

State's emergency spending bill OK'd by Senate, 34-27

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ALBANY — With just hours to go before a threatened shutdown of state government, three Senate Republicans broke with their colleagues Monday to join Democrats in approving an emergency spending bill to keep agencies open and funding available for everything from nonprofit programs to unemployment checks.

The game of chicken, however, could be repeated in just one week unless talks to resolve the much-delayed state budget for the current year gain more steam in coming days.

Behind closed doors, a tentative deal has been reached to close part of the projected \$9.2 billion deficit by collecting taxes on cigarettes sold by Indian retailers. That decades-old conflict between the state and tribes, has been led largely by the Seneca Nation of Indians, the country's biggest tax-free cigarette sellers.

Lawmakers face pressure to come up with new revenues to limit cuts to popular spending programs. Legislative leaders are trying incorporate as much as \$100 million from collecting the tax on sales by reservation business to non- Indians, government officials told The Buffalo News. The current plan calls for issuing coupons to Indians to buy cigarettes tax-free, but requiring wholesalers to place tax stamps on all other cigarettes distributed to Indian retailers.

It would be at least the third attempt in the past 10 years or so to try to collect the taxes, which Seneca leaders say would be an illegal move because of centuries-old treaty rights.

Officials are eyeing starting collections as soon as Sept. 1, while imposing a broader \$1-per-pack cigarette tax increase across the state to bring in another \$200 million.

Passage of the \$14 billion emergency spending bill averted the state government shutdown, which Gov. David A. Paterson had warned would have begun this morning. The measure largely covers human services and mental health programs.

Its fate became somewhat cloudy when two Democrats in the State Senate, where the party holds a 32-30 majority, threatened to vote "no," depriving it of the 32 votes needed for passage. In the end, the bill passed 34-27, with three GOP lawmakers joining 31 Democratic senators.

"To not pass this extender would drive New York into a state of chaos," said Sen. Hugh T. Farley, a Schenectady Republican who joined Democrats. Farley faces a serious contest for re-election in November in a district with tens of thousands of state workers.

Two other Republicans — State Sens. Roy J. McDonald of Saratoga County and Charles J. Fuschillo Jr. of Merrick on Long Island — also voted for the bill; all Republican senators from Western New York all opposed it.

Statewide, all Democrats in the State Senate — except Ruben Diaz Sr. of the Bronx — backed it.

To try to win Diaz's support, negotiators had included \$188 million in a program that provides an array of services to low-income people, an \$18 million increase over what Paterson proposed.

Still, Diaz voted against it because it cuts social programs used extensively in his district heavily populated with poor people.

"Hey, listen to me ladies and gentlemen, I'm not voting for cuts today and not next week," Diaz told his colleagues during a floor debate.

Diaz bristled at his fellow Democrats. "I'm only one vote, so don't put that on me," he said of suggestions by Democrats that he was abandoning them and forcing them to rely on Republicans or face a government shutdown.

The Assembly, where Democrats hold a wide margin, approved it, 87-49.

The measure was the 11th weekly emergency spending bill since the state's fiscal year began April 1 without a annual budget. In all, those weekly bills already have included nearly \$80 billion in spending for the current year — almost 60 percent of what officials believe will be a final budget amount of about \$135 billion.

Senate Democrats say the emergency bills have closed \$1.1 billion of the \$9.2 billion spending gap, meaning an increasingly shrinking portion of the budget will have to deal with the remaining red ink.

With all members of the Legislature up for re-election, increasingly thorny issues remain undecided. They include funding for the state's 700 public school districts and whether to raise taxes and and borrow extensively to offset cuts needed to close a \$9.2 billion budget the deficit.

The new bill saves about \$325 million in various mental health and human services programs. But it also will be expensive for local governments, mainly counties, because of what Senate Democratic aides described as about \$100 million in various cost-shifts from the state to localities, such as payments for juvenile justice programs. That, Republicans say, will hit property taxpayers and local services.

To lure votes, Paterson backed down from including collection of the cigarette tax in the measure adopted Monday. Republicans had vowed to vote against any emergency bill with tax increases.

With Diaz and Farley threatening not to vote for another emergency bill next week, Paterson faces several choices: reach a full budget deal so an emergency bill is not needed, make the next "extender" bill non-controversial by avoiding cuts so Democrats can count on Diaz's vote or shape it in a way to keep luring some Republicans to vote for it.

Legislative leaders insist a broader deal is close. , but Paterson told a handful of reporters in his office Sunday night that the sides are "very far" apart, and that lawmakers are boasting of progress to put pressure on him to propose emergency bills that are easier to pass.

Legislators cannot change the governor's emergency measures; they can only vote them up or down.

If legislators fail to approve the emergency bills — which they cannot amend — the state cannot spend money.

"We are moving closer and closer on an overall budget plan," said Assembly Speaker Sheldon Silver after emerging from a private meeting with Paterson and Senate Democratic Conference Leader John Sampson. Still, he said the sides were at least \$1.3 billion apart in closing the \$9.2 billion gap -- a difference Paterson has put more at \$2 billion apart.

Democrats portrayed Republicans as taking the government to the brink of closure. But Republicans noted the state — run by a Democratic governor and Democratic Legislature — has been without a budget since April 1, forcing the state to delay funding for schools, not-for-profits and road contractors.

"Government has been closed down, maybe not for everybody, but for a substantial number of people in the state of New York," said Sen. John A. DeFrancisco, a Syracuse-area Republican.

Democrats in the Senate insisted they don't like the emergency budget route, but have little choice with no broader budget deal at hand and the alternative being to close down the government.

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"You can't afford to shut government down," said Sen. William T. Stachowski, a Lake View Democrat. "No matter what we have to deal with, it's worse to shut it down."