure at least 30% (instead of 20%) of all state contracts are awarded to minority-owned, women-owned, or business owned by persons with disabilities. The provisions also include: 1) changes to contract evaluation requirements to specifically include a commitment to diversity; 2) creation of a new Commission on Equity and Inclusion to provide additional procurement oversight and contract compliance along with the existing Procurement Policy Board; and 3) possible non-renewal of a state contract due to unmet diversity goals set forth in the contract.

Both bills passed the General Assembly on party lines and now go to the Governor.

Pre-Judgment Interest

The General Assembly quickly ushered through legislation, long-supported by the IL Trial Lawyers Association to lengthen the pre-judgment interest accrual period to notice of injury rather than when a plaintiff first files a suit, thereby increasing the amount of interest personal injury plaintiffs could collect if successful in court at 9% interest per year.

[HB 3360, as amended](#), was opposed by a long list of business groups, insurers, and providers, but the bill quickly passed both chambers along party lines. The legislation now goes to the Governor for action.

Health and Human Services Reforms

Another pillar of the Legislative Black Caucus’ legislative agenda, the health and human services omnibus proposals largely focused on Medicaid and provider-related reforms, including the potential elimination of the current Medicaid managed care program. The omnibus proposal – originally set forth in [Senate Amendment #1 \(Hunter\) to HB 3840](#) and [House Amendment #1 \(Lilly\) to HB 5548](#) – saw a

number of amendments proposed over the course of the session, including [House Amendment #2 \(Lilly\)](#) containing a sweeping new “Health Care for All” universal health care proposal originally contained in [HB 8 \(Flowers\)](#) that was introduced early in the General Assembly (and has been introduced a number of times previously).

The House and Senate eventually introduced separate amendments to [SB 558](#) and [HB 3840](#) containing a number of provisions that did not include more sweeping changes such as the elimination of the Medicaid managed care program and a moratorium on hospital reductions in services and closures until 2023.

The provisions ultimately advanced included new implicit bias training for IL licensed health care professionals beginning January 1, 2022; the creation of a number of new task forces, working groups, and commissions focused on a range of issues, including elimination of systemic racism, improvements to the health and human services system to increase access and improve health outcomes; a new community health worker certification eligible for Medicaid reimbursement; new behavioral health care workforce training program; Medicaid coverage for doula and home health maternity visits; a new commission providing oversight of Medicaid managed care companies, and reforms to the health facilities planning board to place limitations on hospital closures and reductions during the public health emergency.

[HB 3840, as amended](#), contained provisions that captured more of an agreement between the Medicaid health plans, the hospitals, and the Administration; however, the clock ran out on the 101st General Assembly and the Legislative Black Caucus’ health and human services legislative package failed to advance.

Other Items of Note. . .

Lawmakers also took up the final pillar of the Legislative Black Caucus’ agenda – criminal justice reform- at the 11th hour under [HB 3653, as amended](#), that provides a number of policing reforms, but of note is the removal of previously included provisions eliminating qualified immunity for individual police officers. The bill instead establishes a task force to explore future reforms related to qualified immunity.

HB 3653 passed both houses, largely along party lines, and now goes to the Governor.

The Senate also took up a bill - [HB 3469, as amended](#) - that includes the establishment of a new Illinois Future of Work Task Force to study ways in which technology and the workforce are evolving and recommend policies and practices that will “help businesses, workers, and communities thrive economically.” There are some suggestions that this task force could look at the relationship between a gig worker and their employer, in the same way California has addresses this via legislation.

The provisions also includes an [amendment](#) authorizing limited remote participation in legislative proceedings during public health emergencies. The provisions expire on January 1, 2023.

The House, however, was unable to concur on the amendments before the clock ran out on the 101st General Assembly so the bill failed to advance.