

GOVERNOR SIGNS BUDGET BILL AFTER FORTY FOUR VEToes

After five months of ongoing discussions, hours of committee testimony in both the House and Senate, thousands of amendments offered on various topics and one relatively laid back conference committee, the state budget for fiscal years 2016 and 2017 has been enacted.

Yesterday evening, four hours before the constitutional deadline, Governor John Kasich signed Amended Substitute House Bill 64 ("H.B. 64" or the "Budget Bill") in to law ushering in the new fiscal year and wrapping up legislation that has dominated the attention of the statehouse. Back in February the Governor released his budget that in his eyes was a conservative budget that sought to put Ohio on the track of lowering income taxes and beginning the switch to consumption based taxes. In fact, much of his budget was aimed at so called tax reforms and both higher and lower education reforms. However, from the start, many legislators and interested parties saw the original proposal as tax shifting; raising taxes on one population (medium to large businesses) to pay for a tax cut for another population. This set the stage for months of, at times, contentious debates between the both chambers of the legislature and the governor's office.

As the House took up the budget bill, the majority of witnesses, covering a wide variety of topics, appeared before the House Finance Committee, subcommittees and the House Ways & Means Committee to express their distaste for the Governor's proposal. K-12 schools insisted that there wasn't enough funding included in the bill. Businesses, both large and small, denounced the raising of taxes, especially the proposed expansion of the sales tax and increase in the commercial activity tax. E-cigarette stores and users fought against more than a 200% cost increase in vapor products, which would have made Ohio one of the first states to tax these new products. And health and human services advocates told committee members that cuts to funding would hurt the most vulnerable of Ohioans.

House leaders, led by Speaker Cliff Rosenberger seemed to have listened as they released their version of H.B. 64 two and half months after the Governor introduced his plan. The House took a different approach--it removed all tax increases and provided a smaller personal income tax cut than Governor Kasich, yet still provided a personal income tax rate under the Governor's goal of 5%. The House also provided \$179 million more in school funding as an effort to keep funding levels the same as the current fiscal year. However, the House also included, according the House Democrats, anti-labor collective bargaining language that lost the majority of votes from their side of the aisle.

It was clear that the Governor and Administration did not agree with the House's plan and it appeared that the Senate wasn't too fond of the House's version either. Many believed that the Senate would reinsert several of the Governor's proposals including some tax increases. The Senate did approach this budget a little differently this year, indicating that it was not going to work from the House's version of the bill nor the Governor's, but instead the Senate was going to start from fiscal year 2015 levels and numbers. While this presented a quandary for interested parties testifying in front of committees, in the end the Senate wasn't all that far off from the House.

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The Senate retained the House's proposed across the board personal income tax. However, the Senate did offer one revenue increase, raising taxes on cigarettes and other tobacco products. The real winner of the Senate budget was K-12 education, which was awarded more than \$935 million in new money. Also notable was an increase in pay for local elected officials. Although judges, prosecutors and sheriffs were slated to receive the raise, language was inserted in the final hours for all local elected officials, except for lawmakers, to receive the raise, the first in nearly a decade.

After the Senate finished its work, the bill went to a Conference Committee made up of legislators from both chambers and both parties. However, most of the Conference Committee's work is done behind closed doors without any public input. The only testimony the Conference Committee heard was from Tim Keen, Director of the Office of Budget and Management, who reported on revised revenue information; essentially how much revenue the legislature actually had to allocate towards spending and tax cuts.

In the end, one version of the Budget Bill did not win out over the others, the final product was truly a mix of all three proposals. That said, the education plan did come out looking more like Governor Kasich's proposal which aimed to phase out increase caps and guarantees by replacing it when an actual formula for funding. The Conference Committee also lowered the increase in the cigarette tax to \$0.35 per pack and eliminated the increase on other tobacco products. It also kept the personal income tax cut that both chambers agreed to, 6.3% across the board and a phased-in tax cut on Ohio business income ([see our June 30, 2015 SALT Buzz, Governor John Kasich Signs Ohio Budget Bill into Law, for more detailed discussion of the tax related changes](#)).

When the bill landed on Governor Kasich's desk for signature many wondered what provisions he would veto. In the end he vetoed forty four items ranging from a tax amnesty program, school funding provisions, some Medicaid provisions and even a traffic light relocation.

Two items that appeared in the bill many times before ultimately being taken out, either by the legislature or the Governor, were subrogation and post-traumatic stress disorder coverage (PTSD). Subrogation is the act of one party claiming the legal rights of another that it has reimbursed for losses. Subrogation occurs in property/casualty insurance when a company pays one of its insured's for damages, then makes its own claim against others who may have caused the loss, insured the loss, or contributed to it. In the Governor's veto message he stressed that it could be a well merited issue but that it should be determined after a more thorough public debate. On the PTSD front, language was included in the Senate that would have provided workers compensation coverage for first responders suffering from PTSD for a set period of time. This issue has been debated in the statehouse numerous times and many thought that it would be included in the final bill sent to the Governor; however it was removed shortly before the final vote on the bill.

As this budget cycle comes to a close, sides will differ on who the winners and losers are. The legislature will head off for summer recess which will most likely last until September. And if the past non budget years under Governor Kasich's leadership hold any clues for the future, we'll be back at it next year with a mid-biennium review to tackle budget issues once again!

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If you would like to better understand the Budget Bill please contact Charlotte B. Hickcox, Director of Government Affairs at (614) 349-4819 or chickcox@zhftaxlaw.com or one of the other Zaino Hall & Farrin professionals listed below.

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