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States of Futility: Two States, Endless Trouble

by Billy Hamilton

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In this article, Hamilton writes about Illinois and Pennsylvania and the partisan politics being played by their legislatures and governors that have prevented either state from passing a budget.

If a year of state budgeting unfolded like a season of *The Bachelor*, we would be at the point when only two candidates are still competing for the final rose. Only in this case, the "winner" is actually the biggest loser, which, come to think of it, is also a television game show. This year's lucky states are Illinois and Pennsylvania, the only two states without budgets well into the new fiscal year.

Generally, the one thing lawmakers must accomplish in any legislative session is to pass a budget. Going overtime — particularly way overtime — is an untidy and irresponsible way to run a government, regardless of the political principles causing the delay.

The lack of a budget causes numerous problems, particularly once the new fiscal year is underway. Partial government shutdowns may be necessary, and lawmakers have to worry about finding enough money to keep basic programs limping along. It's also enormously frustrating to all concerned, including voters. In 2010, California voters tried to link lawmakers' pay to their ability to pass a budget on time after years of frustration over blown deadlines and deficits. Their efforts were initially successful, but lawmakers, far more resourceful when it came to their pay than balancing the budget, found ways to outmaneuver efforts to dock their pay, not once but twice.

Despite the possible voter reaction, tardiness isn't exactly unknown among the states, particularly during recessions. In 2004, for example, eight states passed their budgets late, and nine states began fiscal 2010 without final budgets. Some states historically have been very good at being bad. Beginning in 1985, New York went 20 years without passing its budget on time, and California has failed to pass a budget on time several times in recent years.[1]

This year's count didn't approach recession levels of futility, but several states had trouble reaching budget deals. A recent article in *Stateline* reported that in addition to Illinois and Pennsylvania, four other states failed to pass budgets by the deadlines in state law — June 30 in all but four states.[2] The tardy list included Massachusetts, New Hampshire, North Carolina, and Wisconsin, in addition to Illinois and Pennsylvania. The other four states eventually got their acts together. Now only those last two remain.

Both states went into overtime on July 1 and are scrambling to keep some semblance of services going. The deadlock experienced in both states also has a common cause: A fundamental disagreement between legislatures dominated by one political party and governors who belong to another. Who occupies which office doesn't seem to matter. The deadlock in Illinois pits a Republican governor against a solidly Democratic legislature. In Pennsylvania, it's the reverse. In both cases, taxes are at the heart of the problem.

Illinois has traditionally been dominated by Democrats, but last fall, voters elected Republican Bruce Rauner as their governor over Democratic incumbent Pat Quinn. Rauner portrayed himself as a no-nonsense businessman who would stand up to labor unions, restore fiscal health to Illinois, and lure new companies to the state. It sounded good in sound bites, but 10 months into his first term, Rauner is mired in a seemingly intractable budget standoff with the Democrats, who control the General Assembly. In September, when lawmakers returned to Springfield after a three-week break, the state comptroller, Republican Leslie Munger, called the budget standoff "a recipe for disaster" and said that Illinois could have $8.5 billion in unpaid bills by the end of the year.

Although Illinois has had budget issues for years, the current dilemma has a specific starting point. In 2011, lawmakers passed a temporary income tax increase designed

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[1]National Conference of State Legislatures, "Late State Budgets" (Aug. 27, 2010).

[2]Elaine Povich, "States Go Overtime on Budgets, Hurting Programs," *Stateline*, Sept. 24, 2015.

to pay down Illinois's backlog of bills, stabilize the state's pension crisis, and strengthen its economy. The tax rate on individuals increased from 3 percent to 5 percent and on corporations from 4.8 percent to 7 percent. The increases were set to expire last January 1. Rauner urged Democrats not to extend the tax increases, and despite having a supermajority in both houses, they let them expire. On New Year's Day, income tax rates dropped to 3.75 percent for individuals and 5.25 percent for corporations, and the state's problems began in earnest.

The expiration of the rate increase created a massive budget hole. Revenue from the tax, which accounts for more than half of general fund revenue, fell by 25 percent even though the state's spending plan through June of this year was based on continuing the higher rates. Lawmakers and Rauner were mostly able to patch the estimated $1.6 billion hole in the 2015 budget with one-time fixes and other budget sleight of hand, but the budget gap created for 2016 was soon estimated to be $5 billion or higher and few tricks remained.

"Crisis creates opportunity," Rauner told the *Chicago Tribune* in April. "Crisis creates leverage to change . . . and we've got to use that leverage of the crisis to force structural change." That may have been an excellent theory, but it isn't how things worked out. Both sides proved too stubborn to budge on key issues. It was the unstoppable force meeting the immovable object, only with nothing giving.

The governor refused to negotiate on a budget fix until the Democrats agreed to some of his reforms, which he calls his "turnaround agenda." Rauner's original plan had 44 points, although late in the spring session, he narrowed his list of demands to a handful of ideas, like changing the workers' compensation system, restricting lawsuits, weakening the bargaining rights of public employees, and freezing property taxes. Democrats rejected the agenda, saying much of it went against their core party principles. "They're pressuring us to raise taxes," Rauner said in a speech. He said he wouldn't discuss new sources of revenue "unless we get reform first."

Rauner vetoed a budget sent to him by Democrats last spring, saying it spent an estimated $4 billion more than the state had. Although House Speaker Michael Madigan (D) has said he supports a balance of cuts and new revenue, the governor remains steadfast against agreeing to new taxes unless he gets items on his agenda passed first, and there the matter sits as the stalemate moves into its fourth month. No one seems to have a clear idea of when it might get untangled.

To find out more about the mess in the Midwest, I contacted Richard Dye of the Institute of Government and Public Affairs (IGPA) at the University of Illinois. Dye is a keen observer of the Illinois fiscal situation and has been predicting the state's current problems for some time. Last year, he and Rick Winkel, also of the IGPA, published an op-ed on the state's finances that laid out the facts in stark terms:

> Illinois' fiscal situation is brutal. A large and growing gap between spending and sustainable revenue is made worse by huge claims on future revenues from past IOUs. Eventually, the General Assembly and governor will be forced to pick losers by deciding which combination of painfully large spending cuts and tax increases to enact.[3]

Dye still feels that way. "The story is this," he told me. "There's no budget today; the state has gone on autopilot. Most agencies are going ahead through various devices. State workers are under contract, and the courts have said they can't be laid off. Since that was true for contract workers, the comptroller extended it to all workers. The same is true of other big budget items, like pension payments and debt service. They're going forward. There's also a contingency resolution extending school funding."

Even when the state has found ways to trim its workforce, however modestly, it's been prevented from doing so. In late September, more than 100 state workers, including almost everyone at the Illinois State Museum, were supposed to be let go at the end of the month. However, the governor's office announced it would delay pink slips pending a court case filed in St. Clair County.

> **'This is a worst-case continuation for what's been horrible practice for a number of years,' Dye said of Illinois's budget trouble.**

"So that's the problem," Dye said. "The temporary income tax increase expired, and revenues dropped. Revenues are coming in close to the fiscal year 2015 levels, but spending is going forward at the 2015 level. The governor has done some specific things to cut eligibility for some programs, but business has mostly gone on as usual."

The *Tribune* also noticed the lassitude that seems to have settled over the supposed budget crisis. "What budget crisis?" reporter Eric Zorn asked in a September column. "All summer we've been hearing about the stalemate in Springfield and the threat of a government shutdown as the legislature and the governor continue to fail to appropriate spending on vital programs for the fiscal year that began July 1. And all summer we've seen life go on pretty much as normal."[4] Zorn wasn't suggesting the problem wasn't real. On the contrary, he said, although no one seemed to be paying attention, the situation was worsening by the day. "So every day that goes by, the budget cuts and tax increases

[3]Dye and Winkel, "Illinois' Fiscal Situation Is Worse Than You Know," University of Chicago, Institute of Government and Public Affairs (2014).

[4]Eric Zorn, "Why the State's Stealth Budget Crisis Is Real," *Chicago Tribune*, Sept. 1, 2015.

that will ultimately be required to bring the books into balance, as the state constitution requires, are becoming more severe," he wrote.

A large part of the futility of Illinois's situation is that no matter what anyone tries to do, it is checkmated by someone else, often in the courts. Recent news articles have reported on police training that's been canceled, but there are far more articles about the state continuing to pay for programs that are protected by court order. For example, a district court recently ordered that payments for community care programs for senior citizens be continued, and it also said the state must find a way to make court-ordered Medicaid payments to hospitals serving low-income patients.

"There's no question that this is a worst-case continuation for what's been horrible practice for a number of years," Dye said. He said that the governor's turnaround agenda, which mostly isn't related to the budget, is a major stumbling block because some of its items, like its anti-union provisions, are poison pills for legislative Democrats, striking directly at their base of support and therefore impossible for them to get behind.

"This impasse didn't happen immediately," Dye said. "Three months ago, the question was who would bear the blame for big cuts or higher taxes. But the state just kept limping along. A few areas have suffered from reductions — higher education and many human services — but the impact on most people is so minor that so far no one has paid much attention and the state has coasted without serious pressure to find a solution. The voices of warning are getting louder, but still there's no action."

Dye said that his general view, based on some recent research, is that the state has a $6 billion underlying structural deficit. "We have the worst pension situation in the 50 states," he said. The state has a history of underfunding its pensions in order to use the money elsewhere, and that habit has continued. "We're talking about a fiscal situation of a magnitude that's far larger than you can fix by looking for 'waste, fraud and abuse.' This is more a culture of 'where's mine,' and they've been able to go so long by borrowing from pension funds and time-shifting obligations that we really have a very poor idea of what the real problem is."

I asked Dye how to fix the situation. He demurred. "I have long avoided making recommendations on how to fix Illinois state government," he said. "I have focused on exposing the magnitude of the structural problem, which is enormous. Every time you lay out a proposed solution, people attack the plan rather than talk about the problem. Someone else is going to have to come up with solutions."[5]

No one seems to be working in that direction. On October 8, legislative Democrats raised the threat that the state will run out of money "in a matter of months" if state officials can't agree on a budget — and oh, by the way, they weren't planning to compromise on any of the governor's demands. House Majority Leader Barbara Flynn Currie (D) said the governor should instead be worrying about the state's cash "going out the door at a very fast clip." Both parties estimate Illinois is on track to spend about $5 billion more than it's taking in because of court orders and state law requiring some payments.

For his part, Rauner stepped up his anti-union push in early October, arguing that Democrats have "repeatedly" voted against collective bargaining in the past and called their firm stance against doing so now "political manipulation" because they don't want to anger labor unions heading into the 2016 elections.[6] The governor also argued that giving governments a choice of whether to bargain over wages, benefits, and other issues will ultimately help middle-income earners by lowering taxes and bolstering the economy. "The status quo in Illinois . . . is not helping our middle class," he said.

Meanwhile, in Pennsylvania, the state budget stalemate reached its 100th day on October 8, and the state's situation doesn't appear any more promising than Illinois's. Though they have met regularly, negotiators on both sides remain divided over how much money to spend and whether to raise taxes. As in Illinois, it's a matter of two sides, two points of view, and no compromise.

In Pennsylvania and Illinois, it's a matter of two sides, two points of view, and no compromise.

On September 29 Gov. Tom Wolf (D) vetoed an interim spending plan sent to him by the Republicans who control the legislature. The veto was expected, but it meant, according to those who watch the state budget, that the two sides have no backup plan during the impasse to fund schools, counties, and social-services providers that rely on state aid.

In his veto message, Wolf called on GOP leaders to "get serious" about negotiating a deal. "Instead of seriously negotiating a final budget that funds education with a commonsense severance tax, fixes our deficit without gimmicks, and provides property-tax relief for middle-class families and seniors, Republican leaders passed a stopgap budget that once again sells out the people of Pennsylvania to oil and gas companies and Harrisburg special interests," he said in a statement.[7]

The House and Senate Republican leaders in turn accused Wolf of refusing to negotiate and weren't happy that

[5]While steering clear of specific recommendations, Dye and his colleagues have analyzed a number of policy options. *See* Dye, J. Fred Giertz, Therese McGuire, and David F. Merriman, "Illinois's Economic and Fiscal Situation," *State Tax Notes*, Apr. 21, 2014, p. 165.

[6]Associated Press, "Democrats Warn Illinois Could Go Broke Without State Budget," *Chicago Sun-Times*, Oct. 8, 2015.

[7]Angela Couloumbis, "As Promised, Wolf Vetoes Stopgap Budget," Philly.com, Oct. 1, 2015.

the stopgap measure, which would have provided about $11 billion in short-term funding, was vetoed. "The problem is with the governor," Sen. Scott Wagner (R) said. "I'll be honest with you, I'm tired of taking blame for the budget. It's Governor Wolf right now holding everyone hostage."

The Republicans returned the favor in early October when they challenged Wolf to prove he could win support for his tax increases. He submitted a new tax plan — his third since the beginning of the legislative session — on October 6. Wolf proposed raising the personal income tax from 3.07 percent to 3.57 percent and levying an extraction tax on natural gas drillers, a much scaled-down plan from the one the House voted on and defeated 193 to 0 in June. Wolf dropped a sales tax proposal from the earlier plan and scaled back the other proposed increases. The revised plan would have raised an estimated $1.4 billion for the current fiscal year and $2.4 billion next year. The bill fared better in the House than the June proposal did, but it wasn't good enough. The House rejected the plan on a 127-73 vote. No Republican voted for it, and nine Democrats voted against it.

Wolf and his Democratic allies have said that the income tax increase and the severance tax were necessary to close a structural deficit he put at more than $2 billion and to provide more state funding for education. He said his plan would give senior citizens property tax relief. "If we don't do this, we are facing a budget to oblivion as we move forward in the up-and-coming years," said Rep. Joseph Markosek (D), the ranking Democrat on the House Appropriations Committee.

House Republicans are hearing none of it. "If you are talking about a structural deficit, you have to address the pension [underfunding] problem going forward," House Speaker Mike Turzai (R) said.[8] As in Illinois, the state's $50 billion-plus pension liability is a major problem, and it hasn't been resolved despite months of periodic discussion.

Turzai offered a "solution" that isn't much of a solution at all. He argued that Pennsylvania should privatize its state-owned liquor system, a change he said could bring in $220 million to $400 million. It's another major area where Wolf strongly disagrees. "The one I vetoed?" he asked, regarding a liquor privatization plan the legislature sent to him this year. "No."

Rep. Rick Saccone (R), who represents portions of Allegheny and Westmoreland counties, said during debate over the liquor store proposal that "union thugs" were blocking privatization. "This [tax] proposal is nothing more than a cheap magician's trick," he said. "'Look over here, look over here, look over here, while I take money out of your other pocket.'"

To get some perspective on the Pennsylvania situation, I contacted Robert Strauss of Carnegie-Mellon University in Pittsburgh. I talked to Strauss in June about Pennsylvania's budget deadlock, and he correctly predicted the stalemate was going to last a long time. He said he'd heard from a Harrisburg insider who said that around Thanksgiving, "the school districts are going to force the governor's hand, and/or some more House [Democrats] will cross over and override the veto on a legislative spending bill." Another insider told Strauss that it's not inconceivable that the deadlock will last until January or February.

The most frightening part of modern politics is that the middle ground is the most uncommon ground of all.

Strauss is about as frustrated with the budget gridlock as it is possible to be when you live 200 miles from the state capital. "This is a melodrama in multiple acts, and the principal arguments on both sides mainly play to the cameras," he said. "Who knows if any of these proposals actually work, but one thing is certain: The problems are growing geometrically."

Strauss also said he doesn't know why the credit rating agencies haven't downgraded the state's debt, something else he predicted when we talked last summer.[9] He said there's no pension deal, and any discussion of finding one is "just off the table" as far as he could tell.

As in Illinois, Strauss sees Pennsylvania as coasting on autopilot. "As long as the legislature has a line of credit, it is business as usual," he said. "The question is: When do the banks get uneasy?"

Given that the banks apparently haven't grown uneasy, he said he wasn't surprised by the defeat of the governor's tax plan. "The governor's tax bill needs 18 Republicans in the House. That's just not going to happen. Even if it did and the bill got to the Senate, all bets would be off," he said.

I asked Strauss whether a compromise could be worked out. He suggested that I think through the political calculus of the situation. "The [Republicans] haven't even asked for a trade. They just don't want a tax bill, and that's it," he said. "The governor is widely viewed as owing a lot of IOUs to the teacher unions, so it looks like he doesn't have much to give up, either. Even if they pass a budget, they won't have addressed the big issues."

On the subject of the governor's various tax plans, Strauss said he believes there are better approaches. "I got by e-mail yesterday the details of the governor's tax proposal that's three pages long, single-spaced," he said. "I observed that

[8]Brad Bumstead, "State House Knocks Down Pennsylvania Gov. Wolf's Tax Plan," TribLive, Oct. 7, 2015.

[9]On October 16, Moody's Investors Service downgraded the outlook on Pennsylvania's credit rating to negative, citing a "contentious political environment" that will make closing the state's structural budget gap difficult.

there are other, more plausible ways to get to the same numbers." He said that the income tax increase is so high that it will hurt Pennsylvanians and that he strongly disagrees with the proposed property tax cuts for seniors. "The governor wants to take old people off the property tax rolls," he said. "All retirement income is already exempt. If we go any further, we could wind up attracting older people from all over the country to Pennsylvania. You can imagine what that will do to the budget."

Strauss said he had offered to negotiate between the two sides — "to put my experience and expertise out there," he said. But he doubts Wolf and the legislature will take him up on the offer — a Strauss-led discussion might get too tough for their taste and their politics. "The governor and the legislature see these problems. They're too difficult to fix without causing them political problems, so they turn and run the other way," he said. "No wonder business is leaving the state."

So I asked again if a compromise was possible. He said there are options, but nothing seems to come of them. A few years ago, he said, there was talk of a constitutional convention to fix some of the worst problems, but the fear was that hot-button issues like right-to-life would derail the entire effort before it got started. "So we're stuck. I'm assuming the situation in Illinois is the same. I used to think that good government at the state and local level would be rewarded at the polls. But that's not the case."

I understand Strauss's pessimism, but I'm more optimistic. In my experience, budget crises eventually end. Something happens, and they're over. Economic circumstances change. Someone blinks. Someone redefines victory, and a deal is done. For Illinois and Pennsylvania, the solution is painfully obvious from the outside, where the fog of political realities doesn't cloud the thinking. Both sides need to give up their big proposals — they need to "kill their darlings," as Strunk and White have advised generations of writers. Then they need to work on a middle group that includes both tax increases and spending cuts, probably not as much of either as either side wants but enough to balance the books. Once the budget cease-fire is signed, they should buckle down and find workable solutions to long-term issues like pension underfunding. There's really nothing to it, but it's still difficult to pull off with state politics so polarized. In fact, the most frightening part of modern politics is that the middle ground is the most uncommon ground of all. ✰