

Capitol Update May 9, 2020

This week, Governor JB Pritzker released his plan to re-open the Illinois economy – [Restore Illinois](#). The plan gradually opens Illinois across five phases through four regions of the state. The entire state is currently in Phase 2 Flattening. Essential workers can go to work, everyone else works from home, only essential gatherings with 10 or fewer people are permitted, and face coverings must be worn in public. A region will not proceed into Phase 3 Recovery until the number of new cases are under 20% positivity rate and are increasing less than 10 percentage points over 14 days, there are no increases in hospital admissions for 28 days, and contact tracing is available within 24 hours of diagnosis. If the numbers begin to increase again, the region or state will revert to an earlier phase. Phase 3 Recovery allows gatherings of 10 people or fewer, offices and barbershops/salons can reopen to the public with capacity limits and other safety precautions, but schools and restaurants are still closed.

Analysis of the plan has revealed Illinois' plan to reopen the economy is much slower than surrounding states, with gatherings of more than 50 people for any reason (church, school cafeterias, sports) not allowed until after a vaccine is distributed, which could still be over a year away. Protests against the stay-at-home order occurred in Chicago and Springfield this week. Some downstate local law enforcement entities publicly said they would not enforce the stay-at-home orders.

House Republican Leader Jim Durkin said the plan “doesn’t work,” presuming the governor will continue to rule the state by executive order for months ahead until a COVID-19 vaccine is available. Republicans are calling for the General Assembly to convene and act on legislation. House Speaker Michael Madigan addressed talk of lawmakers returning to Springfield in a statement on Wednesday, saying “...it’s clear that Illinois is not out of the woods” while “any plan for a return to Springfield must have the health and safety of all those involved as a top priority.” The House officially cancelled session for next week and again moved back the committee deadline to May 22.

General Assembly – Rumors were abound this week as to whether the General Assembly will convene prior to the end of May, if they will meet in a larger facility such as the convention center in Springfield to accommodate social distancing, who will be allowed to be physically present for session, and what work the legislators will be doing if they convene. [IDPH released recommendations](#) for the General Assembly if they do return.

Speaker Madigan quashed the rumors about a quick return with his statement ensuring safety was more important. It has been reported the Speaker favors allowing the Governor to operate the state, even without a state budget, and without the legislature meeting. However, Governor Pritzker has said he does not want the state to operate without an approved budget, as we did under Governor Rauner for more than two years.

Legislative working groups are meeting via video conference calls to discuss legislation that needs to be acted upon when the General assembly meets again. Generally, lobbyists and stakeholders are not included in discussions. There are still rumors the legislature could meet as early as May 18 or wait until June to approve a budget, possibly with lump sum appropriations, prior to the new fiscal year beginning July 1.

The General Assembly always passes a budget implementation (BIMP) bill along with the budget to enact substantive provisions needed to implement specific budget lines. However, a large bill like a BIMP can also include random legislation that is difficult to pass in a stand-alone bill. While it is always tricky to track the BIMP and the initiatives that might be included, it is more critical than ever to monitor.

A memo sent by the House Democrat Chief of Staff, Jessica Basham, indicated some staff will be returning to the Capitol for a few days each week. Republicans argue the legislature should return, as have Congress and other state legislatures, to deal with COVID-19 issues and other initiatives for continuity of government, rather than having all actions singularly made from the Governor's office.

COVID-19 Update

- ***Pritzker announced new cases of coronavirus disease (COVID-19) in Illinois and deaths –***
On May 8, the Illinois Department of Public Health (IDPH) announced 2,887 new cases of coronavirus disease (COVID-19) in Illinois, including 130 additional deaths. Currently, IDPH is reporting a total of 73,760 cases, including 3,241 deaths, in 98 counties in Illinois. To date, almost 400,000 tests have been performed and of those 20,671 were reported in the last 24 hours, for a positivity rate of about 14%. As of Thursday, 4,750 people were in the hospital with COVID-19. And of those, 25%, or 1,222 patients, are in the ICU and 727 patients are on ventilators.
- ***Illinois Unemployment Numbers –*** On Thursday, the Illinois Department of Employment Security (IDES) released new statewide data showing the department processed 74,476 new initial unemployment claims for the week ending May 2, and with upward revisions from weeks past, has now processed 1,006,925 initial unemployment claims from March 1 through May 2. This is nearly 12 times the number of claims the department processed over the same period last year, when IDES processed just 78,100 initial unemployment claims.
- ***Unemployment Assistance for 1099 Workers –*** The Illinois Department of Employment Security (IDES) released new instructions for 1099 workers who have lost work due to COVID-19. Workers who believe they may be eligible for new federal benefits under the Pandemic Unemployment Assistance (PUA) program, must first apply for regular unemployment insurance before applying for benefits under PUA when a new application portal opens on May 11, 2020 via the IDES website.
- ***State School Superintendent Exploring Many Options for Reopening Schools –*** Illinois State Board of Education Superintendent Carmen Ayala said this week the 2020-2021 academic year could begin with remote learning, could feature students from different grades attending different days of the week, or could involve more intermittent closings

if the COVID-19 infections increase again.

- **Illinois State Fair in Doubt** – This week, Governor Pritzker announced holding the Illinois State Fair in August is “highly unlikely.”
- **Nursing Home Strike Averted** – Almost half of all coronavirus deaths in Illinois have come from long-term care facilities. SEIU Healthcare reached a tentative agreement with nursing home owners for a two-year contract, ending the threat of a May 8 strike.
- **Chicago Mayor Announced Reopening Plan for Chicago** – Mayor Lori E. Lightfoot, alongside the Chicago Department of Public Health (CDPH), announced the “[Protecting Chicago](#)” framework the City will be using to guide Chicago’s reopening process amid COVID-19. The framework – organized into five phases in alignment with the State of Illinois’ “Restore Illinois” plan – will advise Chicagoans on how to safely exit from shelter-in-place while continuing to prioritize the health of our most vulnerable residents.
- [House Bill 5769](#), filed by Representative Andre Thapedi (D), **requires essential businesses to provide PPE** and other social distancing provisions to employees while including a three-year period for civil actions on behalf of employees against employers for actual damages, punitive damages, and other relief deemed proper by a court.
- [House Bill 5766](#), filed by Representative David McSweeney (R), **reduces the state sales tax** to 4.69 percent, from 6.25 percent, for most items and from 1 percent to .75 percent for food, medicines, and medical appliances.
- [House Joint Resolution Constitutional Amendment 47](#) by Representative Marcus Evans (D) calls for a constitutional amendment **denying any right-to-work law**.
- **MCO Contracts** – Safety-net hospitals are calling on the state to renegotiate Medicaid managed care contracts, saying they cannot absorb losses from the mandated halt on elective procedures as much as general hospitals can due to their dependence on Medicaid funds. The hospitals argue the managed care organizations continue to be paid capitated rates reflective of pre-COVID 19 volume trends that are not being realized now. The Illinois Association of Medicaid Health plans notes that any overpayment to plans would be returned to the state, but the reality is that healthcare costs are not at all decreasing during the COVID crisis.
- **CMS Benefit and Payment Parameters** – Federal CMS issued the 2021 Notice of Benefit and Payment Parameters for qualified health plan issuers. Provisions include finalizing a proposed change to copay coupon accumulators that remove cost-sharing limit requirements to drugs with a generic equivalent. The parameters also finalizes provisions with specificity on how issuers could voluntarily incorporate value-based insurance design principals into QHPs. CMS also finalized medical loss ratio reporting on prescription drug coverage for drug rebates and price concessions beginning with the 2022 plan year.
- The Workers’ Compensation Commission **repealed an emergency amendment** to the Part titled Arbitration (50 IAC 9030; 44 Ill Reg 7809) effective 4/27/20. The original emergency amendment, effective 4/16/20, established that if a COVID-19 first responder or front-line worker (e.g., police or fire personnel, health care provider, other essential workers) was exposed to the COVID-19 virus during the state of disaster proclaimed by the Governor and filed a worker’s compensation claim, the Commission would presume that the exposure occurred in the course of the worker’s employment unless the employer could rebut that presumption by a preponderance of evidence. However,

enforcement of this rule was halted by a temporary restraining order issued 4/24/20.

- The Department of Revenue proposed an amendment to Use Tax (86 IAC 150; 44 Ill Reg 7855) implementing provisions of Public Acts 101-9 and 101-604 concerning the collection of the 6.25% Illinois **use tax by marketplace facilitators**. A companion emergency rule was effective 12/23/19 for 150 days. Effective 1/1/20, marketplace facilitators must collect and remit use tax on their sales to Illinois customers if, within any 12-month period, they conduct at least 200 transactions with Illinois customers or collect at least \$100,000 in gross receipts from Illinois customers. Marketplace facilitators are defined as persons or entities that list or advertise tangible personal property items for sale, collect payment from the customer, and transmit payment to the seller (e.g., Amazon, eBay). Use tax does not apply to entities that provide only advertising and leave financial arrangements to the buyer and seller (e.g., Craigslist); those that merely handle financial transactions (e.g., PayPal); or offer only non-tangible items such as discount coupons (e.g., Groupon). It also does not apply to transactions that are subject to State or local sales taxes (e.g., online food-ordering and delivery services) or to certain specialized online marketplaces. Marketplace facilitators that are or may be subject to use tax must determine on a quarterly basis whether they have met either the gross sales or 200-transaction threshold in the preceding 12 months. Those that do meet this test must begin filing regular use tax returns; those that do not must continue to monitor their Illinois sales quarterly. Those affected by this rulemaking include small businesses and other customers of marketplace facilitators.

Useful Links

- [Pritzker's Executive Orders and Rules related to COVID -19](#)
- [Pritzker's Daily press conferences and press releases related to COVID-19](#)
- [Governor Press release on new website, resources for Il Residents, small businesses](#)
- [IDFPR Resources for Illinois Residents and Licensees Impacted by COVID-19](#)
- [US Chamber of Commerce Coronavirus Response](#)