CHAPTER 8

CONTENTS **STATE BUDGET AND APPROPRIATION PROCESS**

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Even if the General Assembly passed no substantive bills, it would still need to meet each year and appropriate money to fund the state government. Until 1969 the General Assembly passed appropriations for 2 years at a time (biennial appropriations). A single-year annual budget and appropriations were enacted in 1969. The 1970 Constitution mandated annual budgets and appropriations.

Governor's Budget

The budget and appropriation season opens on the third Wednesday in February when the Governor presents his proposed budget to a joint session of the General Assembly.[1] The Governor outlines his fiscal program for the year and argues for its adoption. This message also alerts the many groups interested in state programs about how much support they can expect from the Governor. This budget message is the first round in the fight for state money.

The Governor's proposed budget for the current fiscal year (2009) was a volume about an inch thick. It showed estimated revenues available to the state for the next fiscal year and, as required by the Constitution, set forth "a plan for expenditures and obligations during the fiscal year of every department, authority, public corporation and quasi-public corporation of the State, every State college and university, and every other public agency created by the State . . . ."[2] It listed categories of programs such as education, transportation, and public safety, describing in detail how much money the Governor proposed to allocate for each purpose by department or agency, and what objectives would be met by those expenditures. A separate book outlined a plan of capital improvements for the year, and a program to fund them. Proposed expenditures were listed and compared to the same categories from recent years. The Governor's proposed budget also set forth exact amounts proposed to be enacted in appropriations, categorized by line items for each agency.

The State Finance Act says the Governor's proposed appropriations are to be prepared in the form of one or more bills, and within 2 session days after the budget message are to be either introduced in the General Assembly or sent to the legislative leaders.[3]

Restrictions on Spending Public Funds

The Constitution imposes several general restrictions on how public money can be spent:

(1) Public funds, other public property, and public credit may be used only for public purposes.[4] Illinois court decisions have held that the fact that some benefits will flow to a private organization does not make an expenditure unconstitutional, if it serves a public purpose.[5]

(2) Public funds can be spent only as authorized by law.[6] Records of those expenditures must be available for public inspection.[7]

(3) Appropriations may not exceed funds estimated by the General Assembly to be available for the fiscal year.[8] To meet this requirement, the Commission on Government Forecasting and Accountability issues an estimate of all anticipated income of the state for each upcoming fiscal year. A law requires the Commission to make such estimates to the General Assembly at the start of each regular session, and update it on the third Wednesday in March. The Commission is also required on that date to issue estimates of pension funding requirements and state employee group health insurance costs for the next fiscal year.[9]

Appropriations Bills

Every deposit of money into the state treasury goes into a particular fund. The main fund for running state government is the General Revenue Fund (GRF). Money in the GRF is not "earmarked"—it can be appropriated for any lawful state purpose. Other funds, such as the Road Fund or Common Schools Fund, are restricted to specific uses prescribed by law. (As stated below, in recent years money has been taken from some special-purpose funds to help balance the state budget.) An appropriations bill specifies the fund in the state treasury from which the money is to be drawn.

Under the Illinois Constitution, appropriations bills must be limited to appropriations; they cannot propose substantive changes in law.[10] Thus every bill is either an appropriations bill or (as is much more common) a substantive bill. The cover page of an appropriations bill has the same kind of information as the cover page of a substantive bill: its number, sponsor, and a synopsis of its contents as introduced. The synopsis of an appropriations bill states the general purpose of the appropriation(s); the name(s) of the agency(ies) to receive them; their total amount; and how much is to come from which funds in the state treasury.

The text of an appropriations bill, which starts on its second page, has one or more sections, each stating the general use of a particular appropriation (such as for ordinary and contingent expenses of a named agency); amounts categorized into specific classes of expenditures; and the name(s) of the fund(s) in the state treasury from which the money is to come. The State Finance Act classifies appropriations into 18 categories[11] and defines the purposes of most of them.[12] The categories that typically have the largest expenditures are personal services, contractual services, commodities, and equipment.

Each sum to be spent in any classification is called a line item. Any item or reduction vetoes by the Governor are made to specific line items.

After an appropriations law is enacted, a department or agency may use each line item for only the purposes stated, with a limited exception: As much as 2% of each agency's *total* appropriations can be transferred among purposes—but only within the same fund in the state treasury,[13] and not by transfer from a line item for personal services, for contributions to the State Employees' Retirement System, for employee retirement contributions paid by the employer, or for employee group insurance.[14] (A 2006 act made an exception, only for fiscal year 2007 and for only four agencies, to those last three exclusions.[15]) If a bigger transfer is needed, or a deficiency or supplemental appropriation is needed before the end of a fiscal year, the agency must ask the General Assembly to provide it.

Occasionally an appropriation is made for a specific project or event (such as for the New Members' Conference) rather than by spending categories. This is called a "lump-sum" appropriation. It is a separate appropriation for a single project, so no transfers can be made into or out of it.[16]

An appropriations bill covers no more than one fiscal year; it may further divide a line item into parts to be spent during only half of the fiscal year. For example, if a general election will occur during a fiscal year and there could be changes in the holders of some offices, the General Assembly typically allows no more than half of each appropriation for operating those offices to be spent in the first 6 months of that fiscal year (July through December).

Although appropriations bills must be limited to appropriations, there is no limit on how many appropriations can be in one bill. Most or even all of the state budget can be appropriated in one bill, as was done for fiscal years 2007[17] and 2008.[18]

Appropriations bills must meet the same procedural requirements for passage as other bills.

Fund Transfers

In fiscal year 2003 the state began transferring money not currently needed from some special-purpose funds to the General Revenue Fund to reduce budget deficits. This has been done in four ways: fund sweeps, chargebacks, increased-fee transfers, and Executive Order 03-10 transfers (the latter in fiscal year 2004 only). Fund sweeps are amounts directed by a Public Act to be transferred during the current or next fiscal year. Chargebacks occur when the Governor, under statutory authority, directs the transfer of a sum from a fund held by the State Treasurer to the General Revenue Fund to help defray the state's operating costs in a fiscal year. Such transfers (which were permitted only through June 30, 2007) are limited each fiscal year to the lesser of (a) 8% of revenues to be deposited into the fund in that fiscal year, or (b) an amount that will leave in the fund 25% of the amount at the beginning of that fiscal year; some funds are exempt from such transfers.[19] Transfers that were directed to be made by February 28, 2006 but were still pending on May 19 of that year were to be redirected as follows: of the first $250 million, one-third each to the Drug Rebate Fund, Hospital Provider Fund, and the Long-Term Care Provider Fund; all of the remainder to the General Revenue Fund.[20]

Increased-fee transfers are transfers from funds that are receiving higher revenues due to increased fees. The Governor allocates an amount to be received by the General Revenue Fund after calculating whether the resources in the fund are sufficient to satisfy appropriations from that fund in a given year. Some funds are exempt from this type of transfer also.[21] Transfers that were directed to be made by February 28, 2006 but were still pending on May 19, 2006 were to be redirected in the manner described above.[22] "Executive Order 03-10" transfers (used only in fiscal year 2004) were transfers of funds that went unused due to savings from consolidating several state operating functions under the Department of Central Management Services (CMS).

Total special transfers by fiscal year are shown below.

Fiscal year	*Amount (millions)*
2003	$165.0
2004	522.3
2005	505.8
2006	305.1
2007	314.5
2008	34.3
2009 (proj.)	221.3
Total	**$2,068.3**

Notes Required on Some Kinds of Bills

Several laws allow legislators to demand the filing of "notes" giving information on some kinds of bills—or even require notes on all bills in a category. These notes attempt to project possible effects (usually financial) if a bill becomes law. The kinds of such "impact notes" that can be demanded, or are automatically required by law for some types of bills, are: fiscal, pension, judicial, state debt, correctional budget and impact, home rule, balanced budget, housing affordability, and state mandates. The *Legislative Synopsis and Digest* entry for a bill may state that it is subject to one or more of these note requirements. They are described below.

Fiscal Notes

The sponsor must obtain a fiscal note before the Second Reading of any non-appropriations bill that would directly or indirectly increase spending of state funds; increase or reduce state revenues; increase spending by or change revenues to units of local government, school districts, or community college districts; revise the distribution of state aid among any such units; or amend the Mental Health and Developmental Disabilities Code or the Developmental Disability and Mental Disability Services Act. The sponsor is to send a copy of the bill to the agency whose costs or duties would be most affected, asking it to prepare a fiscal note. That agency is to furnish a note within 5 calendar days unless the sponsor authorizes an extension due to the bill's complexity. The note is to provide an estimate of the immediate and possible long-range fiscal effects of the bill. Another provision says that if a bill would authorize capital expenditures or appropriate funds for them, the Governor's Office of Management and Budget is to prepare a fiscal note projecting the principal and interest payments in each year that would be required to finance the spending. Similar projections are to be made for any bill to authorize bond issuance.[23] Legislators' opinions on the accuracy of estimates in a fiscal note sometimes depend on whether the legislators support or oppose the bill to which it relates.

Pension Impact Notes

If a bill would amend the Illinois Pension Code or the State Pension Funds Continuing Appropriation Act, the Clerk of the House or Secretary of the Senate is to send a copy to the Commission on Government Forecasting and Accountability, asking it to provide a pension impact note within 7 days.[24] Such a note describes the immediate and long-range financial effects of proposed changes to public pension systems. The Commission may also comment on the merits of the bill.[25] Copies of the note go to the Presiding Officer and Minority Leader of each house; the Clerk and Secretary; the chairman of the committee in each house that considers pension bills; the sponsor; and the legislator (if any) who asked for the note.[26]

Judicial Notes

If a bill would have the purpose and effect of increasing or reducing the number of any category of state judges, the sponsor must send a copy to the Illinois Supreme Court and ask it to provide a judicial note within 5 days, unless the bill's complexity requires more time. Such a note estimates the need for an increase or decrease in judges, based on population and caseload data for the area affected. If this need cannot be determined, the note will say so and give the reason.[27]

State Debt Impact Notes

If a bill would increase the state's authorized long-term debt, or appropriate money from bond financing, the chairman of the committee that assigns bills to committees in its house of origin (presumably meaning that house's Rules Committee) is to send a copy to the Commission on Government Forecasting and Accountability, asking it to provide a state debt impact note within 7 days. The sponsor may allow an additional 7 days due to bill complexity.

The fiscal note for a bill proposing to increase the amount of debt authorization is to describe the current outstanding debt authorizations and project the cost of retiring the proposed additional bonds. The fiscal note for a bill proposing to appropriate from bond proceeds is to give an estimate of the impact of the bill on the state's debt-service costs; the intended purpose and useful life of the proposed project; and its maintenance and operating costs.

Copies of the note are sent to the Presiding Officer and Minority Leader of each house, the Clerk and Secretary, the sponsor, the chairmen and minority spokespersons of the appropriations and revenue committees of each house, and the legislator (if any) who asked for the note.[28]

Correctional Budget and Impact Notes

If a bill would create a new crime; lengthen the possible prison term for an existing crime; or impose mandatory imprisonment, the sponsor must file a correctional budget and impact note in the house of origin. The Department of Corrections is to prepare the note within 10 calendar days after the request. The note must give factual information on the impact the bill would have on the size of the prison population, and the likely impact on the Department's annual budget.[29]

If a bill would create a new crime punishable by detention in a juvenile facility, probation, intermediate sanctions, or community service; or increase the punishment for an existing crime so as to require commitment to a probation and court services department, the sponsor must file a correctional budget and impact note in the house of origin. The Administrative Office of the Illinois Courts is to prepare the note within 10 calendar days after a request, unless the sponsor allows an extension of 5 days due to the bill's complexity. The note must give factual information on the likely effects the bill would have on probation caseloads and staffing needs statewide, and on the annual budgets of the Illinois Supreme Court and of counties.[30]

Home- Rule Notes

If a bill proposes to deny or limit any power or function of a home-rule unit, the sponsor must file a home-rule note in the house of origin. The Department of Commerce and Economic Opportunity is to prepare the note within 10 days after the request, unless the sponsor allows an extension of 5 days due to the complexity. The note is to include immediate effects of the bill, and long-term effects if foreseeable.[31]

Balanced Budget Notes

The sponsor of a bill or amendment proposing a supplemental appropriation to change the allocation of General Funds revenues must prepare a balanced-budget note and file it in the house where the bill or amendment is being considered. The note is to include a discussion of a proposed reduction in other spending, or increases in state revenues, that would allow the bill (if enacted) to avoid "adversely affecting" the state budget for that fiscal year. Each note must be submitted to the Clerk or Secretary (of the house that has the supplemental appropriation before it), who is to give copies to the Presiding Officer and Minority Leader of that house; the chairperson and minority spokesperson of the appropriations committee to which the bill is or was assigned; and the sponsor of the bill (and of the amendment if different).[32]

Housing Affordability Impact Notes

If a bill would directly increase or reduce the cost of building, buying, owning, or selling single-family residences, the sponsor must ask the Illinois Housing Development Authority (IHDA) to prepare a housing affordability impact note to be filed in the house of origin. IHDA is to prepare the note within 5 days unless the bill's complexity requires more time.[33] The note must project the bill's immediate financial effects and, if possible, long-range effects. A summary or worksheet of computations used to make the cost estimate must be attached to the note.[34]

State Mandate Notes

The State Mandates Act says that if a law puts added responsibilities on units of local government, school districts, or community college districts, causing their revenues or expenditures to change (or if it would change the distribution of state funds to them), the state must reimburse them—except that some categories of proposed changes do not require reimbursement.[35] Any bill proposing a kind of change for which the Act requires reimbursement must have a fiscal note stating the amounts of fiscal changes it would cause. For a bill that would affect units of local government, the state mandates note is prepared by the Department of Commerce and Economic Opportunity. If the bill would affect school districts, the note is prepared by the State Superintendent of Education. The note for a bill that would affect community college districts is prepared by the Illinois Community College Board.[36]

The most common way of dealing with the State Mandates Act has been to include, in a bill that proposes a new program, an exemption of that new program from the Act.[37] But even if a bill calls for such an exemption, a note must still be filed with it.[38]

General Points on Notes

The following provisions are found in several of the laws requiring notes:

- In most cases, if a bill needing a note is amended in a way that substantially alters the information on which the note was based, the note must be revised to reflect the change.
- If a legislator who is not the sponsor requests that a note be furnished, the bill can be held on Second Reading until a note is provided.
- If there is a dispute about whether a note is required on a bill, and the dispute cannot be otherwise settled, the sponsor can ask the full house to decide the question by majority vote.

Real Estate Appraisals in House

A House rule requires that if a bill provides for any real estate owned by the state to be conveyed (except to another government), a certified appraisal of it must be filed with the clerk of the substantive committee to which the bill is assigned. If the bill is advanced to Second Reading without reference to a committee, the appraisal is to be filed with the Clerk of the House.[39]

State Debt Authority

The Finance Article of the Constitution says that the Governor may not propose expenditures for a fiscal year that would exceed estimated revenues,[40] and the General Assembly may not appropriate amounts that exceed estimated revenues.[41] Thus the Constitution directs that the state's annual operating budget be balanced. But the Constitution permits the state to incur long-term debt, or short-term "casual" debt, using procedures described in the following paragraphs.

Long-Term Debt

This is the method the state uses for most of its borrowing, typically including borrowing for major construction projects. Such projects are usually funded by general obligation ("GO") bonds, which are secured by the state's full faith and credit. The Constitution requires long-term GO debt to be authorized by a law stating the purpose of the project and providing for repayment. A law authorizing long-term debt must be either (1) passed by three-fifths of members elected to each house, or (2) passed by the usual constitutional majority in each house *and* approved at a referendum by a majority of persons voting on the question.[42] Only the first method has been used since this provision was adopted as part of the 1970 Constitution.

Short-Term Debt

This form of debt is incurred for a short time if unanticipated events cause a temporary excess of spending over revenues. The Constitution provides two ways to incur short-term debt:

(1) The state may provide by law for incurring debt in anticipation of revenues, in an amount up to 5% of total appropriations for that fiscal year. Such debt must be repaid from that fiscal year's revenues.[43]

(2) The state may provide by law for incurring debt due to emergencies or failures of revenue in an amount up to 15% of total appropriations for that fiscal year. Such debt must be repaid within 1 year after it is incurred.[44]

A statute on short-term borrowing authorizes the Governor, Comptroller, and Treasurer jointly to borrow an amount equaling up to 5% of the state's annual appropriations to meet a short-term imbalance between revenue and spending.[45] Amounts so borrowed must be repaid by the end of that fiscal year. This act was used in fiscal years 1983, 1992, 1993, 1994, 1995, 1996, 2003, 2005, 2006, 2007, and 2008 to meet temporary shortfalls in state revenue.[46] Under another section of that act, those three officials jointly can borrow an amount equaling up to 15% of the state's appropriations for the fiscal year, but only with 30 days' advance written notice to the Clerk of the House, Secretary of the Senate, and Secretary of State. The notice must include a list of fiscal measures they recommend to restore the state's fiscal soundness.[47]

Medicaid Borrowing

A 2004 law that applied only from June 9 to June 30 authorized a sale of up to $850 million in general obligation bonds to finance Medicaid and medical services provided under the Children's Health Insurance Program Act.[48] The 2004 law said all proceeds were to be deposited into a newly created Medicaid Provider Relief Fund and must be repaid within 1 year.[49]

Revenue Bonds

The General Assembly can authorize state agencies to issue bonds that are to be repaid using only revenues from projects financed by those bonds—such as tolls from toll highways or rents from buildings.[50] Such "revenue bonds" are not direct obligations of the state. But issuing them can still affect the state's credit rating—particularly if bond buyers believe that the state has what they call a "moral obligation" to repay them. (Buyers consider revenue bonds to be backed by a "moral obligation" if they believe that the General Assembly—although not legally obligated to do so—would vote to pay off the bonds if necessary to avoid default, for the sake of protecting the state's credit reputation.) If the bond market perceives a revenue bond issue as being backed by a moral obligation, credit rating agencies will take that bond issue into account when rating the state's other debt—because even a voluntary repayment of debt would take money that otherwise might be available to pay debt that the state <u>is</u> legally obligated to pay.

Post-Appropriations Reports

Two reports, both issued by the Comptroller, can be helpful in understanding how state money is distributed through appropriations.

The first is *Illinois Appropriations,* issued after the General Assembly and Governor have finalized the budget for a fiscal year. This book summarizes appropriations for the fiscal year in tables. It also reprints the fiscal year's appropriations act(s), with appropriations classified by agency.

The other book is the *Illinois Annual Report*, published after the state's account books for the fiscal year are closed. It shows all receipts and expenditures of state funds. For each office, department, or other agency, it reports amounts appropriated, spent, and lapsed (allowed to go unspent). The figures on spending include spending during the "lapse period"—consisting of the months of July and August, during which agencies can pay outstanding bills that they had incurred under appropriations for the fiscal year that just ended.[51]

Notes

1. See 15 ILCS 20/50-5, first sentence. That sentence allowed postponement of the message until the first Wednesday in March, only in 2007.
2. Ill. Const., Art. 8, subsec. 2(a).
3. 30 ILCS 105/13.4.
4. Ill. Const., Art. 8, subsec. 1(a).
5. See, for example, *People ex rel. City of Urbana v. Paley*, 68 Ill. 2d 62, 368 N.E.2d 915 at 920-921 (1977); *Friends of the Parks v. Chicago Park Dist.*, 203 Ill. 2d 312, 786 N.E.2d 161 (2003).
6. Ill. Const., Art. 8, subsec. 1(b).
7. Ill. Const., Art. 8, subsec. 1(c).
8. Ill. Const., Art. 8, subsec. 2(b).
9. 25 ILCS 155/4.
10. Ill. Const., Art. 4, subsec. 8(d), second paragraph.
11. 30 ILCS 105/13.
12. 30 ILCS 105/14, 105/15a to 105/16, and 105/20 to 105/24.7.
13. 30 ILCS 105/13.2(a) to (a-3) and (c).
14. 30 ILCS 105/13.2(a-2).
15. P.A. 94-839, sec. 5-40 (2006), amending 30 ILCS 105/13.3(a-2) by adding a third sentence.
16. See 30 ILCS 105/13, last paragraph, and 105/13.2(a-2).
17. P.A. 94-798 (2006), enacted by S.B. 1520 (Trotter-Schoenberg-Hunter-J.Collins—Madigan-Hannig-Burke-M.Davis).
18. P.A. 95-348 (2007), enacted by H.B. 3866 (Madigan-Hannig-M.Davis—Trotter-J.Collins-Crotty-Schoenberg).
19. 30 ILCS 105/8h.
20. 30 ILCS 105/8h(a-5) and 30 ILCS 105/8n.
21. 30 ILCS 105/8j.
22. 30 ILCS 105/8j, sixth paragraph.
23. 25 ILCS 50/1 ff.
24. 25 ILCS 55/2.
25. 25 ILCS 55/3 and 55/4.
26. 25 ILCS 55/2.
27. 25 ILCS 60/1 ff.
28. 25 ILCS 65/1 ff.
29. 25 ILCS 70/2(a) and 70/3.
30. 25 ILCS 70/2(b) and 70/3.
31. 25 ILCS 75/1 ff.
32. 25 ILCS 80/1 ff.
33. 25 ILCS 82/5 and 82/10.
34. 25 ILCS 82/20.
35. 30 ILCS 805/6.
36. 30 ILCS 805/8(b)(2).
37. See 30 ILCS 805/8.1 ff. until 30 ILCS 805/9.1.
38. See 30 ILCS 805/8(b)(1) (second paragraph) and 805/8(b)(2).

39. House Rule 41(b), 95th General Assembly.
40. Ill. Const., Art. 8, subsec. 2(a).
41. Ill. Const., Art. 8, subsec. 2(b).
42. Ill. Const., Art. 9, subsec. 9(b).
43. Ill. Const., Art. 9, subsec. 9(c).
44. Ill. Const., Art. 9, subsec. 9(d).
45. 30 ILCS 340/1.
46. Commission on Government Forecasting and Accountability, "FY 2009 Capital Plan Analysis," p. 35.
47. 30 ILCS 340/1.1.
48. P.A. 93-674 (2004). The Children's Health Insurance Program Act is 215 ILCS 106/1 ff.
49. 30 ILCS 342/5 as amended by P.A. 93-674, sec. 15.
50. Ill. Const., Art. 9, subsec. 9(f).
51. 30 ILCS 105/25(b).