



# 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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It is with great sadness that the *MHSA* team informs you of the passing of our longtime friend Tom Atkins. Tom lost his battle with lung cancer earlier this week. Tom served with the *Michigan Senate Majority Policy Office* for over a decade and was a weekly contributor and editor to *This Week In Lansing* for many years. Tom was an integral part of the legislative reporting process across Lansing, contributing his knowledge of how the legislature operated to other publications as well. The *MHSA* team will miss him greatly and remember him fondly. Please keep his family and friends in your thoughts and prayers.

**REMINDER:** As of today, the *Ellis Parking Structure* on the corner of Capitol and Allegan Streets (that most of you utilize when visiting our offices or the Capitol) will no longer be open for public parking. Public parking will be available in the following parking structures: corner of Washtenaw and Townsend across from the Post Office, at the end of Allegan Street at Grand Avenue, and between Washtenaw and Kalamazoo Streets on Capitol (next to *Western Michigan University Thomas Cooley Law School*). If you visit Lansing on a regular basis, you may want to consider obtaining a monthly parking permit from *Ellis*. The number to reach *Ellis* is (616) 458-1179 and cost is \$150/month for first come first served or \$170/month for a reserved spot. With this change, *MHSA* will no longer be able to provide validation for parking. We apologize for any inconvenience.

**SCHOOL SPENDING ON TARGET WITH RECENT STUDY** – According to a recent study on school funding adequacy, Michigan should be spending \$8,667 per student, an amount most in the education community agree is on course with where the state should be in terms of per-pupil funding. Facilitated by *Augenblick, Palaich and Associates* of Colorado, the study recommended the state make base payments to each school district to create a shift in the funding mechanism, and also allow local taxes to provide certain supplemental funding for their respective districts. The study's suggestion, if enacted, would equal an increase of \$438 from the foundation allowance in the recently signed budget, and a \$1,156 increase for those spending at the minimum foundation allowances. Under *PA 555 of 2014*, the study was commissioned by the state as part of *Proposal 1 of 2015*, the failed road funding proposal.

While the spending of agreed upon school dollars was thought to be spot on by most, the suggestion of the increase garnered a different, less agreeable response. *Representative Adam Zemke* (D-Ann Arbor) commented on his agreement with the suggested increases, stating, "House Democrats have been fighting to make sure that every student across the state is able to receive a quality education. Yet when we've advocated for the funding which would give our students the opportunity to succeed, we

were told no, repeatedly, by the Republicans. Now we have hard data that, sadly, proves the harm that's being done." **State Board of Education President John Austin** echoed the **Representative's** sentiment saying the proposed additional funds was not a surprise given stat budgets passed in recent years. **Mr. Austin** also noted that though the reforms are necessary, the current allowance for schools could be spent "more strategically."

However, others disagreed with the proposal, contending increased funds does not equal better levels of education. **Representative Tim Kelly** (R-Saginaw Twp.) said the state's educational performance rankings should be the focus and that money is not the issue. **Chair of the House Appropriations School Aid Committee, Mr. Kelly** commented on the performance versus money issue not discussed in the report, stating, "One of the things it doesn't show is we're one of the top 15 states in funding and we're at the bottom in performance. Just spending more money isn't the answer." **Don Wotruba, President of the Michigan Association of School Boards**, concurred with the **Representative's** opinion that the report's suggested increase might be too high for one budget cycle but also agreed that funding in this year's budget might be available if used differently.

Educational groups including the **Great Lakes Education Project**, the **Michigan Association of School Administrators**, the **Tri-County Alliance for Public Education** and the **Michigan Council for Charter School Authorizers** agreed that the report's findings are cause for continued work with and action by the state legislature to close the gap between lower-income and higher-income districts. **Brian Gutman** with **Education Trust-Midwest** released a supportive statement on more equitable funding, stating, "This report should begin a long-overdue conversation about addressing these inequities and ensuring that Michigan students, teachers and schools have the funds and supports to improve outcomes for all students." However, other groups believe comparing the current allowance to the proposed allowance in the report is unwise, noting that the funds listed include more than those allocated by the state.

As the discussion of funding versus performance remains on going, the report also noted that districts with smaller numbers of at-risk students performed better and suggested the state flip its current spending mechanism. The report recommended spending more on at-risk, special education and English language learner programs, specifically 30 percent more for at-risk students and 40 percent more for English language learners, while also calling for a separate study for special education funds needed.

### **KILDEE SAYS FUTURE GOVERNOR'S FOCUS SHOULD BE INFRASTRUCTURE** –

Discussing speculation around his own political future and the needs of the state as a whole, **U.S. Representative Dan Kildee** (D-Flint) told members of the **Lansing Regional Chamber of Commerce** that the top priority of the next governor of Michigan should be to invest in the state's infrastructure. Noting that all **Michigan Congressional House** members feel they represent not only their districts but the state as a whole, **Mr. Kildee** told the group of members that the road package passed and signed last year was "nowhere near where we need to go." Commenting on the controversial package and its long waited passage into law, **Mr. Kildee** stated, "We can't accept the notion that we've already checked that box with infrastructure, with the road deal that was done. We've got to bet on our own success. If we're not willing to be bold and bet on the notion that if we invest in infrastructure we'll get paid back, then we ought to just cash it in. I believe we will win if we do that."

The **Congressman** has said he has considered a bid for the role, but is not alone, with former **Senate Majority Leader Gretchen Whitmer** at the top of the list as well. However, **Mr. Kildee** said that Tuesday's visit was nothing gubernatorial race related, as he has been travelling to organizations throughout the state since being elected to the **U.S. House** in 2013. **Mr. Kildee** went on to say that **K-12** and higher education would also be necessary issues to be addressed by the next governor, along with

municipal finance reform and governmental reform on all levels. *Kildee* had earlier in the day spent time with *MHSA* clients delivering a similar message and answering questions.

**PRESUMPTIVE PAROLE BILL MAY SEE AMENDMENTS** – *House Bill 4138*, *Representative Kurt Heise's* (R-Plymouth) presumptive parole bill, could finally be moved from the *Senate Government Operations* committee if an amendment to exclude any prisoner serving time for a “violent crime” was adopted. The suggestion was made this week Tuesday by *Senator John Proos* (R-Saint Joseph) who said support for the bill could ultimately be secured after 8 months in the committee without action. Commenting on his proposed amendment, *Mr. Proos* stated, “What we’re talking about here is changing the burden of proof from the offender proving that he or she is prepared to go back into society to the Parole Board having the responsibility of now proving that that individual is ready to go back into society.”

The bill is part of a criminal justice package including other bills addressing the tightening of parole and probation violation consequences, moving 17-year-olds to the juvenile criminal justice system instead of the adult criminal justice system, and implementing measures to address the issue of prisoners considered medically frail. *Mr. Heise* noted would like to have that comprehensive package, including the presumptive parole bill, to *Governor Rick Snyder* before the legislative term ends, stating, “I think that we’ll come to some common ground before the end of the year on presumptive parole.”

**MDOC ROLLS OUT CRIMINAL JUSTICE PROGRAMS** – In an attempt to prevent offenders from returning to prison after their release, the *Michigan Department of Corrections* is planning to test new pilot programs for prisoners and other offenders in the criminal justice system. Some of the multiple programs slated for rollout include:

Medication-Assisted Treatment Re-entry Pilot Program: A one-year pilot program to treat people already on parole who are deemed at-risk of violating their parole due to substance abuse issues. The treatment would involve once-a-month injections that block the effects of experiencing the highs of alcohol and opioids. Funds appropriated to the program cover the overall administration of the shots. The monthly injection is of the drug, *Vivitrol*.

Parole Sanction Certainty Pilot: Moving into its second year, this program plans to enforce a quicker response and shorter penalty to violators, as opposed to multiple violations over a longer period of time. The goal is to steer parolees or probationers away from violations or multiple trips to jail or prison by eliciting an immediate response to violations.

Vocational Village: An intensive training environment where prisoners work and live together, this program was allocated more funding for another facility (currently the only one is at the *Richard Handlon Correctional Facility*) in next year’s budget. The goal of the “residential programming” operations like this one is to graduate prisoners from the programs who have gained proven skills.

Criminal Justice Reinvestment: Though the funds in this line item in the budget have not been specifically appropriated as of yet, the monies are required to be used for “new or expanded evidence-based programs targeted at reducing recidivism and incarceration rates among probationers and parolees.” Added by the *Senate*, the idea for the appropriation seems to be that by using money saved from a reduced prison population, more programs like these can be funded, creating a “virtuous cycle”.

WRAP: Participants of this program will be involved in cognitive and vocational behavior subprograms over four to six months in a secure setting. The program attendees will be housed in a 50-bed residential like location at the *Detroit* re-entry center and will be mostly compiled of probationers who have violated or who are at risk of going back to prison.

**FLINT: UPDATES CONTINUE** – According to the *Center for Disease Control and Prevention (CDC)*, lead levels in children in *Flint* have gone down since the city switched back to water from the *Detroit* system in October 2015. Noting that the *Flint* water crisis causing elevated levels could have been prevented and how easily children were affected, the report stated, “The likelihood that a child consuming the water would have a blood level (above five micrograms of lead per deciliter) was nearly 50 percent higher after the switch to Flint River water.” The report stated the new test results had reported lead levels as being back to those seen before switching to the *Flint River* water in April 2014. The study, however, was not able to determine what the lead levels were in samples from the homes of the tested children, therefore noting children still need to be tested regularly for lead.

*Virginia Tech Professor Marc Edwards*, who had been critical of the state’s action early on in the crisis but now agrees with the *Environmental Protection Agency (EPA)* and *CDC* findings, said he is not surprised the filters being distributed are finally working and lessening the lead in the city’s water. Speaking at the *Flint Water Interagency Coordinating Committee* meeting Friday and having done similar tests yielding similar results himself, *Mr. Edwards* said though the efforts of the state and city appear to be working, distrust of government among citizens is still apparent. *Vicki VanBuren*, member of the *Flint City Council* and of the committee echoed that sentiment stating, “Caution is still there. They know people said the water was safe. They’re not ready to trust that.” Members of the committee suggested as volunteers continue to provide filters and bottled water to residents, they carry proper identification and are also given a phone number to call and verify volunteer identity and report suspicious activity. The state agreed, later that day releasing an image of the IDs to be distributed to regulated volunteers and workers as well as the hotline for residents to use.

With water tests and distribution efforts ongoing, the replacement of the city’s pipes is underway as well, with bids due Thursday of this week. *Flint Mayor Karen Weaver* announced Wednesday that contractors can make adjustment to their bids before submitting them, having met with five of six contractors with qualifying bids that same day. *Ms. Weaver* and members of her administration met with the contractors to discuss proposals submitted last week to remove lead water pipelines she deemed unaffordable.

As lead levels continue to be monitored and the infrastructure replacement begins, the legal suit against two water companies accused of worsening the crisis receives push back from one defendant contending they followed what *Flint* city officials requested of them. In a timeline released this week by the water services company *Veolia*, it is noted the company was hired for a one-month analysis to address concerns about discoloration, taste and odor issues related to the city’s water almost one year after the switch from the *Detroit* system to the *Flint River*.

Beginning its assessment on February 10, 2015, the company was charged with addressing the concerns about the levels of disinfection byproducts in the water as well, but was told there was no need to test for copper or lead as the city was performing those tests. In a statement noting the company brought potential lead and copper inconsistencies to city officials’ attention, *Veolia* stated, “When Veolia raised potential lead and copper issues, city officials and representatives told us to exclude it from it from our scope of work because the city and the EPA were just beginning to conduct lead and copper testing.” The timeline then shows the company’s contract ended March 12, 2015, after releasing its data and findings publicly. Recommendations in the report from the company to the city included: to create and implement a well-documented control management plan to monitor water quality more effectively; make capital improvements at the water treatment plant immediately; establish and implement and after treatment procedure and train staff on the updates/changes; create and launch a targeted and increased flushing system within the city’s distribution mechanism to improve water quality; and to form a technical advisory committee to review and share ideas for improvements and alternations.

In the statement, the company addresses *Attorney General Bill Schuette's* filing of the suit, stating it believes he and other government officials within the executive office are attempting to deflect governmental responsibility for the crisis. Commenting on the accusations against the company, the statement reads, "The facts are important, and we are alarmed and outraged that the state of Michigan is abusing them for the sake of political expedience. We were hired for a limited, one-month, one-time study – 160 hours in total – and asked to only assist with an analysis of disinfection byproducts, and taste and odor issues in Flint. Veolia was given rigid parameters around what we were and were not allowed to do and we followed those directions. We made a series of recommendations and they were ignored." A spokesperson for *Mr. Schuette* did not comment on the newly released timeline or statement, but said the civil suit "speaks for itself."

The executive office continues to provide funding and aid for the city amid its legal battles, this week appropriating another \$114.3 million in assistance under a budget bill signed by *Governor Rick Snyder*. Adding to the \$51 million that will be available as of October 1, the total amount now appropriated to the city equals \$234 million.

**CAMPAIGN NOTES** – *Representative Brian Banks* (D-Harper Woods) entered a not guilty plea Wednesday of this week at his arraignment for three felony charges and one misdemeanor charge filed against him by the *Department of Attorney General*. Entering the plea just five weeks before the highly contested *Democratic* primary for *House District 1*, *Mr. Banks* was given a \$5,000 personal bond and ordered not to leave the state. The felonious charges include two counts of uttering and publishing and one count of false pretenses involving \$1,000 or more but less than \$20,000, punishable by up to 14 years in prison and five years in prison/\$10,000 respectively. As for the misdemeanor charge, *Mr. Banks* is facing up to one year in prison or \$1,000 for false statements/financial condition. The *Representative* could also face an enhanced sentence of up to life in prison on another charge as being a four-time habitual offender.

This week the *Michigan Supreme Court* declined *Clinton Township Republican Mike Aiello's* request for an appeal from a *Court of Appeals* ruling ordering him disqualified from the ballot for *House District 24* for lack of valid signatures. *Mr. Aiello* filed nominating petitions for the ballot instead of paying a filing fee, but one page of the petitions could not be counted as it did not include the date of the August 2 primary. As that page was not counted, the amount of signatures was less than needed to appear on the ballot. The *Supreme Court* upheld the *Court of Appeals* decision on a 6-0 vote issued Monday and released Tuesday of this week.

Potential *Republican* candidate *Brandon Hall*, who filed to run in the *House District 89* primary, was told felony charges could be brought against him for forging signatures on a judicial candidate's nomination petition in 2012. *Michigan Supreme Court Chief Justice Robert Young, Jr.* contended *Mr. Hall* is subject to the 10 different felony counts of forgery, countering *Mr. Hall's* opinion that he should only be subject to misdemeanor charges. Commenting on the lower courts (the *Court of Appeals* and *Ottawa Circuit Court*) mistaken decisions to concur with the idea of lower charges being the only option, *Mr. Young* said, "We conclude there is no conflict between the statutes (MCL 168.937-felony charges and MCL 168.544c(8)(a)-misdemeanor charges). Instead, the Legislature has provided differing punishments for two distinct offenses, and each applies independently to prohibit defendant's conduct." According to *Mr. Young*, the felony statute prohibits forgery with a deliberate intent to defraud and the misdemeanor statute prohibits signing a name that is not one's own, but does not include the intent to defraud. *Mr. Young* said in *Mr. Hall's* case, he could be charged with either one.

**ODDS & ENDS** – *Governor Rick Snyder* ordered *U.S.* flags within the *Capitol Complex* and in *House District 11* to be lowered Saturday, July 2 in honor of first-term *Representative Julie Plawecki* (Dearborn Heights) who passed away last weekend as the result of a heart attack at the age of 54...The *Department of State Police* is required to develop a public threat alert system that will use text messaging, radio and television stations to disseminate alerts of a public threat under legislation signed by *Governor Rick Snyder Thursday*...*The Clean Energy Manufacturing Road Map Plan*, issued this week, calls for the state to expand markets for energy efficient building technology, encourage more partnerships in that sector and expand research and development on the topic in an attempt to reduce energy use in some clean energy manufacturing processes...*Victor Fitz* has been appointed by *Governor Rick Snyder* to replace *Stuart Dunnings III* on the *Council on Law Enforcement and Reinvention* after *Mr. Dunnings*' resignation...according to a report from the credit rating agency *Moody's Investors Service*, the *Detroit Public Schools (DPS) Plan* is credit positive for the bondholders of existing *DPS* debt...*Virginia Tech* is slated to receive another \$50,000 in payment from the state for the consultation of *Professor Marc Edwards* on the *Flint Water Crisis* (see *FLINT* article above), adding to the already paid \$200,000...according to *Attorney General Bill Schuette*, the State of Michigan will receive at least \$73 million in environmental restitution and consumer protection violations as a result of the \$15 billion settlement *Volkswagen* has reached in the incident involving its diesel-fueled cars...two surveys recently conducted report presidential *Democratic* candidate *Hillary Clinton* as having a substantial lead over *Republican* candidate *Donald Trump* in the State of Michigan, coming in with 48 and 50 percentage points to his 33...data released from the *U.S. Bureau of Economic Analysis* this week shows Michigan's personal income percentage rate grew 1.3 percent in the first quarter of the year, putting it at 3<sup>rd</sup> in the nation.

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