

Federal Reserve Bank of Chicago
State Budgets: Possible Paths to Sustainability
June 24, 2011

Bankruptcy

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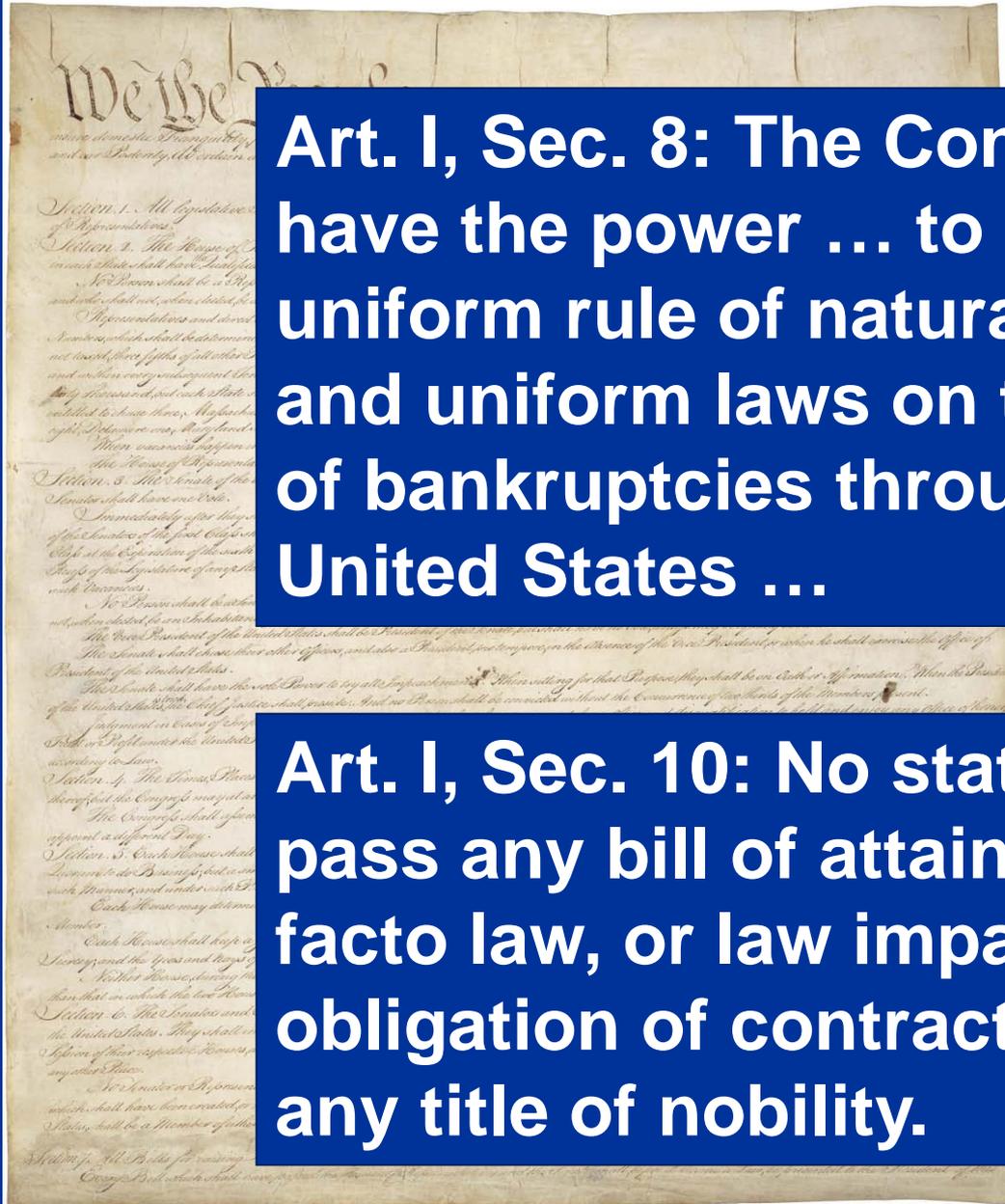
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The U.S. Constitutional Framework



Art. I, Sec. 8: The Congress shall have the power ... to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States ...

Art. I, Sec. 10: No state shall ... pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

Repeal provision.
Naturalization of
wife and minor chil-
dren of insane declar-
ant.
Vol. 36, p. 929;
U.S.C., p. 168.
Of widow and minor
children of deceased
declarant.
Vol. 36, p. 168;
U.S.C., p. 139.

Admission of alien
wives of World War
veterans.
Vol. 41, p. 849;
U.S.C., Supp. VII, p. 67.

Existing rights not
affected.

SEC. 5. The following Acts and parts of Acts, respectively, are repealed: The Act entitled "An Act providing for the naturalization of the wife and minor children of insane aliens, making homestead entries under the land laws of the United States", approved February 24, 1911; subdivision "Sixth" of section 4 of the Act entitled "An Act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States", approved June 29, 1906; and section 8 of the Act entitled "An Act relative to the naturalization and citizenship of married women", approved September 22, 1922, as said section was added by the Act approved July 3, 1930, entitled "An Act to amend an Act entitled 'An Act relative to naturalization and citizenship of married women', approved September 22, 1922."

The repeal herein made of Acts and parts of Acts shall not affect any right or privilege or terminate any citizenship acquired under such Acts and parts of Acts before such repeal.

Approved, May 24, 1934, 12 noon.

[CHAPTER 345.]

AN ACT

May 24, 1934,
[H. R. 3250]
[Public, No. 251]

To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and Acts amendatory thereof and supplementary thereto.

Bankruptcy Act of
1898, amendments.
Vol. 30, p. 544.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States", as approved July 1, 1898, and Acts amendatory thereof and supplementary thereto be, and they are hereby, amended by adding thereto a new chapter to read as follows:

" CHAPTER IX

" PROVISIONS FOR THE EMERGENCY TEMPORARY AID OF INSOLVENT PUBLIC DEBTORS AND TO PRESERVE THE ASSETS THEREOF AND FOR OTHER RELATED PURPOSES

Declaration of policy.

" SEC. 78. DECLARATION OF POLICY.—There is hereby found, determined, and declared to exist a national emergency caused by increasing financial difficulties of many local governmental units, which renders imperative the further exercise of the bankruptcy powers of the Congress of the United States.

Courts of bankruptcy.
additional jurisdiction.

" SEC. 79. ADDITIONAL JURISDICTION.—Until the expiration of two years from the date this chapter takes effect, in addition to the jurisdiction exercised in voluntary and involuntary proceedings to adjudge persons bankrupt, courts of bankruptcy shall exercise original jurisdiction in proceedings for the relief of debtors, as provided in this chapter of this Act.

Municipal debt re-
adjustments.
Petition of insolvent
taxing district.

" SEC. 80. MUNICIPAL-DEBT READJUSTMENTS.—(a) Any municipality or other political subdivision of any State, including (but not hereby limiting the generality of the foregoing) any county, city, borough, village, parish, town, or township, unincorporated tax or special assessment district, and any school, drainage, irrigation, reclamation, levee, sewer, or paving, sanitary, port, improvement or other districts (hereinafter referred to as a 'taxing district'), may file a petition stating that the taxing district is insolvent or unable to meet its debts as they mature, and that it desires to effect a plan of readjustment of its debts. The petition shall be filed with the court in whose territorial jurisdiction the taxing district or the major part thereof is

Where to be filed.

“If federal bankruptcy laws can be extended to respondent, why not to the State? If voluntary proceedings may be permitted, so may involuntary ones, subject of course to any inhibition of the Eleventh Amendment. ... If the State were proceeding under a statute like the present one, with terms broad enough to include her, apparently the problem would not be materially different. Our special concern is with the existence of the power claimed — not merely the immediate outcome of what has already been attempted.”

524 jurisdiction, denied the existence *524 of insolvency, and asked that the petition be held insufficient.

Ashton (1936)

Read this case

How cited

Ashton v. Cameron County Water Improvement Dist. No. One, 298

298 U.S. 513 (1936)

ASHTON ET AL.

“And really the sovereignty of the State, so often declared necessary to the federal system, does not exist. ... The Constitution was careful to provide that ‘No State shall pass any Law impairing the Obligation of Contracts.’ This she may not do under the form of a bankruptcy act or otherwise. ... Nor do we think she can accomplish the same end by granting any permission necessary to enable Congress so to do. ”

524

Owners of more than five percent of outstanding bonds appeared, said there was no jurisdiction, denied the existence *524 of insolvency, and asked that the petition be held insufficient.

Ashton (1936)

AN ACT

To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and Acts amendatory thereof and supplementary thereto.

August 16, 1937
[1st R. 9469]
[Public, No. 302]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States", as approved July 1, 1898, and

Bankruptcy Act of
1898, amendment.
39 Stat. 544.

Acts amendatory thereof and supplementary thereto be, and they are hereby, amended by adding thereto a new chapter, to be designated "chapter X", to be and read as follows:

"CHAPTER X

"ADDITIONAL JURISDICTION

Additional jurisdiction.

Compositions of indebtedness of taxing agencies, etc.

Agricultural improvement districts.

Sewer, paving, etc., districts.

Highway, etc., districts.

Public-school districts.

Port, navigation, etc., districts.

Municipalities.

Proviso. Reparability provision.

"SEC. 81. This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition of indebtedness of, or authorized by, any of the taxing agencies or instrumentalities hereinafter named, payable (a) out of assessments or taxes, or both, levied against and constituting liens upon property in any of said taxing agencies or instrumentalities, or (b) out of property acquired by foreclosure of any such assessments or taxes or both, or (c) out of income derived by such taxing agencies or instrumentalities from the sale of water or power or both, or (d) from any combination thereof; (1) Drainage, drainage and levee, levee, levee and drainage, reclamation, water, irrigation, or other similar districts, commonly designated as agricultural improvement districts or local improvement districts, organized or created for the purpose of constructing, improving, maintaining, and operating certain improvements or projects devoted chiefly to the improvement of lands therein for agricultural purposes; or (2) local improvement districts such as sewer, paving, sanitary, or other similar districts, organized or created for the purposes designated by their respective names; or (3) local improvement districts such as road, highway, or other similar districts, organized or created for the purpose of grading, paving, or otherwise improving public streets, roads, or highways; or (4) public-school districts or public-school authorities organized or created for the purpose of constructing, maintaining, and operating public schools or public-school facilities; or (5) local improvement districts such as port, navigation, or other similar districts, organized or created for the purpose of constructing, improving, maintaining, and operating ports and port facilities; or (6) any city, town, village, borough, township, or other municipality: *Provided, however*, That if any provision of this chapter, or the application thereof to any such taxing agency or district or class thereof or to any circumstance, is held invalid, the remainder of the chapter, or the application of such provision to any other or different taxing agency or district or class thereof or to any other or different circumstances, shall not be affected by such holding.

“Improvement districts, such as the petitioner, were in distress. Economic disaster had made it impossible for them to meet their obligations. As the owners of property within the boundaries of the district could not pay adequate assessments, the power of taxation was useless. ... The natural and reasonable remedy through composition of the debts of the district was not available under state law by reason of the restriction imposed by the Federal Constitution upon the impairment of contracts by state legislation.”

Appellant, the Lindsay-Strathmore Irrigation District, was organized in the year 1915 under the California Irrigation District Act of March 31, 1897 (Cal. Stat. 1897, p. 254). It comprises about 15,260 acres in Tulare County. It is an irrigation district and taxing agency created for the

Bekins (1938)

Read this case

How cited

United States v. Bekins, 304 US 27 - Supreme Court 1938

304 U.S. 27 (1938)

UNITED STATES

v.

BEKINS ET AL., TRUSTEES, ET AL.

LINDSAY-STRATHMORE IRRIGATION DISTRICT

“The bankruptcy power is competent to give relief to debtors in such a plight and, if there is any obstacle to its exercise in the case of the districts organized under state law it lies in the right of the State to oppose federal interference. The State steps in to remove that obstacle. The State acts in aid, and not in derogation, of its sovereign powers.”

of instrumentalities therein described. A certificate was issued to the Attorney General and the United States intervened. The District Court held the statute invalid as applied to the appellant and dismissed its petition for composition. The court considered itself bound by the decision in [Ashton v. Cameron County District, 298 U.S. 513](#).

Appellant, the Lindsay-Strathmore Irrigation District, was organized in the year 1915 under the California Irrigation District Act of March 31, 1897 (Cal. Stat. 1897, p. 254). It comprises about 15,260 acres in Tulare County. It is an irrigation district and taxing agency created for the

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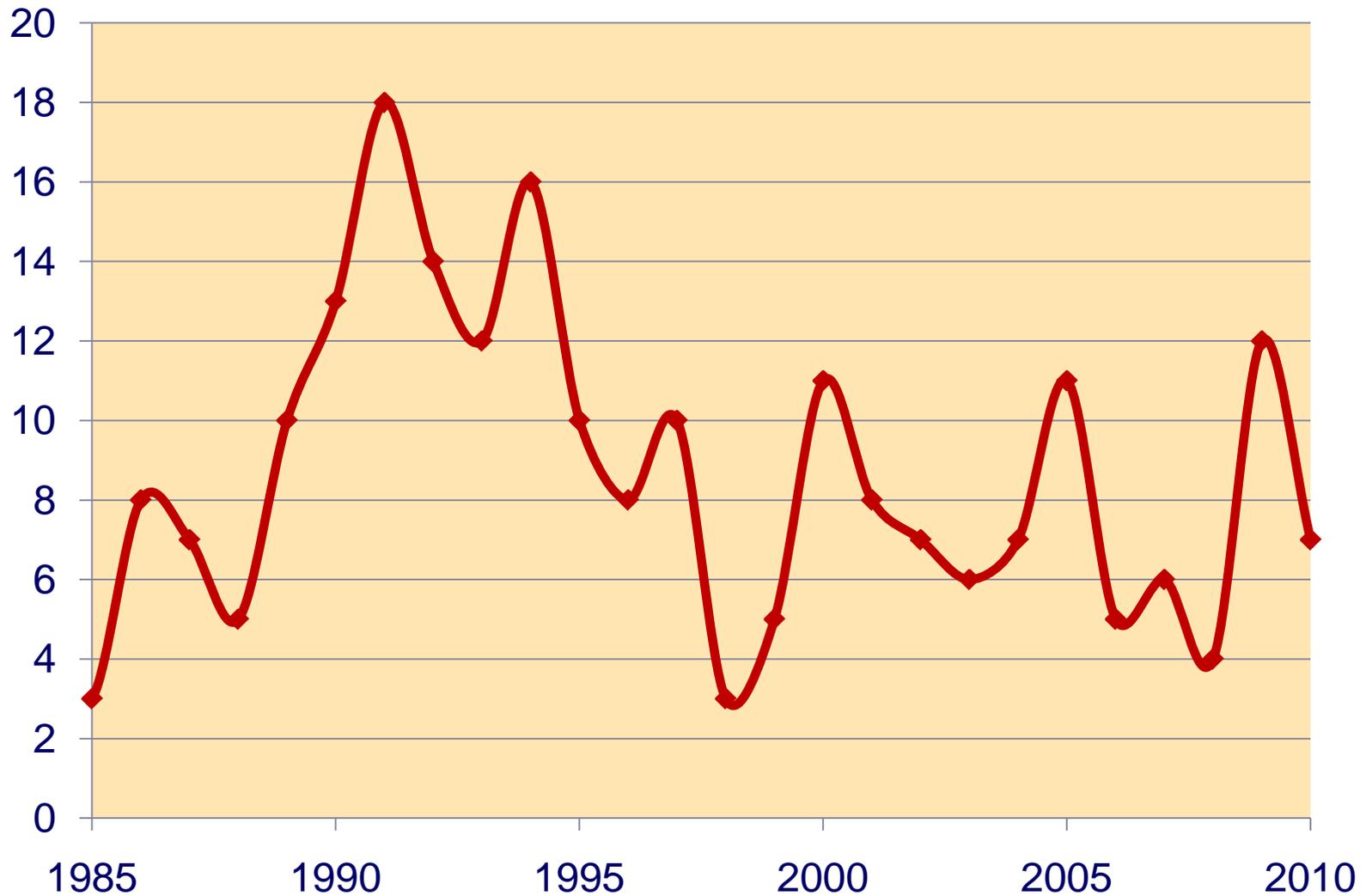
“It invites the intervention of the bankruptcy power to save its agency which the State itself is powerless to rescue. Through its cooperation with the national government the needed relief is given. We see no ground for the conclusion that the Federal Constitution, in the interest of state sovereignty, has reduced both sovereigns to helplessness in such a case.”

In Ashton v. Cameron County District, 298 U.S. 513.

Appellant, the Lindsay-Strathmore Irrigation District, was organized in the year 1915 under the California Irrigation District Act of March 31, 1897 (Cal. Stat. 1897, p. 254). It comprises about 15,260 acres in Tulare County. It is an irrigation district and taxing agency created for the

Bekins (1938)

U.S. Chapter 9 Filings by Year



Faitoute Iron & Steel... x +
scholar.google.com/scholar_case?q=faitoute&hl=en&as_sdt=2,14&case=9527831480964802794&scilh=0
Read this case How cited **Faitoute Iron & Steel Co. v. Asbury Park, 316 US 502 - Supreme Court**
316 U.S. 502 (1942)

“Can it be that a power that was not recognized until 1938, and when so recognized, was carefully circumscribed to reserve full freedom to the States, has now been completely absorbed by the Federal Government — that a State which, as in the case of New Jersey, has after long study devised elaborate machinery for the autonomous regulation of problems so peculiarly local as the fiscal management of its own household, is powerless in this field? We think not.”

504

*504 The legislation was enacted "to meet the public emergency arising from a default in the payment of municipal obligations, and the resulting impairment of public credit," Laws of New Jersey (1931), c. 340, § 405. In broad terms, the legislation, through combined administrative and judicial action, adapted the underlying principles of an equity receivership to the solution

Faitoute (1942)

Three Key Issues

1. Collective Bargaining
Agreements

2. Pensions

3. Asset Sales and Tax
Increases

432 B.R. 262 (2010)

In re CITY OF VALLEJO, CA, Debtor.
International Brotherhood of Electrical Workers, Local 2376, Appellant,
v.
City of Vallejo, CA, Appellee.

No. 2:09-cv-02603-JAM. Bankruptcy No. 08-26813-A-9.

United States District Court, E.D. California.

June 15, 2010.

265

*265 Marc Aaron Levinson, Norman C. Hile, Orrick, Herrington & Sutcliffe LLP, Sacramento, CA, for Debtor.

ORDER AFFIRMING THE BANKRUPTCY COURT'S ORDER

JOHN A. MENDEZ, District Judge.

This matter is before the Court on Appellant International Brotherhood of Electrical Workers' ("IBEW's") appeal from the Bankruptcy Court's ruling on Appellee City of Vallejo's (the "City's") motion to reject IBEW's collective bargaining contract.

I. Facts and Procedural Background

On May 23, 2008, the City filed a petition for relief under Chapter 9 of the Bankruptcy Code. One month after filing, the City unilaterally modified the terms of collective bargaining agreements ("CBAs") with four unions: IBEW, the International Association of Firefighters ("IAFF"), the Vallejo Police Officers Association ("VPOA") and the Confidential, Administrative, Managerial and Professional Employees of Vallejo ("CAMP"). On June 17, 2009, the City filed a Motion for Approval of Rejection of Collective Bargaining Agreements

CONSTITUTION OF THE STATE OF ILLINOIS

Adopted in Convention at Springfield, September 3, 1970. Ratified
by the People, December 15, 1970. In force July 1, 1971.

Preamble

We, the People of the State of Illinois — grateful to Almighty God for the civil, political and religious liberty which He has permitted us to enjoy and seeking His blessing upon our endeavors — in order to provide for the health, safety and welfare of the people; maintain a representative and orderly government; eliminate poverty and inequality; assure legal, social and economic justice; provide opportunity for the fullest development of the individual; insure domestic tranquility; provide for the common defense; and secure the blessings of freedom and liberty to ourselves and our posterity — do ordain and establish this Constitution for the State of Illinois.

Article I — Bill of Rights

Section 1. Inherent and Inalienable Rights

All men are by nature free and independent and have certain inherent and inalienable rights, among which are life, liberty and the pursuit of happiness; that when these rights are violated, the people have the right to reform, alter or abolish the government; that the just powers of government are derived from the consent of the governed; that the security of the rights of the people shall not be infringed.

Section 2.

No person shall be denied the right to a fair trial.

Section 3.

The freedom of the press, of speech, of political rights, of conscience, of assembly, of safety of the place of worship, of religious doctrine, and of the right to a fair trial shall not be infringed.

Section 4.

All persons shall have the right to a fair trial, that liberty of the press, of speech, of good motives, and of the right to a fair trial shall not be infringed.

Section 5.

The people shall have the right to a common government, and to a redress of grievances.

Section 6.

The people shall have the right to a fair trial, and to a redress of grievances.

The people shall have the right to a fair trial, and to a redress of grievances.

Art. I. Sec. 16. Ex Post Facto Laws and Impairing Contracts. No ex post facto law, or law impairing the obligation of contracts or making an irrevocable grant of special privileges or immunities, shall be passed.

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bles
of t
and
full

Art. XIII. Sec. 5. Section 5. Pension

What does contract status accomplish? Membership

in any pension or retirement system

**Who is the contract with? A particular pension or
retirement system? The State of Illinois?**

What does it mean to diminish or impair a contract?

**Does this create any enforceable funding
obligations? If so, against whom?**

diminished or impaired.

**If one party to a contract is insolvent, what happens
to the other party?**

December 2, 2008

Chicago Receives \$1.157 Billion Winning Bid for Metered Parking System

Mayor's Press Office 312.744.3334

Mayor Richard M. Daley today announced the City of Chicago received a winning bid of \$1.157 billion from Chicago Parking Meters, LLC, for a 75-year concession agreement to operate Chicago's metered parking system made up of approximately 36,000 parking spaces. The transaction would make Chicago's the first major publicly-owned system in the United States to be subject to a long-term concession.

"At the very time that some cities and states are asking the federal government for help in balancing their budgets, we're creatively working to protect our taxpayers for years to come," Daley said in a news conference held at City Hall.

"Because of our innovative Midway Airport and parking meter transactions, we're taking steps that no other city or state is taking to cushion our taxpayers from the bad economy and keep our city moving forward. This agreement is very good news for the taxpayers of Chicago because it will provide more than \$1 billion in net proceeds that can be used during this very difficult economy," he said.

The winning bidder -- Chicago Parking Meters, LLC -- consists of Morgan Stanley Infrastructure Partners A Sub LP (76% ownership), Morgan Stanley Infrastructure Partners LP (23%) and several other entities sharing 1% ownership. LAZ Parking will serve as the operator for Chicago Parking Meters, LLC.

Mayor Daley said he proposes allocating the nearly \$1.2 billion in net meter proceeds into four distinct funds, including:

- \$400 million in a long-term reserve/revenue replacement fund, similar to the \$500 million long-term Chicago Skyway reserve;
- \$325 million in a mid-term budget relief fund to help balance city budgets through 2012, consistent with the 2009 budget plan;
- \$100 million human infrastructure fund to support for programs helping those most in need; and
- The balance - approximately \$324 million - in a budget stabilization fund that may be used to help bridge the period until the nation's economy begins to grow again.

As part of this agreement, the City will implement graduated meter rate increases over a period of five years that will bring rates closer to market level. After that, any increases will be subject to the approval of the city council and are expected to be at the rate of inflation.

These increases will be the first in more

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January 12, 2011

Questions Persisting as Illinois Raises Taxes

By **MONICA DAVEY**

CHICAGO — Hours after Illinois lawmakers chose a major tax rate increase to ease this state's desperate budget crisis, questions lingered on Wednesday: Would new income and corporate tax rates stunt the growth of businesses and jobs here and, in turn, slow the already stalled revenue picture that has struck so many states? Would the state's tax package, which is expected to raise about \$6.8 billion annually, be enough to solve the state's crisis, which includes a vastly underfinanced pension plan?

Patrick J. Quinn, the governor of Illinois and a Democrat, praised the decision of state lawmakers — in the wee hours of the morning on Wednesday — to raise the individual income tax rate by about 66 percent as a necessity to avert the state's "fiscal emergency," which includes a budget deficit of more than \$13 billion, about \$8 billion in unpaid bills to social service agencies, pharmacies and others, and a sinking bond rating.

"Our state was careening towards bankruptcy and fiscal insolvency," Mr. Quinn told reporters, after indicating that he intended to sign the tax increase.

Meanwhile, in places like neighboring Wisconsin, Scott Walker, the new governor and a Republican, promptly issued a call to businesses in Illinois, which will face a business tax rate increase of 46 percent. Quoting an old tourism slogan from that state — "Escape to Wisconsin" — Mr. Walker urged businesses to consider moving to his state, where, he said, they would be quite welcome.

Under the legislation, the income tax rate would temporarily rise to 5 percent from its current rate of 3 percent, and the rate for corporate taxes would rise to 7 percent from its current rate of 5 percent. The state's budget deficit would be limited from one year to the next over

Thank You