



# 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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**AUTO NO-FAULT DEFEATED IN HOUSE** – Legislation in the *Michigan House of Representatives* proposing to alter the state’s auto no-fault insurance system was unable to bypass 40 years of stakeholder disagreement on proposed fixes to the structure. The controversial auto no-fault plan brought forth by *Detroit Mayor Mike Duggan* and *House Speaker Tom Leonard* (R-DeWitt Twp) did not receive the necessary votes for passage on Thursday, despite efforts on both sides of the aisle and from both leaders.

The bill, *House Bill 5013*, failed on a vote of 45-63, 10 votes short of approval, with 22 *Republicans* joining 41 *Democrats* in opposition. *HB 5013* is the most recent of several attempts over the past few decades by the insurance industry and its allies in the *Michigan Legislature* to fall short of eliminating the requirement that Michigan drivers pay for unlimited medical coverage for those catastrophically injured in auto accidents.

Under the bill, three levels of personal injury protection (*PIP*) are outlined: a \$250,000 plan; a \$500,000 plan; and the current unlimited plan. The levels would provide an average savings on the *PIP* portion of a medical bill of 40 percent, 20 percent, and 10 percent respectively, unless insurance companies told the state why they could not reach those savings. The bill also proposes the implementation of a fraud authority, alterations to the litigation process, and limits on attendant care. Changes adopted to the bill before it was defeated include the increase of the fee schedule to 160 percent of *Medicare* for health care services and the potential to fix issues related to the *Michigan Supreme Court’s Covenant* decision.

This time around, advocates of the no-fault reform were hopeful the involvement of *Detroit Mayor Duggan* could incite enough *Democratic* support (combined with the approximately two-thirds of the *House Republican Caucus*). However, the *Mayor* was unable to pull enough *House Democrats* to provide sufficient votes for passage. Further, obstacles with the *Republican Caucus* have been in place for some time. *Oakland County Republicans* loyal to *Oakland County Executive L. Brooks Patterson*, a strong supporter of the current no-fault system, combined with *West Michigan Republicans* that have a considerable hospital presence in their districts, and others simply supporting the current system were part of the opposing coalition.

The strong divide between insurers and others who claim the only way to save funds in the no-fault system is to change the lifetime unlimited medical benefits provided, is represented by the bill. Michigan motorists pay the highest auto insurance rates in the country. Opponents of *HB 5013* believe by cracking down on fraud, implementing a fee schedule, and making the *Michigan Catastrophic Claims Association* more transparent, significant savings could be made without affecting the medical benefits.

*Democrats* would also like to see more stringent regulations for territorial rating and rating based on gender, marital status and other non-driving factors. In the final vote, only four *Democrats* joined the 41 *Republicans* in support of the bill, each one from *Detroit: Representatives Wendell Byrd, Leslie Love, Sylvia Santana* and *Bettie Cook Scott*. *House Speaker Tom Leonard* (R-DeWitt Twp) placed the blame for the bill's defeat on the *Democratic* members, noting he has explicitly told the *Democratic Caucus* he would need 10-15 votes.

Supporting his *Caucus* members, *House Minority Leader Sam Singh* (D-East Lansing) stated the bill would not actually bring down rates nor protect people. *Mr. Singh* expressed concern that if someone were to be catastrophically injured under the proposed system in the bill, and did not have the unlimited medical benefit, they would most likely have to eventually reach bankruptcy to receive *Medicaid* coverage. Commenting on his and his *Caucus* members' concerns and willingness to find a solution, *Mr. Singh* stated, "There are multiple ways to have the conversation about reducing auto insurance rates. I am committed to continuing that conversation next week. We have over 17 bills in front of the Insurance Committee with support from Democrats and Republicans, those should all receive a hearing."

*Mayor Duggan* also commented on the continued efforts of all involved, saying, "We need to come back with a new strategy and new approach. But the one thing I think is different this time is the business community in Detroit for the first time understands how perverse the influence of these interest groups are. And I think you are going to see a much stronger community effort."

*House Insurance Committee Chair* and sponsor of the bill, *Representative Lana Theis* (R-Brighton) echoed that sentiment noting the current system is outdated and special interest groups' reform blocking efforts have caused rates to skyrocket. *Ms. Theis* noted the current system also leads to more and more drivers driving uninsured and therefore reform efforts are needed, stating, "This bill is not perfect. I am not going to pretend that it is. It is a huge step in the right direction."

We believe the *Speaker of the House* and the *Mayor of Detroit* have not given up on pursuing this issue and could very well have another attempted vote in December.

**LARA: DISPENSARIES CAN REMAIN OPEN** – Medical marijuana dispensaries currently in operation can remain open past December 15 with local approval, according to an announcement from the *Michigan Department of Licensing and Regulatory Affairs (LARA)* on Wednesday. The *Bureau of Medical Marijuana Regulation (BMMR)* had previously ordered those in operation to close by December 15 or face the possibility of obstacles when applying for licensure under the new process.

Those in support of keeping the dispensaries open claimed that for the safety of patients, those businesses should continue to operate without penalty, something the *BMMR* noted was a large factor in the recent decision. Commenting on the reversal, *BMMR Director Andrew Brisbo* stated, "After dozens of hours of public comments, discussions with more than 100 workgroup members, and numerous letters and emails, it is clear that BMMR and the Medical Marijuana Licensing Board must enact measures that help protect medical marijuana patients and ensure they have continued access to their medicine."

The *BMMR* will begin the new licensing process for 2018 on December 15, so those remaining open must submit a prequalification application to *LARA* by February 15, 2018 to avoid closure. The existing shops must also continue to be within their respective local governments' authorizing ordinance boundaries. Expressing support of the announcement, *Executive Director* of the *Michigan Cannabis Development Association (MCDA)* *Sandra McCormick* stated, "This is something all patients should applaud, and we thank the State of Michigan and the Legislators who supported this change in policy."

**HOUSE APPROVES BALLAST WATER BILLS** – Members of the *House of Representatives* passed legislation on Thursday that calls for the state to use the standards of the *U.S. Coast Guard* for the prevention of invasive species through ballast water discharge instead of its current system. *House Bill 5095* passed the full *House* on a vote of 66-42 and proposes the switch of standard use in order to make regulatory programs in Michigan more cohesive. The bill also states that Michigan would be required to stay at the current standard should the *Coast Guard* lessen its standards.

Those in support of the bill claim it will bring more export shipping traffic to the state, something bill sponsor *Representative Dan Lauwers* (R-Brockway) noted was the inspiration behind the bill. Commenting on the passage of his bill and the amendment brought by *Representative Andy Schor* (D-Lansing), *Mr. Lauwers* stated, “It’s not been my intention to put Michigan at any greater risk of invasive species. It’s been my intention to get Michigan back in the shipping business.”

*Pat Sutka* with *Nicholson Terminal and Dock Company* agreed with *Mr. Lauwers*, noting current policies have prevented the state from being a maritime hub. Commenting on the passage, *Mr. Sutka* stated, “We want to fully utilize our port assets. The current Michigan regulations have effectively closed Michigan ports for export.”

However, those in opposition to the bill claim, the changing of standards will allow for increased possibilities for invasive species to enter the *Great Lakes*. Another concern for those involved is the timeline of implementation, according to *Sarah LeSage*, aquatic invasive species coordinator for the *Michigan Department of Environmental Quality (DEQ)*. It could take as long as five years before all ships are required to meet the federal standards. Noting the *U.S. Coast Guard* rule is not currently being fully implemented even though it was finalized in 2015, *Ms. LeSage* stated, “in the absence of a fully protective federal standard, it is our responsibility and the responsibility of each individual state to protect Great Lakes water.”

*John Allan*, director of the *Office of the Great Lakes* (which recently moved to the *Michigan Department of Natural Resources (DNR)* from *DEQ*), echoed that sentiment and also commented on the differences between the *Coast Guard* standards and the state’s, noting the state has approved four systems for treating ballast water. *Mr. Allan* also noted the *Coast Guard* standards are essentially the same as those adopted by the *U.S. Environmental Protection Agency (EPA)* and the *International Maritime Organization* and measure the amount of living organisms remaining in ballast water, while Michigan’s standards measure the technology used for ballast water treatment.

Under the federal standards, *Mr. Allan* stated, any ships coming to or leaving from Michigan will have to have the technology, therefore making it “effectively the same standard.” Another concern according to *Mr. Allan* is the timing of the technological installation for each ship, something that cannot be done until the ship has been dry-docked.

*Charlotte Jameson* with the *Michigan League of Conservation Voters* opined the bill lessens the state’s ability to adequately review the technology being used to treat ballast water and therefore puts the *Great Lakes* in danger. Commenting on the legislation, *Ms. Jameson* stated, “We do not feel that the *Coast Guard* standards are sufficiently protective.”

## **ELECTIONS**

- According to a *Target Insyght* poll of 400 *Detroit* residents, *Detroit Mayor Mike Duggan* is up 63 percent to *Senator Coleman Young II’s* (D-Detroit) 28 percent in the race for *Detroit Mayor*, with the election on Tuesday

- **Democratic Gubernatorial Candidate Abdul El-Sayed** has collected 45 percent of his direct campaign contributions from outside the state of Michigan, according to campaign finance data from the **Secretary of State**
- **Representative Sylvia Santana** (D-Detroit) announced her intention to form an exploratory committee late last week, seeking options for a campaign for the **3<sup>rd</sup> Senate District** currently held by term-limited **Senator Morris Hood III** (D-Detroit)
- **Lynn Afendoulis**, second cousin to current **Representative** and **Senate** candidate **Chris Afendoulis** (R-Grand Rapids Twp), announced she will run for the **73<sup>rd</sup> House District** currently held by **Mr. Afendoulis**
- **Republican Candidate Rich Rossway** and **Democratic Candidate Sara Cambensy** (both running for **House District 109**) have each spent over \$30,000 in the time period before the special election on November 7
- **Republican Greg VanWoerkom** announced his campaign for the **91<sup>st</sup> House District** late last week, with the seat currently held by term-limited **Representative Holly Hughes** (R-White River Twp) who is running for **Senate**
- **Dr. Rob Davidson, Democratic Candidate** for the **2<sup>nd</sup> Congressional District**, submitted 2,000 signatures to the **Secretary of State** recently, 1,000 more than required to appear on next year's primary ballot
- In a poll of the **11<sup>th</sup> Congressional District Republican** 2018 primary, former **State Representative Rocky Raczkowski** won 38.9 percent of the vote
- **Oakland County Sheriff Michael Bouchard** announced his endorsement of current **Attorney General** and **Republican Gubernatorial Candidate Bill Schuette** on Friday of last week
- **Republican Gubernatorial Candidate** and current **Senator Patrick Colbeck** (R-Canton Twp) has gathered the required number of signatures (15,000) to be placed on the 2018 ballot, as announced by his campaign last Friday
- Former **Representative Rick Outman** announced he will be running for the **33<sup>rd</sup> Senate District** in 2018, with the seat currently held by term-limited **Senator Judy Emmons** (R-Sheridan)
- Former **Representative Sean McCann** announced he will seek election to the **20<sup>th</sup> Senate District** next year, with the seat currently held by **Senator Margaret O'Brien** (R-Portage) who is seeking re-election

## **ODDS & ENDS**

- None of the electrical transmission tie-ins between Michigan and **Canada** had financial benefits that exceeded cost of construction, according to preliminary results of the **Michigan Transmission Expansion Study** requested by the **Michigan Agency for Energy (MAE)** and **Governor Rick Snyder**
- The **Michigan Gaming Control Board** issued orders to allow for horse racing in the state to occur on 42 weekends from March through Mid-December of 2018 at **Detroit**-area tracks
- **Senator Phil Pavlov** (R-Saint Clair) noted that as **Chair** of the **Senate Education Committee**, he plans to have more discussions on **Senate Bill 27**, his own bill that calls for the elimination of the law requiring the annual listing of the bottom 5 percent of underperforming schools in the state
- Last Friday, **U.S. District Court Judge David Lawson** rejected the **Flint City Council's** request for reconsideration of an earlier request asking for more time to decide the city's long-term water source
- The **Michigan Court of Claims** dismissed a lawsuit brought by **Macomb County** against the **State** regarding requirements imposed on counties to improve legal defense services for defendants (indigent defense systems)
- The **Michigan Department of Licensing and Regulatory Affairs' (LARA)** new **Corporations**

*Online Filing System* went live on Monday and is set to be overseen by *LARA's Corporations, Securities and Commercial Licensing Bureau*

- The *Michigan State Housing Development Authority (MSHDA)* announced \$176.7 million in single family mortgage revenue bonds had been issued last week
- *Kent County District Court Judge Christine Elmore* dismissed felony criminal charges against eight former caregivers at the *Grand Rapids Home for Veterans* following a two-day preliminary exam
- *Governor Rick Snyder* announced the *Office of the Great Lakes (OGL)* will now be housed in the *Michigan Department of Natural Resources (DNR)* instead of the *Michigan Department of Environmental Quality (DEQ)*
- The *Michigan Supreme Court* is set to hear arguments on November 8 for a case considering whether the 2010 law requiring teachers to contribute 3 percent of their salary to their pension health care benefits is unconstitutional
- The *Michigan Liquor Control Commission's (MLCC)* new application system, the *Alcohol Information Management Systems (AIMS)*, went live October 3 and is now fully functional, according to the *MLCC*
- *Representative Tommy Brann* (R-Wyoming) introduced *House Bill 4736* earlier this year, gaining bipartisan support as the bill calls for the ban on smoking of young adults between the ages of 18 and 20 years
- *Attorney General Bill Schuette*, along with 46 other state attorneys general, their plan to increase the number of generic drug manufacturer defendants in a civil lawsuit from six to 18
- Under a package introduced by *House Democrats* on Tuesday, companies gathering petitions must register with the state, could not hire a circulator who has committed a crime related to election fraud, and could not pay circulators per signature (*House Bills 5208-5214*)
- According to an analysis of local ballots across Michigan, 107 proposals to raise property taxes or fees for school districts, 30 to raise property taxes for public safety, and 15 to raise property taxes for road funding/improvements will be seen next week
- The *Michigan Department of Health and Human Services (DHHS)* activated the *Community Health Emergency Coordination Center* in response to a recent *Hepatitis A* outbreak in *Southeast Michigan*, resulting in 18 deaths in 15 months
- *Michigan Supreme Court Justice Joan Larsen* was confirmed by the *U.S. Senate* as a member of the *6<sup>th</sup> U.S. Circuit Court of Appeals*
- *Medical Services Director* for the *Michigan Department of Health and Human Services (DHHS)*, *Chris Priest*, told members of the *House Appropriations Health and Human Services Subcommittee* on Wednesday that *Healthy Michigan* has cut uncompensated care to hospitals in the state by roughly 50 percent and covers approximately 650,000 citizens
- The *Michigan Supreme Court* rejected multiple cases brought forward by owners of the *Ambassador Bridge* challenging the legality of the planned *Gordie Howe International Bridge* in a series of orders issued Wednesday
- The *Michigan Supreme Court* ordered on Wednesday that *Court of Appeals Chief Judge Michael Talbot* is to retain that position for another two years
- *Senator Patrick Colbeck* (R-Canton Twp) questioned members of the *Michigan Public Service Commission (MPSC)* on the *Commission's* decision to allow electric utilities to cut off power to customers who refuse to use new smart readers instead of their current analog readers
- Local pension reform, no-fault insurance revamp, and multiple bills regarding firearms are all on the *Senate's* agenda for the last four weeks of 2017 session, according to *Senate Majority Leader Arlan Meekhof* (R-West Olive)
- *Senate Bill 574* passed out of the *House Education Reform Committee* on Thursday, with the bill calling for the allowance of charter schools and public-school academies to receive funding generated via enhancement millages collected by intermediate school districts (*ISDs*)

- Members of the **House** passed **House Bills 5040-5045** and **5079-5080** on Thursday, which calls for drivers in Michigan to receive amnesty from their **Driver Responsibility Fees** as of October 2018
- **Voters Not Politicians**, the group spearheading the redistricting reform proposal, announced it has gathered 300,000 signatures since August 17, putting them only 100,000 short of their 400,000 goal
- **Governor Rick Snyder** signed the **School Aid Supplemental Budget** for **Fiscal Year 2018** into law on Thursday
- **Lieutenant Governor Brian Calley** announced on Thursday that since issuing a standing order for **Naloxone** three months ago, Michigan pharmacies have dispensed 1,290 orders of the opioid overdose-treatment medication

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