



## ILLINOIS LEGISLATIVE REPORT

May 31, 2019 marked the conclusion of Illinois' 2019 regular legislative session. This session was dominated by single-party control handed to Democrats during the 2018 elections by the election of Governor JB Pritzker and super-majorities in each legislative house. Below is a review of the major legislative issues and their impact on MWFPA members.

### **Graduated Income Tax Passes**

Lawmakers approved a constitutional amendment creating a graduated income tax in Illinois, if approved by voters. The Illinois Manufacturers' Association, along with retailers, farmers, bankers, and other members the business community strongly opposed this massive \$3.5 billion tax hike plan and will continue to educate the public on the proposal's adverse impact on Illinois jobs in advance of the vote next year on the referendum.

[SJRCA 1](#), sponsored by Sen. Don Harmon (D-Oak Park) and Rep. Robert Martwick (D-Chicago) passed their respective chambers by votes of [40-19](#) and [73-44](#). The constitutional amendment achieved the required supermajority of votes in the General Assembly and will now be on the ballot in November 2020 where it will be ratified if 60 percent of those voting on the measure (or 50 percent of total voters in the election) approve the amendment.

Lawmakers also passed [SB 687](#) which contains the recommended income tax rates that could take effect in January 2021 if voters ratify the amendment next fall. If enacted, Illinois will have the 3rd highest corporate income tax rate in the United States and the 8th highest individual tax rate that also applies to pass through entities such as Subchapter S corporations, partnerships, and LLCs. These income tax rates are in addition to the second highest property tax rates in the nation and the single highest sales tax rate in Chicago.

The proposed tax rates for corporations:

<b>Income</b>	<b>Tax Rate</b>
\$10,000 or less	4.75 percent
\$10,001 to \$100,000	4.90 percent
\$100,001 to \$250,000	4.95 percent
\$250,001 to \$500,000	7.75 percent
\$500,001 to \$1 million	7.85 percent
\$1 million or more **	7.99 percent

\*\* For corporations with income in excess of \$1 million, the entire income is taxed at the maximum 7.99 percent rate.

The proposed tax rates for individuals and pass thru entities:

<b>Income</b>	<b>Tax Rate</b>
\$10,000 or less	4.75 percent
\$10,001 to \$100,000	4.90 percent
\$100,001 to \$250,000	4.95 percent
\$250,001 to \$350,000	7.75 percent
\$350,001 to \$750,000	7.85 percent
\$750,000 or more **	7.99 percent

\*\* For individuals and pass thru entities with income in excess of \$750,000, the entire income is taxed at the maximum 7.99 percent rate

It is important to note that Illinois businesses are also subject to the Corporate Personal Property Replacement Tax (CPPRT) that is 2.5 percent for C corporations and 1.5 percent for pass thru entities. This effectively takes the top rates for most businesses to 10.49 percent and 9.49 percent respectively.

While Governor Pritzker campaigned on the graduated income tax, he also pledged that it would result in significant property tax relief. Unfortunately, the tax hike proposal provides extremely limited property tax relief for a small section of taxpayers with income less than

\$250,000 (single) or \$500,000 (married). The plan adopted by the Democratic legislative majorities provides no real property tax relief to Illinois employers.

The Governor has promised to create a task force that will meet over the summer to try and find a solution to skyrocketing property taxes.

## **Tax Reform**

At the same time, manufacturers and businesses in Illinois will collectively see nearly \$300 million in tax relief as a result of significant tax reform efforts this session including an immediate reinstatement and modernization of the Manufacturers Purchase Credit (MPC) and phase out of the antiquated Corporate Franchise Tax.

The new MPC will become a permanent part of the Manufacturing Machinery & Equipment exemption. This modernization means that companies will no longer have to use a convoluted process to "earn" MPC that could then be used to offset state tax liability. Under the new system, manufacturers will not have to pay state or local sales tax on products used or consumed in the manufacturing process such as fuel, coolants, solvents, oils, lubricants, adhesives, hand tools, protective apparel, and fire and safety equipment.

Eliminating the Franchise Tax will ultimately save businesses \$200 million annually. The tax is assessed on companies for the "privilege" of operating in Illinois. The initial tax is assessed at a rate of \$1.50 per \$1,000 on paid in capital in Illinois. Nearly 330,000 companies in Illinois currently pay the tax with the majority paying between \$100 and \$1,000 annually.

## **Research & Development Tax Credit**

An effort to extend the state's Research & Development tax credit by an additional five years passed the General Assembly unanimously. This was a huge win for the state's manufacturing sector which has seen the R & D credit expire in Illinois several times over the past two decades before ultimately being renewed. [SB 1591](#) passed unanimously in both the House of Representatives and Senate.

Once signed into law, Illinois' credit will continue until at least 2027 providing some additional certainty to the manufacturing sector.

## **Apprenticeship Tax Credit**

The General Assembly unanimously approved legislation to create a brand new apprenticeship tax credit that will help manufacturing companies that want to invest in growing their own workforce. Under [SB 1591](#), Illinois employers will be able to claim a \$3,500 income tax credit to help offset the educational costs of apprentices.

Apprentices can be enrolled in any public or nonpublic school in Illinois that leads to an industry-recognized credential or degree or an entity that carries out programs under the National Apprenticeship Act or a program of training services.

Illinois manufacturers employ 592,000 women and men today but half the workforce is expected to retire in the next decade. The industrial sector is facing a severe workforce challenge and skills gap so this new tax credit will help offset the cost of educating new workers.

## **Plastic Bag Tax**

For the past eight years, Illinois lawmakers have contemplated legislation seeking to ban, regulate, or tax paper and plastic bags. This year was no exception with three competing proposals on the table including a 5-cent tax on plastic bags suggested by Governor Pritzker in his Budget Address.

The environmental activists offered legislation mandating a 10-cent tax on all paper and plastic bags. The Pritzker Administration attempted to negotiate language with the business community and environmental advocates that ultimately fell apart when the environmental community tried to impose new bans on drinking straws, lids, stirrers, and other plastic products. Additionally, they tried to backtrack from previous commitments to prohibit Chicago from imposing their own new regulations.

Senator Terry Link (D-Vernon Hills), sponsor of [SB 1240](#), finally pulled the plug on discussions. MWFPA appreciates his longtime leadership on this issue and his consistent efforts to balance the interests of both sides.

## **Recreational Marijuana Legalization Passes Assembly**

The General Assembly narrowly approved the use of recreational marijuana in Illinois more than ten years after authorizing the use of medicinal marijuana. Sponsored by Rep. Kelly Cassidy (D-Chicago) and Sen. Heather Steans (D-Chicago), [HB 1438](#) received bipartisan support and will be signed into law by Governor Pritzker making Illinois the 9<sup>th</sup> state to allow recreational marijuana.

Under the coming law, Illinois residents over the age of 21 years will be able to possess 30 grams of marijuana while non-residents can possess 15 grams of the drug. Individuals may not smoke cannabis in public. Recreational marijuana users will not be allowed to grow plants at home; however, medicinal cannabis patients will be able to maintain up to 5 plants in their residence.

Local governments will have the option of opting out of the law meaning that they can ban the operation of marijuana cultivators or dispensaries in their communities or they can reasonably zone where these businesses can be located. Cities can also authorize private clubs where cannabis use is allowed.

The Illinois Manufacturing Association (IMA) made it a priority to ensure that the legislation allowed employers to maintain a "zero tolerance" or "drug free" workplace policies. Workplace includes buildings, parking lots, and real property such as vehicles. Safety is paramount in manufacturing facilities and workplace protections are critical because impaired individuals can cause injury or death. Employers will be able to drug test their employees and discipline or terminate employees for violating their company policies. The legislation also provides that an employer may not be subject to litigation for enforcing their rights under this law.

Law enforcement opposed the legislation citing concerns with regulating "home grown" cannabis along with increased crime statistics and violence in other states that have legalized recreational marijuana.

HB 1438 passed the Senate by a vote of [38-17-2](#) followed by approval in the House of Representatives on a vote of [66-47-2](#)

### **Corporate Board Reporting Legislation Heads to Governor**

A bill requiring corporations to report the racial, gender, and ethnic make-up of their corporate board members passed the legislature and will soon be sent to Governor Pritzker for his signature. The IMA strongly opposed the initial legislation because it mandated that corporations include female, African American, and Hispanic board members. While the IMA supported the bill's intent of diversity on boards, the Association opposed the manner in which [HB 3394](#) sought to accomplish that goal.

Opposition to the measure led the Senate sponsor to amend the legislation and eliminate the mandate. The measure had constitutional and legal issues including violating the Internal Affairs Doctrine. Bipartisan members of the Senate Commerce Committee expressed their opposition to the original bill.

Ultimately, Representative Chris Welch (D-Westchester) and Senator Christopher Belt (D-East St Louis) amended the bill to make it a simple reporting requirement. Companies must report their board diversity but cannot force their board members to identify as a certain race, gender, or ethnicity. Corporations will include this information on their annual report provided to the Illinois Secretary of State. The University of Illinois will review the filing and could issue a report and recommendations to the Assembly.

### **Workplace Sexual Harassment Reform**

A bipartisan group of lawmakers worked for months crafting comprehensive legislation aimed at curtailing sexual harassment in the private sector workplace. The final legislation, [SB 75](#), passed the House and Senate on unanimous votes and will likely be signed into law by Governor JB Pritzker.

Sponsored by Senator Melinda Bush (D-Grayslake) and Rep. Ann Williams (D-Chicago), the legislation imposes numerous new mandates on employers including the requirement to establish a new sexual harassment prevention training program. Employers may develop their own program meeting state standard or utilize the state-developed model program.

The Workplace Transparency Act prohibits employers from imposing any requirement that bars an employee, job applicant, or former employee from reporting any allegation of unlawful conduct. This is in response to news stories about employers requiring "non disclosure" agreements from their employees that allowed for continued harassment. Confidentiality clauses may be allowed in termination or settlement agreements.

Harassment is defined as unwelcome conduct based on any individual's actual or perceived race, religion, national origin, ancestry, age, sex, marital status, disability, military status, sexual orientation, pregnancy, citizenship status, order of protection status, or unfavorable discharge

from the military. Employers may be held liable for the harassment of their employees and non-employees in the workplace.

According to the bill, employers must annually report adverse judgments or administrative rulings against it to the Illinois Department of Human Rights. The data is confidential and not subject to FOIA laws.

### **WAGE GAP BILL SENT TO GOVERNOR**

The legislation attempts to shrink the gender wage gap by prohibiting an employer from using wage or salary history when making hiring or promotional decisions. MWFPA supports equal pay but opposed the legislation because it allowed an employee to double dip by suing an employer in both state and federal court and it removed the ability of a company to offer an affirmative defense.

### **Veto Session**

At the close of session, the House of Representatives and Senate released the Fall Veto Session calendar. Lawmakers plan to return to the Capitol on October 28-30 and November 12-14.