



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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SENATE COMMITTEE TALKS MPSC ADDITION/ENERGY OUTLOOK – Members of the *Senate Energy and Technology Committee* met Wednesday to discuss the most recent appointment by *Governor Snyder* of *Rachael Eubanks* to the *Public Service Commission* as well as the future of Michigan’s energy resources. *Ms. Eubanks* discussed her background with the committee members during the 20-minute advice and consent hearing, explaining how she earned a Bachelor’s degree in economics from the *University of Michigan* and has been working on municipal bond issues for the state for the past 13 years. Commenting on her work for the state, *Ms. Eubanks* told the committee she worked within such issues as the *Detroit* bankruptcy filing, stating, “My role in these bond issues was to provide the best execution for the state. I made sure the state got the best deal it could to fund essential products while ensuring minimal cost to taxpayers.” When asked by *Senator Mike Nofs* (R-Battle Creek) how she manages issues and conflicts when all sides are presenting valid arguments or solutions, *Ms. Eubanks* responded, “The balance is key. We review the facts...and try to make the most informed decision we can to provide that balance.” Noting the goal of implementing that balance into all facets of the *MPSC* as one of her first to accomplish, *Ms. Eubanks* also stated she plans to make sure whatever legislative changes occur, the commission is ready and willing to meet the needs of the regulations. The panel unanimously voted to recommend a favorable opinion of her appointment to the *Senate Government Operations Committee*.

As the hearing for *Ms. Eubanks* concluded, so began the discussion of the *MPSC*’s outlook for electric supply and adequacy for the state. *Sally Talberg, Chair of the MPSC*, first addressed the report issued in July which concluded that though the near-term electric supply outlook is positive for next summer, the five-year outlook for the state through 2020 still shows the tightening of supplies across Michigan and the general *Midwest*. Renewable energy, energy efficiency and meeting required resource adequacy were all subjects that seemed to be the focus of the *Democratic* members, while *Republican* members asked questions that referred more to quick action on energy law overhaul legislation. According to *Senator Mike Nofs* (R-Battle Creek), discussions between both sides of the aisle have been ongoing as to whether or not renewable energy and energy efficiency would be included in the final draft of the legislation.

When asked by *Senator David Knezek* (D-Dearborn Heights) if keeping the state’s 10 percent renewable energy mix and improving energy efficiency initiatives would compromise resource adequacy

now or in the future, *Ms. Talberg* answered that it would not. Electric choice was another point of contention brought up at the meeting, with *Mr. Nofs* seeming to not budge on the idea of maintaining current law that limits 10 percent of the market for alternative electric suppliers while investor-owned utilities ask for more accountability for those companies. The committee is hopeful that the highly debated legislation will be taken up when the *Legislature* reconvenes in September, with the idea of having it completed in the *Senate* and sent to the *House* before *Lame Duck*. Companies like *DTE Energy* and *Consumers* agreed, saying they are hoping for the same result from legislative members.

OFFICES RUN BY ELECTED OFFICIALS SEE HIGHEST BUDGET SPENDING INCREASES SINCE 2011

– According to results of an analysis released last week, budget spending for departments and offices overseen by elected officials is up 12.4 percent from that of 2011, before *Governor Rick Snyder* took office. *Mitch Bean*, previous director of the *House Fiscal Agency (HFA)*, released his budget analysis on Friday and noted the *General Fund* budgets of the *Legislature*, *Secretary of State*, *Attorney General* and *Executive Office* have seen 27.6, 75.4, 40 and 22.6 percent increases since *Fiscal Year 2012*, respectively. The *General Fund* portion of the *Michigan Department of Agriculture and Rural Development (MDARD)* budget also saw a 71 percent increase from *FY 2011*, causing the *FY 2017* budget to go up by 15.9 percent, even though it's a state department not headed by an elected official.

As offices with elected officials as department heads have seen spending and budget increases, so have state employees represented by unions. *Mr. Bean's* analysis also noted that those employees have seen base salary increases by 6.1 percent not including one-time lump sum payments that were increased to 4.5 percent. Non-union state employees, however, saw even larger increases with 9.3 percent base salary boosts and 5.7 percent growth in lump-sum payments.

With those agencies and employees having seen an upward growth, areas such as *K-12* education, higher education, prisons and local government have not and are well below the overall 12.4 percent threshold since *FY 2012*. *Mr. Bean*, now with *Great Lakes Economic Consulting*, stated that due to a 33 percent statutory revenue sharing cut in 2012, the revenue sharing piece of the budget has decreased by 20.8 percent since *FY 2011*. Commenting on how the analysis therefore shows where the state budget priorities have been the past few years, *Mr. Bean* stated, "So when you follow the money, what are the state budget priorities since FY 2011-2012? It's pretty clear that money for the classroom as measured by foundation allowances, money for higher education operations, revenue sharing and state employee salaries don't seem to be high priorities."

FLINT UPDATES

"Rash Report" for Flint Water Released by Health Departments – After months of investigation, a coalition of federal and state health departments released a report confirming that rashes experienced by *Flint* residents were likely caused by the city's contaminated water. The coalition, made up of the *U.S. Department of Health and Human Services (USDHHS)*; *Centers for Disease Control and Prevention (CDC)*; the *Michigan Department of Health and Human Services (DHHS)*; and the *U.S. Environmental Protection Agency (EPA)*, released its report on Tuesday of this week in an attempt to address the spike in reports of rashes and hair loss by *Flint* residents. Though the report confirmed rashes could have resulted from the contaminated water after the city switched to the *Flint River* from *Lake Huron*, it also noted that hair loss experienced during the time of the switch (April 2014 – October 2015) showed no correlation to the water quality. The results of the study showed that 80 percent of the 390 *Flint* residents experiencing skin rash issues exhibited signs of dermatitis, meaning red, dry and scaly

skin. The cause of the skin issues, the report noted, was not the increased levels of lead in the water but was instead due to the large fluctuation in levels of water hardness, chlorine and pH in the water, all of which exceeded federal levels at some point. The coalition determined that the water is now safe and that stress and time of year could have also played a role in the rash spike, but are continuing to follow up with study participants to see if the water's effects remain.

Order in Genesee County Dismantles State's Participation in Flint on Public Health Issues – An order granted on August 17 by a *Genesee Circuit Court* judge and sought by *Attorney General Bill Schuette* minimizes the roles of the *Michigan Departments of Environmental Quality (DEQ)* and *Health and Human Services (DHHS)* in public health work in *Flint*, including the investigation into the outbreak of *Legionella*, something *Mr. Schuette* and *Governor Rick Snyder* disagree on. Marked confidential, the order was sought by *Mr. Schuette's Flint Investigative* team and *Genesee County Prosecutor David Leyton* in order to prevent the two state departments from tampering with evidence or skewing data as each department has seen employees criminally charged in the *Flint Crisis* over the past few weeks. However, *Mr. Snyder* contends that the protective order does not in fact protect the city's residents but instead jeopardizes the health of the public as the state can no longer interact with the *Genesee County Health Department* or *McLaren Hospital*. *Mr. Snyder*, according to a press release distributed late Tuesday, directed the *DHHS* to appeal the order and could not give details of the order due to the confidential marking. *DHHS* officials are working with the assistant attorneys general to appeal *Judge Geoffrey Neithercut's* order, according to *Mr. Snyder's* spokesperson *Ari Adler*. Commenting on *Governor Snyder's* claims that public health is in jeopardy, spokesperson for *Mr. Schuette, Andrea Bitely*, noted, "Nothing about this protective order in anyway harms or jeopardizes public health. That is simply not true. The Genesee County court is protecting the integrity of evidence and the rights of victims by having outside agencies analyze health data, excluding *DHHS*, where multiple employees currently face criminal charges related to the Flint Water Crisis. *DHHS* will be provided all this info after the outside agencies analyze the health data." When asked how the *Governor's* office and the office of the *Attorney General* are handling the other's decisions and documents, *Ms. Bitely* stated, "We are working on ensuring that documents are shared between the departments."

In response to *Mr. Snyder's* public urging, *DHHS* officials appealed the order Thursday of this week but did not receive the reaction they hoped for. The order was amended slightly, however it still bars any *DHHS* officials from participating in or receiving information on testing and reporting of lead levels and public health functions in *Flint*. *DHHS* voiced its main concern as the cases of *Legionella* at *McLaren Hospital* as the department is no longer privy to whom or when the disease was apparent or where the outbreaks remain. *Ms. Bitely* commented on the appeal and continued to defend the court's decision, noting that *Mr. Schuette's* team and the *Genesee County Prosecutor's* office will respond to the appeal as soon as possible.

HOP SURGE FUELED BY STATE CRAFT BEER INDUSTRY – According to a study completed by *Michigan State University (MSU)*, the state of Michigan now ranks number four in the nation in hop industries size, with the state housing between 60 and 90 commercial hop farms. Due to a shortage throughout other areas between 2007 and 2008, Michigan began to produce more of its own hop. That, combined with the upswing in popularity of the craft beer industry in the state has caused the production to go from 10 acres of hop in 2008 to 900 acres in 2016, according to *Hop Growers of Michigan*. Another report from the *Brewers Association* states that the number of craft breweries in Michigan has increased from 105 in 2011 to 205 in 2015, meaning the state has the 6th most craft breweries and produces 10th most craft beer in the nation. Within the state, *Grand Traverse* and *Leelanau Counties* produce the most hop, growing approximately 300 acres and 150 acres respectively. Though

Washington, Idaho and Oregon combined grow 90 percent of the nation's hop, Michigan leads outside of the *Pacific Northwest* region, as its geographic location and topography allow for successful hop growth. Tens of millions of dollars are being invested in the hop industry as reported by a Lansing news source, something venture capitalists are taking part in to grow the commercial farm number as well. A new hop farm consisting of at least 10 acres costs roughly \$305,000 to start operation, with that size of farm considered to be financially viable to growers and farmers. As for other states within the *Great Lakes Basin, New York* is right behind Michigan ranking in at number five and *Wisconsin* at number six. According to a report from *USA Hops*, an estimated 1,698 acres of hops will be harvested in 2016 from the states and provinces of the *Great Lakes Basin* alone.

ODDS & ENDS – Figures released last week Friday by the *Federal Bureau of Labor and Statistics* showed that Michigan's unemployment rate is lower than 29 other states, reporting 4.5 percent for the month of July...according to state officials, eight Michigan residents have contracted a variant form of *influenza (H3N2)* after being exposed to swine at several county fairs...the *Michigan Department of State* expects to have funds totaling \$40 million to replace aging voting equipment before the 2018 cycle, with \$30 million saved from federal funds, \$5 million from the 2016-2017 budget and \$5 million in the straight-ticket voting repeal legislation...Michigan will see seven new *Charter Schools* opening for the 2016-2017 academic year, therefore offsetting the six closures and one merger and keeping the amount of *Charter Schools* in the state at approximately 300...*U.S. Senators Debbie Stabenow* (D-Lansing) and *Gary Peters* (D-Bloomfield Twp.) announced Monday of this week that the *Capital Region Airport Authority* will be receiving \$3.3 million from the *U.S. Department of Transportation's Federal Aviation Administration* to rehabilitate runways and enhance safety procedures as a part of the *Administration's Runway Incursion Mitigation Program*...*Kirk Steudle, Director of the Michigan Department of Transportation (MDOT)*, has been named to a 14-member national committee created to study the future of the nation's interstate highway system as announced by *MDOT* on Tuesday of this week...the *Michigan Economic Development Corporation* announced this week Tuesday that the *Michigan Strategic Fund* approved multiple economic development projects expected to generate roughly \$88.5 million in total investment and create 222 new jobs in the state...the rates of property and violent crime in *Detroit, Flint, Saginaw and Pontiac* fell between 2012 and 2015 since joining the *Secure Cities Partnership* program within the *Michigan State Police* in 2012, with violent crime rates down 14 percent; 45 percent; 40 percent and 8 percent respectively along with property crime rates falling 22 percent; 40 percent; 34 percent and 29.5 percent respectively...the *School Reform Office* has been holding meetings with lowest-performing schools and could potentially announce school closures later this year, with a list of the lowest-performing schools expected to be released in the near future...the *Michigan Court of Appeals* held Wednesday of this week that a malpractice case cannot be extended to a hospital for actions taken by an independent-contractor physician on an on-call basis, unless it cannot be proven the hospital controls the actions of said physician...according to a report released Wednesday by the *U.S. Department of Health and Human Services*, policies purchased via the national exchange will remain affordable for most Michigan customers even if double-digit increased percentages are implemented... *Representative Brian Banks* (D-Harper Woods) was arraigned Thursday of this week by *Wayne County Circuit Court Judge David Groner* with his next court date set for September 1 in the case involving the *Representative* facing three felony charges and one misdemeanor charge...the *U.S. 6th Circuit Court of Appeals* ruled Thursday of this week that the requirements in Michigan's sex offender law restricting registered offenders from working, living or loitering within 1,000 feet of a school cannot be applied to persons retroactively.

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