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OPINION: AFTER THE BUDGET, WHO BLINKS FIRST — MURPHY OR SWEENEY?

CARL GOLDEN | MARCH 14, 2018

Governor might be asking Legislature to enact too many tax increases. Meanwhile, where's his path to compromise with Senate President?

Carl Golden

Normally, the budget submitted by a governor to the Legislature returns to the chief executive's office some three months later remarkably similar to the original spending plan.

After public hearings by the Senate and Assembly budget committees and floor consideration, any legislative changes are largely around the margins. The core of the governor's budget remains essentially intact.

This year may be different; that long established history may be upended by a dispute between Gov. Phil Murphy and Senate President Steve Sweeney (D-Gloucester), over the governor's plan to increase the income tax on wealthy New Jerseyans and the senator's proposal to raise the state's corporate tax.

The Constitution confers broad power over fiscal matters on the governor and stacks the odds against any significant legislative changes in the budget.

The reasons?

- A sizable percentage of the budget is statutorily or constitutionally mandated and can't be changed. Public-employee contracts and debt service, for example, must be honored along with formula-driven appropriations. The amount of discretionary spending is limited.
- The governor possesses the sole authority to establish revenue estimates — that is, the amount of income the state anticipates during the fiscal year. The estimates can be overly optimistic (a common practice in the Christie administration) or they can be overly cautious to guard against unexpected spending or an economic downturn.
- The governor's line-item veto authority can reduce or eliminate any proposed spending or even language mandates and restore the document to its original form.

Similar plans

Murphy's and Sweeney's plans are strikingly similar; each would produce some $700 million and both would dedicate the revenue to the state formula for aid to local school districts.

The governor elected to include the millionaires tax proposal in his budget message yesterday despite months' worth of expressions of opposition from Sweeney and Assembly Speaker Craig Coughlin (D-Middlesex).

While Sweeney offered his plan to increase the corporate tax by three percent on businesses earning more than $1 million in annual income as an alternative to raising the income tax, the governor reacted by suggesting it was simply another method to raise revenue and should be considered in that light.

Rather than competing, he appeared to favor embracing both tax proposals in addition to restoring the state sales tax to seven percent, eliminating the three-eighths of one percent cut enacted a year ago.

Skittish lawmakers

Calling on the Legislature to enact increases in three of the state's broad-based taxes may be asking too much. Legislators are skittish about raising taxes in the best of circumstances. Asking for three is likely more than they are willing to give.

Moreover, accepting the governor's proposal would require Sweeney to reverse his position that a tax increase on the wealthy would penalize high-income individuals who were adversely affected by the Federal law which capped allowable deductions for state and local taxes at $10,000.

Sweeney has repeatedly warned that the wealthy could easily pack up their business interests and leave the state for a more tax-friendly environment, costing the state potentially hundreds of millions of dollars in tax revenue. He touted his corporate tax increase as a reasonable response to the windfall reaped by businesses through the reduction in their federal tax liability. He is merely asking, he said, for corporate New Jersey to send a small percentage of their savings to the state.

The senator's proposal appears to be the more attractive one by taxing the institution — big business — rather than the individual. A vote in favor of it would carry somewhat diminished political risk than support for a personal tax increase, a pitch Sweeney is certain to make to his members to build support.

Political drama, policy drama

The political drama is tied inextricably to the policy drama and, for many observers, is far more intriguing. The dueling tax plans have been viewed as a proxy contest between Murphy and Sweeney whose outcome will determine and define power centers.

While Murphy holds the strong hand of the executive's office, Sweeney's shrewd political move sent an unmistakable signal that the path to realizing the governor's agenda runs directly through the Senate President's office.

Sweeney appears ready to stand firm, confident of a united caucus behind him and with Coughlin's support in the Assembly, to convince Murphy that the corporate tax increase is the only program to enjoy majority support.

The income tax increase was a central theme in Murphy's campaign and he'd be loath to back off it, setting up a potential "who blinks first" confrontation.

While striking a compromise would seem a way for both to emerge politically unharmed, it is difficult to envision such an accommodation which will not lead to speculation that one or the other caved in. In light of the legislative nervousness over accepting three tax increases, something or someone has to give.

Crucial test for governor

Should Sweeney prevail, the customary outcome of budget deliberations — much discussion and little change — will be cast aside in an assertion of legislative prerogative and a lesson in power politics.

For Murphy, it is a crucial test of his negotiating skill and his political instincts. He came to office with scant executive experience and with no history in the kind of deal-making essential to legislative success.

His shortcomings may not prove his undoing, but when the next confrontation arises (and it will), he'll have already been tested and better positioned to see it through successfully.

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