



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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MEEKHOF/COTTER OFFER FALL SESSION PREVIEWS – Speaking to reporters earlier this week after session, both *House Speaker Kevin Cotter* (R-Mt. Pleasant) and *Senate Majority Leader Arlan Meekhof* (R-West Olive) gave a brief overview of what topics their respective chambers could address before the end of the year, noting both *House* and *Senate* members could see a lot of issues on the floor. According to the two leaders, the issues of third-grade reading, autonomous vehicles and energy policy are possible options for discussion for both *House* and *Senate* members, with two of the three being heavily debated for several months and in need of a long-awaited solution.

Commenting on those three issues, *Mr. Cotter* told reporters that in regards to the third-grade reading legislation efforts with *Senate* members, “We’re merging our two plans together, and I think we are quite close.” and that though he would like to see energy reform finished, it has so far been a “hurry-up-and-wait issue.” As for the issue of autonomous vehicles, *Mr. Cotter* said his chamber will see that legislation as a top priority as it was unanimously passed by the *Senate* as of Wednesday of this week. *Mr. Meekhof* echoed those sentiments, saying his chamber would like to see resolution as well.

SUPREME COURT DENIES STRAIGHT TICKET APPEAL – Despite Michigan *Attorney General Bill Schuette’s* best efforts, Michigan voters will still have the option to choose one party’s list of candidates by making a single mark on their ballots come November. The *U.S. Supreme Court* denied *Mr. Schuette’s* appeal on the state’s straight ticket voting law on early Friday morning, closely toeing the deadline set forth for the decision. Previously, *U.S. District Judge Gershwin Drain* held in the preliminary injunction that the law violated the *Equal Protection Clause of the U.S. Constitution* by placing burden on African American voters disproportionate to that of white voters. *Mr. Drain* also held that the law violated the *U.S. Voting Rights Act*. The decision to deny the appeal was made on a 6-2 vote.

DPS SCHOOLS EQUAL HALF OF BOTTOM 5 PERCENT/CLOSURES DEBATED – Announced Thursday of last week, 47 of the 116 schools listed in the bottom five percent were those residing within the new *Detroit Public Schools (DPS) Community District*, while another 11 are under the *Education Achievement Authority (EAA)*, causing conservatives to question *Governor Rick Snyder’s* choice to not close any of the lowest performing schools.

The announcement, made by the *School Reform/Redesign Office (SRO)*, listed schools throughout the state in the bottom five percent in academic achievement based on the 2015 *M-STEP*

(Michigan Student Test for Educational Progress). **DPS** schools were heavily prevalent and have consistently been on the state's priority list, meaning they have been on the list in the last three years, for the last three years. As a part of the legislative package passed to create the new **DPS**, all schools must report three consecutive years' worth of performance data in order to be considered for sanctions to be taken. However, **Mr. Snyder** and the law firm his administration conferred with, **Miller Canfield**, opined that the new **DPS** district must essentially start from the beginning in recording data as the schools are now under different leadership and organization.

While each of the 11 schools under the **EAA** are on the state's priority schools list, 22 of the 47 schools under the new **DPS** district are also on that list, meaning they are all eligible for redesign or closure. Both **House Speaker Kevin Cotter** (R-Mt. Pleasant) and **Senate Majority Leader Arlan Meekhof** (R-West Olive) expressed their disappointment in the **Governor's** decision not to close any of the schools, saying that **Detroit** students will not see and are not currently seeing any benefits to them remaining open.

Mr. Cotter commented on the report from the **SRO** and the approved package, saying, "House Republicans led the charge to put strong accountability measures in the Detroit schools rescue package, so that good money would not be thrown after bad. This was the right thing to do for both Michigan taxpayers and Detroit schoolchildren. The Miller Canfield memo employs grammatical gymnastics to conclude that a provision intended to close failing Detroit schools should instead be read to legally require that those failing schools remain open, moving the school reform effort backward."

Mr. Meekhof echoed that sentiment and commented on the effect the non-closures would have on the district and city, stating, "The schools in question are persistently failing schools that are not educating the children in Detroit. The Senate passed multiple bills that included mechanisms to close failing schools. Part of delivering a better education to the students of Detroit includes the ability to right-size the district to meet the needs of the community. The governor's decision contradicts the intent of the Senate and eliminates a tool that should be used to provide better education options for Detroit students and parents."

Mr. Meekhof also noted on Tuesday of this week that he and his caucus members may reach out to **Attorney General Bill Schuette** for a legal opinion on the issue if action is not taken. Other officials within the education arena state, however, by not closing schools, those administrations and local leaders are being given a chance to improve operations and control in their districts. **Natasha Baker**, state school reform officer, noted Thursday that seven schools had been removed from the priority list and therefore set a great example of what can happen when schools remain open. For now, according to **Ms. Baker**, no action will be taken on the failing schools.

DENTAL CARE ACCESS DISCUSSIONS BEGIN – Members of the **Senate Health Policy Committee** heard testimony Tuesday of this week from various groups regarding the expansion of dental care accessibility across the state. **Beth Nagel**, **DHHS** division director, told members that shortage areas are designated by population group, facility or geographical location and are then divided into categories of primary care, dental health and mental health within the state. **Ms. Nagel** then noted that though the overall number of primary care shortage areas was greater, the severity of the dental health care shortage areas was much more concerning.

Representatives from the **Michigan Oral Health Care Coalition** echoed that statement noting that though 2.2 million children and adult have oral health care benefits through state providers like **Medicaid** and the **Healthy Michigan Plan**, there remain certain groups of citizens still not receiving care based mostly on socioeconomic status. Commenting on the disparities between residents covered and those who are not, executive director of the **Coalition Karlene Ketola** told **Senate** members, "According

to the most recent available numbers, 55 percent of Michiganders with a household income of less than \$20,000 annually had no preventative dental care.” *The Michigan Primary Care Association of Michigan* also presented testimony at the hearing, underscoring the fact that access to oral healthcare is a problem in multiple parts of the state—both urban and rural.

One issue not addressed in the meeting Tuesday, however, was the legislation introduced in June of this year by *Senator Mike Shirkey* (R-Clarklake) in which dental therapists would be allowed to perform routine dental procedures including filling cavities. Supporters of *Senate Bill 1013* state that the legislation could provide much needed oral healthcare access to vulnerable populations throughout the state.

UP ENERGY FACILITY PAYMENTS TO BE ELIMINATED – Ratepayers in Michigan’s *Upper Peninsula* will save approximately \$7 million a year through June of 2018 as payments made to the regional electric operator will be eliminated within 90 days, as announced by the *Michigan Agency for Energy (MAE)* on Thursday of last week. The payments to the operator, known as system support payments, essentially are made so that the *Midcontinent Independent System Operator (MISO)* can use the power from a particular generator to stabilize electric supply across numerous states including Michigan.

However, after an alternative solution was proposed towards the end of July to *MISO* by the *American Transmission Company (ATC)*, *MISO* filed Thursday with the *Federal Energy Regulatory Commission (FERC)* to eliminate said payments and the 20-megawatt *White Pine Unit 1* electric generator. If approved by the *FERC*, customers of *Upper Peninsula Power Company, Wisconsin Public Service Corporation, Cloverland Electric Cooperative, Wisconsin Electric Power Company, Ontonagon County REA, Constellation AES, Alger Delta Cooperative, Marquette Board of Light and Power* and *WPPI Energy* municipalities could see the payments eliminated within 90 days of *MISO*’s filing.

Valerie Brader, executive director of the *MAE*, commented on the successful solution for ratepayers and the elimination of the dodgy generator, saying in a statement, “The White Pine SSR payment will be eliminated by late November, avoiding future SSR costs of potentially \$12 million and resulting in more cost-effective system reliability in the Upper Peninsula. Currently, when the White Pine unit goes down unexpectedly – as it did frequently during the summer of 2015 – there is a higher reliability risk. The new solution greatly reduces the risk of a catastrophic loss of power in the northwestern UP. For planned maintenance outages, ATC has already shown willingness and the ability to adjust work schedules to protect electric reliability.”

AUTONOMOUS VEHICLE LEGISLATION PASSES SENATE – *Senate Bills 995, 996, 997* and *998* unanimously passed the *Senate* Wednesday of this week, moving the expansive package of bills to the *House* floor for consideration. The legislation, overall, allows the research, development and use of automated motor vehicles.

Senate Bill 995, the first bill of the package, allows autonomous vehicles to be operated on a highway or street in Michigan; prohibits local governments from imposing certain fees, registration or regulations on an on-demand automated motor vehicle network through December 31, 2022; specifies when automated vehicles may be operated on public roads; creates the *Michigan Council on Future Mobility* within the *Michigan Department of Transportation* and requires the *Council* to provide annual policy recommendations. As for the second bill, *Senate Bill 996*, a vehicle manufacturer would be allowed to participate in a particular project if: certain self-certification criteria were met; if the manufacturer specifies under which driving conditions a driving system or remote, or expert-controlled activity is considered the driver or operator of a vehicle; and if the manufacturer remain immune from civil liability for damages arising out of the modifications of automated technology.

A “mobility research center” is defined within the language of *Senate Bill 997*, adhering to the specifications of the *American Center for Mobility*, the entity currently leading the way on the use of the old *Willow Run* bomber plant in *Ypsilanti* as an autonomous vehicle test track. Also under the bill, a road under the control of a “mobility research center” would be excluded from provisions of the *Michigan Vehicle Code* that are applicable to private roads open to the general public, whether a private research entity or corporation is using the road under an agreement with the center.

Rounding out the package is *Senate Bill 998* which would make a motor vehicle mechanic or repair facility not liable in a product liability action for damages resulting from any repairs done on an autonomous vehicle as specified by the manufacturer of the vehicle. Another issue addressed in the final bill is the lack of liability of a subcomponent system producer in a product liability action for possible damages resulting from the modification of equipment. The modifications could include installing or modifying equipment on a vehicle to convert it to an automated one, and unless the defect from which the damages occurred was already present when installed, the producer is not liable. The package received a vote of 36-0 with *Senator Tory Rocca* (R-Sterling Heights) not in attendance.

BREAST MILK REGULATIONS TO BE OVERSEEN BY MDARD – The *Michigan Department of Agriculture and Rural Development*, under recent changes to legislation, would oversee the regulations on human breast milk banks as it is classified as food, not a tissue, in the state of Michigan. *House Health Policy Committee* members discussed the issue on Tuesday of this week, covering *House Bills 4206, 5547* and *4691* noting that the process by which the state regulates animal milk will be similar to the way it handles breast milk banks in regards to complaints and inspections. *House Bill 4206*, sponsored by *Representative Erika Geiss* (D-Taylor), would regulate human breast milk companies, cooperatives and banks; would provide for education and support to breastfeeding mothers; and would require the milk to be tested for antibiotics. Offenses related to a hospital, an individual, a human milk bank or human milk banking company are also listed in the bill, should any of the aforementioned entities knowingly give raw human milk to a child that is not the woman’s own.

Sentencing guidelines are then outlined in *House Bill 5547* as follows: a civil infraction and \$5,000 fine would be required if no physical injury or death occurs; a felony, five years in prison or a fine of not more than \$10,000 would be handed down if physical injury occurs; and a felony, no more than 15 years in prison or a fine of not more than \$15,000 would be the sentence if death were caused by the consumption of raw milk. The final bill of the package is *House Bill 4691*, which prohibits the sale of breast milk via the internet; creates standards for those collecting, processing, distributing or storing the milk; requires milk banks to only accept milk from a mother who is at least 180 postpartum; requires at least 50 percent of human milk produced by participating mothers at a milk bank to be distributed locally; and requires that organizations work with local lactation support groups to provide ongoing breastfeeding education. No action was taken by the committee on the bills, but they are expected to be taken up again next week.

ODDS & ENDS – According to post primary campaign finance reports due last week Thursday, *Republican* candidates in swing districts reported more cash on hand than their *Democratic* opponents...*Consumers Energy* announced Thursday of last week that all residential and business customers will see a 4.2 percent rate increase but not until the *Michigan Public Service Commission (MPSC)* makes a final ruling by the end of February 2017...*State of Michigan First Lady Sue Snyder* and *Michigan State Police Director Col. Kriste Kibbey* announced Thursday of last week the *Campus Sexual Assault Grant Program (CSAGP)* is accepting grant applications for the *2017 Fiscal Year* from public and non-public Michigan colleges and universities...according to a study released Tuesday of this week by the *Michigan League for Public Policy (MLPP)*, tuition at most Michigan public universities

has doubled since 2003, coinciding with a series of sharp cuts in overall state funded support over that same period...legislation providing services to those released after being wrongfully convicted, including access to a parole agent, was reported unanimously out of the *Senate Judiciary Committee* this week Tuesday...Michigan now has the second largest medical marijuana patient population with 213,492 registered as of August 31 according to the *Marijuana Policy Project's* data, coming in second to *California*...the *City of Lansing* filed a suit in the *Court of Claims* on Friday of last week alleging the state is refusing to pay its agreed upon dollar amount per parking space per month after purchasing between 400 and 500 spaces from the city and reserving them for the state....45,000 Michiganders participated in the annual *Labor Day Mackinac Bridge Walk* this year...legislation introduced Tuesday of this week by *Representative Martin Howrylak* (R-Troy) would place a \$250 fine for first time offenders operating any "portable electronic device" while driving, a \$500 fine and one point for two time offenders and a \$500 fine and two points for offenders violating three times...*Heidi Grether*, recently appointed as *Director of the Michigan Department of Environmental Quality* in a controversial decision by *Governor Rick Snyder*, was questioned for over an hour Wednesday by members of the *Senate Natural Resources Committee* but will remain in her new position unless the *Senate* rejects the appointment within 60 days.....the *Senate Appropriations Committee* unanimously approved *SCR 19* on Wednesday, meaning money from the *Roads Innovation Fund* will be released and deposited into the *Michigan Transportation Fund* to be spent as appropriated...no votes were cast for *House Bills 5786* and *5787* by the *House Tax Policy Committee* but discussions began regarding the content that would create a 20 percent income tax credit on an investment made by small "seed or early stage" businesses or "Angel Investors" in Michigan, as supported *Michigan Venture Capital Association (MVCA)*...as passed by the *House, Senate Bill 92* calls for reserve and auxiliary law enforcement officers to meet state standards under reforms to the *Michigan Commission on Law Enforcement Standards (MCOLES)*...*Senate* members passed *Senate Bill 1019* on Thursday of this week which calls for the extended scope of practice for *Certified Registered Nurse Anesthetists (CRNAs)*...*Senator Marty Knollenberg* (R-Troy) introduced *Senate Bill 1068* on Thursday of this week, implementing the same language used in *Senate Bill 557* that was vetoed by *Governor Rick Snyder* and brought about the issue of eliminating the requirement for large cities to pay a share of state road projects in their jurisdiction...the *Public Service Commission (PSC)* authorized the *Upper Peninsula Power Company* to increase its electric rates at a lower amount than initially requested, with the initial request 30.4 percent

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higher than the 6.81 percent increase approved.

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