

## Minnesota Legislature Adjourns in Seven Days: Bonding Projects Will Dominate Discussions

Alert

05.11.2020

By Paul Cassidy

After learning that the pandemic has left an approximately \$2.4 billion hole in Minnesota's general fund budget, legislators are left with only seven days to complete their work before next Monday's May 18 constitutional adjournment deadline. It is unlikely that both legislative bodies and Governor Tim Walz can come to any agreement on how to best address the budget shortfall before next Monday's deadline. Therefore, it is expected that legislators will need to return to St. Paul over the course of the summer in special session in order to address budget issues and any newly emerging issues in response to COVID-19.

Probably the hottest topic over the course of the last few days is whether the legislature can come to an agreement on a capital investment bill. With unemployment at records highs, legislators and Governor Walz are banking on bonding projects to create jobs and help stimulate the economy. Governor Walz proposed in 2019 a \$2.4 billion bonding bill that would be the largest bonding bill in Minnesota history. However, House DFLer's and Senate Republicans appear to be far apart on both project priorities and the size of the bonding package.

Finally, the budget deficit will overshadow all deliberations going forward. With no cash available, most finance bills are dead and the ability to pay debt service on any bonding bill becomes more difficult. Until the economy opens back up again, the budget deficit situation will continue to deteriorate, leaving legislators and Governor Walz no other alternative than to begin discussions over budget cuts.

# Minnesota Legislature Adjourns in Seven Days: Bonding Projects Will Dominate Discussions

## MINNESOTA'S PEACETIME STATE OF EMERGENCY

On March 13, Governor Walz declared a peacetime state of emergency in anticipation of delivering and coordinating public safety and health services related to the COVID-19 pandemic throughout Minnesota. That order was extended another 30 days on April 13, and is likely to be extended again, potentially to June 13. With the declaration comes a unique set of executive powers, but the declaration itself is far from unique.

A 'civil defense' state of emergency power was granted to the governor in a Minnesota statute in the early 1950s should the need arise to quickly align military or police responses to a national or statewide threat of war. Not until 1979 was a peacetime emergency order authorized, and its goal was to provide the governor with elevated powers relating to authorizing and delivery of public health and safety services, especially when local governments may not have the resources to do so on their own.

Other recent emergency orders have come about from threats related to Y2K, the avian flu and the 35W bridge collapse. What sets Governor Walz's declaration apart from those is its duration. The initial declaration can only last for five days. In order for it to continue, the governor needs consent from the state's Executive Council, composed of the lieutenant governor, attorney general, secretary of state and state auditor. With that, the order can be extended 30 additional days. An order can be overturned by the legislature (a power they granted to themselves in 2005) by a majority vote of both bodies. Until at least next January, when the newly elected members of the legislature are seated, the prospect of an order being overturned is unlikely because members of Governor Walz's political party control the House.

## MINNESOTA LEGISLATURE WORKING REMOTELY

Like every other facet of society, COVID-19 has had a massive effect on the daily operations of the Minnesota Legislature. Aside from taking up conversation space in every committee hearing, press conference, and vote on the House and Senate floors, the pandemic has brought about quite the transformation in how both legislative bodies conduct business. Committee hearings and press briefings are all conducted via Zoom teleconferencing, and aside from the technological learning curve, legislators have almost entirely adjusted to muting and unmuting themselves, and virtually raising their hands on the app to speak and take votes. Floor sessions, once bustling with legislators, staff, and press and lobbyists in the galleries, are now limited to the members who choose to attend in person. In the Senate, legislators who are absent have their votes reported by the caucus leaders, while attending members are socially distanced and spread throughout the Capitol. House floor sessions are limited further, with just a handful of representatives voting in person, and the majority present through a conference call. This process will remain to be the new normal for the legislature as they meet daily and attempt to wrap up business before their May 18 deadline.

# Minnesota Legislature Adjourns in Seven Days: Bonding Projects Will Dominate Discussions

## SENATE MOVES TO CONFIRM MOST WALZ APPOINTEES

All of the Walz cabinet appointees may face confirmation hearings and votes in the Republican-controlled state Senate. More specifically, Minnesota law authorizes the Senate to give advice and consent for any appointee the governor is required to notify them of. In particular, these confirmations apply to agency heads and certain other appointed bodies, like MnSCU, the MNsure Board and the Metropolitan Council. Important to note, appointees generally begin their service immediately after appointment and many serve their entire appointment without ever being confirmed by the Senate. Occasionally, an appointment is not given consent by the Senate, and that appointee is no longer able to serve in that role.

Going into the COVID-19 pandemic, the Senate had not taken action on Walz's cabinet appointees, with the exception of Thom Petersen, Department of Agriculture Commissioner. Last week, the Senate Jobs committee held hearings on Department of Employment and Economic Development Commissioner Steve Grove and Department of Labor and Industry Commissioner Peggy Leppink. While Grove's appointment was approved by the Committee 'with recommendation', Leppink's was advanced 'without recommendation'. Majority party members (Republicans) were very concerned with actions she has taken in the last year which they believe favored labor and regulators over business.

Pundits have speculated that the Senate GOP will not confirm one or more Walz appointees and the Leppink [hearing](#) may be the first domino to fall.

It is unclear if the Senate plans to press ahead with confirmations during this last week of the 2020 regular legislative session.

## BONDING BILL

The Minnesota legislature is currently in the second year of the biennium, which is traditionally the year a bonding bill is passed. The bonding bill authorizes the state to sell bonds to fund infrastructure projects around the state. With only a week left in session, neither the House nor Senate has released their bonding bill. Expectations are that the House will come in with a bill that hovers at or above the \$2 billion mark, while the Senate will come in closer to \$1 billion. With the COVID-19 pandemic wreaking havoc on employment in the state, projects that are "shovel ready" and can help provide jobs and a boost to the state's economy will likely be prioritized.

While the bill is typically not passed until the end of the legislative session and used as a bargaining chip in negotiations, this year it is being brought to a new level. Unlike most bills which only need a majority vote to pass, bonding bills require a three-fifths majority to pass, or 81 votes in the House and 41 votes in the Senate. The bill must start in the House. House minority leader Kurt Daudt has stated his caucus will not put up votes for the bonding bill unless Governor Walz ends his emergency powers related to the

# Minnesota Legislature Adjourns in Seven Days: Bonding Projects Will Dominate Discussions

COVID-19 pandemic. This would leave the House six votes short of being able to pass a bill. The Governor will likely extend his peacetime emergency powers an additional thirty days May 13. If the House minority caucus stays the course, the earliest a bonding bill would pass under this scenario is June 12, when the governor's peacetime emergency powers expire. At that point, he would call the legislature into special session to either extend the powers again or, presumably, to pass a bonding bill.

## MINNESOTA'S BUDGET DEFICIT

Last week Minnesota Management and Budget (MMB) Commissioner Myron Frans updated the legislature on the far reaching impacts of the COVID-19 pandemic on the state's finances. The numbers, while not a full and complete picture seen in other forecasts, were sobering: the steep deterioration in revenue collections, coupled with a spike in emergency spending has turned February's \$1.5 billion surplus into a \$2.4 billion deficit for the FY20-21 biennium.

In the short term, all plans for a supplemental budget that spends new money have been put on hold. Omnibus bills in all areas that may have originally included additional appropriations just 30 days ago have now largely been pared down to just noncontroversial policy provisions. The state is fortunate to have a budget reserve of \$2.4 billion and a cash flow account of \$350 million in place, but just using those resources to fix the current gap and move forward would not as simple as it seems. There is still a great deal of uncertainty about the length and severity of the economic downturn, as well as questions around what the federal government could still do in terms of financial relief to states. Statute lays out that budgets must be balanced by the last day of the biennium, June 30 of 2021, providing some additional runway for decisions to be made. That said, with an election coming up some veteran lawmakers who served through the last multi-billion dollar deficits are suggesting some proactive work be done yet this year to ease possible burdens on incoming legislators. Only one week remains before the Constitutional adjournment deadline, but it is expected that a number of special sessions will have to take place over the summer months where that work could occur.

Adding to all these dynamics is a rising debate about the proper role of the branches of government at this time: Governor Walz has extensive authorities while the state is under a peacetime emergency, which includes expenditure of funds that normally would have to be appropriated by the legislature. Whether or not the governor extends the emergency declaration, currently set to expire on May 13, could have significant impacts on the working relationship between the executive and legislative branches in the short term.

## Minnesota Legislature Adjourns in Seven Days: Bonding Projects Will Dominate Discussions

In short, the situation is very challenging but continues to be fluid. These unexpected budget hurdles will play a big role in what was already going to be a very kinetically charged time leading up to the 2020 election.

The Government Solutions team at Stinson LLP provides a complete range of services to clients who need to interact with government at all levels, including businesses, trade associations, nonprofits and citizens' groups. If you have any questions specific to this subject, please contact [Paul Cassidy](#), Andrew Chelseth, Jeremy Estenson, [Erin Buie](#), [Suzanna Kennedy](#) or [Lauren Weaver](#).

### RELATED CAPABILITIES

Government Solutions