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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TEACHER PENSION PACKAGE MOVES FROM SENATE COMMITTEE – Perhaps one of the most controversial pieces of legislation to be addressed during this year's ***Lame Duck*** session saw action in the ***Senate Appropriations Committee*** on Wednesday of this week as ***Senators*** moved the pension reform for future teachers out of committee and toward the ***Senate*** floor for a vote. The highly contentious, almost three-hour meeting resulted in a 9-8 vote to approve the legislation.

Senate Bills 102, ***1178*** and ***1179,*** which call for the transfer of all teachers newly hired after July 1, 2017 to a ***401(k)*** style pension plan, remove the option of the use of the current hybrid system for their pensions. Under ***Senate Bill 102***, the ***State of Michigan*** would close its current hybrid system (as created and opened in 2010) offered through the ***Michigan Public School Employees Retirement System (MPSERS)*** and force new hires into a defined contribution plan instead. The bill calls for teachers under the new plan to receive a mandatory four percent of salary from the school district plus a match of up to three percent to their new retirement plan. This mandatory contribution and match is what the state provides to its employees.

Sponsor of the bill, ***Senator Phil Pavlov*** (R-St. Clair) noted that by closing the current hybrid system, the state can begin to pay off (over a 40-year period) the roughly $2.2 billion in unfunded liability accrued since 2012, the last time ***MPSERS*** reforms were enacted. Committee members were shown multiple sets of data on the unfunded liabilities and average returns of the current plan, where it was noted that between 1997 and 2015 there was an increase of $26 billion in unfunded liabilities and the average return between 2001 and 2015 as being 5.1 percent (with the expectation of it being 8 percent annually).

The cost of the conversion was also a concern among those in opposition to the bill, with the ***Senate Fiscal Agency*** estimating a cost of an additional $591 million in the first year. The issue of how the move would affect the ***State Employees Retirement System (SERS)*** and the ***Judges Retirement System (JRS)*** was also addressed, as the three retirement systems are bundled together for investment purposes, meaning an additional $33 million would be needed to cover costs between lower expected rates of return for all three.

Rounding out the package are ***Senate Bills 1178*** and ***1179*** which move the language regarding repayment of current unfunded liabilities from the ***School Aid Act*** into the ***MPSERS Act***. The bills also reform the vesting schedule so that employees would keep 50 percent of the employer contribution after two years, 75 percent after three years and 100 percent after four years. Organizations such as the ***Michigan Office of Retirement Services*** and the ***Michigan Association of School Administrators*** offered opinions in opposition to closing the current hybrid system alongside ***Senators Goeff Hansen*** (R-Hart), ***Mike Nofs*** (R-Battle Creek), ***Vincent Gregory*** (D-Southfield), ***Hoon-Yung Hopgood*** (D-Taylor), ***Curtis Hertel, Jr.*** (D-

East Lansing), ***David Knezek*** (D-Dearborn Heights) and ***Coleman Young*** (D-Detroit). The full ***Senate*** took up the package on Thursday of this week, but not enough votes in support could be gathered, something ***Senate Majority Leader Arlan Meekhof*** (R-West Olive) said he will be working on within his caucus over the coming days.

ECONOMIC DEVELOPMENT BILLS SEE ACTION – As the first week of ***Lame Duck*** session began on Tuesday of this week, ***Senate*** members passed two major packages related to economic development in the state, as well as tax incentives to bring new businesses to Michigan. The first package, ***Senate Bills 1153-1155***, was passed by Tuesday afternoon and calls for the allowance of the state to authorize up to 15 new agreements with businesses where, in exchange for creating at least 500 new jobs in the state, those businesses would get to keep a percentage of the income tax withholdings (abatements) for those new employees. The legislation also states, however, if the businesses were paying 125 percent of the average wage in the county in which they were located, the job creation threshold would be lowered to 250.

The possible amounts of the abatements businesses could receive will be determined by a sliding scale through the ***Michigan Strategic Fund***, also to be created as written in the package. The percentage could be as high as 100 percent in some cases, with those counties paying the new employees at least the county wage projected to receive at least a 50 percent abatement. The package, as sponsored by ***Senator Jim Stamas*** (R-Midland) also would set a limit of $250 million for the combined projects' abatement agreements in effect at any time. ***Michigan Economic Development Corporation (MEDC) CEO Steve Arwood*** told reporters that this package of bills will allow Michigan to attract bigger projects by offering this type of tax incentive.

Joining ***Senate Bills 1153-55*** in their move to the ***House*** for consideration are ***Senate Bills 1063-65***, otherwise known as the ***Brownfield/TIF package***. As sponsored by ***Senator Ken Horn*** (R-Frankenmuth), the bills would allow developers in certain downtown areas to capture a portion of the revenues that would (as currently written) go to downtown development authorities and use those funds to assist in paying for the project. In order for the incentive to be received, the developer would be required to receive local approval by a brownfield redevelopment authority and produce an overall net gain for the state as outlined in the bills. After those requirements are met, the developer would then have the ability to appeal to the ***Michigan Strategic Fund*** for the incentive. ***Senate Majority Leader Arlan Meekhof*** (R-West Olive) commented on the passage of the bill (and in doing so, revising the 2011 incentive), noting, "This is big projects, big job providers, big things that could be transformational in their communities and/or in terms of the job providers."

MUNICPAL RETIREE HEALTHCARE LEGISLATION TO BE SEEN BY HOUSE – On Wednesday of this week, ***House Republicans*** introduced a 13-bill package that seeks to decrease unfunded liability costs faced by local governments when paying for retirees' healthcare on behalf of their former employees. The new legislation calls for an 80-20 percent split for current employees and retirees, while creating a health savings account for new employees. ***House Bills 6075-6086*** would increase reporting requirements on said unfunded liabilities (including pensions), prohibit retirement healthcare plan terms from being a subject of collective bargaining and exclude health savings accounts and retirement plans from arbitration awards to police and fire departments.

The main bill of the package, ***House Bill 6074***, would create the ***Local Unit of Government Retirement Act***, as introduced by ***House Speaker Kevin Cotter*** (R-Mt. Pleasant). Under that ***Act***, a local unit of government that provides retiree healthcare would not pay more than 80 percent of the annual cost if the actuarial liability accumulated is less than 80 percent funded, or if that liability falls below 80 percent funded for two consecutive years. In communities where the liability accrued is above 80 percent, no changes would be made, however in entities where it is below 80 percent funded, the aforementioned changes would still apply. In regard to ***Medicare*** cost coverage, the bill states that the local unit of government would not pay more than 80 percent of the annual cost to supplement ***Medicare*** if each individual included in a beneficiary unit qualifies for it. The remaining 20 percent would then be covered in all cases by the individual employee themselves. Current retirees would not be affected, and employees covered via contracts with unions would only be covered for the remainder of those contracts. The bills were taken up by the ***House Local Government Committee*** Thursday morning and after session, but no action has been taken as of yet by ***Committee*** members.

UBER/LYFT BILLS MOVE TO FULL SENATE – Under legislation moved out of the ***Senate Regulatory Reform Committee*** on Wednesday of this week, taxicab companies would be regulated on the same basis or regulations as other ride sharing companies such as ***Uber*** and ***Lyft***, with the five-bill package passing 8-1 to the ***Senate*** floor. ***Senate Bill 392*** and ***House Bills 4637***, ***4639*** and ***4640*** call for the removal of the currently required state's chauffeur's license; the allowance of airports to regulate where ***transportation network companies (TNC)*** vehicles can park and to collect fees from the companies; and the allowance of taxis, limousines and ***TNC*** vehicles to be regulated and operated under the same section of the law. Companies like ***Uber*** and ***Lyft*** would also be responsible for conducting criminal background checks on their own drivers and would be subject a state audit of a sample of their drivers at year's end. Any company wishing to operate a vehicle under the new regulations would also have to apply for a license to operate with the ***Michigan Department of Licensing and Regulatory Affairs (LARA)***, while also providing the ***Department*** with proof of auto insurance coverage for each driver. ***Senator Curtis Hertel*** (D-East Lansing) offered a successful amendment which called for the local ***TNC*** agreements to be grandfathers in for four years, such as those reached in the Lansing area, as the package nullifies nearly all local ordinances regulating taxicabs, limousines and ***TNC*** vehicles. The bills were then passed by the ***Senate*** on Thursday of this week, with minimal changes.

MEDICAID HMO USE TAX BILL RECEIVES APPROVAL – ***Senate Bill 1172*** is now headed to the ***Senate*** floor after being moved from the ***Senate Michigan Competitiveness Committee*** early Wednesday morning, bringing with it reforms from the previous version as vetoed by ***Governor Rick Snyder*** earlier this year. The bill, as reported, creates provisions for when the use tax on ***Medicaid HMOs*** would and would not be collected, with the hopes of replacing the lost revenues as a result of the state's ***Health Insurance Claims Assessment (HICA),*** which was ended earlier this year. One issue that faced those in favor of using the ***HMOs'*** use tax was the approval (or lack thereof) from the federal government for the new plan, something bill sponsor ***Senator Ken Horn*** (R-Frankenmuth) made sure to address. In the bill, it is noted that if the federal government were to state in writing that the plan to switch from ***HICA*** to the ***HMO*** use tax was not permissible (and, in turn, would result in federal ***Medicaid*** match funding to be reduced), the use tax would cease to be collected from the state's ***HMOs***; however if the switch were deemed permissible, the state could then reinstate it. The bill was reported unanimously by the committee and members adopted an ***S-1*** substitute before sending to the ***Senate*** floor. The bills were then passed on Thursday of this week by the full ***Senate*** on a 30-6 vote.

STAY ORDERED FOR OVERTIME PAY RULES – A preliminary injunction was ordered by ***U.S. District Court Judge Amos Mazzant*** earlier this week on the implementation of the much discussed rule requiring employers to pay more of their employees overtime, impacting roughly 4 million workers nationwide. The rule, set to take effect as of Thursday this week, raised the salary threshold of mandatory overtime pay from $23,660 to $47,892 per worker per year, making more employees eligible for overtime pay. Many Michigan businesses applauded the decision, noting that they would have been negatively impacted had the rule gone into effect on December 1. The ***Michigan Chamber of Commerce*** and the ***Michigan Restaurant Association*** expressed support for the stay, while other groups such as the ***Michigan AFL-CIO*** spoke out against the ruling. Though the stay has been put into place for the time being, businesses remain prepared to make changes if the stay is rescinded (something most are assuming is not likely with ***President-Elect Donald Trump*** soon to take office).

CAPITOL COMMISSION BILLS LEAVE HOUSE COMMITTEE – Legislation allowing the ***Capitol Commission*** to use bonds to cover the cost of improvements and renovations to the ***Capitol*** and the ***Capitol Complex*** was reported out of the ***House Oversight and Ethics Committee*** on Thursday of this week. ***House Bills 6047*** and ***6048***, as sponsored by ***Representative John Kivela*** (D-Marquette) and ***Representative Ed McBroom*** (R-Vulcan) respectively, call for the allowance of the ***Commission*** to lease properties under its authority (excluding the ***Capitol Building*** itself) to the ***Michigan Strategic Fund*** in exchange for bonds to supplement multiple renovations to the building and its surrounding ***Historic Site***. The ***Commission*** would also be allowed to "repair, renovate and improve" the ***Capitol*** and any other buildings on the ***Site***, as it currently is only allowed to perform maintenance and restoration projects. A substitute for ***House Bill 6047***, as offered by ***Representative McBroom***, was also adopted, and would allow the ***Commission*** to build new facilities but would require such construction to be considered in conjunction with the prioritized renovations and improvements.

ODDS & ENDS – ***President-Elect Donald Trump*** announced on Wednesday of last week his choice of ***Betsy DeVos*** as his ***Secretary of Education***…***Senator Ian Conyers*** (D-Detroit) was sworn into office on Wednesday of last week, taking the place of former ***Senator Virgil Smith*** in representing the state's ***4th Senate District***…former state ***Senator John Pridnia*** passed away on Thursday of last week at the age of 73, with ***Governor Rick Snyder*** ordering all ***U.S.*** flags in the ***Capitol Complex*** to be flown at half-staff in his honor on Monday…***Michigan Republicans*** are set to cast ***Michigan's Electoral College*** votes for their presidential candidate on December 19, the first time in 28 years…***Governor Rick Snyder***, ***Detroit Mayor Mike Duggan*** and the ***Detroit Regional Chamber*** announced the expansion of the ***Detroit Promise*** scholarship to include free tuition at four-year educational institutions on Monday of this week…***Representative Lauren Plawecki*** (D-Dearborn Heights) was sworn into office on Monday of this week, taking the place of her mother, the late ***Representative Julie Plawecki***, for the remainder of this session year following the sudden death of the ***Representative*** earlier this year…***Senate Majority Leader Arlan Meekhof*** (R-West Olive) announced on Tuesday of this week he will not be running for ***Governor*** in 2018…***House Bill 5847***, as passed by the ***House*** on Tuesday of this week, calls for the forwarding of 25 percent of leftover ***General Fund*** monies (from the end of the fiscal year) to the state's ***Rainy Day Fund***...***Senate Judiciary Committee*** members reported legislation to the full ***Senate*** on Tuesday of this week that would end the zero tolerance rule for marijuana if found in a driver's system…according to a statewide survey conducted by the ***University of Michigan***, roughly 37 percent of local government officials across the state noted aging water pipes as an issue, while 36 percent of those officials are considering raising water fees to fix the issue…***House Bill 5400***, legislation amending the Public Health Code to license and regulate advanced practice registered nurses passed the House this week…the ***House Transportation and Infrastructure Committee*** reported ***House Bill 4142*** on Tuesday of this week, which outlines changes for state assessments for truckers and "misloads" of cargo on truck axles…according to a ***Michigan Public Service Commission (MPSC)*** report issued Wednesday, Michigan residents will save approximately $5.2 billion from energy waste reduction in the coming years…***Senate Bill 973*** was unanimously passed by the ***Senate*** on Wednesday of this week, allowing merchants with certain licenses to offer beer growlers for sale and refill…information released earlier this week by the ***Michigan Department of Technology, Management and Budget*** showed unemployment rates in all but one of the state's 17 local labor markets rose in October of this year above the rate recorded in October 2015…***House Bills 5851-5856*** passed the ***House*** on Thursday of this week, seeking to address a number of issues pertaining to downtown development authorities and other tax increment financing authorities…***Governor Rick Snyder*** ordered all ***U.S.*** and Michigan flags to be flown at half-staff on Friday of this week in honor of ***Wayne State University Police Officer Collin Rose*** who passed away on November 23 after he was shot in the line of duty…***Adient***, the world's largest automotive seating supplier, announced this week it will locate its new headquarters in ***Detroit***, making it the first ***Fortune 500 Company*** to do so since 2003.

PLEASE NOTE – The offices of ***MHSA*** will be closed beginning at noon on ***Friday, December 2*** and will reopen for normal business hours on ***Monday, December 5.*** Please contact a member of the ***MHSA*** staff if you have any questions or concerns. Have great weekend!

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