



2020 End of Session Report

2020 will go down as a once in a lifetime legislative session. What started off with promise of a robust legislative agenda, ended with members of the General Assembly looking like bank robbers with their various facemasks. There's probably a metaphor there.

Pre-pandemic, the year was shaping up to be mainly about energy and technology. Like every other aspect of society, the disease reshaped priorities and the last week of session focused on health care and employment law issues.

Illinois Chamber of Commerce Victories

Chamber efforts help save 3,500 high paying jobs

For the first time in Governor Pritzker's tenure, the General Assembly overrode a veto. Both the House and Senate overwhelmingly voted to override the veto of [HB 3902](#) (Bristow/Crowe) with only one lawmaker siding with the governor. HB 3902 reinstates a tax break for private jet maintenance companies. The law applies to as many as 14 facilities throughout the state which employ more than 3,500 highly paid workers. The Illinois Chamber lobbied in support of HB 3902. **The veto for HB 3902 was overridden and the legislation is now a public act.**

Chamber helps to kill Clean Energy Jobs Act (CEJA)...for now

[HB 3624](#) (Williams)/[SB 2132](#) (Castro) contains yet another bailout for Exelon's nuclear fleet, as well as a mishmash of various clean and green energy proposals. While the Chamber supports many of those clean energy proposals, it vigorously opposes another costly bailout for a profitable company funded by increased electricity costs to those ratepayers we represent. While this proposal, the various other proposals attempting to reconfigure Illinois' energy markets, and the Chamber's own proposal – [SB 3837](#) (Cunningham) were put on hold until a more complete set of hearings could be held on the impacts of these pieces of legislation, a late session push by supporters of the Exelon bailout attempted to capitalize on the condensed session and the focus on legislation pertaining to essential infrastructure to push its agenda. SB 2132 was sent to the Senate Assignments committee but did not move. **HB 3624 was placed on the House calendar for a second reading but did not advance.**

To ensure that no momentum ultimately developed to adopt this costly proposal, the Chamber articulated the many reasons a bailout is bad policy and costly to its members, in an opinion [editorial](#) published in the Chicago Tribune, during the final week of the legislative session. In addition, each legislator received a package of information highlighting the Chamber's position and articles from around the country expressing the problems with Exelon's brand of market manipulation and how it would harm an economic recovery following the COVID-19 pandemic. Regardless of the outcome this spring, this proposal, and the Exelon bailout specifically, is still alive and will require an aggressive push against it to defeat it in the coming months.

Chamber helps defeat pharmaceutical drug price control

In 2019, a bevy of anti-pharmaceutical manufacturer bills were introduced, and 2020 saw a renewed assault on the industry. Rep. Guzzardi's pharmaceutical price control legislation [HB3493](#) (Guzzardi) would have created a price control board that would have been devastating to Illinois' pharmaceutical and life science sectors. Workability concerns and the long-term impact to research and development of new cures were compelling arguments as the legislation failed in committee in early March. The Chamber opposed this legislation.

Chamber works to establish a rebuttable presumption for employee's contracting COVID-19

In the middle of the pandemic, Governor Pritzker used an emergency rule to greatly expand the workers' compensation system in violation of the decades-long agreed bill process. After legal action and a tense Joint Committee on Administrative Rules (JCAR) meeting, the bill was later withdrawn and the traditional negotiating process between business groups like the Chamber and labor organizations were able to proceed. [HB 2455](#) (Hoffman/Holmes) established a rebuttable presumption for first-responder or front-line workers if the employee's injury or occupational disease resulted from exposure to and contraction of the COVID-19 virus. The exposure and contraction are rebuttably presumed to have arisen out of and in the course of the employee's first-responder or front-line worker employment and the injury or occupational disease shall be rebuttably presumed to be causally connected to the hazards or exposures of the employee's first-responder or front-line worker employment. **The bill passed both chambers with little opposition and awaits the governor's signature.**

Chamber helps members Lyft and Uber get a clean sunset extension

The Chamber lobbied for a clean extension of the Transportation Network Providers Act (TNPA). The TNPA was set to sunset at the end of the calendar year. The Illinois Trial Lawyers Association made a late push to take away critical liability protections from the ride-share companies. Despite this push, a clean extension was passed preserving the protections for another year with [HB 2174](#) (Willis/Jones). **The bill passed both Chambers on the last week of session and awaits the governor's signature.**

Chamber negotiates Unemployment Insurance changes to protect employers

[HB 2455](#) (Hoffman/Holmes) waives the benefit charges to individual employers due to benefits paid and caused by COVID-19. This change will save employers who had to lay off workers following the pandemic from costly increases. The bill also complied with federal conditions in order to net the state approximately \$2 billion in federal funds to pay for benefit expansions and \$20 million to pay for the state to upgrade its IT systems. **The bill passed both chambers with little opposition and awaits the governor's signature.**

Despite revenue downturn, Chamber helps preserve capital appropriations

Last year, the Illinois General Assembly passed a historic \$45 billion "Rebuild Illinois" capital bill. The massive state revenue loss threatened to derail this vital reinvestment one year later. Thankfully, the Chamber worked with labor and other organizations to help preserve the capital investments. [HB 64](#) (Hoffman/Harmon) **passed both chambers and will be signed by the governor.**

Data privacy laws stopped for another year

Early into the legislative session, over a dozen data privacy bills were introduced. Many of them included business killing private rights of actions which would allow any individual to sue for damages. This would lead the state down another BIPA style disaster.

Even the bills without the private right of action, contained numerous red tape provisions that would have added compliance nightmares to companies. The Chamber was able to prevent the passage of any of these bills, but we have been warned to expect them to be reintroduced with a vengeance next year. For more details on the specifics of these bills, go to the Technology section below.

Energy and Environment

With the focus on the budget and those essential topics listed above that were related to the state's economic recovery, legislation targeting energy or the environment moved to the back burner. This could portend a very active Spring 2021 in these areas, or a busy summer this year, should the General Assembly return. There are a few items in particular that the Chamber will continue to watch closely.

CCR Surface Impoundments

[SB 671](#) (Bennett), which was designed to make a number of changes to the state's recently enacted coal ash impoundment permitting program, stalled when session was interrupted in March. The bill ultimately became a vehicle for telehealth legislation, but the underlying issues necessitating the trailer bill are still present, and the Illinois EPA has already begun sending out invoices to those companies needing permits. The Chamber will continue to remain engaged on this issue. **This bill was placed on the Senate order of concurrence but did not move.**

Hazardous Materials Workforce

[SB 1407](#) (Hastings/Walsh), which would require that refineries, ethanol plants, and other chemical facilities utilize only contractors and subcontractors in the building and construction trades on site, never gained any traction this spring before session was delayed. The Chamber has opposed this legislative overreach and will continue to work with the lengthy list of opponents whenever its sponsors decide to push forward again. **This bill was placed on the house calendar for a third reading but did not move.**

Environmental Justice

[HB 4606](#) (Mah) would require the Illinois EPA to expand its current environmental justice program, imposing new requirements and additional hurdles on permit applicants before obtaining a permit from the Agency. The Chamber has actively opposed this legislation and will continue to engage with the bill's supporters in an effort to tailor the bill to minimize its unreasonable consequences to lawfully operating businesses. **This bill was assigned to the House Energy & Environmental committee but did not move.**

Nuclear Fleet Resolutions

In the final days of the abbreviated Spring 2020 Session, a number of Senate Resolutions were filed related to the nuclear fleet in Illinois and threats to close certain facilities. [SR 1182](#) (Hastings), [SR 1183](#) (Hastings), and [SR 1195](#) (Hastings), and [SR 1196](#) (Hastings) all were introduced and referred to the Committee on Assignments but were never called for votes. SR 1182 urged the Illinois Commerce Commission to prepare a report examining the impact on residential, commercial, and industrial electric rates from the closure of Illinois' Braidwood, Byron, Dresden, and LaSalle nuclear power plants and how those closures would affect

reliability and capacity for the Midwest region. SR 1183 urged PJM Interconnection to adopt market rules and policies that would ensure the continued operation of the existing fleet of nuclear power plants in Illinois. SR 1195 was similar to SR 1182, but also included a requirement that the Illinois Environmental Protection Agency prepare a report examining the carbon and air pollution impacts of the closure of the facilities. SR 1196 was similar to SR 1183, but also urged PJM Interconnection to postpone the next capacity auction until Illinois has an opportunity to develop and implement a solution that will enable the state to meet its clean energy goals.

Employment Law

The Employment Law Council's most impactful issues came in one package, [HB 2455](#) (Hoffman) which passed both chambers. HB 2455 was an agreed bill between business and labor on workers' compensation and unemployment insurance. It is a moral victory in that both laws could have had far worse changes for employers. As with most agreed bills we had to give up some things to move the ball forward, consequently I see HB 2455 is really a draw. **This bill has passed both Houses.**

Workers' Compensation Changes

[HB 2455](#) (Hoffman) Creates a rebuttable workers' compensation claim presumption for all individuals employed as police, fire personnel, emergency medical technicians, or paramedics; all individuals employed and considered as first responders; all workers for health care providers, including nursing homes and rehabilitation facilities and home care workers; corrections officers; **and essential business front-line workers** that any injury or occupational disease resulting from COVID-19 is causally connected to and arose out of and in the course of their employment. To access the presumption, workers of essential businesses, as defined by the Governor's Executive Order 2020-10, must encounter members of the general public or work in an employment location of more than 15 employees.

For employers the important features include:

- Retaining an ordinary standard of evidence to rebut the presumption;
- Except for home care workers, clarifies that working from home or a residence is not a place of employment;
- Requires the employee to provide either a positive test or a diagnosis from a licensed medical practitioner; and
- Provides a credit towards temporary total benefits if the worker received CARES Act paid leave or unemployment insurance benefits.

It also creates a rebuttable presumption that Chicago police officers, firefighters, and paramedics who die from COVID-19 did so in the line of duty for purposes of receiving death benefits and annuity duty death benefits.

Unemployment Insurance Changes

- Waiver of the one-week waiting period for employment benefits until December 31, 2020;
- Provides for a maximum of 20 weeks Extended Benefits (EB) instead of 13 weeks;
- "non-charging" of unemployment benefit charges to an employer if COVID-19 was the cause of the lay-off ; and
- Provides non-instructional educational employees with the ability to receive UI benefit until December 31, 2020

Other Key Issues that Failed to Advance this Session

Paid Leave

[SB 471](#) (Lightford) was approved by the General Assembly, but the paid leave provisions were removed from the legislation. We fully expect this issue to be resurrected for the fall veto session. **The amended version of SB 471 passed both Houses.**

Covenants Not To Compete

[SB 3430](#) (Steans) limited noncompete covenants. We had been engaged in productive negotiations with proponents of the legislation. We look to restart those negotiations this summer. **This bill was referred to Senate Assignments committee but did not move.**

Medical Marijuana

We had worked out an agreement with Rep. Bob Morgan prohibiting an employer from disciplining or firing a worker using medical marijuana solely for failing a drug test. Our agreement, found in [HB 4623](#) (Morgan), exempted a broad list of “safety sensitive positions” from the limitation. It also clarified the Right to Privacy in the Workplace Act related to the lawful use of medical marijuana. We will take up this issue again over the summer. **This bill was placed on the House calendar for a second reading but did not move.**

Prevailing Wage for Private Work

We were able to stop [SB 1407](#) (Hastings) which required refineries and certain chemical plants to pay prevailing wages on all construction and maintenance work performed in their facilities. **This bill was placed on the House calendar for a third reading but did not move.**

As we look to the future, we see a growing interest in the legislature to challenge Illinois employers with more regulation and liability in the following ways:

- Restrictions on how employers schedule hourly employees;
- Employee versus independent contractor status;
- Expansion of employment discrimination protections; and
- Expanding rights of felons when hired.

Healthcare

Hospital Assessment

Perhaps the single largest healthcare bill this session was the renewal of the state’s hospital assessment. Under the federally-approved program, the state essentially taxes hospitals, uses those proceeds to receive federal Medicaid matching dollars, and redistributes the funds back hospitals to help pay for Medicaid. The renewed assessment will provide approximately \$3.8 billion for Medicaid services – an increase of approximately \$250 million. The legislation renewing the program, [SB2541](#) (Steans/Harris) passed both the House and the Senate on May 22. The assessment will be in place through 2022.

Pharmaceutical Drug Price Controls Fails

2019 saw a bevy of anti-pharmaceutical manufacturer bills introduced, and 2020 saw a renewed assault on the industry. Rep. Guzzardi’s pharmaceutical price control legislation [HB3493](#) would have created a price control board that would have been devastating to Illinois’ pharmaceutical and life science sectors. Workability concerns and the long-term impact to research and development of new cures were compelling arguments as the legislation failed in committee in early March. The Chamber opposed this legislation. **This bill was tabled in the House.**

Another anti-pharmaceutical bill, [HB 4888](#) (Gong-Gershowitz) would have created a redundant and costly drug take-back regime in the state. The Chamber opposed this legislation, which was posted but never called in committee. **This bill was assigned to the Prescription Drug Affordability and Accessibility committee but did not move.**

Telehealth

One of the biggest unresolved issues this legislative session dealt with attempts to increase the utilization of telehealth during the COVID-19 pandemic. In mid-March, Gov. Pritzker issued [Executive Order 9](#), which, among other items, required that telehealth be covered by insurers no less restrictively than an in-person visit. This included a ban on any consumer cost-sharing for telehealth services. The Chamber strongly supports the expansion of telehealth as a cost-effective tool in healthcare delivery. In the waning hours of session, there was an effort to double-down on the governor's Executive Order and codify it in statute. The House ultimately passed [SB 671](#) (Bennett/Conroy), which would have extended the executive order through the end of the calendar year (previous proposals have extended the timeframe through May of 2021). **The bill was placed on the Senate calendar order of concurrence but did not move.**

The Chamber has significant reservations about mandating payment parity for telehealth, in addition to preventing cost-sharing measures. One of telehealth's main advantages is the ability to deliver healthcare in a more affordable manner. The legislation, as passed by the House, would have created a perverse incentive where telehealth could actually be more expensive for an employer than an in-person visit. Fortunately, the Senate did not take up the legislation. It is our hope that a compromise measure can be passed by both Chambers and continues to boost access to telehealth while protecting cost control measures.

Nurse Staffing Flares and Goes Quiet

One of the most expensive pieces of legislation for hospitals from last session [HB 2604](#) (Crespo), was Representative Crespo's nurse staffing ratio bill. The legislation would have created rigid and unworkable staffing requirements that would have added millions of dollars in costs, with no measurable patient outcomes. This year, the Chamber signed on as a supporter of the Illinois Health and Hospital Association's negotiated alternative, [SB 3636](#) (Lightford), which would have given nurses a larger say in staffing decisions. Neither piece of legislation advanced this session. **HB 2604 was placed on the House calendar for a second reading but did not move. SB 3636 was assigned to the Senate Assignments committee but did not move.**

DOI Working Groups

While legislative session was cut short, there was no shortage of legislatively-mandated working groups. The Chamber has participated in four different working groups this year, including establishing medical necessity criteria for first episode psychosis treatment, developing a universal pharmaceutical prior authorization form, establishing mental health parity reporting information, and creating a bundled billing solution for insurers. We have worked collaboratively with a variety of stakeholders and state agencies to advocate for workable and common-sense policies.

Infrastructure

New Senate Transportation Committee Chairman

Senator Ram Villivalam (D- Chicago) has been named the new Chairman of the Senate Transportation Committee. Sen. Villivalam has pledged to implement a more "open and transparent process" for committee business. This is a reference to former Chairman Senator Martin Sandoval (D-Chicago), who worked his committee business behind the closed doors of

his office. The subsequent public committee meetings were often finished in two minutes or less.

Sen. Villivalam also wants to "move to a data-and equity-drive model of allocating transportation funds." This could prove worrisome if it upsets the decades-old 55/45 transportation funding split between Chicago and the rest of the state. That 55/45 split is one of the few longstanding bipartisan agreements in Springfield. The Chamber will monitor this issue closely.

Red Light Cameras

As part of the fallout over the latest red light camera scandal involving former Sen. Martin Sandoval, the Illinois House passed a limited red light camera ban by an overwhelming 84-4 majority. [HB 322](#) (McSweeney) would ban red light cameras from any "non-home rule" community. Non-home rule communities are generally those with fewer than 25,000 residents and they have much more limited powers than home rule communities under state law. This bill would not apply to large municipalities like the City of Chicago- they will continue to operate red light cameras. **The bill was referred to the Senate Assignments committee but did not move.**

There were five identical pieces of legislation filed in the House that never moved.

Auto Dealers

[HB 4212](#) (Kalish) Representative Yehiel 'Mark' Kalish (D-Chicago) took up the mantle from Senator Oberweis (R-Sugar Grove) in attempting to manage car dealership operations. [HB 4212](#) would repeal the provision providing that no person may keep open, operate, or assist in keeping open or operating any established or additional place of business for the purpose of buying, selling, bartering, exchanging, or leasing, or offering for sale, barter, exchange, or lease, any motor vehicle on Sunday. **The Chamber stands with our friends the Illinois Auto Dealers and opposes this legislation. The bill was never released from the House Rules Committee.**

Other Key Issues That Failed to Advance This Session

[HB 4571](#) (Lilly) bans motorists from pumping their own gas. The sponsor touts this bill as a job creation measure. **The Chamber opposes this legislation. The Bill was tabled in the House.**

[HB 4695](#) (Guzzardi) provides that any county (currently, DuPage, Kane, Lake, Will, and McHenry counties only) may impose a tax upon all persons engaged in the business of selling motor fuel. Provides that, in addition to other uses currently allowed by law, the proceeds from the tax shall be used for the purpose of maintaining and constructing essential transportation-related infrastructure. **The bill was referred to the House Rules committee but did not move.**

[HR 751](#) (Halpin) expresses support for a strong intercity passenger rail network and supports the passage of [U.S. S.2922](#), the proposed "Rail Passenger Fairness Act", providing Amtrak the ability to enforce its preference rights by bringing a civil action before a federal district court. **This would allow Amtrak to file expensive civil suits against freight companies. The Chamber opposes this legislation. The Resolution was placed on the House Calendar but was never considered on the Floor.**

[SB 2294](#) (Hastings) removes the employer exemption under the Employee Sick Leave Act from employers subject to the federal Railway Labor Act. **Despite the name, the bill was a mandate on airlines and the Chamber helped successfully defeat it. The bill was referred to the Senate Assignments committee but did not move.**

[SB 2560](#) (Villivalam) creates the Complete Streets Act that requires IDOT to use federal and state funds allocated for transportation projects to improve access, mobility, and safety for users of various modes of transportation. This would include pedestrians and bicyclists. Opponents will call this a road fund diversion. **The bill was referred to the Senate assignments committee but did not move.**

[SB2954](#) (Fine) creates the Coal Tar Sealant Disclosure Act that requires specified persons and entities, public schools and public school districts, and state agencies to disclose the use of a coal tar-based sealant or high polycyclic aromatic hydrocarbon sealant product. Requires public schools or public school districts and state agencies to post, for a minimum of 10 years after application, signage regarding the dangers such use poses. Requires persons or entities to provide information regarding alternative sealant upon request and public schools or public school districts and the state to seek an asphalt-based sealant when distributing any request for proposals. Requires public schools or public school districts and state agencies to determine whether specified benefits of alternative products outweigh the cost, and if so to use them. On or before January 1, 2021, requires the Department of Public Health to adopt rules for prescribed procedures and standards to be used in assessing acceptable levels of high polycyclic aromatic hydrocarbon content of pavement seals on properties covered under the Act. Provides that the Department, in consultation with the State Board of Education, shall conduct outreach to public schools and public school districts regarding coal tar-based sealant and high polycyclic aromatic hydrocarbon product. Provides that units of local government shall adopt ordinances providing for the enforcement of the Act. Provides that a person or entity who commits a violation of the Act shall be subject to a civil penalty of not less than \$1,000 nor more than \$10,000 and that each incidence of violation shall be deemed a separate offense. **The Chamber opposes this legislation. The bill was referred to the Senate Assignments committee but did not move.**

[SB 3091](#) (Rose) amends the Illinois Vehicle Code and removes the permit requirement, from September 1 through December 31, for a vehicle transporting agricultural commodities to exceed the maximum weight, axle weight, and gross weight limits under certain circumstances. Effective immediately. **NOTE: The Chamber has spoken with the Senate GOP about our concerns with this legislation, specifically as it relates to fairness amongst the modes of transit. The bill was tabled in the Senate by the sponsor.**

[SB 3183](#) (McGuire) amends the Illinois Highway Code providing that, in and within one mile of an urban area, the Department of Transportation shall establish and solely fund bicycle and pedestrian ways in conjunction with the construction, reconstruction, or other change of any state transportation facility. Effective immediately. **We do not need to be very wary of anything taking money from road construction and repair. The bill was referred to the Senate Assignments committee but did not move.**

[SB 3292](#) (Villivalam) amends the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act providing that the term of any member of a selection committee created by the Department of Transportation to select firms to provide architectural, engineering, and land surveying services prior to January 1, 2021, shall be terminated on December 31, 2020. Provides that beginning on or after January 1, 2021, the Department of Transportation shall appoint selection committees consisting of 9 members who shall be appointed with the advice and consent of the Senate. Effective immediately. **The current board works well and this attempt to politicize selection does not bode well for non-political, data-driven funding decisions. The bill was referred to the Senate Assignments committee but did not move.**

Tax

Budget

[HB 357](#) (Harris) is the budget implementation bill (BIMP). The percentages of income tax collections to be deposited into the income tax refund fund have been lowered. In the case of individuals the percentage is lowered to 9% from 9.5% - this is the lowest percentage of deposits since FY 2013. In the case of corporations, the percentage is lowered to 14% from 14.25% - this is the lowest percentage of deposits since FY 2014. **This bill passed both Houses.**

TIFS

[SB 2052](#) (Castro) extends the expiration deadlines for a number of TIFs. **This bill passed both Houses.**

Other Key Issues That Failed to Advance This Session

[HB 4138](#) (Morgan) the "Phase Our Corporate Giveaways Compact" legislation would authorize Illinois to enter into a compact with other states to outlaw state-level tax incentives. Among its other flaws, the legislation would authorize a private right of action by any "taxpayer resident" who wishes to challenge the granting of a company-specific tax incentive. Executive Director of the Chamber Tax Institute Keith Staats testified in opposition to this proposal at the House Revenue committee. The legislation did not move forward. **The bill was assigned to the House Income Tax subcommittee but did not move.**

[HB 4544](#) (Harris) The Chamber opposed this unnecessary initiative of the Illinois Department of Revenue. This proposal amends the Illinois Income Tax Act to amend the term "unitary business group" in a manner adverse to a number of our members. Earlier this spring Staats met with the Director of Revenue and his staff along with other representatives of the business community to outline our concerns. **The bill was assigned to the House Income Tax subcommittee but did not move.**

[HB 4840](#) (Zalewski) The Chamber opposed this unnecessary initiative of the Illinois Department of Revenue. This legislation amends the sales tax laws to place an arbitrary time limit on the amount of time a seller can utilize the demonstration and interim use exemptions to the sales tax. **The bill was assigned to the House Revenue & Finance committee but did not move.**

[HB 4947](#) (Davis) The Chamber continued our opposition to efforts of the Cook County Assessor to enact his so-called "data modernization" legislation. This legislation would impose burdensome and unnecessary reporting requirements on owners and tenants of income-producing property. The legislation would authorize the imposition of these requirements by the Cook County Assessor and would also allow every other county in the state to opt in to these requirements. **The bill was assigned to the House Revenue & Finance committee but did not move.**

Technology

Biometric Information Privacy Act (BIPA)

Illinois is notorious for its BIPA laws. Since the Illinois Supreme Court ruled in *Rosenbach v. Six Flags*, Illinois has allowed for costly lawsuits under BIPA even when no actual damages occur to the "aggrieved" person(s). In the last year more than 700 BIPA class actions have

been filed in Illinois. The Chamber introduced the following three BIPA bills and supported the fourth. We were optimistic about legislative changes this year before the shutdown and will continue to push the issue next year.

[SB 3591](#) (Barickman) amends the Biometric Information Privacy Act. This represents the Chamber's version of BIPA reform that was gaining the most legislative traction before the pandemic as it was the easiest to digest. It would limit prevailing plaintiffs to \$1,000 for each negligent capture of a particular biometric identifier. This would greatly reduce damages from \$1,000 per collection. **The bill was referred to the Senate Assignments committee but did not move.**

[SB 3592](#) (Barickman) / [HB 5375](#) (Durkin) this is the most employer friendly of the Chamber's BIPA proposals. It would eliminate the private right to action in almost all cases. Instead of individuals suing, the Department of Labor would be charged with enforcing BIPA violations. **The bills were referred to the Senate Assignments and House Rules committee respectively but did not move.**

[SB 3776](#) (Cunningham) amends the Biometric Information Privacy Act. Provides that a prevailing party may only recover liquidated damages of \$1,000 or actual damages, whichever is greater, for negligent violation of the Act against a private entity offending party that is not a current or former employer of the prevailing party. Provides that a prevailing party may only recover actual damages against a private entity offending party that is the current or former employer of the prevailing party and that negligently violates the Act. This was not authored by the Chamber but it would represent a big improvement to the current situation. **The bill was referred to the Senate Assignments committee but did not move.**

Data Privacy

[SB 2263](#) (Harmon) is based on the Washington Data Privacy Proposal. While there are some issues, it's much better than other proposals. The bill creates the Data Privacy Act and provides for the regulation of the use and sale of data. Provides for the enforcement of the Act by the Attorney General and creates civil penalties for companies that do not comply with the Act. Preempts home rule and provides that the regulation of data use and privacy are exclusive powers and functions of the State. Creates the Consumer Privacy Fund as a special fund in the State treasury. **The bill was referred to the Senate Assignments committee but did not move.**

[SB 2330](#) (T. Cullerton) is a data privacy bill based on the California legislation. This is much worse than the Harmon bill above. It creates the Data Transparency and Privacy Act. Provides that any business that processes personal information or deidentified information must, prior to processing, provide notice to the consumer to whom the information refers or belongs of specific information in the service agreement or somewhere readily accessible on the business' website or mobile application. Establishes a "right to know" for consumers and prescribes types of information that they may request of businesses. It says consumers have the right to opt out of agreements that entail the disclosure of personal information from the business to third parties and affiliates, the sale of personal information from the business to third parties and affiliates, and the processing of personal information by the business, third parties, and affiliates. It creates numerous red tape burdens on employers, or anyone operating a web address. The legislation would create a brand new private right of action. **The bill was referred to the Senate Assignments committee but did not move.**

[SB 3092](#) (Rose) amends the Genetic Information Privacy Act and provides that it is unlawful for any person or business to disclose an individual's genetic information to third parties

specifically for marketing, advertising, or sales purposes unless the individual, or his or her legal guardian or legally authorized representative, consents in writing to the disclosure. **The bill was referred to the Senate Assignments committee but did not move.**

[SB 3299](#) (Fine) creates the Consumer Privacy Act and provides that a consumer has the right to request that a business that collects the consumer's personal information disclose to that consumer the categories and specific pieces of personal information the business has collected. This bill would create numerous compliance headaches for anyone with a website. **This bill was referred to the Senate Assignments committee but did not move.**

[SB 3414](#) (Castro) creates the Protecting Household Privacy Act. This bill would disallow law enforcement from asking for electronic data- such as doorbell camera footage- from any citizen. It would make it hard for helpful people to share video or audio when they have evidence of a crime that occurred on their street. Further, it provides that if a manufacturer of a household electronic device discloses household electronic data to any third party, the manufacturer shall make the following information available on a clear and conspicuous notice on the manufacturer's Internet website: (1) all categories of household electronic data disclosed to third parties; and (2) the names of all third parties that receive household electronic data. **This bill was referred to the Senate Assignments committee but did not move.**

[HB 2736](#) (Buckner) creates the "Right to Know Act". This legislation would forbid an operator of a website or online service from disclosing personal information about users of its website, or application, residing in Illinois unless in the customer agreement they are notified about: i) the personal information collected; ii) all categories of third-party persons or entities with whom the operator may disclose, and iii) providing a description of an Illinois' residents rights under this Act. All website or online service operators that disclose personal information to a third party must maintain an email address or toll-free phone number to inform any Illinois resident that asks what personal information that was shared about them and to whom it was shared. All inquiries must be answered within 30 days. **Most worrisome is that it creates a private right of action for failure to comply. As we have seen with BIPA, this can be abused.** **This bill was referred to the House Cybersecurity, Data Analytics & IT Committee but did not move.**

[HB 5288](#) (Burke) creates the Data Privacy Act providing for the regulation of the use and sale of data. Establishes consumer rights to copies of information held by persons who control and process data and provides for restrictions on the use of personal data. Enforcement of the Act by the Attorney General with new civil penalties.. **This legislation is more industry friendly than the other data privacy legislative measures and therefore was supported by the Illinois Chamber.** **This bill was referred to the House Cybersecurity, Data Analytics & IT Committee but did not move.**

[HB 5497](#) (Williams) creates the Geolocation Privacy Protection Act. Under this legislation, a private entity that owns, operates, or controls a location-based application on a user's device may not disclose geolocation information from a location-based application to a third party unless the private entity first receives the user's affirmative express consent after providing a specified notice to the user. **This bill was opposed by the Chamber because it stifles further innovation.** **This bill was referred to the House Cybersecurity, Data Analytics & IT Committee but did not move.**

[HB 5603](#) (Mussman) creates the Consumer Privacy Act and provides that a consumer has the right to request that a business that collects the consumer's personal information disclose to

that consumer the categories and specific pieces of personal information the business has collected **This bill was referred to the House Rules committee but did not move.**

Other Key Issues That Failed to Advance This Session

[HB 5770](#) (Ford) amends the Broadband Advisory Council Act. Directs the Council to develop a plan to provide access to broadband services at no cost to all residents of this State. Priority be given to zip codes identified as having high levels of poverty and areas lacking the infrastructure necessary to meet requirements for high-speed access to the Internet. It would require the Council to identify existing and new streams of State revenue necessary to implement the plan. The Council shall report the plan and recommendations for legislation necessary to implement the plan to the General Assembly by March 31, 2021. **This bill was referred to the House Rules committee but did not move.**