



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 40

September 30, 2016

LAME DUCK PREVIEW: BIG ISSUES STILL TO BE ADDRESSED – As of last week, both the *House* and *Senate* adjourned, each knowing when they return after the election a long list of items will be awaiting them for this year’s *lame-duck* session. Though the *Senate* will return for three days in October, the main issues for both chambers will not be discussed until the following months, with some insiders saying the list will be a long one for December. Though there is no set agenda for *lame-duck* as of yet, spokespersons for each chamber’s *Republican* delegation noted issues their respective chambers plan to take up, if not resolve. According to *Amber McCann*, spokesperson for *Senate Republicans*, the top priority for the *Senate* come the three October session days will be energy reform as discussed in *Senate Bills 437* and *438*.

Heading into the *lame-duck* session, however, the *Senate* will see legislation regarding criminal justice on the floor, including but not limited to: presumptive parole (*House Bill 4138*); alterations to the juvenile justice system, probation and parole (*Senate Bills 932-949*); and the automatic treatment of 17-year-old persons as adults (*House Bills 4947-4961*). The re-establishment of the *Michigan Indigent Defense Commission* per the *Michigan Supreme Court’s* constitutional concerns with the *Commission* will also be brought to the *Senate’s* attention via *House Bills 5842-5846*, as will the decision to regulate ride sharing services like *Uber* and *Lyft* in *House Bills 4638-4641*. Speed limit increase legislation could also cross the desks of *Senators*, as could the issue of a re-introduced bill (*Senate Bill 1068*) that would discontinue the requirement of large cities to pay a share of state road projects in their district, which was previously vetoed by *Governor Rick Snyder* as *Senate Bill 557*.

As for the legislation headed to or already on the *House* floor for consideration, *Representatives* will see autonomous vehicles (*Senate Bills 995-998*), civil service reform as proposed by *House Speaker Kevin Cotter* (R-Mt. Pleasant), proposed major changes to the *Michigan Tax Tribunal*, and the removal of the \$250,000 inventory requirement and creation of a quota system for gas stations seeking to sell alcohol via *Senate Bill 929*. *House* members will also discuss two bills dealing with the retirement funding system of public school employees and public employer union contract regulations.

Other issues likely to make the overall agenda include the *Health Insurance Claims Assessment (HICA)*; education punishment/expulsion versus suspension; no-reason absentee voting; “dark stores” requirements and taxation; *Flint* recovery; direct shipping of wine to Michigan residents; and government transparency. Health issues including expanding the scope of practice for *Certified Registered Nurse Anesthetists (CRNAs)* is expected to be debated by both *House* and *Senate* members as is the creation of *Dental Therapists (Senate Bill 1013)*.

NEW ROAD FUNDING FORMULA PROPOSED – *Michigan Department of Transportation Director Kirk Steudle* presented a new proposal on the funding formula for roads to the *Senate Republican Caucus* on Wednesday of last week, noting that the new proposal would repeal the current formula known as *Public Act 51 of 1951*. The new proposal would, among other major changes, focus on how road funds are divided between local and state government. The existing formula calls for 39.1 percent of road funding to go to the state, 39.1 percent to go to counties and 21.8 to cities throughout the state, something critics claim fails to take into account the larger number of roads in metropolitan areas.

Earlier this year, *Governor Rick Snyder* vetoed legislation calling for the termination of larger cities' requirement to pay for state funded road projects, reinforcing his call for formula adjustments as he has proposed since 2011. The new proposal, as mentioned, would eliminate the current funding formula and replace it with distribution factors which would determine how much funding jurisdictions would receive, though most details on how that determination would be made were unclear as of last Friday. As proposed, the new formula would have additional funding, would set a base level of funding similar to what the jurisdictions received in the *2014-2015 Fiscal Year* and would take into account the population of each city or community before determining funding. Supporters of the current formula argued however, that *PA 51* has been and is currently working well but the real issue lies in the lack of “new” money being brought into road funding, something they hope will improve as tax increases will begin to take effect in 2017. Costs for communities, investment in existing infrastructure and meeting the needs of today's economy and workforce also noted by supporters as things to consider before completely changing the formula, so as not to place already struggling communities deeper in debt.

HOUSE LEADERSHIP RACE COMES TO UNEXPECTED END – *Representative Rob VerHeulen* (R-Walker) conceded the race to lead the *House Republican Caucus* in the 2017-2018 session year on Monday of this week, paving the way for *Representative Tom Leonard* (R-DeWitt Twp.) to take the position of *Speaker of the House* or *Minority Leader*, depending on how the upcoming election plays out. One of *Mr. VerHeulen's* original supporters and top advisors, *Representative Jim Tedder* (R-Clarkston) switched his allegiance to *Mr. Leonard* and therefore pulled his backing of *Mr. VerHeulen*, something insiders say caused the *Representative* to pull from the race. The reason for the switch, according to *Mr. Tedder*, was to get the *Republican Caucus* to unify in the remaining six weeks before the election, with the caucus becoming increasingly uneasy about a party switch in which *Democrats* would take over the *House* for the first time since 2010. *Mr. Leonard*, the more conservative of the two *Speaker* candidates, reported a successful primary election night back in August, with many of his fellow *Republican* candidates winning their respective races while expressing support for him as *Speaker*. Though *Mr. VerHeulen* will no longer continue in the race for *Speaker*, *Mr. Leonard* noted he will support his fellow *Republican* member in becoming *Majority Caucus Whip*.

The *Representatives* released a joint statement on Tuesday following the announcement, both noting their respect for the other and willingness to work together to keep the *Republicans* in majority and to attack the state's most pressing issues.

As the race for leadership is now unofficially over, the choices for *Speaker Pro Tempore*, *Appropriations Chair* and *Majority Floor Leader* will be the topic of discussion amongst the caucus, should its members stay in the majority. *Representative Lee Chatfield* (R-Levering), according to insiders, is looking to take the position of *Speaker Pro Tempore*, but it is too early to determine who would be considered for *Appropriations Chair*. As for *Majority Floor Leader*, multiple *Representatives* have put forth their efforts to claim the title, including *Representative Daniela Garcia* (R-Holland (who is also a current assistant floor leader)), *Representative Gary Glenn* (R-Midland), *Representative Dan Lauwers* (R-Brockway), *Representative Michael Webber* (R-Rochester Hills) and *Representative Lana Theis* (R-Brighton).

SCHUETTE ANNOUNCES DPS DECISION – *Attorney General Bill Schuette* announced this week Wednesday that schools within the newly created *Detroit Public Schools (DPS)* district can be closed as early as this year by the *School Reform/Redesign Office (SRO)* after much debate between *Republican* leaders and administrative officials. *House Speaker Kevin Cotter* (R-Mt. Pleasant) and *Senate Majority Leader Arlan Meekhof* (R-West Olive) sought an opinion from *Mr. Schuette* after *Governor Rick Snyder* stated he would operate under the opinion of law firm *Miller Canfield*, in which the firm stated those schools could not be closed until 2019. The law firm, in a memo to the administration stated that because the new district has existed for three years, schools within that district that are ranked in the bottom 5 percent for three years cannot be closed as it will not have been three consecutive years within the same district.

Both *Republican* leaders, however, stated that the law passed regarding school closures as a part of the *DPS* package was clear in its intentions of closing schools within the district that are consistently failing. *Mr. Schuette's* opinion is binding unless overturned by the courts and states the *Miller Canfield* opinion, “misreads the text, structure and purposes” of the *DPS* restructure as passed by the legislature and that “a plain reading of the statute as written requires the *SRO* to order closure of a school operated by a community district is among the lowest 5 percent of all public schools in Michigan for the immediately preceding three school years.” *Mr. Schuette* also noted that any school within the district that was in operation and on the list of the bottom 5 percent in Michigan during the 2013-14, 2014-15 and 2015-16 school years can be closed albeit subject to a hardship exemption.

Earlier this month the *SRO* released its list of the bottom 5 percent of schools, with 47 of the 116 listed residing within the new *DPS* district and another 11 within the *Education Achievement Authority*. *Governor Snyder* stated he will review the opinion and that he appreciated the attorney general's effort to provide an alternative answer to discuss. *House Democrats* argue the attorney general's opinion does not give the new district time to re-evaluate performances and introduce best practices for improved schools.

MAE DIRECTOR CALLS FOR MOVEMENT ON ENERGY POLICY REFORM – *Michigan Agency for Energy Director Valerie Brader* told a media roundtable on Monday of this week that the legislature should not wait on the issue of energy policy reform and that to ensure Michigan's energy future, affordability, sustainability, competition and waste reduction need to be intact. *Ms. Brader* also explained that though the state is currently in limbo regarding its compliance with the *U.S. Environmental Protection Agency's Clean Power Plan*, it is definitely in a position to comply with the plan at a relatively low cost and could potentially earn money from other states via sale of credits if compliance plans were set in place. Discussing the results of two modeling studies of the state's energy efficiency released Monday of this week, *Ms. Brader* noted that the growth of natural gas and the balance between natural gas and renewables was found to play a large role in the state's energy efficiency, as was the monitoring of nuclear shares and the tracking of pollutants including the carbon rule. Commenting on the importance of a legislative move on the reform, *Ms. Brader* told attendees, “In general we, hope legislators share a sense of urgency on the reliability and affordability front and recognize changes to Michigan's laws are critical to take advantage of Michigan's resources and ensure we have enough supplies to meet our energy needs. Energy waste reduction helps us on our costs, reliability and helps us protect the environment.”

TRANSIT PROPOSAL SHOWN SUPPORT IN EARLY POLL – In a 500-voter survey conducted by *Target Insyght*, the proposed \$4.7 billion, 20-year transit millage for metro *Detroit* passed 49.2 percent to 33.6 percent, including voters from all four counties impacted. After reading the exact ballot language for the proposal, undecided voters went from 17.2 percent to 12.5 percent, something the pollsters say shows promise for the *Regional Transit Authority (RTA)* proposal. The proposal, being described to

voters as a way to move those with disabilities and senior citizens more easily to **Detroit Metro Airport** and other major transport services, is doing well among voters between 18 and 34 years of age, according to **Ed Sarpolus** from **Target Insyght**, with that age group passing the proposal with a 60 percent approval rating. **Mr. Sarpolus** also noted that 57 percent of **Democrats** showed support while only 39 percent of **Republicans** plan to vote “yes” come November. As for the counties that will be impacted by the millage, the poll showed voters in **Macomb** and **Wayne** counties as largely undecided while the “yes” votes for **Oakland** and **Washtenaw** counties at 57 percent and 58 percent respectively. **CEO** of the **RTA Michael Ford** said a tough selling point is the increase of regional taxes, but is hopeful that the increase in business and profit the new transit would provide will give the voters more incentive to vote “yes”.

ODDS & ENDS – **Representative Jeremy Moss** (D-Southfield) introduced legislation on Thursday of last week that calls for the restriction of campaign fundraising to election years only, if passed allowing Michigan to fall into line with 29 other states with similar restrictions...announced as of Friday last week the **Midcontinent Independent System Operator (MISO)** will study electric reliability and the possible connection between the **Upper Peninsula** and **Ontario**...**Bill Kandler**, former **Secretary of the Senate** and current partner at **Kandler, Reed, Khoury and Muchmore**, announced his retirement last week after 44 years in Lansing working in the legislative and lobbying arenas...according to a national report released on Monday of this week, state and local tax revenues are growing more slowly than previous years in Michigan causing some to question the state’s ability to meet future budget needs...**Detroit, Flint** and **Saginaw** saw drops in violent crime in 2015 with decreases reported as 13 percent, 14.3 percent and 18.1 percent respectively... on Tuesday of this week **Fiat Chrysler** was awarded a **Michigan Business Development Program** grant from the **Michigan Strategic Fund** equaling \$4.5 million to create 700 jobs as it begins production of the next-generation **Ram 1500** pickup truck at the company’s **Sterling Heights Assembly Plant**...**Governor Rick Snyder** signed into law Tuesday of this week legislation calling for families of first responders killed in the line of duty to receive five years of medical benefits and a one-time payment of \$25,000...**Michigan Department of Transportation (MDOT)** deputy chief engineer, bureau director of **Field Services** and **Superior Region** engineer **Randy Van Portfliet** announced his retirement earlier this week after nearly 40 years with **MDOT**...after threats of a possible federal government shutdown, the two top leaders in the **U.S. House of Representatives** agreed upon and passed legislation regarding federal aid in **Flint** for water resource and system assistance... according to the **Tax Foundation’s** most recently released **State Business Tax Climate Index**, Michigan has the 12th most competitive tax code in the nation...**Governor Rick Snyder** signed legislation into law on Wednesday of this week allowing Michigan residents to operate off-road vehicles (ORV) on more forest roads in the **Lower Peninsula** and to use pack and saddle animals for removing hunted game...the **State Administrative Board** approved a \$350,000 contract Thursday of this week with the **National Council of Juvenile and Family Court Judges** to conduct a study to see how much the state would save if criminally convicted juveniles are not housed in adult prisons...**Governor Rick Snyder** appointed former state representative **Mark Ouimet** to the **Wayne County Airport Authority** as announced Thursday of this week...recipients of the \$7 million in grants from the **Infrastructure Capacity Enhancement** as announced by the **Michigan Economic Development Corporation (MEDC)** on Thursday of this week are the communities of **Cheboygan, Houghton, Central Lake, Breckenridge, Clare, Pinconning, Quincy, Leslie** and **Bloomingtondale**...**Governor Rick Snyder** ordered the lowering of Michigan and **U.S.** flags to half-staff in honor of the passing of former **President** and **Prime Minister** of **Israel Shimon Peres**.

MHSA • Muchmore Harrington Smalley & Associates, LLC

Patrick Harrington pharrington@mhsa.com | Jon Smalley jsmalley@mhsa.com | Sandra Jones - sjones@mhsa.com
Adrian Cazal acazal@mhsa.com | Bret Marr bmarr@mhsa.com | Evelyn Zois Sweeney esweeney@mhsa.com



This message and any attachments are solely for the use of the intended recipient (s) and may contain information that is privileged, proprietary and/or confidential. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify by return email and delete this message from your system.