1. 2013 STT 250-1 IN ILLINOIS, MORE TALK THAN ACTION ON TRANSPARENCY. (Release Date: DECEMBER 27, 2013) (Doc 2013-29560)

Client/matter: None
Illinois politicians often talk about corporate tax transparency and incentives, but doing much about them is a hard sell, according to the Illinois House majority leader.

In November 2012 the Illinois Senate narrowly passed a bill that would have required corporations to make extensive state tax disclosures. At the time, the bill’s sponsor, Senate President John Cullerton (D) emphasized that the bill would not make any changes to tax policy, but would provide information in case lawmakers wanted to make changes down the road.

“"We’re not changing any tax rates. We’re not closing any loopholes," Cullerton said of the bill, SB 282. "We’re just trying to be informed, so we can make those decisions in the future.”

But there was to be no future for SB 282. One year ago, the bill went to the House Revenue and Finance Committee, where it died a quick death.
The story of SB 282 illustrates the issue of corporate tax transparency in Illinois. Many lawmakers, including those at the highest levels of state government, want to do something. They tried in 2013, and they are continuing to do so this year. But the goal has proved elusive.

"These are very touchy issues," House Majority Leader Barbara Flynn Currie (D) told Tax Analysts in a recent interview.

Currie should know: She is among the leaders of the effort to revive corporate tax transparency in Illinois. After the House committee killed SB 282, she introduced her own, similar bill, HB 3627. But that legislation -- for now at least -- has not made it out of the House Rules Committee.

On a related front, lawmakers this year also want to examine the issue of how much Illinois hands out in state tax incentives, considering the uncertainty about how much recipients are paying in taxes in the first place.

On January 17 two House committees are scheduled to hold a joint informational hearing on whether the state should be stricter about the incentives it hands out. After several corporations spent months publicly threatening to leave Illinois unless they received tax breaks, House Speaker Michael Madigan (D) said in a December 11 statement that the time for examining incentives has come.

Madigan said in the statement that he finds it "very difficult to support tax giveaways for corporate CEOs and millionaire shareholders whose companies pay little in state taxes."

During several public appearances in December, Gov. Pat Quinn (D) agreed with Madigan that the state needs to be able to understand how much corporations are actually paying in taxes when it examines its approach to incentives.

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"We’re not changing any tax rates. We’re not closing any loopholes," Cullerton said of the bill, SB 282 (Doc 2012-24442). "We’re just trying to be informed, so we can make those decisions in the future." (Prior coverage (Doc 2012-24438).)
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**Much Talk, Little Action**

But despite all the talk about transparency, there has been little action. There is no bill associated with the hearing on tax incentives, according to Sue Hofer, a spokeswoman for the Illinois Department of Revenue. Also, Currie’s bill -- which, like SB 282, would require corporations to more extensively disclose what they pay in state taxes -- seems to be stalled.

HB 3627 (Doc 2013-10984), introduced last May, was the subject of an informational hearing in September. But because no further action is scheduled, Currie has her doubts that it will be enacted. (Prior coverage (Doc 2013-22980).)

"The reality is that this bill is a very hard sell," Currie said. "It’s a very important bill, but getting it to the floor is a hard sell."
HB 3627 would:

° require affected corporations to file an annual statement reporting their taxable income, base income, apportionment factor, net operating loss deductions, nonbusiness income, and other related information;

° require corporations to disclose any tax credits claimed;

° mandate that corporations doing business in the state but not required to file a tax return provide an explanation of why they don’t have to file a return, as well as information regarding gross receipts from Illinois purchasers; and

° impose a civil fine of $100 per day for noncompliance.

All statements would be public record, and the secretary of state would have to publish the information on a searchable Internet database.

Dan Bucks, former director of the Montana Department of Revenue, testified in support of HB 3627 at the September hearing.

"The arguments opposing HB 3627 are based on a wrong premise propped up by an inaccurate history," Bucks wrote in a subsequent article (Doc 2013-24013). "Despite decades of time for evidence to accumulate, the facts simply do not support the horror stories that have been alleged regarding tax disclosure. Instead, by stating those fears repeatedly without evidence, the critics of tax disclosures reveal a deep-seated and unjustified distrust of the citizenry and its right to meaningful policy participation in a democracy."

But Brian Strahle, author of the State Tax Notes column The SALT Effect, said Currie’s bill seeks disclosure of the wrong sort.

"I question where the transparency should come from -- that is, whether we need more disclosure and transparency from the government rather than from taxpayers," Strahle wrote in a recent column (Doc 2013-26202). "Perhaps real reform and discussion regarding tax policy would occur if that were the case."

University of Connecticut School of Law professor Richard Pomp comes down on Bucks’s side. Pomp said that when he hears corporations argue that state tax disclosure risks revealing confidential proprietary information, he always responds, "Could you give me an example?" He added, "I never get one. It strikes me as absurd."

Pomp said the September hearing in Illinois was exciting in that he couldn’t recall such a good turnout in the past. But he added, "I’ve been in this business far too long to be optimistic."
Reformers Pressing On

Currie also pointed to the state’s experience trying to reform enterprise zones as an example of how difficult it has been to require more transparency and clamp down on incentives. After three years of wrangling, in 2012 Illinois passed an enterprise zone bill that modestly deals with both issues. SB 3616 (Doc 2012-16896) implemented some stricter requirements for the state’s enterprise zones, including more reporting on credits received by zone members and the elimination of three credits and deductions. But the bill was a far cry from what proponents of cracking down on the 30-year-old program wanted to do.

“The outrage was unbelievable,” Currie said. “So in the end, we didn’t get rid of the investment tax credit, [and] we didn’t get rid of utility tax exemptions or sales tax exemptions. It passed. It didn’t do much. It’s hard to make these changes.”

Still, proponents press on. Kristi Sanford, a spokeswoman for Fair Economy Illinois, a coalition of grass-roots organizations that support corporate tax transparency, said the groups would continue to put pressure on lawmakers to support Currie’s bill at the state level, as well as legislation from Chicago Alderman William Burns (D) targeting corporations doing business in the city.

Burns’s bill (Doc 2013-27070), which mirrors Currie’s, is currently in the City Council’s finance committee. Sanford said the local bill may have a better chance than the state bill, but she wouldn’t go so far as to say it would pass.

Fair Economy Illinois helped draft Burns’s bill and also orchestrated the September hearing for Currie’s.

“Right now we have a budget crisis at the state level and at the city level,” Sanford said. “We are spending a lot more than we are taking in. Our elected officials seem to want to respond only by making cuts. We think part of the issue is finding out whether corporations are paying their share. Tax transparency is a first step toward understanding this.”