



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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INSTALLATION OF ANCHORS APPROVED FOR ENBRIDGE PIPELINE – On Monday of this week, the *Michigan Department of Environmental Quality (DEQ)* approved the installation of 4 support anchors onto the *Enbridge Pipeline* running beneath the *Straits of Mackinac*, but denied the request for 18 others to be installed. In a statement regarding the approval, *DEQ* officials cited “significant public comment” and “consultation with the Grand Traverse Band of Ottawa and Chippewa Indians” as cause for the department’s denial of the 18 other anchors, however also noting it plans to continue working with *Enbridge* to get comments and questions regarding the 18 addressed. According to groups in opposition to the anchors, the state should first investigate the company’s alleged seven violations of easement with Michigan. *Enbridge* spokesperson *Michael Barnes* addressed the approval of the four and need for the other 18, saying the anchors are used to keep the pipeline supported because of its location beneath the *Straits* and to hopefully lessen the amount of erosion that occurs due to the currents within the *Straits*. Though the state approved the four anchors, *Enbridge* must now take that approval to the *U.S. Army Corps of Engineers* to move forward with the installation.

PENSION REFORM TALKS CONTINUE - The topic of pension reform is one that legislators plan to address once lame duck session starts, with a few bills on the table for *House* and *Senate* members to consider. Public school employees could see alterations in their retirement plans in the form of *Senate Bill 279*, which calls for the prohibition of computing retirement allowance for those employees based on employee organization professional services leave or release time. *House Bill 4338* would also effect those participating in the *Michigan Public School Employees Retirement System (MPERS)* if the bill was reported out of the *Senate Appropriations Committee* where it currently remains. If passed, the bill would require the *Michigan Department of Technology, Management and Budget (DTMB)* to administer defined contribution for those employed at public schools through a third party administrator. The *DTMB* would also be required to designate between three and eight investment vendors, proven eligible, to provide investment options for qualified participants of *MPERS*. Single and joint filers would see possible differences as well when filing for retirement income subtractions via *House Bill 5801* which was introduced in August of this year and remains in the *House Tax Policy Committee*. The bill calls for a reduction in the portion of income that is subject to state tax, but would not make any changes to the pension tax in tier one for anyone born before 1946. The question of unfunded municipal liability is also on the plate of *Governor Rick Snyder* as his administration works to create a proposal for the 2017-18 legislative term. Due to the amount of unfunded municipal liabilities throughout the state, retiree healthcare and pensions are of concern to the *Governor* and his staff, and they will continue to work on the aforementioned proposal so all communities can get to the level of being able to prefund those two costs. According to the senior strategic advisor at *Global Public Sector Practice, Dave Walker*, retiree healthcare costs are two to three times larger than pensions costs which are between three and five times larger than being reported.

CHILDCARE SUBSIDIES PASSED OVER BY STATE – As of October 1, the potential for \$20.5 million in federal funding for childcare subsidies in Michigan was lost as the state did not take action on approving a supplemental to draw down the monies. The subsidies, needing a supplemental to draw down the federal match, would have been intended for low-income families to help with the costs of childcare as a part of the *Child Development and Care program (CDC)*. However, in the past few years, Michigan has been one of the leaders among states returning unused federal funds, according to *Michigan League for Public Policy* senior analyst *Pat Sorenson*. The funding for the *CDC* program is not only dependent on the state matched federal dollars, but instead is also sourced by mandatory and discretionary funds provided by the federal government specifically for childcare each year. Mandatory funds remain the same each year, with the state receiving \$32 million in fiscal year 2016, while the discretionary funds are subject to change, with the state seeing \$83.4 million for the same fiscal year. Though the number of caseloads have decreased by 75 percent over the last decade, according to *Ms. Sorenson*, the low income eligibility thresholds and low payments from the state to child care providers have caused limited access to childcare for many families as providers won't accept children that come with a subsidy.

DETROIT RETIREES BENEFITS CHALLENGE DECLINED – On Monday of this week the *U.S. 6th Circuit Court of Appeals* rejected a challenge filed by retirees of the *City of Detroit* to alter the bankruptcy plan of the city to reinstate retirement benefits. In a 2-1 decision, the majority held that the potential harm that could stem from alterations to the bankruptcy plan outweighs the current damage it has caused retirees of the city. The plaintiffs asked the court to reexamine the bankruptcy settlement to exempt retirees from its effects, as pension holders have seen a 4.5 percent reduction in their pensions as well as the elimination of cost of living increases. In the majority opinion, *Judge Alice Batchelder* noted that because of the “immensity of the Grand Bargain”, accepting the plaintiffs request to challenge the agreement would “unavoidably unravel the entire plan, likely force the city back into emergency oversight, and require a wholesale recreation of the vast and complex web of negotiated settlements and agreements.” Along with rescinding the agreement, which included the state and multiple charitable groups committing to more than \$800 million in funding to assist the city in closing its debts, *Ms. Batchelder* also wrote by approving the request the entire *Grand Bargain* would be unraveled and therefore put the city back to where it began in terms of bankruptcy. *Ms. Batchelder* was joined in the majority by *Judge David McKeague* while the dissenting opinion came from *Judge Karen Nelson Moore*, who claimed the use of “equitable-mootness” was incorrect and unusable in this case. In the dissenting opinion, *Ms. Nelson Moore* wrote, “In deciding not to decide this case, the majority decides much. The majority extends our ill-reasoned equitable-mootness doctrine to a new context, imposing an unsupported and damaging limit on our appellate review that will be impossible to cabin in a principled way.”

SUPREME COURT OFFERS NO OPINION ON PRIVATE SCHOOL FUNDING – *Governor Rick Snyder's* request for the *Michigan Supreme Court* to issue an advisory opinion on legislation paying private schools state funds has been denied as of Wednesday of this week. The request came as a result of multiple groups challenging the legislation is unconstitutional and therefore should not be signed into law. The opposing groups, surprised by the court's decision, said after the decision was made that the potential for a lawsuit was likely but they needed to talk with members and other organizations before taking action. Taking effect this week, the 2016-17 budget calls for the reimbursement of \$2.5 million to private schools for meeting the costs incurred by meeting health and safety requirements of the state. However, Michigan's *Constitution* forbids the use of public funding “directly or indirectly” to “aid or maintain” public or parochial schools, something opponents of the budget say makes that line of the budget unconstitutional and therefore should not be allowed. Supporters of the funding measure argue that the monies should be allowed as they are not going towards instructional purposes at the schools but rather towards state mandates required of all schools in Michigan. With all of the controversy surrounding the topic continuing throughout the state, *Mr. Snyder* asked the *Supreme Court* for an opinion to avoid a

lawsuit from the lower courts, something *Attorney General Bill Schuette* seemed to be torn on. Before the *Supreme Court* issued its denial, the *Attorney General's* office released two briefs, one in support of the legislation and calling for the *Supreme Court* to support it as well, and another opposing the law and urging the *Supreme Court* not to make a decision as it would only cause more confusion to the question of constitutionality. The court wrote in its decision that it would not issue an opinion “because we are not persuaded that granting the request would be an appropriate exercise of the court’s discretion.” As a result of the court not issuing an opinion, the *Michigan Department of Education* received the \$2.5 million from the state according to the *State Budget Office*. However, the funds will not be available to private or parochial schools until the required paperwork is filed and forms are prepared, meaning those schools would not see the monies until at least August 15, 2017. The preparation time, opponents say will give them time to discuss legal decisions and strategies for a possible lawsuit.

ODDS & ENDS – *Governor Rick Snyder* signed *House Bill 4822* into law on Thursday of this week, also known as the *Third-Grade Reading Bill* which calls for certain reading assistance programs to be put into place in schools as well as holding back students unable to read at grade level...*Senator Jack Brandenburg* announced last week Friday that he has no intention of holding a hearing in the *Senate Finance Committee* on the issue of “dark stores” as he needs to gather more information before making a decision...according to the results of a recent poll released last week from *Target Insyght*, of the 600 people polled statewide 20 percent said the *Flint* crisis played a major role in their decision to vote for any candidate this election cycle, 28 percent said it played somewhat of a role and 45 percent said it played no role...the *Michigan State Employees Association (MSEA)* announced Friday of last week that it had reached an agreement with the state for a 3 percent wage increase beginning October 2017 and a 2 percent wage increase beginning October 2018...*Lieutenant Governor Brian Calley* completed his trade mission in the *United Kingdom* and *Ireland* last week where he highlighted the auto industry and opportunities for investment in Michigan...without a vote of the *Senate*, *Heidi Grether* will now be the new head of the *Michigan Department of Environmental Quality (DEQ)* after the required 60 days for members to reject the appointment have come and gone...according to credit rating agency *Moody's*, up to \$170 million in federal aid monies for the *Flint Water Crisis* would be a credit positive for Michigan and would also ease spending pressure on the state...200 more homes were slated to receive pipe replacements by the end of this week, adding to the already 163 homes completed over the last month as a part of *Flint Mayor Karen Weaver's FAST Start Initiative*...announced Monday of this week the *Michigan Department of Natural Resources (DNR)* is now taking applications for the 2016-17 round of *Dam Management Grant Program* funds totaling \$3.35 million with the applications due November 11...the *DNR* also announced early this week the award of \$933,892 in *Wildlife Habitat Grants* across 11 organizations...of the 515 fastest growing cities in the *United States*, *Flint* ranks 507 and *Detroit* ranks 514 according to *WalletHub*...*Business Leaders for Michigan* announced in its latest quarterly survey that the state will experience reduced but modest economic growth over the next six to 18 months...*Governor Rick Snyder* announced this week Tuesday his call for the *Michigan Commission on Law Enforcement Standards (MCOLES)* to produce a report in 2017 on how to foster public trust in law enforcement and to identify the most significant factors that contribute to the strengthening or weakening of trust in police presence in the state...the *Michigan Department of Licensing and Regulatory Affairs (LARA)* released information Tuesday of this week stating the pure premium advisory rate for workers' compensation insurance will decrease on average of 9.3 percent in 2017...state officials announced this week that 62 Michigan residents have been infected with the *Zika* virus, including two pregnant women...2016 has seen the highest number of on the job deaths since 2014 with the 30th and 31st people passing away this week according to reports from the *Michigan Occupational Safety and Health Administration*...another 62,000 Michigan residents could be eligible for premium tax credits in 2017 if they search through the national health insurance marketplace, according to the *U.S. Department of Health and Human Services*...*Governor Rick Snyder* signed a 17-bill package into law this week Tuesday, codifying the *Michigan Commission on Law Enforcement Standards (MCOLES)* and giving the commission some additional powers within the state...upcoming elections for the *Detroit Community Schools* board will see 63 candidates vying for the

limited seven seats, with 9 candidates per seat registered and on the ballot.....there are currently 425 cases involving *Flint* water quality pending in *Genesee Circuit Court*, with handfuls of new cases coming in everyday according to court officials...85 confirmed and probable cases of *shigellosis*, a bacterial disease spread person-to-person through fecal-oral transmission have been reported in *Genesee County* as announced by the *Michigan Department of Health and Human Services (DHHS)* on Wednesday of this week... director of policy and legislative relations within the *Michigan Department of Health and Human Services (DHHS)* *Elizabeth Hertel* is to take the position of director of state advocacy for *Trinity Health*...*Governor Rick Snyder* signed legislation into law this week Thursday granting limited exemption from prosecution to people of any age reporting a possible drug overdose to law enforcement or emergency medical authorities...*Flint Mayor Karen Weaver* announced Wednesday of this week that *Dr. Pamela Pugh* has taken the position as the city's chief public health advisor.

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