

CAPITOL NEWS UPDATE

WEEK OF DECEMBER 14, 2012

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SNYDER SIGNS RTW BILLS

Within a matter of six days, the GOP-controlled House and Senate passed and Gov. Rick Snyder signed into law legislation (HB 4003 SB 0116) that will give workers the right to choose whether or not they want to join a union and will ban bargaining unions from making mandatory membership part of their labor contract.

The highly divisive issue triggered the largest protest demonstration and state police presence at the state Capitol in decades as Michigan, the birthplace of modern organized labor, became the 24th and largest state to adopt Right to Work (RTW) legislation.

The measures effect both public and private employees but exclude police and firefighters because of Constitution protection they have.

However, the Governor is quick to point out, collective bargaining by labor unions is not impacted by this legislation.

Gov. Snyder, who for months had said RTW was not on his agenda, said the union-backed Proposal 2 that would have enshrined collective bargaining in the state constitution, elevated the RTW discussions and he decided to take a leadership role in dealing with issue.

Under the legislation, a worker cannot be required to pay any union dues, fees or assessments to “provide anything of value to a labor organization.” Any contract that mandates dues or fees as a condition of employment is “unlawful and unenforceable.”

Fines of \$500 can be levied against any labor organization found violating the law or anyone who intimidates, injures or threatens with injury another to either join or not join a union.

The measures also set aside \$1 million for the Department of Licensing and Regulatory Affairs (LARA) to respond to public inquiries, provide a commission with sufficient staff to implement the new law and inform employees and employers of the change. RTW opponents called the \$1M appropriations a deliberate attempt to prevent a referendum from being started against the legislation. Michigan Constitution says that legislation which contains an appropriation is not subject to referendum.

WHAT'S NEXT?

Since neither the House nor Senate sought Immediate Effect (IE), the RTW laws will not take effect until 90 days after the Legislature adjourns for the year. Meaning the bills will become effective around March 30, 2013.

Several legal challenges are likely. It's also likely that unions will seek to recall Governor Snyder and a number of legislators who voted for the bills.

A question already being debated is whether or not the RTW affects some 35,000 state workers. The issue is whether the Michigan Civil Service Commission (CSC) – authorized by the state constitution to establish workplace rules and wages for state employees is subject to the law.

Labor unions and/or Democrats also are considering legal challenges based on a legal theory that the legislation was improperly changed in the private employee legislation and the public employee bill may be challenged on an equal protection argument because exceptions are made for police and fire workers.

PPT TO BE PHASED OUT

Lawmakers wrapped up a very busy and oft-times boisterous *Lame Duck* session in the early hours of Friday morning, but not before giving final approval to a 12-bill package of legislation that would limit and phase out the state's personal property tax (PPT) on industrial property.

Passed was Lt. Gov. Brian Calley's plan that enables locals to collect enough revenue to make up their lost revenue for their police and fire departments at 100 percent and everything else at 80 percent.

The plan also dedicates 1.5 percent of the state's \$1.2 billion 6 percent use tax to reimburse impacted local units of government as the PPT is phased out over a 10-year period. The revenue the state is losing is made up with expiring tax credits.

The use tax portion requires a vote of the people, which could happen as early as 2014. The entire package is contingent on voters approving this allocation change.

The package of bills now goes to the Governor.

BLUES BILLS GO TO THE GOVERNOR

Legislation (SBs 1293 and 1294) that would transform Blue Cross Blue Shield of Michigan (BCBSM) into a non-profit mutual insurance company cleared the Legislature last week and is headed to Gov. Rick Snyder's desk for his signature.

The House made some changes to the Senate-passed versions of the bills. Some \$120 million more dollars is now slotted to subsidize Medigap coverage and the bills now include a complete ban on most favored nation clauses starting in 2014.

A financial review of Blue Cross is still required -- but not a complete audit. BCBSM will contribute \$1.5 billion over 18 years starting in April 2014 to the new Michigan Health and Wellness Foundation. The Blues will now also pay more in taxes under the reform.

SNYDER GETS NEW EMERGENCY MANAGER BILL

The Legislature made quick work of replacing Public Act 4, which voters repealed in the Nov. 6th election passing Senate Bill 0865 – thus taking care of Gov. Rick Snyder's top item on his *Lame Duck* legislative wish list.

This measure, like RTW legislation, is referendum proof as lawmakers set aside \$780,000 for the Department of Treasury to pay the salaries of the emergency managers. Another \$5 million was also given to Treasury to hire the financial consultants, lawyers, experts and professionals to help the impacted local governments if they go through bankruptcy.

The bill, known as the “Local Financial Stability and Choice Act” will also take effect about March 30th—as it was not given immediate effect (IE).

NEW ABORTION REGULATIONS ADOPTED

New abortion clinic regulations requiring licensing for abortion clinics and establishing procedures for the disposal of fetal remains are headed to the Governor after the House concurred with a Senate substitute to House Bill 5711.

During Lane Duck, the Legislature also inserted abortion restrictions in the Blue Cross Blue Shield of Michigan legislation.

BIG CITY, BRIGHT LIGHTS

It took six months, but lawmakers finally approved the Detroit lighting authority legislation (HBs 5688 and 5705 and SB 970) that creates a new authority charged with bonding for the money needed to replace the city’s plethora of burned-out and broken street lights.

Under the legislation, the city’s utility tax will pay for the authority’s operation.

In addition, the city’s income tax rate remains at 2.4 percent for residents and 1.2 percent for non-residents, but will roll back to 2.2 percent and 1.1 percent respectively once the bonded costs for improving the lighting system is paid off.

The bills now go to Gov. Rick Snyder who is expected to sign them.

REGIONAL TRANSIT AUTHORITY BILLS TRAVEL TO GOVERNOR

The final two bills in the Southeast Michigan regional transit package cleared the House early Friday morning – completing one of Gov. Rick Snyder’s items on his lame duck agenda.

The five bill package (SBs 0909, 0911, 0912, 0967 and 0445) creates a Regional Transit Authority, gives it power to raise money and coordinate bus lines between the Detroit Department of Transportation and the Southeast Michigan Area Rapid Transit and allows for possible light rail.

EAA TO WAIT

Reworked Education Achievement Authority (EAA) legislation (SBs 6006 and 1358) went from lame to limp this week as lawmakers decided not to take any action until next session. The EAA is a statewide entity which would take over failing schools from local school districts. The Governor created the EEA last year through executive order, these bills would have enshrined the EAA’s in statute.

Rep. Lisa Posthumus Lyons (R-Alto), chair of the House Education Committee, said the issue is “not dead” but will need additional work when lawmakers return next year. Sen. Phil Pavlov (R-St. Clair) said he is committed to seeing the EAA legislation through whether “it is this year or next year.”

The legislation would expand the the Governor’s EAA concept to 35 additional low-performing schools beyond the city of Detroit. It has only been in effect in Detroit for a few months.

POLITICS AND POLLS

Whitmer launches website. Just one day after RTW legislation shot through the House and Senate with Gov. Rick Snyder's blessing, Minority Leader Gretchen Whitmer (D-East Lansing) launched her website that reads "2014 is OUR Year." On the website she talks about the 2014 election and taking back the governor's office as well as the House and Senate. Whitmer told one news outlet that if RTW passed it might inspire her to consider running for Governor.

Schmidt investigation is dropped. The Secretary of State's office has dropped its investigation into whether Rep. Roy Schmidt (R-Grand Rapids) violated the Michigan Campaign Finance Act by transferring money from his campaign account to pay a person to file as a dupe Democrat when Schmidt switched political parties prior to the filing deadline for the August primary. According to an SOS letter, since no money actually changed hands, Schmidt committed no crime.

M M & A BRIEFS

Guns in churches and schools gets approval. On the way to the Governor is legislation (SB 0059) that would allow properly licensed gun owners to carry their concealed pistol into churches, daycare centers, schools, hospitals and other areas where they have previously been banned. On the flip side, gun owners could no longer open carry into these locations, as is the current law.

Recall signature collection time is shortened. Under legislation pushed through by Republicans Thursday evening, those seeking to recall public officials would have only 60 days, rather than the current 90 days to collect the necessary signatures needed to put a question on the ballot.

Citizenship ballot question pops up again. Never mind that Gov. Rick Snyder has previously vetoed the legislation. A reworked version of a U.S. citizenship ballot question passed late in lame duck and is headed to the governor. The original bill had a check box while the new version has an affirmative statement in the signature line that a voter is a U.S. citizen. Other questions include making sure the voter is 18 and is voting in the correct precinct.

Ilitch request skates through lame duck. A \$650 million project to replace Joe Louis Arena in downtown Detroit with a larger entertainment center raced through lame duck faster than a Zamboni can refinish an ice rink. House Bill 5463 lays the groundwork for the state to use the Downtown Development Act (DDA) to gain Tax Increment Financing Authority (TIFA) money for the proposed Mike Ilitch development.

Less funding for state highways. The Department of Transportation (MDOT) has scaled down its five-year plan for improving that state's transportation system due to what is anticipated to be less money. The 2013-2017 plan pegs highway investments at \$5,584 million or an average of \$1,118 million as compared to \$5,999 million or \$1,199 million in the 2012-2016 plan.

Domestic Violence Prevention Board is created. Under an executive order, Gov. Rick Snyder has established the Michigan Domestic and Sexual Violence Prevention and Treatment Board to be housed within the Department of Human Services (DHS). The seven-member board is charged with conducting research on effective means for preventing and treating victims of domestic and sexual violence, coordinating education programs promoting awareness, providing services and programs for victims and working with the State Police to develop a uniform reporting system.

NRC chair is changed. Just prior to the Natural Resources Commission (NRC) Committee of the Whole meeting Thursday, Gov. Rick Snyder announced that J.R. Richardson of Ontonagon would immediately assume the chair of

the NRC. Outgoing chair Tim Nichols of Williamston offered kind words about Richardson and turned over the gavel. Richardson was appointed to the NRC in 2007. He is employed by New York-based TRAXYS Corp., which creates renewable energy alternatives for power production in the Upper Peninsula.

Erin's Law passes. Senate Bills 1112-14, which would allow and encourage local school districts and charter schools to adopt and implement a policy addressing sexual abuse of children, including the creation of an age appropriate curriculum and instruction for pupils in grades pre-K to five concerning child sexual abuse, where passed the House. The bills also would create the Michigan Task Force on the Prevention of Sexual Abuse of Children. They now go to the Governor for his consideration.

CALENDAR OF IMPORTANT EVENTS

December 24/25 Christmas Holiday (State offices/McAlvey, Merchant & Associates closed)

December 31/

January 1 New Year's Holiday (State offices/McAlvey, Merchant & Associates closed)

We would like to extend our deepest sympathy to Rusty Merchant who lost his father (Donald Merchant) this past week. Our thoughts and prayers go out to Rusty and to his family especially during this time.