



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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TAX INCENTIVE BILLS TO BE RE-INTRODUCED – *Senator Ken Horn* (R-Frankenmuth), chair of the *Senate Economic Development and International Investment Committee*, announced late last week his plan to reintroduce the heavily debated “brownfield bills” from last session. *Mr. Horn* also noted that the legislation calling for tax incentive withholdings for 15 new agreements with businesses in the state will be reintroduced as well, and he plans to help in getting those bills through his committee. Saying he expects to introduce the legislation the second week of February, *Mr. Horn* noted the two issues are his top priority for this session year.

The two packages passed through the *Senate* relatively quickly, but stalled in the *House* before year’s end, something *Mr. Horn* noted he is actively trying to prevent by getting new members updates and answering any questions they may have. Commenting on the re-introduction and informing the new members, *Mr. Horn* noted he wants to make sure there are no misunderstandings this time around, stating, “I still have a lot of work to do with new members in the House, but I’ll be working closely with the speaker and members on the floor.”

The “brownfield bills” as, originally introduced, called for the allowance of \$50 million in tax captures for transformational brownfield development plans; expanding property tax captures; and capturing sales tax on construction materials as well as income tax on construction labor and jobs within the development. The bills also called for changes to the state’s tax increment financing (*TIF*) zones. The second package dealing with economic development states that the only way businesses could qualify for the aforementioned tax incentive withholding would be to create 500 jobs within the state at the county average wage (or 250 if the business was paying 125 percent of the average wage in the county where it was located).

Along with his plans to re-introduce those packages, *Mr. Horn* also noted he plans to bring in new legislation into the discussion that address accountability for *Downtown Development Authorities (DDA)* and the use of *TIF* funds. The package would ensure that *TIF* authorities throughout the state are applying their *TIF* and *DDA* monies toward economic development.

STEUDLE TALKS ROAD FUNDING FORMULA CHANGES – Since his first year in office, *Governor Rick Snyder* has wanted to change the state’s current road funding formula, something that has yet to be accomplished during his final two years after having met much pushback on multiple proposals. In order to find a solution, according to *Michigan Department of Transportation Director Kirk Steudle*, both administrative officials and legislators need to start over completely and entertain an open dialogue

on the issue. The current formula, *PA 51 of 1951*, sends 39.1 percent of road funds to the state, 39.1 percent to county road agencies and 21.8 percent to village and city road agencies.

According to *Mr. Steudle*, the best way to solve the issue is to look at the formula and, instead of finding a solution via jurisdictional interests, focus on the end goal for the state as a whole. Commenting on the issues that arise when discussing jurisdiction of roads in the state, *Mr. Steudle* noted, “As soon as you get into who owns them, the whole discussion breaks apart. Nobody owns them. There’s 10 million people that own them. They own all of them.” With sources of funding also being a large part of the formula, *Mr. Steudle* noted that the 2015 road funding plan passed has not solved the problem, only “slowed the deterioration.”

That plan, passed after four years of heavy pressure from *Governor Snyder*, called for \$600 million in new revenue for road funding, as well as \$600 million from the *General Fund* (if approved by future legislators and governors). However, despite that added \$1.2 billion, a recent report from the Governor’s *21st Century Infrastructure Commission* noted that the state is still more than \$2 billion annually behind what is necessary for road funding throughout the state. *Mr. Steudle* noted that figure was not much of a surprise and, therefore, the discussions need to continue and a more solid plan needs to be put into place, despite hesitation from legislators.

LEGISLATION FORMING REDISTRICTING COMMISSION INTRODUCED – This week Tuesday, legislation was introduced calling for the creation of a citizen’s nonpartisan commission charged with overseeing the outlining of district boundaries within the state, something the two *Democratic* sponsors noted would end the possibility of “gerrymandering”. *Representatives Jon Hoadley* (D-Kalamazoo) and *Jeremy Moss* (D-Southfield) referenced the 2011 reapportionment plan drawn by *Republican* legislators and signed by *Governor Rick Snyder* as part of the inspiration for the bills.

Mr. Hoadley introduced *House Joint Resolution (HJR) B* which would call for the commission to be created and would require voter approval. *Mr. Moss* introduced *House Bill 4122*, which would call for the allowance of the commission to be put into law.

A study by the *Electoral Integrity Project* was also cited as a reason for more regulation on the issue, as it found *North Carolina* to no longer be considered a democracy based on how its districts are drawn. Commenting on the importance of such a commission, *Mr. Moss* stated, “Creating a nonpartisan commission would strengthen the integrity of our elections and – at a time of low faith in government – work to restore trust in government.”

Mr. Hoadley, along with his *Democratic* colleagues, believe the current plan gives an unfair advantage to *Republicans* by letting “politicians draw legislative maps to choose the voters they want”. *Wisconsin* is also dealing with redistricting issues as it was recently ordered by a *U.S. District Court* panel to redraw its state boundaries before the 2018 election after the panel found the boundaries are illegal, something officials in Michigan are keeping a close watch on due to its relevance to the mitten state. Following the (so far) successful case in *Wisconsin*, attorney and former *Michigan Democratic Party* chair *Mark Brewer* circulated a letter this week informing those involved in the 2011 reapportionment plan of a similar lawsuit he plans to file in the near future.

SNYDER CHIEF OF STAFF HEADED TO WASHINGTON – *Governor Rick Snyder’s* current chief of staff, *Jarrod Agen*, announced this week he will soon be working as *Vice President Mike Pence’s* director of communications and deputy assistant to *President Donald Trump*. *Mr. Agen* began his career with the *Snyder* administration as communications director in 2014 then took over as chief of staff for *Mr. Snyder*. *Mr. Agen* has worked with the administration through *Detroit’s* exit from

bankruptcy and the city's *Grand Bargain*, as well as the *Flint Water Crisis*. *Governor Snyder* commented on the announcement and his support of the transition, stating, "I look forward to working with Jarrod in his new role. Our loss is a great gain for Vice President Pence and the Trump administration."

Mr. Pence announced the appointment on Wednesday and noted that *Mr. Agen's* past positions with the *U.S. Environmental Protection Agency*, the *Department of Homeland Security* and the *U.S. Department of State* will be of great benefit to his team and the *Trump* administration. Expressing his support of *Mr. Agen*, *Mr. Pence* stated, "Jarrod's experience at both the state and federal level brings an unmatched perspective to our office. Having worked on the ground in several states throughout our country, he mixes an outside-of-Washington approach with high-level federal experience."

EDUCATION REFORM TO BE AMONG TOP ISSUES OF 2017 – *Representative Tim Kelly* (R-Saginaw Twp.) is set to chair two *House* education committees during this legislative session, stating that by being allowed to do so, he hopes to bring about better coordination between policy and funding for the state's much needed education reformation.

Mr. Kelly will chair the *House Education Reform Committee* as well as the *House School Aid and Education Subcommittee of Appropriations* this term, and listed top priorities as: better communication with and accountability for the *School Reform/Redesign Office (SRO)*; allowing local districts more freedom in regards to education and service delivery; lessening regulations for districts; reforming the failing schools law; and funding for private and public schools. Commenting on his appointment to both and his desire to begin conversations with fellow *House* members as well as *Senate* members, *Mr. Kelly* stated, "I am tremendously honored that the Speaker has the confidence in me to chair both and to do what we can to move Michigan forward."

While *Mr. Kelly* begins to outline his plan for the state's education reform, chair of the *Senate Education Committee Senator Phil Pavlov* (R-Saint Clair), has already introduced legislation addressing the issues of the failing schools law and the *SRO*. Noting these two issues as top priorities as well, *Mr. Pavlov's Senate Bill 27* calls for the elimination of the list comprised of the bottom 5 percent of public schools, the *SRO* officer, and certain pieces of the *SRO* process. *Jared Burkhart* with the *Michigan Council for Charter School Authorizers (MCCSA)* agreed that more guidelines need to be put in place, including more accountability from the state and the schools. *Mr. Pavlov* agreed, noting that he plans to work with *Governor Rick Snyder* and the *Michigan Department of Education (MDE)* to come up with alternative solutions to deciding school closures (currently the *SRO* has the power to make that decision) as well as other reforms for Michigan's educational system.

OFFICIALS/REPORTS CALL FOR HEALTHY MICHIGAN TO STAY– Michigan's *Medicaid* expansion program, *Healthy Michigan*, will be in jeopardy of cancellation if the *Patient Protection and Affordable Care Act (Obamacare)* is ended, something state officials and recent reports state would not be best for Michigan residents and caregivers. A recent report showed Michigan's expanded *Medicaid* program as having saved hospitals in the state \$300 million in uncompensated and charity care costs.

The report, released by the *University of Michigan* earlier this week, was presented to *House Appropriations Health and Human Services Subcommittee* members. The report also noted that if *Obamacare* was in fact discontinued in the state, Michigan would have to pay approximately \$255 million or more a year to cover multiple programs *Healthy Michigan* covers, including mental health programs. The *U-M Institute for Healthcare Policy and Innovation* report was sent to members as required under the *Healthy Michigan* law, and states that more than 90 percent of the state's hospitals

saw a decline in the percent of their total expenses that came from uncompensated care from 2013 to 2015, dropping from 5.2 percent to 2.9 percent.

Representative Edward Canfield (R-Sebewaing), chair of the subcommittee, noted that if the federal funding from *Obamacare* were to cease, *Healthy Michigan* would not be able to continue and would then move more than 600,000 people in the state off of health insurance. **Mr. Canfield** noted that though the possible results of ending *Obamacare* could be damaging to the state, the legislative process in which *Healthy Michigan* was formed is one that should be considered by *Congress* to create an alternative program.

Michigan *Department of Health and Human Services Director Nick Lyon* agreed with **Mr. Canfield**, recently commenting on the importance of *Healthy Michigan* and how the program could be used as nationwide model. **Mr. Lyon** noted that *Governor Rick Snyder* has discussed the topic with congressional committees and other officials in *Washington, D.C.* in order to put Michigan residents at the forefront of the discussion for alternatives to *Obamacare*. **Mr. Lyon** also encouraged residents to reach out to their *Congress* member as well as state legislators to reinforce the importance of the program, whether as an enrollee or a health service provider.

STRATEGIC FUND APPROVES GM/HONDA VENTURE – The *Michigan Strategic Fund* approved a \$48.9 million private investment by *General Motors (GM)* to collaborate with *Honda* to create 64 new jobs at *GM's* Brownstown facility. The partnership will be to manufacture fuel cells for electric vehicles, and will be known as *Fuel Cell System Manufacturing, LLC*. Production is set to begin in 2020 at the *GM* facility in Brownstown Township, southeast of *Detroit's Metropolitan Airport* in Wayne County, and will aim to have distinct products from the two companies using the fuel cell system. In a statement from the two auto companies, it was noted that the joint venture will create 100 new jobs and will make equal investments totaling \$85 million. **Lieutenant Governor Brian Calley** commented on the approval of the venture, stating, “We’re extremely proud that in Michigan two automotive industry giants have come together to create a significant advancement in fuel-cell technology. This collaboration and the potential impact is a testament to GM and Honda’s commitment to the state, and reflects the promising possibilities of conducting business in the global automotive capital.” The announcement was made in *Detroit* on Monday of this week.

STATE SETTLES UIA LAWSUIT – AGREES TO REFORMS – On Thursday of this week a federal lawsuit against *Michigan's Unemployment Insurance Agency (UIA)* was settled, following a two-year battle between the state and the plaintiffs in the case. The settlement comes after the plaintiffs claimed they were wrongly accused of unemployment benefit fraud by the *UIA's* automated computer system and were then required to pay thousands of dollars in penalties. The system was put into place in October of 2013 and used through August 2015, and during that time accused roughly 39,600 people of fraud. However, when internal reviews were conducted following those accusations, an error rate of more than 90 percent was detected. As a part of the settlement, requirements moving forward include:

- Those accused of fraudulent behavior will be given a chance to present evidence via an interview or a fact-finding questionnaire and will be given timely notice of such procedures
- Fraudulent determinations will not be made solely on lack of response by claimant
- All communications to claimants will be in plain language
- A 48-hour call will be made to claimants failing to respond to fact-finding before fraudulent determination is made
- A quarterly report will be provided by the *UIA* to the plaintiff’s counsel for two years outlining the number or new fraud and nonfraud overpayment cases; the number of cases reviewed; the number of fraud determinations made and/or reversed; the percentage of fraud cases where refunds were issued for penalties already paid

- Those accused of fraudulent behavior will be referred to the *UIA's* advocacy program or the *State Bar of Michigan's Legal Aid Section*
- Funds collected from claimants between October 1, 2013 and August 7, 2015 shall be returned in 30 days following the redetermination of fraud cases in that time period

ODDS & ENDS – According to a report released last Friday, the *House Appropriations* and *House Judiciary Committees* were busiest during the 2015-16 session term, with 281 bills and 320 bills referred respectively...*Representative Stephanie Chang* (D-Detroit) has been elected as chair for the *Progressive Women's Caucus* as announced on Friday of last week...on Thursday of last week 500,000 *Macomb County* residents were asked to restrict their water usage for up to a month due to ongoing issues with the *Fraser* sinkhole...*Governor Rick Snyder* spent the past week on a trade expedition to *Israel* where the focus of discussions was noted as trade and investments, improving academic cooperation and exploring collaborative opportunities for cybersecurity...the *Michigan Strategic Fund* approved a bond inducement this week Monday for *Consumers Energy* (not to exceed \$200 million) to finance the cost of complying with federal regulations at its coal plants throughout the state...The *Upper Michigan Energy Resources Corp.* announced this week Monday its filing of an application to build two natural gas plants in the *Upper Peninsula*...*Eric Bussis* has been named as Michigan's *Chief Economist* by *Treasurer Nick Khouri*, set to replace *Jay Wortley* who is retiring after 36 years with the *State of Michigan*...*DTE Electric Company* received authorization this week from the *Public Service Commission* to increase its electric rates by \$184.3 million annually (effective February 7), and therefore send refunds and interest to customers as the rates are less than the company implemented in August last year...according to quarterly reports filed by both parties, *Senate Democrats* raised roughly \$100,000 more than their *Republican* counterparts...the *Senate Fiscal Agency's* monthly report from December 2016 stated tax collections from the state's *General Fund* and *School Aid Fund* plus lottery net revenue totaled \$2.1 billion, up 13 percent from one year ago...*Representative Edward Canfield* (R-Sebewaing) announced the introduction of *House Bills 4134* and *4135* this week, with the legislation calling for the prohibition of insurance companies from basing a physician's participation in the company solely on whether said doctor took a re-certification exam...as of Tuesday of this week, fundraising for the state's *Fallen Law Enforcement Officer Monument* is now at 78 percent, with the recent addition of a \$100,000 donation from *Delta Dental*...according to a new modeling effort created and implemented by the *Michigan Public Service Commission*, the *Michigan Agency for Energy* and the *Midcontinent Independent System Operator*, Michigan's electric reliability would remain strong during the summer of 2018 if planned projects are completed as expected...Michigan's first *Lottery Commissioner* and former director of the *Michigan Department of Corrections Gus Harrison* passed away in January at the age of 99...according to a performance audit released this week Tuesday, of the \$242.2 million appropriated to the *City of Flint* from January 2016 to November 2016, roughly \$517,000 was not spent with proper oversight...an 11-bill package was introduced this week by *House* members calling for the exemption of the governor from the *Freedom of Information Act* to come to an end, as well as the creation of the *Legislative Open Records Act* which would declare certain records of the *Legislature* to become newly public...the heavily discussed corrections 20-bill package was sent to the *House* for approval this week, having all passed the *Senate* unanimously with the exception of three bills...in its annual report on electric choice programs, the *Public Service Commission* stated there were approximately 80 fewer customers participating in electric choice programs from December 2015 to December 2016...*Senate Bill 35* as sponsored by *Senator Rick Jones* (R-Grand Ledge) was moved from the *Senate Regulatory Reform Committee* this week Wednesday, calling for updated regulations on charitable gaming and millionaire parties...*James Hallan*, former *Representative Nancy Jenkins* and *Joseph Smalley* were all named to the *State Officers Compensation Commission* as announced by *Governor Rick Snyder* on Wednesday of this week...former *Representative Steve Andrews* passed away last Saturday at the age of 67, having served in the *State House* from 1979-1982...according to an overview of the newly established *Veterans Authority* released by the *House Fiscal Agency*, an overhaul of the state's veterans' health system could cost roughly \$3 million...the *Michigan Supreme Court* this week ordered arguments on a *Court of*

Appeals decision that held big box stores could not claim lower tax valuations due to “box-stores”...*Senate Bill 40* was reported out of the *Senate Economic Development and International Investment Committee* on Thursday of this week as it calls for businesses located in border communities throughout the state to be permitted to be counted as a “qualified new job” for individuals who reside out of state or in *Canada*...the *House* committee schedule has been announced now that committee assignments are set, please see the following link for the schedule [https://www.legislature.mi.gov/\(S\(tdxr5fy5ffqwfaxwbplr3ldw\)\)/mileg.aspx?page=CommitteeMeetings](https://www.legislature.mi.gov/(S(tdxr5fy5ffqwfaxwbplr3ldw))/mileg.aspx?page=CommitteeMeetings).

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