



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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GOVERNOR CREATES EXECUTIVE ORDER ON PUBLIC HEALTH – *Governor Rick Snyder* issued *Executive Order 2016-19* on Thursday promoting the *Chief Medical Executive* to a *Cabinet-level* position which reports directly to him, as well as created a 24-member *Public Health Advisory Commission*. Both of these recommendations were suggested by the *Flint Water Advisory Task Force*. “We are continuing our efforts to improve the way state government works and ensure that we put people first across all departments and agencies of state government,” *Mr. Snyder* stated. “The chief medical executive and this commission will help us better protect the public health and safety of all Michiganders.” Under the *Executive Order*, the *Office of Chief Medical Executive* will serve within the *Department of Health and Human Services* but report directly to the *Governor*. The office will disseminate critical public health information, promote various health initiatives, advocate for disease prevention and work with stakeholders to preserve the health of all Michigan residents. The *Public Health Advisory Commission* will be an advisory board within the *Executive Office* and will be charged with providing input regarding public health issues, reviewing best practices across the nation and recommending ways to improve public health in Michigan. The *Commission* is expected to have a final report to the *Governor* by *April 1, 2017*.

HOUSE RESTRUCTURES HICA – *The Health Insurance Claims Assessment (HICA)*, a fee designed to draw \$600 million in federal *Medicaid* money, would be replaced by a creative tax shift beginning *January 1, 2019* under legislation passed by mostly by party lines in the *House* on Thursday. The four bill package, *Senate Bills 987, 988, 989 and 990* passed without major changes and put the *Legislature* at odds with *Governor Rick Snyder* and the *Budget Office*, both of which oppose getting rid of *HICA* until at least *2020* when it will be clearer as to whether the federal government will approve the replacement. *Budget Office* spokesperson *Kurt Weiss* indicated that outside the risk, the *Budget Office* has a few other changes it would like make to the package besides moving the sunset. Of major concern to the *Budget Office* is it does not believe the federal government will conclude the tax structure meets federal muster, therefore exposing the state to a potential disallowance in the future. *House Appropriations Committee Chair Al Pscholka* (R-Stevensville) disagrees with the *Budget Office’s* assessment and believes “this puts us in compliance”. Under the package, the *Senate* is using income tax revenue to fund *Medicaid* and using the use tax on *Health Maintenance Organizations (HMOs)*– which the *Centers for Medicare and Medicaid Services (CMS)* said was too narrow in scope to be used to draw down the *Medicaid Fund*— to pay for services the income tax had been covering previously. The *Governor* had proposed getting rid of the use tax on *HMOs* due to the *CMS* ruling on the subject, however the *Legislature* is attempting the fund switch. If the use tax on *HMOs* was too narrow, surely the income tax is not. The *Senate* passed this change in June. *House Republicans* believe the change will pass federal scrutiny as they are using the state’s broadest tax, the income tax, to draw down the matching fund. It is a move that is supported by the *Michigan Chamber of Commerce*, the Michigan Manufacturers Association and other business interests.

Insurance carriers, third-party administrators and self-insured entities pay the .75% *HICA* tax on all paid health claims, which raises the cost for employers according to the state's business community. Under *Senate Bills 987 and 988*, the reincarnated use tax will collect money that will go into a special *Health Services Fund* that will fund *General Fund* programs and the *School Aid Fund* with the money the income tax had been funding. The package is designed to resolve federal concerns on how the state meets its obligations under the *Medicaid* program and yet eliminate the *HICA* tax.

GOVERNOR SIGNS MEDICAL MARIJUANA LEGISLATION – *Governor Rick Snyder* signed landmark legislation on Wednesday establishing a new regulatory framework on *medical marijuana* growers, transporters and dispensaries, while also allowing the use of edible forms of medical marijuana. The bills, *House Bill 4209 (Public Act 281)*, *House Bill 4827 (Public Act 282)* and *House Bill 4210 (Public Act 283)*, enable local governments to regulate marijuana provisioning centers, which would be legalized, and create a seed-to-sale tracking system. “This new law will help Michiganders of all ages and with varying medical conditions access safe products to relieve their suffering,” *Mr. Snyder* said in a statement. “We can finally implement a solid framework that gives patients a safe source from which to purchase and utilize medical marijuana.” In 2008, a voter-initiated act won approval from voters legalizing medical marijuana but it limited patients to growing their own or having someone grow and provide it for them. Dispensaries, now known as provisioning centers, popped up across the state but were ruled illegal in the courts. They then closed but returned in large numbers over the past year or two in communities that decided not to shut them down.

DDA REFORM BILLS MOVING – Under legislation approve Tuesday in the *Senate*, tax capture entities like downtown development authorities would have to report information regarding their activities to the *Department of Treasury* in addition to holding regular open information meetings. In recent year, these entities have come under increased scrutiny as they have the power to capture growth in tax revenues from within the district since the creation of the specific entity, siphoning off revenues from the larger city, township, village or county. *Senate Bill 1026* would require each municipality that created an authority to establish a webpage with access to the authority's records and budget documents, annual audits, the authority's current contracts, contact information for authority staff and currently adopted tax increment finance plan as a start. The webpage would have to include an explanation for any funds accumulated over five years, a list of authority accomplishments, a list of authority projects and investments and a list of authority events and promotional campaigns. The bill would also require the authority to file data about its revenue collections, fund balance, expenditures and amount of principal and interest on any outstanding debt with the *Department of Treasury*. *Treasury* would be able to bar noncomplying authorities from capturing new revenue beyond that needed to make debt payments.

The *House* also passed a package of bills seeking to curb inflated *downtown development authorities (DDAs)* and other *tax increment financing authorities (TIFAs)*. The legislation is designed to go after municipal groups like the *City of Allendale's DDA* which, as reported by local news, used recaptured tax dollars to make questionable purchases such as customized version of the *Monopoly* board game called “Allendaleopoly” and to build a public baseball field at *Allendale Christian School* whose contract gives the school first rights on utilizing the field. The package, including *House Bills 5851, 5852, 5853, 5854, 5855 and 5856*, would prevent the capture of revenue generated by millages approved by voters after December 31, limit the amount of time a *TIFA* can hold recaptured revenue to a period of five years unless a longer timeframe can be proven necessary by the groups plan, and increases reporting requirements for *TIFAs* with correlating penalties levied by the *State Tax Commission*.

FLINT RECOVERY BOARD/PROMISE ZONE BILLS MOVE TO SENATE FLOOR – Legislation allowing *Flint* to set up a recovery authority to manage its response to the water crisis and make the city eligible to become a promise zone to help local children attend college unanimously passed the

Senate Government Operations Committee. *Senate Minority Leader Jim Ananich* (D-Flint), sponsor of *Senate Bills 979 and 999*, indicated these bills would provide *Flint* additional tools toward its recovery. The idea behind the recovery authority is the city government could focus on providing its regular service while the recovery authority could run point on any water crisis responses like the removal of lead service lines. *Flint* would not be required to use the authority but it would have it available. “Any city, it could be the healthiest, most biggest surplus city in the country, has certain city functions they have to do, and to add on top of them the burden that no city has ever had to deal with before and expect them to provide those same services, plus this, it’s going to be difficult for anyone,” said *Mr. Ananich* following committee. Under the legislation, the authority would be limited to 15 years in duration and it could, providing voter approval, levy a tax of 0.5 mill, borrow money and enter into contracts—although all these measures would have to cease after 15 years. *Flint* would also be eligible to become a promise zone where the city could provide a promise of financial assistance for postsecondary education to students graduating from high schools in the city.

“TRANSFORMATIONAL” INCENTIVE PACKAGE MOVES TO SENATE FLOOR –

Under bills reported out of *Senate* Committee this week, developers embarking on a “*transformational redevelopment project*” could capture the state income and sales tax generated from that project’s future business activity. *Senate Bills 1061, 1062, 1063, 1064 and 1065* would represent an enormous break from Michigan’s five-year experiment of awarding virtually no tax incentives to attract economic development. Under the tax changes enacted in 2011, Michigan has awarded cash incentives to businesses to locate or remain in Michigan instead of ongoing tax breaks, with the exception of the tax exemption enacted to attract *Switch* to the *Grand Rapids* area. *Governor Rick Snyder* has staunchly defended the new approach even as usual allies in the business community have increasingly questioned the strategy saying Michigan is losing out on potential development to other states without having tax incentives available. The *Governor* has taken no position on the legislation and according to his *Press Secretary, Anna Heaton, Mr. Snyder* “isn’t opposed to the legislation. We need to review it in depth and then will work collaboratively with the Legislature to share and address any concerns.” The legislation would allow developers of large-scale projects to capture sales, use and state income tax revenue from within the development district attributable to the new development, with various caveats and the approval of the local brownfield redevelopment authority and the *Michigan Strategic Fund (MSF)*. The *MSF* could approve no more than five such plans in a calendar year. To qualify for the designation of a “*transformational brownfield plan*,” a municipality would have to have a population of at least 600,000 and a project cost of at least \$500 million or 150,000 to 599,000 population and a project cost of at least \$100 million, with a sliding scale of lower thresholds for small communities. The capture revenue would could toward demolition, construction, restoration, alteration, renovation or improvement of buildings or site improvements on the property. The duration of such deals would be either 30 years or the period authorized, whichever was less. The main bill, *Senate Bill 1061*, prohibits any *transformational brownfield plan* from using more than 50% of the captured income tax revenue unless those revenues are necessary to reimburse the owner of the development for taxes they would have to pay as the result of terminating a *Renaissance Zone* in which all taxes would otherwise have been waived.

COMMITTEE CHANGES – *Speaker Kevin Cotter* announced the new committee members to fill the vacancies created by the untimely death of *Representative Peter Pettalia* (R-Presque Isle). *Representative Ben Glardon* (R-Owosso) will now chair the *House Transportation* committee with *Representative Jeff Farrington* (R-Utica) serving as *Vice Chair* and *Representative Gary Howell* (R-North Branch) filling out the remaining seat. *Representative Mike Callton* (R-Nashville) will serve as *Vice Chair* for the *Financial Services* committee with *Representative Ken Goike* (R-Ray Township) rounding out the committee. *Representative Ray Franz* (R-Onekama) will serve on the *House Energy Policy* Committee, while *Representative Joel Johnson* (R-Clare) will serve on the *Tourism & Outdoor Recreation* Committee.

LEGISLATURE APPROVES THIRD GRADE READING BILL – Legislation designed to improve the number of students reading at grade level when they complete the third grade is on its way to **Governor Rick Snyder**. **House Bill 4822** contains provisions for interventions for students struggling to read and would require the retention of students for another year of third grade if they were failing to read at grade level unless their parent successfully appeals or the pupil demonstrates reading proficiency through other means. The compromise version changes the “smart promotion” piece to require a student be proficient in all other subjects other than reading, like math, social studies and science, to move on to the fourth grade and receive remedial education in reading.

ODDS & ENDS – The fight between **Tesla Motors Incorporated** and the state as to whether the company can sell its vehicles in Michigan without a franchise dealer agreement continues as the company filed a lawsuit on Thursday in the **U.S. District Court for Western Michigan**—just one week being denied a license.....The **House Education Committee** voted out legislation designed to, for the most part, end seclusion and restraint policies for students outside of emergency situations and require more reporting.....In a study commissioned by the **Department of Education**, both high school and college level, career and technical education programs are struggling to find qualified instructors with the study showing 51% of high school and 54% for secondary program CTE directors saying hiring qualified staff is their biggest challenge.....the **Department of Technology, Management and Budget** reported Thursday that all of the state’s 17 labor markets saw unemployment fall and most achieving employment increases in August—statewide payroll jobs increase by approximately 2,000 with increases in manufacturing (3,000), construction (2,000) and other services (2,000) offset by a loss of 5,000 jobs in leisure and hospitality services.....the **Snyder Administration** announced a pilot to expand on **Spectrum Health’s Strong Beginnings** program, which provides a variety of services including home visits to at-risk mothers and coordination of care through a child’s second birthday, to 1,700 families in **Kent County** with the goal of reducing preterm birth and rapid repeat pregnancy.....**Recreational marijuana’s** legalization will be on the ballot in five states—**Arizona, California, Maine, Massachusetts** and **Nevada**.....The **House** passed a pair of bills that are now on their way to **Governor Snyder** who is expected to sign them which expands **Good Samaritan** protections for Michiganders of all ages who report drug overdoses—expanding **Public Act 220 of 2015** which exempts people under age 21 from certain prescription drug-related criminal charges in the event they are reporting life-threatening overdoses.....the state will defer to the **Federal Aviation Administration (FAA)** and prevent local government from crafting separate regulations on the operation of **Unmanned Aerial Systems** (drones), under **Senate Bill 992** reported out of **Senate Transportation Committee**.....A new case of **Legionnaire’s disease**, eighth so far this year, has been reported in **Genesee County** and confirmed by **Hurley Hospital** in **Flint** according to the **Department of Health and Human Services**.....local governments’ unfunded liabilities for retiree health care and pensions is emerging as a top priority of the **Snyder Administration**—while a specific proposal has yet to be crafted, the issue will likely be in play for the **2017-18 legislative term**—A report from the **Michigan State University Extension Center for Local Government Finance and Policy** showed, based on 2014 data, that **Lansing** had an unfunded liability in its retiree health care plan of \$431.8 million, **Warren** had \$275.2 million, **Flint** \$240.5 million, **Taylor** \$232.7 million and **Westland** \$235.6 million illustrating that unfunded municipal liability looms as a major concern in many cities.....under legislation introduced by **Senate Minority Leader Jim Ananich** (D-Flint), Michigan would seek to tighten down on allowable lead in drinking water beyond the standard set by the **Environmental Protection Agency (EPA)** by lower the parts per billion standard for allowable lead in drinking water from 15 parts to 10—ultimately phasing it down to five parts per billion..... The **House Criminal Justice** Committee reported bills that would provide both re-entry services and financial compensation to wrongfully convicted prisoners this week.....Some local governments are encouraging passage of **House Bill 5202**, a bill that would create a “**Michigan Young Adults Commission**” with the primary focus of crafting policies to retain and attract young talent.

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