



ILLINOIS STATE
BAR ASSOCIATION

STANDING COMMITTEE ON GOVERNMENT LAWYERS

The newsletter of the ISBA's Standing Committee on Government Lawyers

Legislative update

The 94th General Assembly convened on January 12, 2005. Approximately 6,198 bills were filed for consideration by the General Assembly. Although many of the proposals did not advance through the legislative process, the following is a listing of those bills that passed the General Assembly, have been signed by the Governor, and may be of general interest to government attorneys. If you would like to review an entire public act, please visit the General Assembly's Web site at <<http://www.ilga.gov/>>. The 2006 legislative session will begin in mid-January 2006.

Code of Civil Procedure

Public Act 94-174 (HB 598). Amends the Code of Civil Procedure to create an informant's privilege. Provides that if an individual (i) submits information concerning a criminal act to a law enforcement agency or to a community organization that acts as an intermediary in reporting to law enforcement and (ii) requests anonymity, then the identity of that individual is privileged and confidential and is not subject to discovery or admissible in evidence in a proceeding. Provides that there is no privilege if a court, after a hearing in camera, finds that the party seeking discovery or the proponent of the evidence has shown that: (1) the identity of an individual who submits information concerning

a criminal act is sought or offered in a court proceeding involving a felony or misdemeanor; (2) the evidence is not otherwise available; and (3) nondisclosure infringes upon a constitutional right of an accused, or there is a need for the evidence that substantially outweighs the interest in protecting confidentiality. Provides that the court may impose such sanctions as are necessary to enforce its order. Effective date: January 1, 2006.

Public Act 94-206 (HB 174). Amends the Code of Civil Procedure. Provides for a jury of 6 in all jury cases where the claim for damages is \$50,000 or less (instead of cases where the claim does not exceed \$15,000) unless either party demands a jury of 12. Effective date: January 1, 2006.

Public Act 94-531 (SB 516). Amends the Code of Civil Procedure. Provides that a judge named in a petition for the substitution of a judge need not testify but may submit an affidavit if the judge wishes. Provides that if the petition for substitution is allowed, the case shall be assigned to a judge not named in the petition. Provides that if the petition for substitution is denied, then the case shall be assigned back to the judge named in the petition. Effective date: January 1, 2006.

Counties Code

Public Act 94-0273 (SB 489). Amends the Counties Code. Provides that the term of a county board chairperson begins on the first (now, third) Monday of the month following the election of county board members. Amends the Illinois Highway Code.

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Provides that the term of a highway commissioner begins on the third (now, first) Monday in May. Effective date: January 1, 2006.

Public Act 94-0401 (HB 027). Amends the Counties Code. Provides that a county board may lease for one dollar per year lands that the county owns, if the board determines that the lease will serve public health purposes or public safety purposes as described in the Illinois Emergency Management Agency Act (now, if the lease will serve public health purposes). Effective date: August 2, 2005.

Public Act 94-0496 (HB 1333). Amends the Counties Code. Provides that no adult entertainment facility within an unincorporated area of a county shall be located within 3,000 feet of a specified area, such as a school, a day care center, a public park, a place of religious worship, or a residence (now, the ban applies throughout the county but does not include residences). Provides that the Attorney General or the state's attorney of the county in which the adult entertainment facility is located may seek enforcement by injunction. Provides that a county may adopt an ordinance to regulate adult entertainment facilities and includes definitions of specified anatomical areas and specified sexual activities. Provides that the ordinance may authorize the state's attorney to institute a civil action to restrain an ordinance violation. Authorizes fines of

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up to \$1,000 per day for each violation and injunctive relief to abate violations or to prevent violations from continuing. Effective date: January 1, 2006.

Public Act 94-0616 (HB 655). Amends the Counties Code. Provides that, if a notice of an ordinance violation requires the respondent to answer within a certain amount of time, the county must reply to the answer within the same amount of time. Effective date: January 1, 2006.

Public Act 94-0644 (HB 832). Amends the Counties Code. Provides that, in its annual budget, a county may appropriate an amount not to exceed 5 percent (now, 3 percent) of the amount appropriated to the county's general corporate or operating fund, for the purpose of making specified capital improvements, repairs, or replacements with respect to real property or equipment or other tangible personal property of the county. Further amends the Counties Code concerning the Special County Occupation Tax for Public Safety or Transportation Law. Provides that, if a county imposes a tax under the Law, then it may, by ordinance, provide that the tax does not apply to the sale or use of motor fuel or to specific types of motor fuel. Provides that, if the county board provides that the tax does not apply with respect to the sale or use of motor fuel or specific types of motor fuel, then a referendum is not required to reimpose the tax with respect to that motor fuel. Effective date: August 22, 2005.

Criminal Law

Public Act 94-0126 (HB 381). Amends the Criminal Code of 1961. Provides that in addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or assists another to obtain, a contract with a governmental unit because of a false representation that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability, regardless of whether the preference was established by statute or local ordinance or resolution, is guilty of a Class 2 felony. Provides that the court shall order that an individual or entity convicted of this offense must pay to

the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation. Effective date: January 1, 2006.

Public Act 94-0345 (SB 1953). Amends the Juvenile Court Act of 1987. Provides that in a delinquency proceeding, a minor may not waive the right to the assistance of counsel in his or her defense. Amends the Code of Criminal Procedure of 1963. Provides that a person under 17 years of age may not waive the right to the assistance of counsel in his or her defense in any judicial proceeding. Provides that in an adult criminal prosecution of a person under 17 years of age the prohibition on the waiver of counsel does not apply to a minor charged with an offense for which the penalty is a fine only. Effective date: July 26, 2005.

Public Act 94-0664 (SB 2082). Amends the Code of Criminal Procedure of 1963. Provides that in a case in which the State has filed a statement of intent to seek the death penalty, the court shall require appointed counsel, after counsel has had adequate time to review the case, to submit a proposed estimated litigation budget for court approval that will be subject to modification in light of facts and developments that emerge as the case proceeds. Provides that the budget shall be incorporated into a sealed initial pretrial order that reflects the understandings of the court and counsel regarding all matters affecting counsel compensation and reimbursement and payments for investigative, expert and other services. Provides that the court shall not authorize payment of bills to appointed trial counsel that are not properly itemized.

Amends the Capital Crimes Litigation Act. Provides that case budgets shall be reviewed and approved by the judge assigned to try the case. Provides that petitions for compensation shall be reviewed by both the trial judge and the presiding judge or the presiding judge's designee. Provides that if an ex parte hearing is requested by defense counsel or deemed necessary by the trial judge prior to modifying a budget, the ex parte hearing shall be before the presiding judge or the presiding judge's designee. Provides that if the presiding judge or the presiding judge's designee finds that the

services were not reasonable, payment may be denied. Provides that in a case in which the State has filed a statement of intent to seek the death penalty, the court shall require appointed counsel, including those appointed in Cook County (instead of appointed counsel), to submit a proposed estimated litigation budget for court approval. Makes other technical changes.

Amends the Freedom of Information Act. Provides that defense budgets and petitions for certification and expenses for court appointed trial counsel shall be exempt from inspection and copying under the Act. Provides that this exemption shall apply until the conclusion of the trial, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing. Effective date: January 1, 2006.

Public Act 94-0694 (SB 273). Creates the Methamphetamine Precursor Control Act. Provides for the administration, dispensing, or distribution of targeted methamphetamine precursors only by: (1) a pharmacist pursuant to the valid order of a prescriber; (2) any other practitioner authorized by the Illinois Controlled Substances Act; (3) a drug abuse treatment program; (4) a pharmacy; (5) a retail distributor which meets certain specified requirements; or (6) a distributor authorized by the Drug Enforcement Administration to distribute bulk quantities of a list I chemical under the federal Controlled Substances Act and corresponding regulations, or the employee or agent of such a distributor acting in the normal course of business. Establishes further restrictions on the distribution of targeted methamphetamine precursors. Amends the Illinois Controlled Substances Act to make conforming changes. Repeals the Methamphetamine Precursor Retail Sale Control Act. Preempts home rule. Effective date: January 15, 2006.

Election Code

Public Act 94-0025 (HB 1315). Amends the Election Code. Removes the requirement that a physically disabled voter seeking assistance marking the ballot must state whether his or her disability is permanent. Effective date: January 1, 2006.

Public Act 94-0288 (HB 1125). Amends the Election Code. Permits minor children to accompany their parent or guardian into the voting booth if

requested of the election officers and if the election officers determine that the children are not likely to disrupt or interfere with the voting process or influence the casting of a vote. Effective date: January 1, 2006.

Freedom of Information Act

Public Act 94-0508 (SB 52). Amends the Freedom of Information Act. In the Act's existing exemption of certain trade secrets and commercial or financial information obtained by a public body from inspection and copying requirements, states that the exemption specifically includes certain information relating to private equity funds but does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless disclosure of the identity of a privately held company may cause competitive harm. Effective date: January 1, 2006.

Human Voice Contact Act

Public Act 94-0620 (HB 1589). Creates the Human Voice Contact Act. Provides that a State agency that uses automated telephone answering equipment to answer incoming telephone calls must, during the normal business hours of the agency, provide the caller with the option of speaking to a live operator. Exempts field offices, telephone lines dedicated as hot lines for emergency services and systems designed to provide a complete transaction with a State agency solely through touch tone keys and automated prompts. Effective date: January 1, 2007.

Intergovernmental Cooperation Act

Public Act 94-0144 (HB 1395). Amends the Intergovernmental Cooperation Act. Permits a special district that is coterminous with or entirely within the boundaries of a township to merge into the township (now, permitted only in counties with less than 1,000,000 population). Effective date: January 1, 2006.

Liquor Control Act

Public Act 94-0289 (HB 1285). Amends the Liquor Control Act of 1934. Allows an elected official to have a direct interest in the manufacture, sale, or distribution of alcoholic liquor if he or she is not a law enforc-

ing public official, a mayor, a village board president, or president of a county board. Prohibits an elected official with a direct interest from participating in any matter affecting the manufacture, sale, or distribution of alcoholic liquor. Effective date: January 1, 2006.

Local Government and Governmental Employees Tort Immunity Act

Public Act 94-0424 (HB 3595). Amends the Local Government and Governmental Employees Tort Immunity Act. Changes the definition of "local public entity" to include trustees of schools of townships and the treasurers of schools of townships. Effective date: August 2, 2005.

Municipal Code

Public Act 94-0023 (HB 1157). Amends the Illinois Municipal Code. Provides that in a county that has more than 400,000 but fewer than 410,000 inhabitants, if an area of contiguous territory not exceeding one square mile that has at least 400 inhabitants residing in permanent dwellings and is located in a township that is adjacent to a county of fewer than 150,000 inhabitants, then that area and the area adjacent to it, not exceeding 4 square miles in total, may be incorporated as a village by following the existing procedure. Neither the consent of a municipality nor a finding of the county board needs to be obtained. Effective date: June 14, 2005.

Public Act 94-0111 (HB 887). Amends the Illinois Municipal Code and the Illinois Vehicle Code. Provides that a unit of local government may not enact or enforce any ordinance or rule the violation of which would constitute a felony under the Vehicle Code provision prohibiting driving under the influence of alcohol, drugs, or intoxicating compounds. Provides that a municipal attorney may not prosecute, and a state's attorney may not allow a municipal attorney to prosecute, any ordinance violation that would constitute a felony under the DUI provision of the Vehicle Code. Provides that a municipal attorney must notify the state's attorney if a driver's alleged conduct would constitute a felony under the DUI provision. Effective

Standing Committee on Government Lawyers

Published at least four times per year.

Annual subscription rate for ISBA members: \$20.

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date: January 1, 2006.

Public Act 94-0123 (HB 015). Amends the Illinois Municipal Code. Authorizes certain water commissions to enter into intergovernmental police assistance agreements with counties or municipalities and to enter into intergovernmental agreements with any unit of local government in order to carry out the purposes for which the commission was formed. Effective date: January 1, 2006.

Public Act 94-0250 (HB 413). Amends the Illinois Municipal Code. In municipalities of less than 500,000, provides that the municipal clerk, when authorized by the corporate authorities of the municipality, may appoint the number of deputy clerks necessary to discharge the functions and duties of the office of municipal clerk (now, the clerk may be authorized to appoint one deputy clerk). Provides that the corporate authorities of the municipality may limit the number of deputy clerks that the municipal clerk may appoint. Effective date: July 19, 2005.

Public Act 94-0374 (HB 2611). Amends the Illinois Municipal Code. Prohibits a corporate authority from entering into an agreement unless it provides public notice of the proposed boundary agreement by: (i) the posting of a public notice for not less than 15 consecutive days in the same location at which notices of village board or city council meetings are posted; and (ii) publication on at least one occasion in a newspaper of general circulation within the territory that is subject to the proposed agreement (rather than notice to owners of property affected by the proposed agreement). Provides that the validity of a boundary agreement may not be legally challenged on the grounds that the notice was not properly given unless the challenge is initiated within 12 months after the formal approval of the boundary agreement. Provides that an agreement that addresses jurisdictional boundary lines shall be entirely unenforceable for any party thereto that subsequently enters into another agreement that addresses jurisdictional boundary lines that is in conflict with any of the terms of the first agreement without the consent of all parties to the first agreement. Provides that, except for those provisions that take effect prospectively, the provisions are declarative of existing law and shall

not be construed to modify existing boundary line agreements or to create municipal powers not already in existence. Effective date: July 29, 2005.

Public Act 94-0483 (HB 1458). Amends the Illinois Municipal Code. Provides that persons who were engaged in active military or naval service of the United States for at least one year (now, at any time during certain stated periods) and who were honorably discharged shall be preferred for appointments to civil offices, positions, and places of employment in the classified service of a municipality that is subject to Division 1 of the Code. Provides that the municipality's civil service commission shall give preference points for original appointments to qualified veterans, whose names appear on any register of eligibles resulting from a civil service entrance exam, by adding 5 points to their final grade averages. Provides that qualified veterans shall be preferred for promotional civil service appointments and that the preference that the qualified veterans will receive shall be seven-tenths of one point for each 6 months or fraction thereof of active military or naval service not exceeding 30 months (now, no requirement that the service be active). Makes other changes. Effective date: August 8, 2005.

Public Act 94-0544 (SB 2085). Amends the Illinois Municipal Code. Provides that if a non-home-rule municipality has extended sewers or water mains, or both, to another unit of local government, the municipality cannot thereafter require the annexation of the property to the municipality as a prerequisite to the continuation and maintenance of such service. Effective date: August 10, 2005.

Public Act 94-0572 (SB 169). Amends the Illinois Municipal Code. Provides that the corporate authorities of each municipality may provide for the extermination of pests (now, rats only). Defines "pests" to mean undesirable arthropods (including insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice and other obnoxious or undesirable animals, but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act, "animals" as that term is defined in the Illinois Diseased Animals Act, or animals protected by

the Wildlife Code. Effective date: August 12, 2005.

Public Act 94-0616 (HB 655). Amends the Illinois Municipal Code. Provides that, if a notice of an ordinance violation requires the respondent to answer within a certain amount of time, a municipality, with a population under 3,000,000 (now, population unspecified), must also answer within the same amount of time. Effective date: January 1, 2006.

Open Meetings Act

Public Act 94-0028 (SB 226). Amends the Open Meetings Act. With respect to a public body that has a Web site maintained by the public body's full-time staff, requires that the public body post on the Web site: (i) notice of any agenda of a regular meeting of the public body's governing body; (ii) notice of all meetings of the governing body; and (iii) beginning July 1, 2006, minutes of regular meetings of the governing body open to the public. Specifies how long the postings must remain on the Web site. Provides that failure to post on the Web site does not invalidate meetings or actions of the governing body. Makes other changes. Effective date: January 1, 2006.

Public Act 94-0542 (SB 1857). Amends the Open Meetings Act. Provides that a public body's failure to strictly comply with the requirements of the semi-annual review of closed meetings minutes does not make the minutes or verbatim recordings open to the public or available in judicial proceedings (other than those for violations of the Act) if the public body, within 60 days of the discovery of its failure, conducts the review and reports in an open meeting that the need for confidentiality remains or no longer exists. Effective date: August 10, 2005.

Pension Code

Public Act 94-004 (SB 27). Amends the Illinois Pension Code. In the five State-funded retirement systems, places funding limitations on new benefit increases and sunsets them after five years. Also makes changes relating to the required State contributions. Specifies the required State contribution amounts for fiscal years 2006 and 2007. Recalculates the ramp for fiscal years 2008, 2009, and 2010. Requires recertification of the 2006 amounts.

In the State Employee and Downstate Teacher Articles, deletes the accelerated amortization provisions for costs arising from the 2002 early retirement incentive program and rolls those costs into the calculation of the regular required State contribution. In the State Employee Article, makes changes relating to the eligibility of new employees of the Department of Corrections for the alternative formula. In the State Universities Article, provides for the State Comptroller (rather than the Board of the System) to determine the effective rate of interest for purposes of calculating the money-purchase formula. In the Downstate Teacher and State Universities Articles, in certain cases where a retiring member's retirement annuity is based on a salary increase in excess of 6 percent per year, requires the employer that granted the excess salary increase to make an additional contribution to the System. Also, eliminates the money-purchase formula for persons who first become participants on or after July 1, 2005. In the Downstate Teacher Article, extends the early retirement without discount option (ERO), with certain changes, to persons who retire after June 30, 2005. Requires all active members to pay an additional employee contribution for ERO purposes, and provides for refund of that contribution if the ERO option is not exercised. Requires a periodic actuarial evaluation of ERO costs and funding; directs the Commission on Government Forecasting and Accountability to recommend to the General Assembly any necessary adjustments to the required ERO employer and member contributions; and terminates the ERO if the General Assembly fails to act in response to those recommendations. In the Chicago Teacher Article, extends the early retirement without discount option (ERO), with certain changes, to persons who retire after June 30, 2005 and on or before June 30, 2010. In the Article on regulation of pension funds, creates an Advisory Commission on Pension Benefits. Directs the Commission to consider changing the age and service requirements, automatic annual increase benefits, and employee contribution rates of the State-funded retirement systems. Authorizes the Commission to request actuarial data from those retirement systems. Amends the State Mandates Act to require

implementation without reimbursement. Effective date: June 1, 2005.

Procurement Code

Public Act 94-0532 (SB 518). Amends the Illinois Procurement Code. Sets procedures for the award of contracts for construction management services. Requires State agencies to provide public notice of all projects requiring construction management services. Provides procedures for the selection of construction managers and for contract negotiations. Requires State agencies to evaluate construction management firms at the completion of a project. Sets the duties of construction managers. Provides that actual construction work on the project must be awarded under the Procurement Code. Authorizes the Capital Development Board to further separate divisions of construction management work. Further amends the Illinois Procurement Code to allow for the award of contracts for construction management services; however, provides that it is the Capital Development Board who shall administer the program of construction management services (previously individual State agencies). Effective date: August 10, 2005.

Property Tax Code

Public Act 94-0417 (HB 1427). Amends the Property Tax Code. In a provision allowing the county board to submit a bill to the township board of trustees for the reasonable costs incurred by the supervisor of assessments in completing certain assessments, provides that the moneys collected from the billing may be used by the supervisor of assessments only for the purpose of recouping costs incurred in completing the assessments. Effective date: August 2, 2005.

Public Building Commission Act

Public Act 94-0355 (HB 330). Amends the Public Building Commission Act. Provides that the county board of any county that has created a public building commission for a limited and specific purpose may expand that purpose only if the county board submits the question to the electors of the county at a regular election and it is approved by a majority of the electors voting on the question (now, under the bill the purpose may be expanded by resolution). Effective date:

January 1, 2006.

Public Library District Act

Public Act 94-0681 (SB 847). Amends the Public Library District Act of 1991. Sets forth procedures for instituting an advisory referendum concerning the disconnection of a municipality or township from the public library district. Sets forth procedures by which a municipality or township may be disconnected from a public library district by adopting a disconnection ordinance that is approved by the board of trustees of the public library district. Requires the disconnecting municipality or township to establish a public library. Requires the municipality or township to file a petition with the circuit court to set forth the assets and liability of the district. Provides that the property owners of the disconnected territory are continually liable for any excess liability of the district until its full and final payment. Requires the board of trustees to record a certified copy of the disconnection order with the proper county officials in each county affected. Amends the Illinois Local Library Act. Provides that a referendum to establish a public library in an incorporated town, village, or township may be instituted by an ordinance of the governing body of that unit of local government (now, the referendum may be instituted only by a petition of the electors). Effective date: November 3, 2005.

Public Works Contract Change Order Act

Public Act 94-0460 (HB 2533). Amends the Public Works Contract Change Order Act. Provides that if a change order for any public works contract: (i) is entered into by a unit of local government or school district; (ii) is not procured in accordance with the Illinois Procurement Code and the State Finance Act; and (iii) authorizes or necessitates any increase in the price of a subcontract under the contract that is 50 percent or more of the original subcontract price, then the portion of the contract that is subject to the change order must be resubmitted for bidding in the same manner for which the original contract was bid. Effective date: August 4, 2005.

School Code

Public Act 94-0153 (SB 767). Amends the School Code. Provides

that if, in multi-county educational service regions, the county boards grant approval through an intergovernmental agreement, or if, in educational service regions serving only one county, the county board grants approval, then the regional superintendent of schools is authorized to hire private legal counsel to represent him or her in legal matters (instead of the state's attorney of the county where the regional superintendent's office is located acting as the legal representative), and each county located within the region shall pay a per capita share of the legal fees incurred, based on the number of people in the county according to the most recent U.S. census. Effective date: July 8, 2005.

State Employees Group Insurance Act

Public Act 94-0082 (HB 731). Amends the State Employees Group Insurance Act of 1971. Redefines a unit of local government to include a hospital provider owned by a county that has 100 or fewer hospital beds and that has not already joined the insurance program. Effective date: January 1, 2006.

State Matters

Public Act 94-0696 (SB 92). Amends various Acts to create the Department of Juvenile Justice from the Juvenile Division of the Department of Corrections. Transfers personnel, books, records, property, and appropriations pertaining to the Juvenile Division of the Department of Corrections to the Department of Juvenile Justice; imposes requirements for newly hired personnel; transfers the Department of Corrections school district to the Department of Juvenile Justice; creates a Juvenile Advisory Board; and makes other changes. Effective date: June 1, 2006.

Tort Immunity Act

Public Act 94-0424 (HB 3595). Amends the Local Government and Governmental Employees Tort Immunity Act. Changes the definition of "local public entity" to include trustees of schools of townships and the treasurers of schools of townships. Effective date: August 2, 2005.

Township Code

Public Act 94-0529 (SB 465). Amends the Township Code. Provides

that a township officer of a township from which territory is disconnected shall continue in office until the end of his or her term and until a successor is elected or appointed and qualified, regardless of whether the officer resides in the township or the territory disconnected from the township. Provides that whenever territory is disconnected from a township and connected to a coterminous township on or after the effective date of the amendatory Act, the coterminous city shall provide to the township from which the territory was disconnected, for a period of 10 years, no later than 60 days after the first due date for real estate taxes in that county for that tax year, an amount equal to at least 50 percent of the real estate tax that was collected on the property in the tax year immediately preceding the disconnection and shall provide the remaining 50 percent on or before December 31. Amends the Election Code. Provides that the office of a township officer whose township boundaries are changed when territory is disconnected from a township and connected to a coterminous township is not vacant upon disconnection. Effective date: August 10, 2005.

Public Act 94-0622 (HB 2613). Amends the Township Code. Provides that when a petition is filed that recommends that the township board prepare an open space plan, the township clerk shall provide public notice of the petition and the hearing on the petition within five business days after the petition is filed. Provides that there must be a hearing to determine the validity of the petition under the general elec-

tion law within 30 days after the petition filing. Provides that a subsequent petition to adopt the proposed open space plan shall be approved if, after notice and a hearing, the petition is determined to be valid. Provides that a township may not exercise its eminent domain power as to land located within a municipality if the land is served by a recreation department or a park district. Provides that when a petition is filed, signed by the greater of 5 percent of or 50 registered township voters, for a referendum to authorize the issuance of bonds to purchase and improve parks in the township, the township clerk shall give notice of the petition within five business days after the petition filing. Provides that the petition must also be filed on the same day with the circuit clerk. Provides that there must be a court hearing on the validity of the petition under the general election law within 30 days after the petition filing. Provides that if the court approves the referendum, the notice of the referendum shall state the amount of the bonds proposed and identify any park acquisition or improvements to be funded by the bonds. Provides an additional form of referendum ballot for specific park acquisitions or improvements to be funded by bonds. Provides that after a referendum passes the township board shall hold a public hearing on how the bond proceeds may be expended subject to the limitations created by the form of the referendum ballot used in the election. Provides that the bond proceeds may be used to support parks operated by the township, a municipality, or a park district. Makes other changes. Effective date: August 18, 2005.

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Veto session update

The Illinois General Assembly recently concluded its fall veto session schedule. The following is a brief summary of the legislative action that occurred during the veto session which may be of interest to the government bar. The complete text of all legislation may be found on the General Assembly's Web site at <<http://www.ilga.gov/>>.

Governor's Veto Overridden by the General Assembly

County Jail Act

Public Act 94-678 (SB 1509). Amends the County Jail Act. Provides that if a person who has been convicted of a felony and has violated mandatory supervised release for that felony is incarcerated in a county jail pending the resolution of the violation of mandatory supervised release, the Illinois Department of Corrections shall pay the county in which that jail is located one-half of the cost of incarceration, as calculated by the Governor's Office of Management and Budget and the county's chief financial officer, for each day that the person remains in the county jail. Provides that calculation of the per diem cost shall be agreed upon prior to the passage of the annual State budget. Effective date: January 1, 2006.

Criminal Code

Public Act 94-684 (HB 29). Amends the Criminal Code of 1961. Provides that it is unlawful for a person, other than a person licensed to practice medicine in all its branches, to tattoo or offer to tattoo a person under 18 (rather than 21) years of age. Provides that the penalty for unlawfully tattooing or piercing the body of a person under 18 years of age is a Class A misdemeanor (rather than a Class C misdemeanor). Provides that it is a Class A misdemeanor for an owner or employee of those businesses to permit a person under 18 years of age to enter or remain on the premises where tattooing or body piercing is being performed unless the person under 18 years of age is accompanied by his or her parent or legal guardian. Provides that the prohibitions do not apply to a person under 18 years of age who tattoos or offers to tattoo or who pierces the body or oral cavity of

another person under 18 years of age away from the premises of any business at which tattooing, body piercing, or oral cavity piercing is performed. Effective date: January 1, 2006.

Intergovernmental Cooperation Act

Public Act 94-685 (HB 911). Amends the Intergovernmental Cooperation Act. Provides that no joint insurance pool or intergovernmental cooperative offering health insurance shall interfere with a public agency's required collective bargaining subjects or discriminate or retaliate against a public agency member that limits its participation as a result of collective bargaining. No intergovernmental insurance contract offering health insurance shall limit the collective bargaining rights or obligations of public agency members. With respect to intergovernmental insurance contracts relating to health, life, or life and health insurance, provides that the pool or contract may permit re-pricing of the costs of coverage for continuing officers and employees when a member withdraws officers or employees into a union-supported program. Prohibits expelling a member from the pool or cooperative if the continuing officers and employees meet general criteria required of all members. Effective date: November 2, 2005.

Bills Passed During Veto Session

Criminal Code

HB 692. Amends the Illinois Vehicle Code and the Criminal Code of 1961. Creates the offense of theft of motor fuel. Provides that a person commits the offense when he or she dispenses motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaves the premises of the establishment without making payment or the authorized charge for the motor fuel. Requires the defendant's knowledge in order to commit the offense and that the defendant's intent must be to deprive the establishment in which the motor fuel is sold of the possession, use, or benefit of the motor fuel without paying the full retail value of the motor fuel. Establishes penalties. Provides for the suspension of the driver's license of a person convicted

of theft of motor fuel for a period not to exceed six months for a first conviction and for a period not to exceed one year for a second or subsequent conviction.

HB 1088. Amends the Illinois Identification Card Act. Provides that a person convicted of certain fraudulent ID card violations when there are aggravating circumstances is guilty of a Class 3 felony (now, Class 4 felony) and for a second or subsequent violation is guilty of a Class 2 felony (now, Class 3 felony).

Municipal Code

HB 1368. Amends the Illinois Municipal Code. Provides that a non-home-rule municipality shall not assign a firefighter to perform police duties or a police officer to perform firefighting duties. Prohibits a non-home-rule municipality from administering fire and police department work assignments in a manner inconsistent with this requirement. Further amends the Illinois Municipal Code. Provides that the restriction on firefighter and police work assignments does not apply to a municipality that created a department of public safety before January 1, 1998. Effective immediately.

Pension Code

SB1693. Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Increases the retirement formula for sheriff's law enforcement employees (SLEPs) to 2.5 percent of the final rate of earnings for each year of SLEP service. Increases the maximum pension payable to a SLEP from 75 percent to 80 percent of the final rate of earnings. Removes the two-year service requirement for earning new benefits after a return to service as a SLEP. Makes these changes apply to persons in service on or after July 1, 2004. Also increases the additional employee contribution paid by SLEPs to 3 percent of salary. Eliminates the reduction in benefit imposed on a surviving spouse who is more than five years younger than the deceased member, for the surviving spouse of any member who dies on or after the effective date. Allows a SLEP to convert up to 10 years of non-SLEP service credit into SLEP credit by paying the difference in employee and employ-

er contributions, plus interest. Makes the additional unfunded liability for all changes subject to a 35-year or 40-year amortization period. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

School Code

SB 293. Amends the School Code. Requires all contracts and agreements that pertain to goods and services and that are intended to generate additional revenue and other remunerations for a school district in excess of \$1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, to be approved by the school board. Requires the school board to file as an attachment to its annual budget a report indicating for the prior year the name of the vendor, the product or service provided, and the actual net revenue and non-monetary remuneration from each of the contracts or agreements. Also requires the report to indicate for what purpose the revenue was used and how and to whom the non-monetary remuneration was distributed. Amends the State Mandates Act to require implementation without reimbursement. Effective July 1, 2006.

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December 2005
Vol. 7 No. 2