



# This Week in Lansing

MHSA • Muchmore Harrington Smalley & Associates, LLC

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

Volume XXVIII – Issue 25

June 24, 2016

**REMINDERS** – *MHSA* is hosting *Congressman Dan Kildee* on *June 28* from *9:00 a.m. – 10:30 a.m.* The location will be in the *Tower Conference Center* located on the *1<sup>st</sup> floor of Boji Tower*, 124 W. Allegan Street in Lansing. To access the first floor you will need to use the opposite set of elevators from our office and head right off the elevator on the first floor. This is a roundtable discussion not a fundraiser. *Congressman Kildee* will likely discuss the *Flint Water Crisis*, issues before *Congress* and perhaps a *2018* potential *Gubernatorial* bid. If you would like to join and have not already rsvp'd, please do so by noon on Monday to [rsmith@mhsa.com](mailto:rsmith@mhsa.com) or by calling our office at (517) 484-8800. Hope to see you there.

The *Ellis Parking Structure* on the corner of Capitol and Allegan Streets (that most of you utilize when visiting our offices or the Capitol) will no longer be open for public parking as of *July 1*. Public parking will be available in the following parking structures: corner of Washtenaw and Townsend across from the Post Office, at the end of Allegan Street at Grand Avenue, and between Washtenaw and Kalamazoo Streets on Capitol (next to *Western Michigan University Thomas Cooley Law School*). These are *City of Lansing* structures. If you visit Lansing on a regular basis, you may want to consider obtaining a monthly parking permit from *Ellis*. The number to reach *Ellis* is (616) 458-1179 and cost is \$150/month for first come first served or \$170/month for a reserved spot. With this change, *MHSA* will no longer be able to provide validation for parking. We apologize for any inconvenience and wanted to be sure you were aware as parking will be significantly more difficult downtown.

**WAUKESHA DIVERSION APPROVED** – *Waukesha, Wisconsin's* application to draw water from *Lake Michigan* has been approved by *Governor Rick Snyder* and seven other states. Under the approved agreement, the *Wisconsin* city can draw roughly 8.2 million gallons of water per day from the lake, but must then return equal amounts of treated water to it. Currently, *Waukesha* resides in the *Mississippi River* basin and draws 1.67 million gallons and drains it to the *Mississippi River*. *Waukesha* becomes the first entity approved under the *Great Lakes Compact*, which allows water diversion only for communities that straddle the boundary lines of the *Great Lakes* and *Mississippi River* basins. This provision, among others, states that withdrawals such as this one will mean no net loss of water from the *Great Lakes* basin.

With the city's current water supply polluted with radium, *Wisconsin* argued the diversion is the most economical option for *Waukesha* and one that will be monitored closely. The agreement states the city will monitor its daily withdrawals from *Lake Michigan*, the records of withdrawals will be available to all states in the compact to review and that any withdrawal requires unanimous approval by those states. In a statement following the approval, *Governor Snyder* commented on his support, stating, "I strongly support

policies that protect and conserve our greatest natural resources, and this agreement will strengthen the Great Lakes and set high standards for the future.”

The agreement, however, was not made without opposition. *Attorney General Bill Schuette* released a statement voicing his disapproval, saying, “I was disappointed to learn that the governors of the Great Lakes states will allow water to be diverted outside of our watershed to be used by municipalities outside of the Great Lakes Basin. The Great Lakes Compact was specifically designed to prevent the diversion of water from the Great Lakes and approving this application is setting a bad precedent.” *U.S. Representatives Debbie Dingell* (D-Dearborn) and *Candice Miller* (R-Harrison Township) echoed *Mr. Schuette’s* sentiment, stating the involved states would not be able to monitor and measure the water being diverted to and used by *Waukesha*. Agreeing that the monitoring of the water will be difficult, *The Alliance for Great Lakes* and the *National Wildlife Federation* released a joint statement saying interest groups must also be involved in that process to maintain enforcement of protection for the *Great Lakes*.

**DETROIT PUBLIC SCHOOLS REFORM BILLS SIGNED** – A \$617 million package created to save *Detroit Public Schools (DPS)* was signed into law Tuesday by *Governor Rick Snyder*, with \$467 million of the allocated amount going towards debt retirement. Under the legislation, *DPS* will be split into two districts, with the current district remaining solely to pay off the districts debt and the new to oversee the schools and academics. The remainder of the funds will be used as operational funds as districts processes are transferred to the new district. A board will be elected for the new district as early as January 2017 and will remain under the oversight of the *Financial Review Commission*, as academic decisions will be overseen by the *School Reform/Redesign Office*.

*House Bills 5383, 5384, 5387* and Senate *Bills 711, 820* and *822* make up the package, all with immediate effect except for *HB 5387* which will be effective September 19. *Steven Rhodes*, the transition manager for the district, is beginning to determine the next steps for implementing changes in the district with the help of local and state officials, something *Governor Snyder* spokesperson *Ari Adler* said sped up the signing process. In a statement on the signature of the bills and the beginning of the transitional phase, *Mr. Adler* said, “They needed to start on logistics and operational questions.”

**ENBRIDGE TO INVEST IN OIL SPILL CLEANUP EQUIPMENT** – Announced Tuesday of this week, *Enbridge Energy* has pledged \$7 million in cleanup equipment for the *Line 5* pipeline currently crossing under the *Straits of Mackinac*. The new equipment, having been used in prior oil cleanups, includes gear to prevent shoreline impacts as well as oil removal from deep water and under ice. High-speed skimmers and large bucket skimmers will be used, with the idea being to improve and speed up the response time if an oil leak occurs on the pipeline. The high-speed skimmers will be located at a section of the pipeline where *Enbridge* and its contractors deem a quick deployment possible. As for the large bucket skimmers, because they require attachment to a vessel that can hold their weight, a location is still being considered.

Even with the new equipment however, senior manager for emergency response *Stephen Lloyd* noted weather and safety conditions could still hinder response time. The pipeline could affect large expanses of *Lakes Huron* and *Michigan* if a heavy winter storm were to hit the area according to a recent study released by the *University of Michigan*. *Mr. Lloyd* commented on the impact of hazardous weather, stating, “The real issue is around safety of responders. We’re not going to put anybody in harm’s way if weather conditions are adverse.”

**COMMENTS ACCEPTED ON SOLID WASTE DRAFT RECOMMENDATIONS** – Announcing Monday of this week that it will be taking comments on its draft recommendations, the *Department of Environmental Quality Solid Waste and Sustainability Advisory Panel* has scheduled a

public meeting for July 20. Posted on the panel's website (see below for link), the recommendations include the call for local governments to set goals for recycling and to create measures to track progress towards those goals. Also noted is the recommendation for local governments to use recycled materials, improve the ability to create new composting and recycling sites, and improve the overseeing of those facilities to comply with odor and other standards. The meeting will take place at noon at the **Lansing Community College West Campus**. More details and location address can be found on the panel's website: [http://www.michigan.gov/deq/0,4561,7-135-3312\\_4123-352261--,00.html](http://www.michigan.gov/deq/0,4561,7-135-3312_4123-352261--,00.html).

**OPIOID/PRESCRIPTION DRUG ABUSE COMMISSION CREATED** – As the result of an executive order signed by **Governor Rick Snyder** Thursday of this week, the **Michigan Prescription Drug and Opioid Abuse Commission** has been created and will sit in the **Executive Office** as an advisory board. Charged with developing an action plan based on recommendations of a task force that delved into the same issue, the **Commission** will contain 17-members including state and independent health experts. The **Commission** will make recommendations to **Governor Snyder** for actions regarding law enforcement, licensing, education, treatment and prevention for substance abusers, pharmaceutical manufacturers and professional associations.

Along with those recommendations, the **Commission** will also be in charge of monitoring controlled substance abuse within the state as well as the diversion of said abuse. In a statement released on the creation of the **Commission**, **Governor Snyder** commented on the seriousness of the issue within the state, saying, "Prescription drug and opioid abuse is a very serious issue impacting people in communities all across our state. We need to take action to address this epidemic before addiction takes its toll on more innocent people."

## **FLINT**

### **Issues Still Remain According to EPA:**

Work on infrastructure, staffing shortages and water treatment monitoring are all ongoing issues the city of **Flint** needs to address now and for the future, according to a letter from the **U.S. Environmental Protection Agency (EPA)**. Issued to **Governor Rick Snyder** and **Flint Mayor Karen Weaver**, the letter states that as federal assistance for the city's water crisis begins to phase out, **Flint** is in need of long-term solutions for the remaining challenges.

One point the letter focused on throughout was that the oversized distribution system for water in the city was a main source of issues in that it could result in "water not moving through the system as originally designed, leading to water residing in pipes too long potentially causing a loss of chlorine residual, which is a necessary barrier against pathogens." **Flint** and the **State of Michigan** recently installed a system to address this issue, however, the **EPA** sees it only as a short-term solution. This concern, the report stated, was a clear indicator of the issues still at hand for the city, noting, "The fact that we recently had to work with the city and the state to address this problem on an urgent basis demonstrates, more powerfully than any report can, that there are basic operational deficits for personnel, contracting and funding that are essential to resolve."

One causation of the problematic infrastructure and one that needs to be addressed quickly, according to the report, is the lack of proper staffing and resources for the drinking-water system and city itself. The **EPA** noted, "The drinking-water system must be able to hire rapidly, contract quickly for necessary equipment and expert support, including on an emergency basis, obtain necessary resources when they are needed and know that communication among the drink-water system, the city and the state is both reliable and up-to-date." **Ms. Weaver** agreed with that statement along with the necessity of a long-term

financial support system or plan for the drinking-water system and the local government, something the report noted as being crucial to the proper functionality of the safe drinking-water program.

**Governor Snyder Press Secretary Anna Heaton** said in a statement that more than \$234 million has been appropriated from the state to the *Flint* water crisis and the state is reviewing the letter while continuing to work with both the city and federal governments on the issue.

### More Flint Emails: Testing Inaccuracies and the Possible Switch Back to Detroit:

Testing results from *Flint's Hurley Hospital* differed from those of the state during the *Flint* water crisis, causing **Department of Health and Human Services (DHHS)** officials to reinterpret their findings and results, according to recently released emails from **Governor Rick Snyder**. As a part of the voluntarily released email correspondence of the **Executive Office** during the *Flint* water crisis, the latest batch shows **DHHS** officials panicking to prove their data concluded there was little change in the number of children with elevated lead levels compared to earlier years. The hospital data, however, had different results, causing state officials to believe the outside researchers were spinning the data for media purposes.

**Jarrold Agen**, then **Communications Director** for **Governor Snyder**, addressed the issue of frustration with the state's lead testing unit as it was too small and being pushed to get results too quickly. In an attempt to clarify the actual results between water and blood tests, **Mr. Agen** asked on behalf of the governor if the state could state "definitively that no WATER tests have ever shown levels that are above" federal standards. In emails dated from September to October 2015, **DHHS** officials attempt to maintain the developing story of the elevated levels to a minimum, focusing mainly on the data and not using a "very emotional approach" as was expected from the hospital.

Emails were also exchanged with **Dr. Mona Hanna-Attisha**, the *Hurley Hospital* pediatrician who brought the issue to light when *Flint* first switched water sources from *Detroit* to the *Flint River*, with the state accepting her data as valid and working with her to test children and reduce effects of the contaminated water. As the first batch of emails truly involving **DHHS** in the *Flint* water crisis, the emails also showed the worry state officials had in regards to residents finding out about the lead contamination with no clear solution or scale of the issue.

By the end of September however, the timing becomes critical and **Ms. Hanna-Attisha** and the state agreed the public needed to be notified and action taken, for both ethical and legal reasons. In an email to **Ms. Hanna-Attisha**, Michigan's **Medical Director Eden Wells** agreed it was time to go public, saying, "as physicians, our ethical and professional vows to care for and prevent harm to our patients is paramount. No need for data wars – I think we are all just trying to be sure, as you and I said earlier, that we are comparing the same data in the same way."

As details of the concerns of **DHHS** officials were laid out in the emails, so were the conversations between the state and the **Detroit Water and Sewerage Department (DWSD)** in regards to switching *Flint* back to the *Detroit* water system. In emails dating back to early 2015, the frustration of executive office officials is apparent as talks with the **DWSD** seem to be focused not on public health, but instead on costs and money involved. **Chair** of the **Great Lakes Water Authority** and overseer of the *Detroit* water system **Robert Daddow**, noted in an email from February 2015 that by bringing *Flint* water back to the *Detroit* system, the system would be able to cut rates to other customers therefore dropping the rate *Flint* would have been charged if it remained with the *Flint River*.

However, officials with the **Michigan Department of Treasury** voiced their opposition to that plan citing no money in the *Flint* budget to pay for the city to return to **DWSD** without causing *Flint* residents to pay increased rates. Two weeks after these emails were exchanged, **Governor Rick Snyder** acknowledged

the water crisis and agreed the city would be put back on the *Detroit* system, with costs paid almost in full by the state.

### Flint to Stay with KWA:

With the *Flint* water crisis still ongoing, the city has decided to stay with the *Karegnondi Water Authority* instead of switching back to its original source through the *Detroit Water and Sewerage Department*. *Governor Rick Snyder* and *Flint Mayor Karen Weaver* expressed discontent with the decision, noting that new conditions will be present as the deal continues. The contract, created and agreed to in 2014 under state-appointed emergency financial managers as a cost-cutting plan, is nonnegotiable according to *Ms. Weaver*. Commenting on the decision then and what the city can do now, *Ms. Weaver* stated, "None of us were at the table when these decisions were made. I didn't think it was a good idea for the city of Flint, but that's where we are. Contracts are hard to get out of. We're going to move forward with KWA, but we had to have some changes."

Among the new conditions noted is *Genesee County* having agreed to pay for pre-construction engineering work on the pipeline the city needs to get water from the *KWA's* source, a 3-mile stretch from *Lake Huron* to *Flint*. Another change noted is the addition of residents to the *KWA* board, something *Ms. Weaver* noted as an issue of lack of representation when the initial decision was made.

As for the cost of the project, *Mr. Snyder* estimates \$7 million, with the state assisting in paying for the pipeline construction so *Flint* is not responsible for any amount and to assure the project is completed competently. For the state's contribution, a total of \$4.2 million will be used from the *Department of Environmental Quality* funds and budget supplemental recently approved by the legislature with, \$2 million and \$2.2 million allocated respectively.

As the state continues to map out its involvement, the residents of *Flint* continue to pay some of the highest rates in the country for water, something *Ms. Weaver* noted as a concern in regards to staying with *KWA*.

### Flint Documents Fail to Reach Investigators/Lawsuits Presented:

As the aftermath of the *Flint* water crisis continues, investigators are claiming not all documents related to the incident are being released, causing more legal action to be taken. *Todd Flood*, *Special Counsel* and the head of the *Department of Attorney General* investigation into the crisis, did not say which agencies are ignoring his requests for information but did assure reporters this week that additional charges should be expected soon. Commenting on the lack of cooperation, *Mr. Flood* said, "I will say this: I am not getting everything I am asking for as it relates to all agencies. You can be rest assured if I don't get from all agencies, governor included, what I need and what I have a right for, they will be in court." In the spring of this year, while administrative investigations were underway, *Attorney General Bill Schuette* and *Genesee County Prosecutor David Leyton* warned the *Executive Office* that those investigations involving lawyers paid by the state and city of *Flint* were hindering the criminal investigation. The warning was then corroborated by *U.S. Attorney Barbara McQuade* who noted, "If lawyers are advising witnesses that they don't have to answer questions from the special assistant attorney general or the county prosecutor, that is a problem."

In response to the statements, *Snyder Press Secretary Anna Heaton* said in a statement, "We greatly appreciate our attorneys in the attorney general's office and all of the laborious work they have done for the governor's office and all of the departments to produce hundreds of thousands of documents for Mr. Flood, as well as for the public. We will continue cooperating fully with all investigations, as we have from

the beginning.”

As for **Mr. Schuette** himself, the **Attorney General** announced this week he will be filing a lawsuit against two firms his investigation team says played a crucial role in the **Flint** water crisis. The two firms, **Veolia** and **Lockwood, Andrews and Newnam (LAN)** are both being sued for professional negligence and public nuisance, with **Veolia** additionally being sued for fraud. The suit is seeking damages from the two firms, with both likely paying up to hundreds of millions of dollars. Allegedly, according to the suit, the two firms should have known or already knew the city of **Flint** was not using corrosion control, causing lead leaching from the pipes. The suit goes on to say that instead of addressing that issue, the two companies recommended the city to increase the dosage of ferric chloride, an acid that increased the corrosion.

**Veolia**, calling itself the world leading provider of water services, was hired to look closely at the water system but failed to do so and fraudulently told the city’s residents the water was safe. **LAN** was hired to implement corrosion control to lower lead levels but instead artificially lowered the levels by recommending all fire hydrants to be flushed. Both companies responded to the accusations Wednesday of this week, placing the blame on state agencies and expressing disappointment in the suit.

### EPA Announces Filtered Flint Water Safe to Drink:

After months of testing homes with lead service lines or galvanized steel, the **U.S. Environmental Protection Agency (EPA)** has declared filtered water in such homes is safe to drink, with those filters reducing lead to non-detectable levels. Despite concerns the filters would be inadequate, the **EPA** continued on with the tests in homes determined as high risk. Of the approximately 200 homes tested, 50 high risk locations included pregnant mothers or small children as residents. Officials also noted that the newly “clean” water will help to circulate water through the whole system, resulting in proper chlorine distribution and improved restoration of the protective lining inside existing pipes.

**Flint Mayor Karen Weaver** and **Governor Rick Snyder** both applauded the progress, but still noted there is work that remains for the city and its residents. **Ms. Weaver** said she hopes more residents will use filters as a result of the news, something that would strengthen the overall system. As for the areas without filters currently, the **Department of State Police Emergency Management and Homeland Security Division** announced this week that teams of volunteers from local, state and nonprofit entities will be canvassing the city this coming week to visit residents and locations that have not been confirmed as having water filters to provide them with the necessary equipment.

**ODDS & ENDS** – **Gary Jensen** has been appointed as **CEO** over four schools in the **East Detroit Public Schools** district, having most recently been principal of **Lakeview High School**...the **Grand Rapids Home for Veterans** might be investigated federally if the **American Federation of State, County and Municipal Employees Local 25 Union’s** request is approved...**House Democrats** have asked supporters to sign a petition to return the \$550 million collected by the state to school employees who were charged 3 percent for retiree health care before the courts struck it down...According to **Senate Majority Floor Leader Mike Kowall** (R-White Lake Twp.), he has the votes to pass highly contested legislation that would expand the scope of practice for nurse anesthetists, with some conditions...according to research results from the **Center for Healthcare Research and Transformation**, 5 percent of Michigan residents reported not having health insurance in 2015, down from 14 percent in 2012 ...According to the **Annie E. Casey Foundation 2016 Kids Count Data Book** released Tuesday of this week, Michigan ranks 31<sup>st</sup> in the nation in overall child wellbeing, 40<sup>th</sup> in education, 14<sup>th</sup> in health and 29<sup>th</sup> in family and community...the **Grand Rapids Chamber of Commerce** announced its endorsement this week Tuesday of **Thomas Albert** for the five-person **Republican** primary in the 86<sup>th</sup> **House District**...the **Michigan Supreme Court** ruled Wednesday of this week that a statement, even a false one, cannot be used against the officer in a criminal case if the

statement was made for job-related purposes...the *Michigan Education Association* and the *American Federation of Teachers Michigan* confirmed discussions of a merger of the two associations, but no decisions have been made as to when or how the merger might happen...according to the *Michigan Supreme Court*, the *Michigan Department of Corrections* has saved \$14.7 million since implementing videoconferencing in 780 courtrooms across the state in 2010, with the *Department* expecting to save another \$4.8 million in *FY 2016* ...*Governor Rick Snyder* signed *Senate Bill 251* into law this week, a bill to provide judges more opportunities to sentence juvenile offenders to rehabilitation services rather than prison...according to the *U.S. Bureau of Labor Statistics*, Michigan's unemployment rate for May is 4.7 percent, tying the state for 25<sup>th</sup> lowest in the country...the state's *Disaster and Emergency Contingency Fund* could hold up to \$10 million instead of the \$4.5 million cap as a result of legislation signed by *Governor Snyder* Thursday.

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