



# 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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**TEACHERS TO SWITCH TO 401(k): DISCUSSIONS CONTINUE** – Public school employees hired after a certain date could be moved to a 401(k)-style defined contribution system as written in *Senate Bill 102*, a bill that legislators are still not sure if they will take up during *Lame Duck* session in the coming weeks.

The bill, sponsored by *Senator Phil Pavlov* (R-Saint Clair), calls for the end of the current hybrid system for new employees within the *Michigan Public School Employees Retirement System (MPERS)*, and instead to create a permanent solution for the issue of unchecked liabilities accumulated by the current system. In 2012, legislators created and passed the current system which provided both pension benefits and defined contribution benefits to new employees, and also eliminated retiree health insurance for the new employees. The replacement for the retiree health insurance was set as a 2 percent employer match of compensation plus a lump sum deposit of either \$1,000 or \$2,000 after termination of employment.

As for current employees at the time, they could forfeit retiree health care coverage and end their match rate of 3 percent to join the new employees in the 401(k) plan. Opposing the law then, *Mr. Pavlov* suggested a total switch to a 401(k) system, however, issues with the transition costs were a large barrier to overcome. *Mr. Pavlov* noted that his current plan “simply closes the defined benefit retirement plan and converts all new hires to defined contribution.”, though certain state officials disagree with the proposal.

Spokesperson for the *Michigan Department of Technology, Management and Budget (DTMB)* *Kurt Weiss* has said the administration supports the current hybrid system, with director of the *Office of Retirement Services Kerrie Vanden Bosch* also voicing her support. According to *Ms. Bosch*, less than 20 percent of people are choosing to use a defined contribution plan as the hybrid plan keeps costs lower and provides better benefits. Another issue brought into the discussion is that of legacy liabilities, something *Mr. Pavlov* contends the current system creates while *Mr. Weiss* the hybrid plan closes and will be gone by 2038, as *Governor Rick Snyder* has planned to pay on them every budget year.

The *Michigan Education Association (MAE)* has expressed its opposition to the reform being taken up before the end of this session year, as it would affect so many people. *Doug Pratt* with the *MEA* noted that the reforms made back in 2012 have not been given time to work and that any other changes need to be considered carefully as they too would need time to show any progress. *Mr. Pavlov* commented on the possibility of the issue coming up in November after the election, saying his chamber shows a lot of support for reformation and holding a “serious conversation about fixing it going forward.”

**EXECUTIVE ORDER CALLS FOR CREATION OF DEVELOPMENTAL DISABILITIES COUNCIL** – On Tuesday of this week, *Governor Rick Snyder* issued an executive

order for the creation of the *Developmental Disabilities Council*, a move that abolishes the *Michigan State Planning Council for Developmental Disabilities* established in 2006. The creation of the new *Council* was called for with the hopes of aligning state and federal laws regarding providing individuals with disabilities continued support and resources. According to the executive order, the *Council* would be established within the *Michigan Department of Health and Human Services (DHHS)* and will be composed of 21 members, some with disabilities themselves and some working as advocates or representatives of organizations supporting individuals with disabilities.

Of the 21 members, at least one-third are to be those with developmental disabilities while another third shall be parents or guardians of those mentioned above, or an immediate relative or guardian of an adult with mentally impairing developmental disabilities. The terms of members will differ as well, with seven being appointed for terms expiring September 30, 2017; five expiring September 30, 2018; five expiring September 20, 2019 and five expiring September 20, 2020. The executive order, as posted online ([Developmental Disabilities Council Executive Order](#)), states the full list of responsibilities of members and notes that official appointments will be announced in December.

**CRC BLOG REVEALS ALTERNATE ISSUE ON PRIVATE SCHOOL FUNDING** – A recently released blog written by *Citizens Research Council (CRC)* senior research associate *Craig Thiel* states that state funding of private schools violates more than one section of the state’s constitution, specifically the clause addressing the issue of “private purpose” appropriations. The allocation of \$2.5 million for nonpublic schools in the most recent *School Aid Budget* has caused much discrepancy as of late, with some groups opining that the issuance of the funds is unconstitutional while others say it is within the bounds of state laws to provide funding to private schools for state mandated expenses. Earlier this year members of the *Michigan Supreme Court (MSC)* declined a request to issue an advisory opinion on the question of the funds’ constitutionality, causing some groups to look more deeply into the issue to find more evidence against the appropriation. In his blog post, *Mr. Thiel* states that “considerable attention” was spent on determining if the allocation went against the state’s “parochial” prohibition and “there appears to be some legal uncertainty surrounding its compliance” with another part of Michigan’s constitution.

*Article IV, Section 30* of the constitution deals with the private purpose appropriation of funds and involves the vote count to determine compliance with the provision. According to the provision, a two-thirds vote from both chambers is required in order to appropriate public monies for a private purpose, with the stipulation that purpose behind the appropriation is in fact private and not public in nature. The issue then, according to *Mr. Thiel*, lies with the recorded vote of 20-17 falling short of the supermajority requirement for the *Senate* budget bill including the \$2.5 million allocation, and also with the possible inference that the monies will serve a “public purpose” as they will be used at “private” entities for public mandates and regulations.

The *CRC* post did however address the other side of the argument as well, saying a more detailed reading of the language of the budget bill could be determined as stating the state monies will serve a “private purpose” as the funds are going to private schools to cover costs previously paid for by private school funds, and therefore will benefit private school students. Earlier this month, the *CRC* also released a report showing the state will spend approximately \$57 million more to support the education of nonpublic school students this year than four years ago, totaling roughly \$100 million this fiscal year.

**BALLOT PROPOSALS: A BREAKDOWN OF REQUESTS** – With the election coming up in less than a week, local communities are preparing for the approval or denial of over 343 monetary-related proposals around the state. Among the largest requests are schools, with 72 proposals statewide equaling roughly \$346 million in costs. Transit proposals will make up about 22 percent of voters’ ballots, with the *Southeast Michigan Transit Proposal* making up almost all of those monies requested. That proposal, as agreed upon by the *Regional Transit Authority (RTA)* and *Wayne, Macomb, Oakland* and *Washtenaw*

counties, calls for the creation of a new public mass transit system via a 1.2-mill tax and is by far the largest single proposal.

However, other major requests include monies for roads, with 57 proposals on ballots and the possibility of \$72.7 million generated in the first year if all are approved. Firefighting related proposals also take up a large portion, with 62 proposals put forth for voters, while police requests total 15 but could generate monies equal to those of the firefighting asks. New funds for two community colleges and 13 library proposals will also stand to be approved by voters, looking to raise roughly \$9 million and \$26 million respectively. Perhaps the largest group of monetary requests comes from new millages, with total estimated revenues generated in the first year noted as \$313.8 million. Bonds and millage renewals also could bring in big funds if approved, estimated at \$192.4 million and \$177.6 million in their first year of enactment respectively.

**HOUSE TO SEE FEWER LAME DUCK VOTES DUE TO LOCAL ELECTIONS** – As the start of *Lame Duck* session approaches, *House* members are preparing to have less than the original 110 votes as three term-limited *Representatives* are slated to win their local government races next week. *Representative Kurt Heise* (R-Plymouth Township) is expected to resign his post as a *House* member on Friday, November 18 to take his place as *Plymouth Township Supervisor*, as he is running an uncontested race. *Mr. Heise's* departure, combined with the sudden death of the late *Representative Peter Pettalia* (Presque Isle) in September, means *Republicans* will see 61 of the possible 63 voting members for *Lame Duck* issues. On the *Democratic* side, the 28<sup>th</sup> District (as vacated by *Representative Derek Miller* (D-Warren) earlier this year) will be filled by *Patrick Green* and the 11<sup>th</sup> by *Lauren Plawecki* (following the unexpected death of her mother, *Representative Julie Plawecki* (D-Dearborn Heights) earlier this year).

However, *Representative Charles Smiley* (D-Grand Blanc) is currently running for *Township Supervisor* as well, leaving *Democrats* with 46 voting members if he wins and leaves on the November 18 with *Mr. Heise*. Though *Representative Tom Hooker* (R-Byron Township) is also running for *Byron Center Township Supervisor*, he has made arrangements to be sworn in after this year's legislative session concludes. With the possible departure of *Mr. Smiley* among the others, the *House* would total 107 members, 61 *Republicans* and 46 *Democrats* and the requirement of 54 votes to pass legislation. If however, *Mr. Smiley* stays, the chamber will total 108 members with 55 votes needed for passage, something *Democrats* see as having slightly more leverage in the case of tight votes.

**ODDS & ENDS** – *U.S. Representative Dan Kildee* (D-Flint) sent a letter on Wednesday of this week to several other congressional members asking for an investigation into the 3,000 percent price increase of a lead treatment drug by the pharmaceutical company *Valeant*, moving the price for \$900 to \$27,000...*Lieutenant Governor Brian Calley* announced the beginning of enrollment for "*Mi-ABLE*", a savings program for individuals with disabilities, making Michigan the fifth state to launch such a program...the *Michigan House of Representatives* announced Tuesday of this week *House* session during the weeks of December 5 and December 12 (the last two session weeks of the year) will begin at 10:00am...former *Michigan State Representative Matt Lori* has been selected as the acting senior deputy director for policy, planning and legislative services at the *Department of Health and Human Services (DHHS)*, as announced by the *Department* on Monday of this week...the third phase *Flint Mayor Karen Weaver's FAST Start* pipeline replacement began on Monday of this week, with the plan being to replace lines in 788 more homes...the *Michigan Department of Agriculture and Rural Development (MDARD)* announced Monday of this week that a steer had been found positive for bovine tuberculosis on a farm in *Huron County*...the *6<sup>th</sup> U.S. Circuit Court of Appeals* issued a stay on Friday of last week, blocking a ruling that would have allowed "ballot-selfies" in the state...*State Republican Party Chair Ronna Romney McDaniel* and *State Democratic Party Chair Brandon Dillon* announced in a joint appearance they believe the *House* will be closely divided in the 2017-2018 term, with both expecting *Democrats* to gain more seats

than normal for a presidential election year...**Director of the Michigan Department of Insurance and Financial Services (DIFS) Patrick McPharlin** announced this week that anyone buying individual health insurance coverage, even those not purchasing coverage through the federal health insurance exchange, must purchase it between Tuesday of this week and January 31, 2017 as open enrollment of the exchange is now open...according to a review of races within district, circuit and probate courts across the state since 1998, incumbent judges won roughly 81 percent of the races when facing a challenger...the **Michigan Department of Natural Resources (DNR)** has sent eight of its firefighters to help contain wildfires in **Georgia, North Carolina and Virginia**, consisting of four two-man crews on four engines...**Governor Rick Snyder** signed **Senate Bill 981** into law on Wednesday of this week, allowing business owners to obtain temporary liquor licenses while the **Michigan Liquor Control Commission** goes through the background check process...as announced on Thursday of this week the **Health Endowment Fund** board has issued \$13.77 million in grants to programs across the state including **Community Foundation of Greater Flint** for the **Flint Child Health and Development Fund** and the **Michigan Department of Health and Human Services** for an infant mental health home visiting project, the **Michigan Infant Safe Sleep Program** and secondary trauma assessment and training, among others.

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