

April 6, 2020



April

With events and news regarding COVID-19, CARES Act implementation and discussions on the next stimulus package(s) changing by the minute, we wanted to step back to look at where things stand today in other areas of interest in Washington. Needless to say, the COVID-19 pandemic will dominate all discussions and news headlines, but this preview canvasses some other areas that normally would be front and center but have been put on hold, delayed or cancelled because of the crisis.

Congressional Calendar, Hearings and Voting Process

Both the House and Senate are not scheduled to be back in session until later this month on Monday, April 20th, but even that date could be aspirational. If needed, Members can be called back to Washington for emergency votes, but we would hope that anything that rises to that level could be dealt with through the unanimous consent process. However, as the House CARES Act vote shows, even that is not guaranteed. Much was made ahead of the CARES vote about the House looking into alternative methods of voting outside of the traditional in-person, House Floor process. Rules Committee Chair McGovern (D-MA) put together a report on potential alternatives, but it was clear that any changes would face constitutional and security concerns, not to mention technological hurdles that would mean it could take a considerable amount of time to launch. While House Majority Leader Hoyer (D-MD) reportedly has indicated some openness to considering other options, both House Speaker Pelosi (D-CA) and Senate Majority Leader McConnell (R-KY) have said remote voting will not happen. Unless something changes, we therefore expect both Chambers to continue to incorporate other procedures, such as holding votes open longer and other methods to ensure social distancing when recorded votes are required.

The committee hearing process also has basically come to a halt for now as House and Senate leadership determine how to hold public hearings. Some committees have held Member-only telephone briefings, but no official hearings have occurred aside from the Senate Armed Services Committee attempting to move forward with work on the 2021 National Defense Authorization Act (NDAA) through a "Paper Hearing" process. Last week, Pelosi announced her desire to form a bipartisan Select Committee on the Coronavirus Crisis, but when that even gets off of the ground is in question since the House must vote to approve a resolution for it to be established, and Republicans have questioned its necessity.

Appropriations

There are indications that the FY2021 appropriations process is continuing as best it can with House and Senate subcommittees still working through requests. We have heard that

House allocations are expected soon. Before the crisis, the House had hoped to wrap up its efforts by this summer, but that likely will slip by at least a few months. The Senate timeline has not been as aggressive as the House, but they are continuing to work through the process as well. Again though, without hearings and without testimony from Administration officials, it will be difficult to complete the process. With these delays, a continuing resolution to fund the government past the November election into a lame duck, which was already the expected outcome, becomes even more of a likelihood this fall.

Trade/USMCA

While the U.S., Mexico and Canada missed the deadline for the USMCA to go into effect June 1st, there remains hope that the agreement could still go into effect this summer with the earliest it could happen shifting to July 1st. The extra time allows the countries to ensure they are ready to comply with the deal and recognizes the extenuating circumstances the pandemic has placed on various industries, such as U.S. automakers who have halted production and are shifting to making medical equipment in some cases. Chairman Grassley and Ranking Member Wyden also encouraged a slowdown given the current state of play.

Despite encouragement from businesses groups and a number of lawmakers to either rollback tariffs or allow for a 90-day delay of tariff payments, White House economic advisor Larry Kudlow has said that the Administration is not considering tariff relief. The steelworkers and other labor unions have voiced opposition to such relief saying that it would exacerbate issues for already vulnerable industries.

Political

The Democratic presidential nomination process has been on hold since three states held primaries on March 17th. Former Vice President Biden continues to be the frontrunner, but Sen. Sanders (I-VT) has not dropped out of the race. Tomorrow, voters in Wisconsin are scheduled to go to the polls (but results can't be released until next week because of an extension for voting by mail), while Alaska and Wyoming have moved completely to a vote-by-mail process for their primaries on the 10th and 17th respectively. To date, 15 states have delayed their primaries or changed to mail voting. After postponing from March, Ohio has its primary on April 28th, but most of the voting in that state also will be done by mail. Most of the remaining states will have primaries next month and into early June, as the Democratic National Committee rules currently have a June 9th deadline – states with primaries after this date would lose half of their delegates. Despite this rule, New York has rescheduled its primary for June 23rd, and with the Democratic Convention being delayed until August, it is hard to see why this rule would be enforced. In sum, though, if Sanders does not drop out of the race earlier, June 3rd is the date to circle for the process likely finally ending and Biden becoming the Democratic nominee.

As for November, much has been said about what could happen to the general election if we are still in the throes of the crisis. There has been a push by Democrats for alternative ways to vote, such as legislation to establish direct federal requirements for mail-in voting, drive-in voting, etc., but Republicans have raised concern about such alternatives leading to voter fraud. There are several ongoing legal fights at the state level (states can set their own election laws), so expect these battles to become even more heated as we get closer to November. As for any thought that the November election could be delayed or even

cancelled, the date is set in federal statute, so Congress would have to pass legislation to change the date. That clearly is not going to happen, but let's just say that it does, it could only delay for a few weeks or months before a new Congress is sworn in. Additionally, the 20th Amendment stipulates that the President's and Vice President's terms must end by January 20, 2021, so if an election hasn't occurred by then, we would move through the Presidential Succession Act, which would lead to the Speaker of the House assuming the presidency.