



This Week in Lansing

MHSA • Muchmore Harrington Smalley & Associates, LLC

Highlights of the Latest Major Legislative, Administrative and Regulatory Activity in the State Capitol

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DETROIT MARIJUANA DISPENSARIES FACE OPPOSITION BUT REMAIN OPEN –

Comprised of one third of Michigan’s medical marijuana cardholders, the city of *Detroit* is facing pressure from churches and schools within the communities to place harsher restraints on the many dispensaries throughout the metropolitan area. At the beginning of this year, the city housed at least 211 dispensaries, with more than half of those within the city’s 139 square mile boundaries and 40 others serving suburban clientele along 8 Mile road. Since 2015, the *Detroit City Council* has dealt with concerns about the location and operation of the dispensaries and ultimately passed an ordinance last December requiring dispensaries to be licensed and a list of regulations they must comply with in order to operate.

Under the *Michigan Medical Marijuana Act (MMMA)*, any medical marijuana-related activity must be at least 1,000 feet from any park, school or library, but the new regulations expand those perimeters to include pool halls, arcades, daycare centers, playgrounds, churches and other city designated “*Drug-Free*” zones. One particular issue the city has seen with the new zoning regulations is imposing a 1,000-foot requirement also on liquor stores. The new measure also calls for dispensaries to be licensed to secure property, with licenses being dispensed on a first-come first-serve basis. Those that do acquire licensure, must then be 1,000 feet from each other, something the city projected on a newly released map will limit the dispensaries to a few small parcels of land throughout *Detroit*.

The end game, according to *Detroit Council Members* and the city’s legal counsel, is to limit the number of dispensaries in the city to “approximately 50”. Under the new ordinance, the city has been quietly shutting down dispensaries by filing code violation complaints in court and operating the shutdowns with only one cop and one building inspector. To date, the city has shut down roughly 47 dispensaries using the low-key method, something *Council Members* say negates the claims that a “crackdown” in *Detroit* is not underway.

Patients using the medical marijuana are affected by the closings, *MMMA* regulations, and the new ordinance as well. Currently under the *MMMA*, patients are allowed to grow six plants for personal consumption or use plants from a registered caregiver, but dispensaries are only allowed to serve a maximum of five patients. With those constraints and no profitable solution yet found to off-set them, patients face a possibility of less dispensaries and owners face the possibility of less business.

AGREEMENT REACHED FOR U.P. ENERGY – *Cliffs Natural Resources* and *WEC Energy Group* reached an agreement to provide the *Upper Peninsula* with long-term electric supply as

announced by the state on Monday of this week. If approved by the *Michigan Public Service Commission*, the agreement would provide 170 megawatts of new natural gas-powered generation via two *U.P.* sites and would allow for the retirement of *WEC Energy Group's Presque Isle Power Plant* in *Marquette* by 2020. In statement addressing the agreement, *Governor Rick Snyder* applauded the efforts of both companies, saying, "Many parties worked together to develop alternatives to provide the U.P. an affordable, reliable, and environmentally protective solution. The solution being proposed today is extremely promising, especially given the ability to easily adapt to changing demands."

The agreement announced Monday, according to the *Governor's* office, would relieve any remaining long-term reliability concerns associated with the closing of the *Presque Isle Plant* as well as prevent any need for additional or unnecessary transmission fees and costs for *U.P.* ratepayers. Commenting on the success and what it means for Michigan residents, executive director for the *Michigan Agency for Energy Valerie Brader* noted earlier talks of the plant closing showed a negative impact on residents, saying, "I am very grateful to all the private partners who have met over a series of years to explore alternatives. Residents and businesses of the U.P. will now be able to examine an option that is more adaptable, affordable, reliable, and environmentally protective than appeared possible just a few years ago." Commercial operations of the facilities are expected to begin in 2019 if the agreement is approved, one year before the agreed up retirement date of the *Presque Isle Plant*.

FLINT UPDATES: SNYDER PLAN ON TARGET/EM LAW REQUIRES MORE DISCUSSION – 53 percent of the 75 action items originally created by *Governor Rick Snyder's* administration on health and human services operations for the city of *Flint* have been completed, as announced Friday of last week. *Colonel Scott Hiipaka*, program management director for the *Governor's* program, told attendees of the *Flint Water Interagency Coordinating Committee* meeting, "We've got 40 items completed at this point (and) 35 in progress. Those in-progress items are intermediate and long-term goals. Collectively, we're definitely on track."

Some of those action items labeled as "in-progress" include: leveraging *U.S. Department of Agriculture* food resources in partnership with *Genesee County* food banks; updating water delivery system and water treatment plant reliability study; creating a data sharing agreement and protocols for drinkability declaration among the *Michigan Department of Environmental Quality (DEQ)*, the *U.S. Environmental Protection Agency (EPA)* and *Virginia Tech Professor Marc Edwards*. *Mr. Hiipaka* also noted that the city's economic recovery is still a work in-progress, as the *Michigan Department of Talent and Economic Development* along with the *Michigan Economic Development Corporation (MEDC)* continue with that task.

As for the long-term goals for *Flint*, housing, economic development, health, job training and capital investment will all play a role in the recovery of the city according to *Governor Snyder's* plan. By the end of 2017, 500 *Flint* residents will have received job training and by the end of 2018, three new housing developments will be complete and mortgage options for undervalued homes will be developed as well. As for the funding of the long-term items, *Hurley Medical Center Pediatrician Mona Hanna-Attisha* questioned how the items will progress after the money's currently slated run out after only a few years. *Mr. Hiipaka* addressed that issue by saying those details are being worked out as some of the programs and items are tied to grant cycles since they are federally funded.

As progress for the *Governor's* action plan is ongoing, *Mr. Snyder's Flint Water Advisory Task Force* is also attempting to take steps forward in regards to the state's emergency manager law. After releasing its findings in March following an investigation into what preventative measures needed to be taken to avoid another crisis like *Flint*, the board is now calling for more discussions on its notably biggest issue: the state's emergency manager law and how it is carried out. Among the 44

recommendations for improved operations were three relating to the law and its implementation, something the policy subcommittee of the *Flint Water Interagency Coordinating Committee* agrees with and plans to out in motion.

Mike Zimmer, Snyder Cabinet Director and head of the policy subcommittee, announced his groups support to the *Committee* last week Friday and recommended that the stakeholder group for the future discussions should include: legislators; the chief medical executive; the *Michigan Department of Treasury*; education leaders; local, state, private and public health officials; former emergency managers for the state; and officials and residents from those jurisdictions that have been under emergency managers previously. Changes to the current emergency manager regulations and responsibilities to be considered at the discussions, as noted by the subcommittee, could be, “a structured way to engage locally elected officials on key decisions; an ombudsman function in state government to ensure local concerns are a factor in decisions made by the emergency manager; and/or a means of appealing emergency manager decisions to another body.” The subcommittee also recommended future discussions to focus on creating a workgroup to review nationwide best practices in relation to environmental justice across state agencies.

STRAIGHT TICKET VOTING FEDERAL CASE CONTINUES – Straight ticket voting, the ability to choose a party’s list of candidates with a single mark, remains an option for Michigan voters after the *6th U.S. Circuit Court of Appeals* issued a ruling last week Thursday. Denying *Secretary of State Ruth Johnson’s* request for an emergency stay of the *U.S. District Court’s* decision to block the state’s 2015 law eliminating the ability of straight ticket voting, a three-judge panel announced its decision with a unanimous opinion.

Judge Karen Nelson Moore, one of the three judges on the panel and appointed by *President Bill Clinton*, focused on the plaintiff’s challenge to the *U.S. Constitution’s Equal Protection Clause*. According to *Ms. Moore*, leaving the logo each party uses to designate candidates on the ballot but removing the areas to mark a straight ticket ballot could cause confusion for voters, particularly those who use it in greater numbers such as African-Americans. Commenting on the disproportionate use of the option by African-Americans and therefore the determination of denial of *Ms. Johnson’s* request, *Ms. Moore* wrote, “After evaluating the burdens imposed by the law and the state’s asserted justifications, we hold that the secretary has not shown that there is a substantial likelihood that she will prevail on appeal in demonstrating that the district court erred in evaluating the plaintiff’s Equal Protection Clause claim.”

The court also noted in its opinion that the preliminary injunction preventing the repeal of the option would cause no injury to the state, and was critical of the state’s focus on the idea that 40 other states lack the option of straight ticket voting. *Attorney General Bill Schuette* announced he would file an immediate appeal and request the entire *6th Circuit* to hear the case, noting he will continue to defend the laws of Michigan, saying “Michigan is no different than the 40 other states that have eliminated straight ticket voting.” Following through on his word, *Mr. Schuette* filed his motion on Thursday of this week, seeking a stay of en banc of the lower court’s ruling. The motion, arguing for a stay on several points regarding the court’s ruling, asks to allow for groups on either side of the issue to appeal to the *U.S. Supreme Court* if needed.

Ms. Moore addressed that statement, again in the opinion, writing, “Comparing the isolated voting practice of one state with the isolated voting practice of another state is not always an apples-to-apples comparison. It is accordingly not enough for Michigan to simply rely on the lack of straight-party voting in other states; the necessary question is how this law interacts with other voting practices in Michigan, and the burdens this law places on voters who vote within Michigan’s electoral framework.” Accompanying *Ms. Moore* on the panel were *Judge Ronald Gilman* and *Judge Jane Branstetter Stranch*, appointed by *President Bill Clinton* and *Barack Obama* respectively.

LEGIONELLA INVESTIGATION: MORE CHARGES COULD BE COMING – As investigators continue to search through evidentiary content regarding the *Flint Water Crisis*, **Chief Investigator Todd Flood** said more charges in relation to the outbreak of *Legionnaire’s Disease*, which coincided with the crisis but has not been proved to be related to it, are to come. **Mr. Flood** and his team, hired by **Attorney General Bill Schuette**, are looking closely at crimes committed during the crisis that could have led to the casualties of the outbreak, which resulted in 12 deceased and 79 sickened. Of those persons charged so far by **Mr. Flood** and his team, none have been directly for a relation to the legionella bacteria but rather for their alleged handling of lead in the water during the crisis.

Mr. Flood told *WDET’s “Detroit Today”* program that as he and his team continue searching for connections to the outbreaks, they are also specifically focusing on evidence of cover ups relating to the crisis. Noting that they have already charged **Department of Health and Human Services** employees for “burying” a report stating lead levels were rising, **Mr. Flood** commented on the decision to do so saying, “I’m not going to prosecute anybody that made a mistake. I will prosecute someone that made a decision, a culpable decision to commit a crime.” **Mr. Flood** then mentioned he and his team are frequently in *Flint* working onsite and when asked if **Governor Rick Snyder** is a target of their investigation, responded saying, “I am only going form the basic principle and rile that I was taught, that is you follow the evidence to a conclusion. Wherever the evidence leads me is where I’m going to go.”

SNYDER CALLS ON MISO TO STUDY EXPANSION BENEFITS – The *Midcontinent Independent System Operator (MISO)* was asked this week Wednesday by **Governor Rick Snyder** to study the possible benefits of expanding its electric transmission operations in both the *Upper Peninsula* and the northern part of the *Lower Peninsula*. Written in a letter to the company, the request from **Mr. Snyder** went on to say that the expansion could possibly include a connection with electric generators in *Canada* near *Sault Ste. Marie* and eventually lower costs in the regions it covers. **Mr. Snyder** also noted that analyzing the operating systems throughout the state would “help the state of Michigan better understand the potential production cost savings, reliability and resource adequacy benefits of transmission including increased import capability and generation expansion in Michigan.” The initial request was then followed up by others in the letter, including for *MISO* to study the possible connection between the *U.P.* and *Sault Ste. Marie* in *Ontario*; strengthen the connection of the *Upper* and *Lower Peninsulas* at the *Straits of Mackinac* and through the current 345 kilovolt line running to almost *Gaylord* from the *Straits*; and consider the possible creation and use of a gas-powered electric generating plant near or in *Ostego* or *Kalkaska County*. Commenting on the request, executive director of the *Michigan Agency for Energy Valerie Brader* opined that if the study was conducted by *MISO*, “It will help us identify whether, due to all these changes, there are new opportunities for infrastructure that will make Michigan more adaptable.”

MISO responded to the request Thursday of this week, noting it is too early for the company to determine whether or not it will complete the study. According to **Jay Hermacinski**, spokesperson for *MISO*, transmission planning is also a part of the company’s scope of work and therefore a request like that from **Mr. Snyder** is not uncommon. **Mr. Hermacinski** did not have a time line estimate as to when *MISO* will make its decision to conduct the study.

MCOLES HOPES FOR HOUSE PASSAGE ON LEGISLATION THIS FALL – The *Michigan Coalition on Law Enforcement Standards (MCOLES)* would like to see *Senate Bill 92* passed this fall by members of the *House of Representatives*. *SB 92*, sponsored by **Senator Tonya Schuitmaker** (R-Lawton) calls for the creation of standards for reserve and auxiliary law officers as they are allowed to carry guns and carry out duties similar to those of regular law enforcement officers. Mostly volunteers, these officers would be trained mentally and physically to work on the part time basis position, meeting

the rules and requirements set forth by the state. *Commission Executive Director David Harvey* said those rules and requirements could take anywhere from six to nine months to draft and implement locally and around the state. Current jurisdictions preparing the reserve officers well will be referred by the *Commission*. *SB 92* is not the only bill included in the issue, it is among 11 others in a package: *SB 866*, *SB 867*, *SB 869*, *House Bill 5494*, *HB 5495*, *HB 5497*, *HB 5498*, *HB 5499*, *HB 5500*, and *HB 5501*.

ODDS & ENDS – New *Department of Environmental Quality (DEQ) Director Heidi Grether* announced last Friday at a roundtable that her focus over the next two-and-a-half years will be to rebuild and repair the *Department* internally and externally and to build morale within its offices...four *Michigan Democrats* campaign offices are open as of last weekend in *Kalamazoo*, *Detroit*, *Pontiac* and *Ann Arbor* in an effort to support presidential candidate *Hillary Clinton*...a press conference was held Monday of this week by the *Michigan Democratic Party* to push *Republicans* on making decisions on a variety of issues including *FOIA* reforms, but *GOP* members said no decision has been made for that issue as of yet...in a statement released Monday by the *Michigan Department of Health and Human Services* it was announced that lead levels in children in *Detroit*, *Flint*, *Grand Rapids* and *Jackson County* were reported as higher than expected...the *Michigan Department of Education* released a *Request For Information (RFI)* to gather information on the scoring, administration and reporting of the statewide benchmark and summative assessments, with responses due back to the state by August 29...according to the results of a *WalletHub* study, Michigan came in at number 43 in the nation for the toughest penalties for drinking and driving, with *Arizona* taking the number 1 toughest slot...the *Senate Natural Resources Committee* is set to hold an advise and consent hearing for new *DEQ* director *Heidi Grether* on September 7 as announced by committee chair *Senator Tom Casperson* (R-Escanaba)...announced this week Tuesday, *DEQ* Chief Deputy *Jim Sygo* will retire effective August 31 and will be replaced by *Bob Wagner* who is currently a program director at *DEQ*...*Democratic* presidential candidate *Hillary Clinton* announced her selection of former Michigan *Governor Jennifer Granholm* to join *Ms. Clinton's* transition team, with *Ms. Clinton* creating the team should she win the November election and take office...the *Mackinac Island State Park Commission* has received authority from the *Michigan Department of Natural Resources* to impose new rules barring the use of drones, sky lanterns and waterborne candle lanterns on the island and placing a \$500 fine on those who violate the new rules...*U.S. Representative Dan Kildee* (D-Flint) announced Tuesday he will be taking a two-week tour of the *Great Lakes* to highlight the importance and value the *Great Lakes* have to the state and its economy, and how their protection is crucial...*Michigan State Police* announced this week Tuesday that the community water resource site in *Flint's 3rd Ward* will be moved to *Mt. Calvary Missionary Baptist Church, 4805 N Saginaw Street* on Thursday of this week in order for water supply customers to have more vehicular access to filters, bottled water, replacement cartridges and at-home testing kits...according to *DEQ's* new director *Heidi Grether*, there is not enough available information to make a decision to nor is it the state's jurisdiction to remove the *Enbridge Line 5 Pipeline* currently running under the *Straits of Mackinac*...according to an analysis for the *Michigan House of Representative* base numbers supplied by *Target Insyght*, suburban *Flint* and *Lansing* are becoming more *Democratic* while the highly contested *108th* district in the *U.P.* is becoming more *Republican*...the *State Administrative Board* approved another round of funding for *Planned Parenthood* this week Tuesday totaling \$11.7 million and \$581,324 in grants, with *Attorney General Bill Schuette's* board representative abstaining from voting...*Democratic Iowa Senator Mike Gronstal* was elected this week by the *National Conference of State Legislatures* as its 44th president for the 2016-17 year...according to the *Michigan Campaign Finance Network*, the state's largest 150 *Political Action Committees (PACs)* had raised \$32.3 million as of July 20, 2016 since 2015, an 18 percent increase over where they were at the same point in 2012 and 2008 election cycles...the state's seasonally adjusted unemployment rate fell 0.1 percent in July of this year, making the employment rate up 2.4 percent from July 2015 and the lowest unemployment rate since January 2001...*Lieutenant Governor Brian Calley* has been doing weekly videos on different areas of interest around our state and he recently focused on the anniversary of the signing of the *ADA* which can

be seen at <https://www.youtube.com/watch?v=mzmUmFuDvqg> ...reminder that *Lobby Law Financial Report Summaries* are due by August 31, 2016 at 4:00 p.m.

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