

STATE BUDGET UPDATE: Ohio Senate Votes to Override Six Gubernatorial Vetoes

By ***Madison Lisotto Whalen***, Associate

On June 30, Governor John R. Kasich (R) signed the state's \$132.8 billion biennial operating budget into law, setting out the state's spending plan for the next two years. Before signing the budget, the [Governor vetoed 47 provisions including a proposal to freeze Medicaid expansion enrollment beginning in July 2018](#). Less than a week later, in a momentous move not done by an Ohio General Assembly for 40 years, the Republican controlled Ohio House of Representatives voted to override 11 of the Governor's 47 vetoes. For a full list of the House's veto overrides, click [here](#). However, a gubernatorial veto cannot be successfully overridden without a three-fifths affirmative vote from each chamber. The veto override process must begin in the House of Representatives and finish in the Senate.

Today, Ohio's Republican controlled Senate finalized 6 of the House's 11 veto overrides. The veto overrides were largely around changes to the state's Medicaid system, including a provision that requires a legislative committee to approve Medicaid expansion funding twice a year. The Legislature can vote to override any of the remaining 41 vetoes at any time during the remainder of the 132nd General Assembly, which ends on December 31, 2018.

For a full list of veto overrides, see below.

1. Medicaid coverage of optional eligibility groups

This provision prohibits the Department of Medicaid from covering any new, optional groups unless expressly permitted by statute. The Governor vetoed this provision because federal law requires a single state agency to administer the Medicaid program and by giving the Legislature authority over the Medicaid program, he believes it violates federal law. This veto was overridden by a vote of 23-10.

2. Neonatal Medicaid rates

This provision requires the Department of Medicaid to set rates for certain neonatal and newborn services at levels equal to 75% of the Medicare rate for those services, and also requires the Medicaid Director to reduce the rates for other services to avoid an increase in Medicaid expenditures. The Governor vetoed this provision because he believes it threatens access to services for the most vulnerable Ohioans. This veto was overridden unanimously.

3. Medicaid rates for nursing homes

This provision makes changes in the formula used to determine Medicaid payment rates for nursing facility services, including eliminating portions of the reimbursement formula that are focused on quality and accountability measures. The Governor vetoed this provision stating that it again imposes on the Medicaid Director's executive authority and ability to run an efficient and effective Medicaid program. This veto was overridden by a vote of 32-1.

4. Delaying behavioral health redesign

This provision requires the Ohio Department of Medicaid to delay the addition of behavioral health services into managed care until July 1, 2018. The Governor vetoed this provision stating that the Administration, providers,

Medicaid managed care plans and county boards have been working on the development of the behavioral health benefit package since early 2014. This veto was overridden unanimously.

5. Controlling Board authorization regarding Medicaid expenditures

This provision requires the Director of the Office of Budget and Management to transfer monies from the General Revenue Fund to the Health and Human Services Fund, and requires the Medicaid Director to request the Controlling Board to authorize expenditures from the Health and Human Services fund for purposes of paying for the Medicaid program. The Governor vetoed this provision because it restricts the Controlling Board from releasing funds if the United States Congress amends the federal law reducing the federal medical assistance percentage. This veto was overridden by a vote of 23-10.

6. General Controlling Board authority

This provision prohibits the Controlling Board from authorizing expenditures of unanticipated state revenue up to 0.5% of the General Revenue Fund appropriations for that fiscal year. The Controlling Board is the mechanism for handling necessary adjustments to the state budget consisting of seven members of the Legislature and the Director of the Office of Budget and Management. Essentially, this provision limits the power of the Controlling Board from deviating from the amount of budgeted funds as passed by the Legislature. The Governor vetoed this provision stating that it could significantly impede the effectiveness of the Controlling Board to respond in a timely fashion to issues of emerging or urgent concern. This veto was overridden by a vote of 23-10.

To find out what the veto overrides mean for you and your business, please contact any of the listed Roetzel attorneys.

Author

Madison Lisotto Whalen
mwhalen@ralaw.com

Additional Contacts

Lewis W. Adkins, Jr.
ladkins@ralaw.com

Melissa R. Hoeffel
mhoeffel@ralaw.com

Daniel G. Hilson
dhilson@ralaw.com