



Technology & Manufacturing Association

Legislative Update

June 4, 2021

Illinois General Assembly Semi-Adjourns...

Lawmakers have gone home with the likelihood of returning in the next few weeks to consider an omnibus energy bill that includes over \$600 million in subsidies to Exelon Corp needed to keep several Exelon nuclear plants from shutting down.

State Budget Update

An additional reason that the General Assembly did not meet its scheduled adjournment date was that the operating budget, capital budget and budget implementation bills were kept under wraps until less than 24 hours before the scheduled adjournment. The final budget bill ([SB 2800](#)), which included the capital expenditures, was nearly 3100 pages.

There were several tax issues that were in the Budget Implementation bill (BIMP- [SB 2017](#)) of interest to TMA members:

- Restricts the use of corporate net operating losses to \$100,000 per year for any taxable year ending on or after December 31, 2021 and prior to December 31, 2024. The bill does this by reinstating the \$100,000 limitation on the use of net operating losses that previously was imposed for taxable years ending on or after December 31, 2012 and prior to December 31, 2014.
- Decouples from federal bonus depreciation (100 percent expensing - Illinois previously coupled from bonus depreciation of less than 100 percent expensing) by requiring an addback based an amendment to the convoluted bonus decoupling language currently in the law.
- Eliminates the phase-out of the Franchise Tax. It retains the exemption of the first \$1,000 of liability that became effective on or after January 1, 2021 but deletes the subsequent annual increases in the phase out that were designed to completely eliminate the tax.
- Requires an addback for taxable years ending on or after June 30, 2021 of GILTI (the deduction allowed under [IRC Section 250\(a\)\(1\)\(B\)\(i\)](#)) and an amount equal to the deduction allowed under [IRC Section 243\(e\)](#) (certain dividends received from foreign corporations) and [IRC Section 245A](#) (deduction for foreign source-portion of dividends received by domestic corporations from specified 10 percent owned foreign corporations). It also modifies the foreign dividends subtraction to provide that for taxable years ending on or after June 30, 2021, for

purposes of the subtraction, "the term 'dividend' does not include any amount treated as a dividend under Section [1248](#) of the Internal Revenue Code" (gain from certain sales or exchanges of stock in certain foreign corporations).

Proposed Constitutional Amendment Will Eliminate Freedom to Choose Whether to be a Union Member or Not

A major issue that was approved with bipartisan support was [SJRCa 11](#) sponsored by Sen. Ram Villivalam (D-Chicago) and Rep. Marcus Evans (D-Chicago). SJRCa 11 would add to the Bill of Rights Article of the Illinois Constitution that employees shall have the fundamental right to organize and to bargain collectively through representatives of their own choosing for the purpose of negotiating wages, hours, and working conditions, and to protect their economic welfare and safety at work. It prohibits any law state or local that interferes with, negates, or diminishes the right of employees to organize and bargain collectively over their wages, hours, and other terms and conditions of employment and workplace safety, including any law or ordinance that prohibits the execution or application of agreements between employers and labor organizations that represent employees requiring membership in an organization as a condition of employment. It now will be placed on the November 2022 ballot. It would be effective upon approval by 60% of those voting on the amendment or a majority of those voting in the election.

Key Employment Issues

Non-Compete/Non-Solicit Covenants to Go to Governor: During the closing days of the legislative session, [House amendment 1 to SB 672](#) was approved by the Illinois General Assembly. The measure now goes to Gov. Pritzker where he is likely sign into law later this summer. It has a January 1, 2022 effective date. Non-compete and non-solicit agreements are prohibited for construction employees unless the employee is primarily performing management, engineering or architectural, design, or sales functions for the employer or who are shareholders, partners, or owners in any capacity of the employer.

Cleanup of Equal Pay Certificate Registration Requirements Also on its Way to the Governor: During the Lame Duck Session of the 101st General Assembly, SB 1480 was approved by the General Assembly and signed into law by Gov. Pritzker as PA 101-656. It was effective March 23, 2021. House [amendment 1](#), [amendment 2](#) and [amendment 4](#) to SB 1847 addresses in a compromise fashion our major concerns with the Equal Pay Act provisions of PA 101-656. Attached is a summary of amendments 1, 2 and 4 to SB 1847. The Governor is expected to sign the legislation fairly quickly as IDOL needs the changes to begin implementing the law. This requirement applies to employers of 100 or more Illinois employees.

Secure Choice Program Expanded

A proposal to expand coverage of the Illinois Secure Choice Retirement Savings Program (Secure Choice) to businesses with at least five employees goes to the Governor for his consideration (HB 117-see below). The program will require participation by employers of 5 or more employees who do not provide a qualified retirement plan for its employees. For more information on Secure Choice: [Michael W. Frerichs - Illinois State Treasurer: Secure Choice \(illinoistreasurer.gov\)](#)

Redistricting Update

Legislative Democrats approved a new legislative district map and a supreme court map. A supreme court map has not been approved for decades and Democrats are worried about maintaining its slim 5-4 court majority. Legislative Republicans are putting media heat on the Governor to veto the legislative maps. During his election campaign, Gov. Pritzker had been very public about his support of a “Fair Maps” constitutional amendment and promised to veto any partisan approved maps.

Because congressional maps were not dealt with due to the lack of census data, the legal challenges to the maps that are coming and the likelihood of further tweaks to the legislative maps when census data is available, the General Assembly will need a special session later this year. They also approved election changes that will move the 2022 primary from its traditional March date to June 28, 2022.

Governor Signs Pre-judgement Interest into Law

Governor Pritzker signed into law [SB 72/PA 102-6](#), a revised version of an earlier bill vetoed by Gov. Pritzker. The issue was jammed through the legislature by the Illinois Trial Lawyers. The new law requires:

- Prejudgment interest will accrue at the rate of 6% from the date the action is filed in personal injury or wrongful death cases, capped at 5 years. It does not apply to workers’ compensation claims;
- If Claimant’s counsel takes a voluntary dismissal to refile the action within a year, interest is tolled for that time; and
- Punitive damages, sanctions, statutory attorney’s fees, and statutory costs are exempt.

Unemployment Insurance

With the House Adjournment, [HB 2643](#) was not voted upon in the closing hours of the regular session. The House is planning to return in the next couple of weeks to address unfinished business such as HB 2643. The House will need to concur on the Senate amendment. As amended, the legislation provides:

1. Amends the Identity Protection Act allowing social security numbers to be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Unemployment Insurance Act pursuant to the limitations and requirements of that Act. Amends the Department of Employment Security Law prohibiting the Illinois Department of Employment Security (IDES) from disclosing an individual's entire social security number in any correspondence physically mailed to an individual or entity. Requires IDES to develop a system of identifying information to be used instead of social security numbers. This change does not apply to electronic data sharing (i.e., SIDES) pursuant to a written agreement containing appropriate security and confidentiality provisions or to an individual's or entity's access to information in the individual's or entity's secure account in the Department's databases.
2. Extends benefits for noninstructional academic personnel until September 4, 2021. The federal government has increased from 50% to 75% the amount it will reimburse the UI Trust Fund. The remaining 25% will be funded from the recent \$8.1 billion which is estimated at \$65-70 million.
3. Waives collection of benefits overpaid by IDES due to no fault of the claimant. When an individual has received benefits and been found to be ineligible for those benefits, the individual must be provided notice of his or her appeal rights. A claimant will have 45 days from mailing date of the notice to contact IDES to be eligible for the waiver. The estimated net cost to the UI Trust Fund is approximately \$25 million. These costs also will be reimbursed to the UI Trust Fund from ARPA funds.
4. For each benefit claim that appears to have been filed other than by the individual in whose name the claim was filed or by the individual's authorized agent (i.e, fraudulent claim) and with respect to which benefits were paid during the prior calendar year, IDES shall annually report to the Department of Revenue information that is in IDES' possession and may assist in avoiding negative income tax consequences for the individual in whose name the claim was filed.
5. With the written consent of a claimant or employing unit and an agreement not to publicly disclose, the Director shall provide requested information related to a claim to a public officer or his or her agent.

For business' agreement to the above changes, Labor agreed to do a joint request with business to the Governor to use a "substantial portion" of ARPA funds to reduce the Trust Fund deficit next year.

Manufacturing and General Business Issues:

HB0117 h Will Guzzardi (Robert F. Martwick)	REQUIRES EMPLOYERS OF 5 OR MORE EMPLOYEES WITHOUT AN EMPLOYEE RETIREMENT PLAN TO PARTICIPATE IN THE SECURE CHOICE SAVINGS PROGRAM	05/27/2021 House	Passed Both Houses
HB0118 Will Guzzardi (Karina Villa)	INCREASES UNDERPAYMENT OF WAGES PENALTY TO 60% PER ANNUM	05/25/2021 House	Passed Both Houses
HB3699 b Jay Hoffman (Rachelle Crowe)	PROCURE DOMESTIC PRODUCTS	05/27/2021 Senate	Placed on Calendar Order of 3rd Reading May 28, 2021
SB0072 h Don Harmon (Jay Hoffman)	CIV PRO-PREJUDGMENT INTEREST	05/28/2021 Senate	Public Act 102-0006
SB0208 b Robert F. Martwick (Jehan Gordon-Booth)	PAID LEAVE	05/26/2021 House	Held on Calendar Order of Second Reading - Short Debate

Energy & Environment Issues:

SB0695 s Melinda Bush (Ann M. Williams)	EPA-CLEAN AIR	05/26/2021	Senate	Passed Both Houses
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Tax Issues:

SB2531 b Win Stoller (Anthony DeLuca)	INC TX-SALT \$10k CAP WORK AROUND	05/30/2021	Senate	Passed Both Houses
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