



OPINION

When she is sworn into office on today, Comptroller Susana Mendoza will assume responsibility for paying the bills of a state that is spending money at a much faster clip **than it's coming in**. Specifically, Illinois is [\\$10.4 billion](#) in arrears and, according to then-Comptroller Leslie Geissler Munger on Dec. 2, is nearly six months behind in paying its bills.

She'll also have the authority, if she chooses to use it, to pursue a legal decision that could force both a true shutdown of state government and, in the process, an end to the 17-month-long budget impasse that's created the financial wreck she'll now be managing.

It wouldn't be comfortable and it likely wouldn't be cheered by either of the budget standoff's main combatants — Gov. Bruce Rauner and House Speaker Michael Madigan — but it could be the only thing that will restore the order in state government that is defined by the Illinois State Constitution. Specifically, it's the order imposed by requiring that state government can't spend public dollars without a balanced budget agreed upon by the governor and General Assembly that OK's the spending of those dollars.

“The General Assembly by law shall make appropriations for all expenditures of public funds by the State. Appropriations for a fiscal year shall not exceed funds estimated by **the General Assembly to be available during that year,”** says the [Illinois Constitution](#) in Article VIII, section 2 (b). Those 37 words exist to guard against the very situation we have had in Illinois since July 2015: State government spending public money on auto-pilot, with incoming revenue irrelevant to outgoing payments, as political leaders engage in a protracted feud. (More on this topic is [here](#).)

The only reason why the Rauner/Madigan budget standoff has been allowed to endure **all this time is that most people, if they even know about it, believe they aren’t affected by** it. An [October survey](#) by the Paul Simon Public Policy Institute found that only one-third of Illinoisans say they are directly affected by the budget crisis. This is because state government — or at least the parts of it used most often by most Illinoisans — has been running as normal ever since the last true state budget expired on July 1, 2015.

A court order issued in St. Clair County shortly thereafter declared that state employees must be paid whether or not there is a budget to authorize their paychecks. Failure to pay state employees, wrote St. Clair County Circuit Judge Robert LeChien, would put the state in violation of its contracts with unionized employees. Attorney General Lisa Madigan had [argued strongly otherwise](#), **but didn’t pursue an appeal when the Illinois Supreme Court declined to fast-track the case.**

Thus, no state employee has missed a paycheck and no state government offices have had to close in the last 17 months. Rauner and lawmakers also have made sure that elementary and secondary school funding was delivered as scheduled for the 2015-2016 and 2016-2017 school years, so schools statewide have opened on time each fall. That **meant they didn’t face a large-scale revolt by parents statewide.**

In so doing, they've ensured that the budget impasse never became more than an abstract annoyance to most Illinoisans and public anger never created much pressure to address the problem. Rauner and Madigan have been free to continue their standoff with each believing the other eventually will get the blame for whatever damage it causes.

Meanwhile, the state's public universities have been starved. State-promised financial aid to low-income students through the Monetary Award Program never materialized in FY 2016, forcing schools to pick up the tab in hope that the state would follow through. (It did **in the temporary "stopgap" budget** passed last July, but students and schools this year face the same problem.) Private non-profits that serve the elderly and disabled have laid off staff and cut services because state funding ended.

But those are relatively small constituencies in the grand scheme of Illinois government.

And that \$10.4 billion bill backlog? It eventually will have to be paid, though it'll hit \$13.5 billion by June 30 if Illinois continues on its budget-free spending course, according to the [Governor's Office of Management and Budget](#). When that bill comes due, those who think they **aren't affected by the budget crisis will learn otherwise**.

While both Rauner and Madigan speak of the many compromises they've offered that have been rebuffed by the other, it should be clear to all that, nearly 18 months into this, neither side is **going to budge until they're forced to do so. Rauner is not going to discuss** a budget until the Democrats pass some of his reforms (he now says it must be term limits and a property tax freeze) and Madigan has no intention of considering reforms until after a budget is in place. The only thing that *might* force these two to forge a true budget compromise will be a true government shutdown that brings public outcry to a level they can no longer ignore.

That's where Comptroller Mendoza might have a chance to act, if she chooses to do so.

In a case in March, the Illinois Supreme Court issued an opinion that appears to contradict the St. Clair County court order under which state employees now are being paid. In the case of [Illinois v. AFSCME Council 31](#) the court cites “a well-defined and dominant public policy under which multiyear collective bargaining agreements are subject to the appropriation power of the State, a power which may only be exercised by the General Assembly.”

That statement appears to vindicate Attorney General Madigan’s [arguments back in summer 2015](#) that “the Illinois Constitution and case law are clear: The State cannot pay employees without a budget..”

Madigan’s office has not pursued the issue of state employee pay further, and has said only that the further action based on the new state supreme court opinion is “under review.”

Munger, a Republican who was at odds with Madigan over the state employee pay issue and sided with AFSCME in the St. Clair County case, had no inclination to see the decision reversed. She also had argued that failure to pay all state workers as usual would put the state in violation of federal labor laws.

Mendoza, however, takes control of the state’s checkbook at a time unprecedented in state history. Never has the state operated with no budget for so long and its fiscal outlook at the moment is, arguably, the worst in state history. There appears to be no crisis or financial forecast so dire as to make Rauner and Madigan resolve their dispute. But I’d argue that a true government shutdown would create one.

Mendoza last week said she was aware of the March case, but that no decisions would be made on it until her office was up and running.

“We’re going to look at every single lawsuit, every single court order and every single (consent) decree. We’ll be working with all the constitutional officers including the attorney general and looking at every possible option that my office has in trying to ... deal with this crisis,” Mendoza said last week at a Better Government Association forum in Springfield.

I suggest a more direct strategy. Go back to court with a copy of [Illinois v. AFSCME](#) in hand. Then let the Illinois constitution deal with a crisis that never should have been allowed to happen.

<https://rebootillinois.com/2016/12/05/comptroller-mendoza-trigger-real-shutdown/>