Commission on Government Forecasting and Accountability

MONTHLY BRIEFING ***JUNE 2008***

http://www.ilga.gov/commission/cgfa2006/home.aspx

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FACILITY CLOSURE UPDATE
Mike Moore, Revenue Analyst

IDOT Division of Traffic Safety: The Department of Transportation notified the Commission on May 5, 2008 that the Division of Traffic Safety would be moved to Southern Illinois. The Commission received the "Recommendation for Closure" for the transfer of the Division of Traffic Safety to Harrisburg, Illinois on July 1, 2008. **A public hearing has been scheduled for Thursday, July 31, 2008 at 5:00 p.m. in Room 212 of the Capitol Building** to hear testimony regarding this transfer. By statute the Commission has until September 11, 2008 to issue an advisory opinion.

Pontiac Correctional Center: The Department of Corrections notified the Commission on May 6, 2008 that Pontiac Correctional Center would be closed. The "Recommendation of Closure" for the Pontiac Correctional Center was due on July 2, 2008.

The hearing for Pontiac Correctional Center will be held on Tuesday, August 12, 2008 at 5:00 p.m. It will be held at the Pontiac Township High School, located at 1100 East Indiana Avenue, Pontiac, Illinois.

REVENUE: Base FY 2008 Revenue Growth $1.019 billion: Income Taxes Buoy Receipts As Other Revenues Experience Lackluster Year
Jim Muschinske, Revenue Manager

General funds revenues ended the year by declining $154 million in June. The decrease was expected and attributed to much lower transfers as well as federal sources. June had the same number of receipting days as last year.

While suffering an overall decline in June, a number of sources experienced gains. Gross personal income tax closed the year in fine fashion as receipts grew $55 million, or $69 million net of refunds. Gross corporate income tax receipts also fared well, as receipts grew $32 million, or $33 million net of refunds. Interest income finished the year on a surprisingly strong note as earnings rose $7 million. Corporate franchise taxes increased $5 million for the month. And, both sales tax and inheritance tax were each up a modest $4 million.

A few sources suffered declines, albeit mostly minor. As expected, both public utility taxes as well as the IGT fell, each by $10 million. Insurance taxes dipped by $3 million, while a number of sources eased by $1 million—liquor taxes, vehicle use tax, and other sources.

As mentioned, overall transfers were expected to fall significantly for the month, and those expectations were more than met as overall transfers fell $200 million. The $1 million increase in lottery transfers was offset by $120 million decline in riverboat transfers. As discussed in previous monthly briefings, riverboat performance slowed significantly in the second half of the fiscal year. In fact, in terms of riverboat transfers, a "perfect storm" seems to have unfolded in FY 2008. A combination of the smoking ban, economic slowdown, recent flooding, and absence of the "hold harmless" provision all combined to post a dismal month of transfers. Other transfers also did poorly—down $81 million, although the decline was expected due to lack of chargebacks and other transfer activity.

Federal sources closed the year with a monthly decline of $50 million. However, since reimbursable spending is limited by appropriation authority, the decline was anticipated.

Year End

Excluding short-term borrowing and other cash flow transfers, overall base receipts were up $1.019 billion, or 3.6% in FY 2008. To put the year's growth into some sort of context, since the overall long-term growth average is 4-5% [depending on the time period], the fiscal year will be remembered as being unspectacular. In fact, if it weren't for the continued strength of personal income tax, the year could have been disastrous.

Of the just over $1 billion in growth, gross personal income tax represented $763 million. And, since the refund percentage in FY 2008 was lowered, on a net of refund basis, personal income tax resulted in $912 million, or almost 90% of the yearly increase. Certainly, a strong year for personal income tax served to bolster what otherwise would be a year void of any meaningful growth.

Both corporate income tax as well as sales tax struggled throughout much of the fiscal year. Some positive news came from the strength of the inheritance tax -- up $109 million. Otherwise, for the most part, State tax sources simply plodded along.

While lottery transfers were up $35 million, other transfers more than erased those gains falling $260 million due to lack of fund sweeps and chargebacks. The dismal performance of the riverboats was discussed earlier as transfers fell $121 million. Finally, federal sources finished $112 million ahead of last year.

GENERAL FUNDS RECEIPTS: JUNE

FY 2008 vs. FY 2007

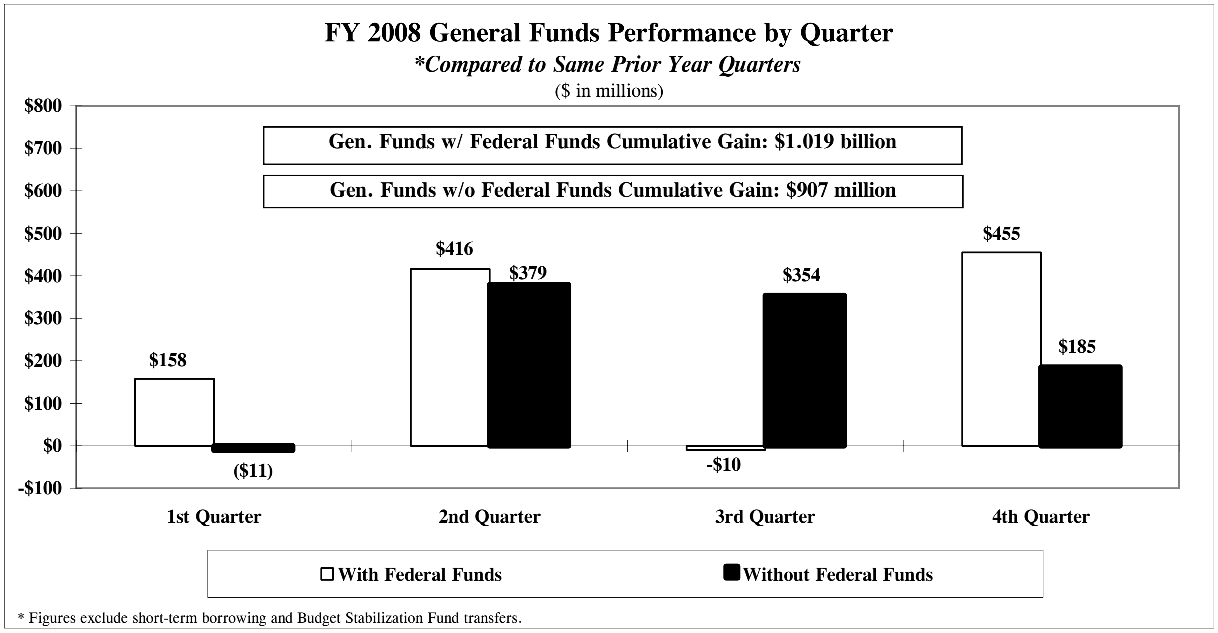
($ million)

Revenue Sources	JUNE FY 2008	JUNE FY 2007	$ CHANGE	% CHANGE
State Taxes				
Personal Income Tax	$974	$919	$55	6.0%
Corporate Income Tax (regular)	310	278	$32	11.5%
Sales Taxes	622	618	$4	0.6%
Public Utility Taxes (regular)	73	83	($10)	-12.0%
Cigarette Tax	29	29	$0	0.0%
Liquor Gallonage Taxes	14	15	($1)	-6.7%
Vehicle Use Tax	2	3	($1)	-33.3%
Inheritance Tax (Gross)	30	26	$4	15.4%
Insurance Taxes and Fees	54	57	($3)	-5.3%
Corporate Franchise Tax & Fees	15	10	$5	50.0%
Interest on State Funds & Investments	22	15	$7	46.7%
Cook County IGT	0	10	($10)	-100.0%
Other Sources	66	67	($1)	-1.5%
Subtotal	$2,211	$2,130	$81	3.8%
Transfers				
Lottery	62	61	$1	1.6%
Riverboat transfers & receipts	40	160	($120)	-75.0%
Other	116	197	($81)	-41.1%
Total State Sources	$2,429	$2,548	($119)	-4.7%
Federal Sources	$316	$366	($50)	-13.7%
Total Federal & State Sources	$2,745	$2,914	($169)	-5.8%
Nongeneral Funds Distribution:				
Refund Fund				
Personal Income Tax	($75)	($89)	$14	-15.7%
Corporate Income Tax	($48)	(49)	$1	-2.0%
Subtotal General Funds	$2,622	$2,776	($154)	-5.5%
Short-Term Borrowing	$0	$0	$0	N/A
Hopital Provider Fund (cash flow transfer)	$301	$0	$301	N/A
Budget Stabilization Fund Transfer	$0	$0	$0	N/A
Total General Funds	$2,923	$2,776	$147	5.3%

CGFA SOURCE: Office of the Comptroller: Some totals may not equal, due to rounding 2-Jul-08

GENERAL FUNDS RECEIPTS: YEAR END FY 2008 vs. FY 2007 ($ million)				
Revenue Sources	FY 2008	FY 2007	CHANGE FROM FY 2007	% CHANGE
State Taxes				
Personal Income Tax	$11,187	$10,424	$763	7.3%
Corporate Income Tax (regular)	2,201	2,121	$80	3.8%
Sales Taxes	7,215	7,136	$79	1.1%
Public Utility Taxes (regular)	1,157	1,131	$26	2.3%
Cigarette Tax	350	350	$0	0.0%
Liquor Gallonage Taxes	158	156	$2	1.3%
Vehicle Use Tax	32	33	($1)	-3.0%
Inheritance Tax (Gross)	373	264	$109	41.3%
Insurance Taxes and Fees	298	310	($12)	-3.9%
Corporate Franchise Tax & Fees	225	193	$32	16.6%
Interest on State Funds & Investments	212	204	$8	3.9%
Cook County IGT	302	307	($5)	-1.6%
Other Sources	442	449	($7)	-1.6%
Subtotal	$24,152	$23,078	$1,074	4.7%
Transfers				
Lottery	657	622	$35	5.6%
Riverboat transfers & receipts	564	685	($121)	-17.7%
Other	679	939	($260)	-27.7%
Total State Sources	$26,052	$25,324	$728	2.9%
Federal Sources	$4,815	$4,703	$112	2.4%
Total Federal & State Sources	$30,867	$30,027	$840	2.8%
Nongeneral Funds Distribution:				
Refund Fund				
Personal Income Tax	($867)	($1,016)	$149	-14.7%
Corporate Income Tax	($341)	($371)	$30	-8.1%
Subtotal General Funds	$29,659	$28,640	$1,019	3.6%
Short-Term Borrowing	$2,400	$900	$1,500	166.7%
Hospital Provider Fund (cash flow transfer)	$1,503	$456	$1,047	229.6%
Budget Stabilization Fund Transfer	$276	$276	$0	0.0%
Total General Funds	$33,838	$30,272	$3,566	11.8%

SOURCE: Office of the Comptroller, State of Illinois: Some totals may not equal, due to rounding.
CGFA 2-Jul-08



FIRST QUARTER

General funds revenues began FY 2008 with receipts rising $302 million. However, virtually all of that gain was attributed to federal reimbursement from Medicaid spending. Absent the $273 million gain in federal sources, all other revenues gained an unremarkable $29 million, even as July had one more receipting day than last year. General funds revenues grew $55 million in August. However, virtually all of that gain was attributed once again to federal reimbursement from Medicaid spending. Absent the $50 million gain in federal sources, all other revenues were basically flat. Similar to last year, $276 million from the Budget Stabilization Fund was transferred into the General Fund to assist in cash flow. Excluding $1.2 billion in short term borrowing, total general funds revenues fell $198 million in September. While the vast majority of the decline [$154 million] is attributed to a drop in federal sources, a number of revenue sources also fared poorly. In addition, one less receipting day in September likely contributed to the monthly decrease.

Through the first quarter of the fiscal year, overall receipts were up $158 million. However, all of that gain stems from an increase in federal receipts. Excluding $169 million in federal sources, growth in all other sources actually fell $11 million. While gross personal income tax receipts fared well, sales tax receipts continued to wane. In addition, gross corporate income taxes also ended down for the quarter, as did overall transfers. In its September briefing, the Commission stated its concern regarding revenues.

"In conclusion, it appears that recent robust performance of the most closely tied economic sources has ended. While personal income tax should continue to grow, albeit at a more modest pace, both sales tax and corporate income tax receipts may well find growth elusive over the remainder of the fiscal year. As discussed in the earlier section, it appears we have

entered a precarious time as it relates to the economy. With this heightened state of uncertainty, it would not be surprising to see revenue struggle in FY 2008."
–September 2007 Revenue Briefing–

SECOND QUARTER

Excluding $300 million in cash flow transfers stemming from the Hospital Assessment plan, total general funds revenues jumped $345 million in October. Increased receipts from federal sources comprised the majority of that increase [$175 million], but a good month for transfers as well as continued strong performance from personal income taxes contributed to the monthly gain. One additional receipting day this month also aided the advance. Overall receipts in November fell $26 million, as a number of sources declined from the same prior year month with federal sources experiencing the largest drop--$41 million. While transfers also fell for the month, personal income taxes continue to buoy what otherwise had been a disappointing first half of the fiscal year. Overall receipts in December gained $95 million. While the economically related sources appeared to perform very well, receipt issues involving sales tax and corporate income taxes served to mitigate most of those gains.

Through the first half of the fiscal year, overall base receipts were up $574 million. However, $206 million of those gains can be attributed to gains in federal sources associated with reimbursable spending. Excluding those gains, all other receipts grew by $368 million, reflecting lack of growth in a number of the larger revenue sources. One area that continued to fare well is gross personal income tax receipts. While the strength in personal income tax was a welcomed surprise, weakness in corporate income tax had been expected, albeit not quite to the degree that was experienced. Sales tax also underperformed as receipts were up less than one-percent.

THIRD QUARTER

Overall receipts in January fell $10 million. Despite a few revenue sources posting solid gains for the month, a large drop in federal sources erased all gains. The falloff would have been much greater except finalizing of the FY 2008 BIMP aided January's receipts by approximately $105 million due to lowered income tax refund percentage per P.A. 95-707. In effect, until SB 783 became law on January 11th, last year's refund percentages were being utilized. Once final, an adjustment was made to the refund fund for the previous six plus months. February receipts increased $67 million. While both personal and corporate income taxes performed well, much of those gains were erased by falloffs in federal sources, sales tax, and overall transfers. March receipts fell by $68 million as drops in federal sources and personal income tax erased gains from corporate income taxes and sales taxes.

Through the first three-quarters of the fiscal year overall base growth was up $564 million. If the $158 million decline in federal sources was excluded from the comparison, then receipts recorded a somewhat better $722 million gain. The overall assessment did not change much from the midway point. While gross personal income tax

continued to perform well, sales tax continued weak with little prospects for recovery.

FOURTH QUARTER

The final quarter began on a positive note as overall base receipts increased $389 million. Reversing what has been a disappointing March, April rebounded with a flourish with exceptionally strong performances from personal income tax as well as federal sources. May also proved to be a good month, rising $220 million. However, virtually all of that gain was attributed to federal sources, meaning that the economically sensitive areas did not fare well. As expected, the final month of the fiscal year suffered a significant decline, falling $154 million. Lack of fund transfers and changebacks, coupled with a falloff in federal sources and a dismal showing in riverboat transfers contributed to the decline.

The fiscal year ended with base growth of $1.019 billion or 3.6%. However, almost 90% of that gain was the result of growth in income tax receipts. Absent that impressive performance, most of the other revenue sources underperformed for the fiscal year.

Review of the FY 2008 Revenue Estimate

The following table compares the latest official FY 2008 forecast of both CGFA and the GOMB with actual receipts. Since the two estimates were separated by only $35 million overall, it is not surprising to find that the differences are relatively small. In total, actual revenues came in $104 million higher than CGFA had predicted, and $139 million more than the GOMB. Taken in context of total revenues, both agencies were only off by less than one-half of one-percent.

FY 2008 Actuals vs. Estimates: CGFA and GOMB

($ millions)

Revenue Sources	ACTUAL FY 2008	CGFA EST. May-08 FY 2008	DIFFERENCE ACTUALS FROM ESTIMATE	GOMB EST. Feb-08 FY 2008	DIFFERENCE ACTUALS FROM ESTIMATE
State Taxes					
Personal Income Tax	$11,187	$11,150	$37	$11,136	$51
Corporate Income Tax (regular)	$2,201	$2,175	$26	$2,121	$80
Sales Taxes	$7,215	$7,156	$59	$7,172	$43
Public Utility (regular)	$1,157	$1,150	$7	$1,111	$46
Cigarette Tax	$350	$350	$0	$350	$0
Liquor Gallonage Taxes	$158	$160	($2)	$159	($1)
Vehicle Use Tax	$32	$33	($1)	$30	$2
Inheritance Tax (gross)	$373	$370	$3	$315	$58
Insurance Taxes & Fees	$298	$300	($2)	$320	($22)
Corporate Franchise Tax & Fees	$225	$220	$5	$215	$10
Interest on State Funds & Investments	$212	$195	$17	$204	$8
Cook County Intergovernmental Transfer	$302	$302	$0	$302	$0
Other Sources	$442	$453	($11)	$502	($60)
Subtotal	**$24,152**	**$24,014**	**$138**	**$23,937**	**$215**
Transfers					
Lottery	$657	$660	($3)	$657	$0
Riverboat transfers & receipts	$564	$600	($36)	$636	($72)
Other	$679	$678	$1	$678	$1
Total State Sources	**$26,052**	**$25,952**	**$100**	**$25,908**	**$144**
Federal Sources	**$4,815**	**$4,804**	**$11**	**$4,804**	**$11**
Total Federal & State Sources	**$30,867**	**$30,756**	**$111**	**$30,712**	**$155**
Nongeneral Funds Distribution:					
Refund Fund					
Personal Income Tax	($867)	($864)	($3)	($863)	($4)
Corporate Income Tax	($341)	($337)	($4)	($329)	($12)
Subtotal General Funds	**$29,659**	**$29,555**	**$104**	**$29,520**	**$139**
Short Term Borrowing	**$2,400**	**$2,400**	**$0**	**$2,400**	**$0**
Hospital Provider Fund (cash flow transfer)	**$1,503**	**$1,503**	**$0**	**$1,503**	**$0**
Budget Stabilization Fund Transfer	**$276**	**$276**	**$0**	**$276**	**$0**
Total General Funds	**$33,838**	**$33,734**	**$104**	**$33,699**	**$139**

* Both March estimates updated to reflect short-term borrowing and cash flow transfers. 07/02/08

FY 2008 Special Transfers

Lynnae Kapp, Bond Analyst

Special Transfers to the General Revenue Fund in FY 2008 consisted of $34 million of Increased Fees Transfers, transferred in June, allowed under section 8j of the State Finance Act. Revenues from increased fees go directly into their specific funds or into the General Revenue Fund through Other Sources. The increased fee revenues reported here are transfers from these other funds to the General Revenue Fund after the fees have been receipted. No fund sweeps were approved for FY 2008 and the authority for chargebacks ended in FY 2007. Below is a detailed list of the transfers.

FY 2008 Increased Fees Transfers [30 ILCS 105/8j]		
FUND #	**FUND NAME**	**June**
0021	Financial Institution Fund	$1,500,000
0059	Public Utility Fund	$831,300
0163	Weights and Measures Fund	$29,100
0290	Fertilizer Control Fund	$95,000
0294	Used Tire Management Fund	$5,100,000
0386	Appraisal Administration Fund	$600,000
0731	Illinois Clean Water Fund	$9,900,000
0922	Insurance Producer Administration Fund	$8,000,000
0944	Environmental Protection Permit & Inspection Fund	$200,000
0997	Insurance Financial Regulation Fund	$8,000,000
	TOTAL	**$34,255,400**

ECONOMY
Inflation Concerns Cause Fed to Hold Rates Stable

Edward H. Boss, Jr., Chief Economist

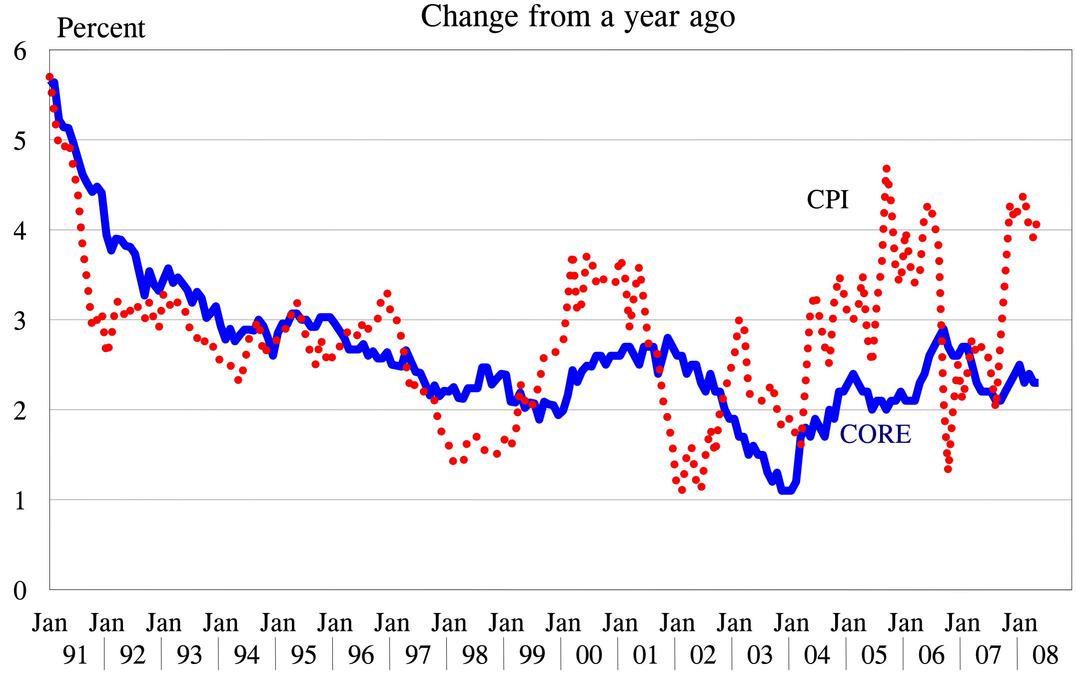
The Federal Reserve kept the federal funds rate unchanged at 2% and held the discount rate at 2 ¾% at its June Open Market Committee meeting. The stability in key monetary policy rates is in sharp contrast to actions of the previous nine months that had sharply and consistently brought these rates down, in the case of the federal funds rate from 5 ¼% and from 6 ¼% on the discount rate. The decision to halt the reduction in key monetary policy rates was clearly stated in the press release issued by the Federal Reserve Open Market Committee. *"Although downside risks to growth remain, they appear to have diminished somewhat and the upside risks to inflation and inflation expectations have increased."*

The final GDP data for the first quarter of 2008 was recently revised up a touch to a 1% annual rate of growth from 0.9% in its preliminary release and 0.6% in the advanced release. Moreover, monthly data on retail sales suggest some strengthening, which has been tied to the economic stimulus package. Even so, these data will be revised at the end of next month, which at times have been substantial. (The annual revision of the GDP accounts, covering the first quarter of 2005 through the first quarter of 2008, will be released together with the advance estimate of the second quarter of 2008 on July 31st.)

Prices have been rising at a faster pace in recent months, raising inflationary fears. The seasonally adjusted consumer price index for all urban consumers rose 0.6 in May, compared to 0.2 in April and the sharpest gain since November 2007. As shown in the following chart, this brought the gain in overall prices to 4.2% in the past year. Even excluding the rapidly rising food and energy sectors, core prices were 2.3% higher than a year ago, above the upper limit of the Federal Reserve's desired target range for inflation. Not only are food and energy prices, which account for about 24% of the total index, rising faster than overall prices, but they also are accelerating. Over the year, energy prices are up 17.4% and food prices up 5.1%. However in the past three months these prices are rising at compound annual rates of 28.2% and 6.2%, respectively. Moreover, in recent days both oil and gasoline have hit new highs while massive flooding in the Midwest are devastating farm land, reducing crop production. These suggest further upward pressure on prices of these key inputs in the months ahead.

CHART 1

CONSUMER PRICE INDEX
Change from a year ago



CGFA

The Federal Reserve's decision to hold key monetary interest rates unchanged in June was sparked by shifting its emphasis from economic growth concerns to rising inflationary pressures, reversing nine months over which it was dealing with a housing crisis, rising foreclosures, a declining dollar and credit crises. With inflation now taking center stage and prospects for further upward price pressures, expectations are that the next Federal Reserve move on interest rates will be on the upside.

INDICATORS OF ILLINOIS ECONOMIC ACTIVITY

INDICATORS	MAY 2008	APRIL 2008	MAY 3007
Unemployment Rate (Average)	6.4%	5.4%	4.9%
Annual Rate of Inflation (Chicago)	12.8%	1.1%	4.5%

	LATEST MONTH	% CHANGE OVER PRIOR MONTH	% CHANGE OVER A YEAR AGO
Civilian Labor Force (thousands) (May)	6,824	0.1%	2.1%
Employment (thousands) (May)	6,387	-0.9%	0.5%
New Car & Truck Registration (May	51,360	-2.8%	-1.3%
Single Family Housing Permits (May)	1,467	-4.2%	-51.6%
Total Exports ($ mil) (April)	4,556	1.0%	19.6%
Chicago Purchasing Managers Index (June)	49.6	1.0%	-17.6%

PENSION

Pension Legislation Overview – 2008 Spring Session

Dan Hankiewicz, Pension Manager

HB 4536

Sponsors: Flider (Link)

Passed House:	112-0-0
Passed Senate:	57-0-0

P.A. 93-320 (SB 0195), which took effect on July 3, 2003, allowed retired teachers to return to teaching in subject shortage areas on or after July 1, 2003 and ending no later than June 30, 2008, without impairing their retirement annuities, subject to the following conditions:

- The teaching service must not have begun within the school year during which service was terminated;
- The teacher must not have retired under an Early Retirement Incentive;
- If the annuitant retired before age 60 with less than 34 years of service, the teaching service must not begin within the year following the effective date of retirement;
- If the annuitant retired at age 60 or above or with 34 or more years of service, the teaching service does not begin within 90 days following the date of the teacher's retirement; and
- The school district must notify the system in writing of the retired teacher's desire to participate in the subject shortage area program.

The Act also required the school district to first offer teaching positions in subject shortage areas to qualified teachers who had been honorably dismissed during the calendar year preceding the beginning of the school term for which it seeks to employ a retired teacher. Also, the school district must advertise its vacancy in a newspaper of general circulation for a period of at least 90 days during the 6 months preceding the beginning of the school term for which it seeks to employ a retired teacher in a subject shortage area.

HB 4536 deletes the June 30, 2008 sunset date and allows the program to continue until June 30, 2013.

HB 4603

Sponsors: Beiser (Haine)

Passed House:	105-0-0
Passed Senate:	57-0-1

Transfer of Service Credit to IMRF from Article 3 (Downstate Police)

HB 4603 provides that until January 1, 2010, IMRF members who transferred service from an Article 3 (Downstate Police) pension fund under the provisions of P.A. 94-356 may establish additional credit in IMRF, but only up to the amount of the service credit reduction in that transfer, as calculated under the applicable actuarial assumptions. This credit may be established upon payment by the member of an amount to be determined by the board, equal to (1) the amount that would have been contributed as employee and employer contributions had all the service been as an employee under IMRF, plus interest compounded annually from the date of service to the date of transfer, less (2) the total amount transferred from the Article 3 system, plus (3) interest on the difference at the effective rate for each year, compounded annually, from the date of the transfer to the date of payment.

Transfer of Service Credit to Article 3 (Downstate Police) from IMRF
HB 4603 provides that until January 1, 2010, a member of a Downstate Police pension fund who transferred service from IMRF under the provisions of P.A. 94-356 may establish additional credit but only for the amount of service credit reduction in that transfer. This credit may be established upon payment by the police officer of an amount to be determiend by the board, equal to: (1) the amount that would have been contributed as employee and employer contributions had all of the serivce been rendered as an employee of a Downstate Police Fund, plus interest calculated at 6% per year, compounded annually from the date of service to the date of the transfer, less (2) the total amount transferred from IMRF, plus (3) interest on the difference at the rate of 6% per year, compounded annually, from the date of transfer to the date of payment.

HB 5088

Sponsors: Beaubien (Demuzio)

Passed House:	108-0-0
Passed Senate:	56-0-0
House Concurrence:	112-0-0

Prohibition on Transfers from Public Pension Regulation Fund
The Public Pension Regulation Fund is an appropriated fund that was established to receive and record all monies collected by the Public Pension Division of the Department of Financial and Professional Regulation in accordance with the Department's regulatory activities under the Pension Code. HB 5088 prohibits transfers from the Public Pension Regulation Fund to the Professions Indirect Cost Fund.

Pension Impact Notes for Downstate Police and Fire Funds
HB 5088 amends the Pension Impact Note Act to stipulate that a pension impact note for any legislation or amendment that the Commission on Government Forecasting and Accountability determines would result in an increase in benefits or increased costs to a Downstate Police or Downstate Fire pension fund may demonstrate the fiscal impact of the legislation on selected individual municipalities with such pension funds.

Penalties for Fiduciaries
HB 5088 stipulates that a fiduciary of a Downstate Police or Fire pension fund shall not knowingly cause or advise the pension fund to engage in an investment transaction when the fiduciary has any direct interest in the income, gains, or profits of the investment advisor through which the investment transaction is made or has a business relationship with that investment advisor that would result in a pecuniary benefit to the fiduciary as a result of the investment transaction. HB 5088 would make violations of the foregoing prohibition a Class 4 felony.

Limitations for Consulting Contracts
HB 5088 provides that a person or entity that provides consulting services to a pension fund with respect to the selection of fiduciaries may not be awarded a contract to provide those consulting services for more than 5 years in duration. The bill provides that no such contract to provide consulting services may be renewed or extended. At the end of the term of a contract, the contractor shall be eligible to compete for a new contract.

Requirements for Consultants
HB 5088 requires a consultant who is neither a pension fund board member or employee to be one of the following on or after July 1, 2008: a registered investment advisor under the federal Investment Advisers Act of 1940; a registered investment advisor under the Illinois Securities Law of 1953; a bank; or, an insurance company.

Disclosure of Fees by Investment Advisors and Consultants
HB 5088 requires all contracts for investment services to fully disclose all direct and indirect fees, commissions, penalties, and other forms of compensation, including reimbursement for expenses that may be paid by or on behalf of the investment advisor or consultant in connection with the provision of investment services. The bill also requires that all investment advisors and consultants who currently provide investment services on a contractual basis must, within 30 days of the effective date, disclose to the board of trustees of the pension fund all direct and indirect fees, commissions, penalties, and other compensation paid by or on behalf of the investment advisor or consultant in connection with the provision of investment services.

Prohibition on Gifts
HB 5088 prohibits board members of Downstate Police and Fire pension funds from accepting or soliciting gifts from "prohibited sources." The bill defines a "prohibited source" as a person who is seeking official action by the board of trustees of the pension fund or has interests that may be substantially affected by the performance or non-performance of the official duties of the board member or employee. Violators of the aforementioned provisions will be guilty of a Class A misdemeanor.

Examinations and Investigations
The Public Pension Division of the Department of Financial and Professional Regulation is currently authorized to conduct periodic investigations and examinations of all pension funds established under the Pension Code. These examinations consist of audits of financial transactions, investment policies, examinations of books, records, documents and files, among other things. HB 5088 provides for examinations of

Downstate Police and Fire pension funds every three years. Additionally, the bill adds a requirement that, in the course of such investigations, the department must make a determination as to the accuracy of annuity payments made by the Downstate Police or Fire pension fund being examined.

Review of Award of Benefits by Municipal Treasurer

HB 5088 stipulates that the municipal treasurer shall have the ability to review the total amount of an annuity paid by the pension fund and all information used by the fund in the calculation of the benefit. The board shall review the Treasurer's findings with respect to the accuracy of the benefit calculation, and if the board discovers that an error exists it shall re-calculate the annuity so that it conforms with the Pension Code.

Report by Pension Boards

Currently, police and fire pension funds submit reports to the corporate authorities of their respective municipalities in order to facilitate the levying of taxes for the purpose of making employer contributions to the pension fund. HB 5088 requires police and fire pension funds to provide additional information in their reports, such as assumed investment return and actual investment return, total net assets of the fund, the number of total active employees participating in the fund, among other things. The bill allows municipalities to publish the report in a newspaper of general circulation in the municipality or on the municipality's website.

Anti-Fraud Provisions

HB 5088 provides that any member, trustee, or employee of a Downstate Police or Fire pension fund board who knowingly makes a false statement or falsifies any record of a pension fund in an attempt to defraud the fund shall be guilty of a Class A misdemeanor.

Report on Downstate Police and Fire Pension Funds

HB 5088 requires the Commission on Government Forecasting and Accountability to analyze data submitted by the Public Pension Division of the Illinois Department of Financial and Professional Regulation pertaining to Downstate Police and Fire pension funds. The Commission is required to issue a formal report during odd numbered years analyzing the fiscal status of Downstate Police and Fire pension funds. The report shall also contain financial forecasts for selected individual Downstate Police and Fire pension funds.

Change in Disbursement of Annual State Pension Fund Allocation

Prior to the enactment of P.A. 94-0091 on July 1, 2005, monies in the State Pensions fund were disbursed to the five State-funded systems in proportion to each system's share of the total State unfunded liability. This disbursement comprised a portion of the State's annual appropriation to each retirement system. P.A. 94-0091 amended the State Finance Act to direct all monies in the Pensions Fund to the State Universities Retirement System, so long as the fund balance in the State Pensions Fund remained at or above $5 million. HB 5088 provides that, beginning in FY 2011, moneys in the State Pensions Fund shall be used for funding of the five State-funded retirement systems in addition to, rather than in lieu of, any State contributions required under the Illinois Pension Code. The bill specifies that State Pensions Fund monies will be disbursed to the systems in proportion to each system's share of the total unfunded liability.

HB 5120

Sponsors: Ryg (Link)

Passed House:	107-0-0
Passed Senate:	54-0-0

Currently, children receiving benefits under Article III of the Illinois Public Aid Code are not eligible to receive children's annuities under the TRS article of the Pension Code. HB 5120 amends the Illinois Pension Code to permit such payments under the Downstate Teachers Article for disabled dependant children. Eligible children will receive such annuities for as long as the physical or mental disability continues.

HB 5699

Sponsors: Hamos (Schoenberg)

Passed House:	75-33-0
Passed Senate:	57-0-0

Under the Downstate Teachers Article of the Illinois Pension Code, teachers receiving a disability pension who are unable to resume full-time teaching may engage in temporary or part-time employment as a teacher for a TRS employer without suffering loss of the disability annuity. HB 5699 allows teachers receiving such benefits to accept employment as a temporary or part-time teacher for an employer under the State Universities Retirement System with no loss of benefits. To qualify, the teacher has to have been receiving a disability benefit for at least one year and remain unable to resume regular, full-time teaching due to disability. The teacher's earnings for the limited or part-time employment, when added to the amount of the disability benefit, may not exceed 100% of the salary rate upon which the disability benefit is based.

SB 1957

Sponsors: Clayborne (Holbrook)

Passed Senate:	49-0-1
Passed House:	113-0-0

Currently, the IMRF board of trustees is composed of 8 members: 4 "executive" trustees who must be a chief executive officer or department head in a participating municipality or instrumentality; 3 active employees; and one annuitant trustee who is not allowed to vote on any matter. SB 1957 allows the annuitant trustee to be entitled to one vote on any and all actions before the board. This bill provides at least 5 concurring votes shall be necessary for every decision or action by the board at any of its meetings.

SB 2292

Sponsors: Maloney (Joyce)

Passed Senate:	54-0-0
Passed House:	68-40-1
Senate Concurrence:	54-0-0

Currently, the board of trustees for the Metropolitan Water Reclamation District Pension Fund consists of 5 members. The board is comprised of 2 members appointed by the Board of Commissioners of the MWRD and 3 elected employee members. SB 2292 changes the number of members serving on the Retirement Board of the MWRD Pension Fund to 7 total members: 3 of whom are appointed by the Board of Commissioners of the MWRD, including 1 member who must be a retiree participating in the Fund, and 4 elected employee members. The bill also provides that the appointed retiree must be recommended by the Board of Commissioners of the MWRD and approved by the Board of Trustees prior to serving his or her term. The bill also provides that the new employee member shall begin his or her term following a special election no later than 90 days after the effective date of the Act, and shall serve an initial term that expires on November 30, 2011. The appointed retiree shall be appointed no later than 90 days after the effective date of the Act and serve an initial term that expires January 31, 2011.

U.S. Court Supreme Clarifies Fiduciary Duties in DC Plans

Bukola Bello, Pension Analyst

LaRue v. DeWolff, Boberg & Associates., handed down by the Supreme Court on February 20, 2008, decided whether a statutory provision of the Employee Retirement Income Security Act of 1974 (ERISA) can permit a participant in a defined contribution pension plan to sue a fiduciary whose alleged misconduct impaired the value of assets in the participant's individual account. A defined contribution plan promises the participant the value of an individual account at retirement, which is largely a function of the amounts contributed to that account and the investment performance of those contributions. A defined benefit plan, by contrast, generally promises the participant a fixed level of retirement income, which is typically based on the employee's years of service and compensation.

In 2004 James LaRue filed a suit against his former employer, DeWolff, Boberg & Associates (DeWolff), and the ERISA regulated 401(k) retirement savings plan administered by DeWolff. The Plan permitted participants to direct the investment of their contributions in accordance with specified procedures and requirements. LaRue alleged that in 2001 and 2002 he directed DeWolff to make various changes to the investments in his individual accounts, but DeWolff did not carry out these instructions. LaRue claimed this omission depleted his interest in the Plan by approximately $150,000, and amounted to a breach of fiduciary duty under ERISA. ERISA defines a fiduciary as a pension trustee who is given authority and control over management of a retirement system's assets for the benefit of the plan's participants and beneficiaries. In bringing suit against his former employer, LaRue did not wish for the court to award him any money, but simply wanted the plan to properly reflect his financial interest.

The District Court concluded that since DeWolff did not possess any disputed funds that rightly belonged to LaRue, LaRue was seeking damages rather than equitable relief available under ERISA. The Court of Appeals for the Fourth Circuit characterized the remedy sought by LaRue as "personal" because he "desires recovery to be paid into his plan account, an instrument that exits specifically for this benefit." In reversing the Court of Appeals' decision, the Supreme Court concluded that ERISA did authorize recovery in cases where a participant has suffered losses due to mismanagement of funds by a fiduciary. The Court agreed that LaRue's claim turned on the application and interpretation of the plan terms, specifically those governing investment options and how to exercise them. The court held that when a participant sustains losses to his individual account as a result of a fiduciary breach, the plan's aggregate assets are diminished by the same amount and thus ERISA permits that participant to recover such losses on behalf of the plan.