

October 2019

## **SUPPLEMENTAL NEGOTIATIONS HIT A SNAG**

Negotiations to reach an agreement on supplemental spending bills to restore some of the 147 line-item vetoes Governor Gretchen Whitmer penned when she signed the Fiscal Year (FY) 2020 budget earlier this month. The single largest obstacle remains the Governor's authority to move money around within state departments by using the State Administrative Board.

Republicans have introduced 47 supplemental budget bills in the House and Senate to bring back \$256 million of the \$947 million of the line-itemed vetoes that include private college grants, charter school funding increase payments to local governments and county road patrol money restoring spending that Governor Whitmer eliminated with her vetoes.

The Governor also has put on the negotiating table some of her budget vetoes -- \$476 million in two supplemental spending bills, not including \$100 million to go into a reserve fund, reflecting her priorities that would cover tuition for those 25 and older to attend community college or complete an occupational certificate, a Medicaid reimbursement rate increase for rural hospitals and funding for an autism nonprofit, county based veteran services and support for rural county sheriffs.

## **JUDGE BLOWS OUT GOVERNOR WHITMER'S EMERGENCY VAPING BAN**

Court of Claims Judge Cynthia Diane Stephens has blocked the state from enforcing the emergency rules on Governor Gretchen Whitmer's ban on flavored vaping products.

Judge Stephens has ruled that Marc Slis, owner of 906 Vapor presented a "compelling case" and the injunction issued "will preserve that status quo so that a final hearing can be held without either party having been injured."

Governor Whitmer and the Attorney General's office say they will ask the court to place the case on hold while they appeal the judge's decision directly to the Michigan Supreme Court.

Judge Stephens' order is effective "until further order of this court."

After hearing testimony earlier this month, Judge Stephens now holds that Slis, 906 Vapor, and A Clean Cigarette have established a "loss of goodwill...amounting to irreparable harm."

## **ELIGIBILITY WIDENS WITH BENEFIT CHANGES**

A change in state policy raising the asset limit for three major public assistance programs this winter will allow more Michigan residents to take advantage of those services.

Beginning November 1, families with \$15,000 in assets and savings will be eligible for public benefits programs that provide food, emergency cash and help for heat and utility payments. Income limits will remain.

It is unclear how many more people will sign up for the benefits programs once the asset limit is raised.

### **HOUSE WANTS OUT-OF-STATE ONLINE RETAILERS TO PAY UP**

The House has unanimously approved legislation that would require many out-of-state websites that facilitate online sales in Michigan to collect and remit the 6 percent sales tax.

It is expected that the bills would bring in an additional \$80 to \$120 million in sales and use taxes annually with much of that revenue going to public schools.

A portion of the legislation would codify the state Treasury Department's 2018 guidelines that require out-of-state sellers to pay taxes if they exceed \$100,000 in sales or have 200 or more transactions in Michigan.

The bills now go to the Senate.

### **PFAS TO BE COMMITTED TO RULES**

Governor Gretchen Whitmer has ordered that new limits on the amount of PFAS compound that can be in Michigan drinking water be committed to rules. Final adoption could come by April 2020.

The Department of Environment, Great Lakes and Energy (EGLE) announced movement of the formal rules following a review of the draft regulations on seven different forms of PFAS.

The multi-agency PFAS Action Response Team voted last month in favor of EGLE proceeding to establish maximum contaminant levels for seven types of PFAS.

The draft rules will go through the Administrative Rules Process and be subject to a public comment beginning late this year.

### **GOVERNOR GETS 'RAISE THE AGE' BILLS**

Under an 18-bill 'Raise the Age' package of legislation, Michigan's 17-year-olds would no longer be automatically charged and treated as adults for many criminal offenses.

The bills will keep youth under the age of 18 who remain in adult jails separate from adult inmates and also prohibit youth and adult inmates from being transported together in the same vehicle.

### **LEGISLATION WOULD REQUIRE LEAD-FREE WATER STATIONS BE MANDATORY IN SCHOOLS, DAY CARES.**

By August 1, 2021, every Michigan school and daycare center would need to install lead-free drinking water stations per 100 occupants.

Faucets in school kitchens would need to have filters on them to take out lead and long-chain PFAS chemicals with all testing results of all faucets reported to the state.

The legislation, House Bills 5104 and 5105, are assigned to the House Natural Resources and Outdoor Recreation Committee and Senate Bills 589 and 590 were sent to the Senate Environmental Quality Committee.

### **LAWSUIT OVER NO-FAULT IMPLEMENTATION HAS BEEN FILED**

Alleging the Department of Insurance and Financial Services Director Anita G. Fox surpassed her authority in authorizing “orders” related to the state’s No-Fault Act, the Michigan Automobile Insurance Placement Facility (MAIPF) has filed a lawsuit.

The suit also accuses Governor Gretchen Whitmer of trying to legislate from her office by ordering Director Fox to issue orders changing the effective date of the no-fault insurance reform legislation that she signed in June.

However, no order was ever issued.

### **JUDGE RULES PORTIONS OF PA 608 UNCONSTITUTIONAL**

Court of Claims Judge Cynthia Diane Stephens has ruled that the 15 percent geographic and check-box requirements in PA 608 – the lame-duck law making it harder to initiate state-wide ballot drives – are unconstitutional and “must be stricken.”

However, Judge Stephens said PA 608’s affidavit and signature-gathering-invalidating requirements “pass constitutional muster.”

She also determined the Michigan House and Senate “lack standing” to file their suit challenging PA 608 but did recognize their perspective is “sufficiently valuable” to consider.

While the case is being appealed, the Attorney General’s opinion that the 15 percent per congressional district cap on the statewide petition signatures is unconstitutional and must stay in effect, Judge Stephens said.

### **HOUSE PASSES SOLAR PANEL BILLS**

On a vote of 107 to 1, the House has passed legislation, SB 47, which would exclude the placement of solar panels on residential real property from assessments of true cash value in regards to property taxes.

The legislation was prompted after the Michigan Tax Commission in 2013 told local assessors that they needed to factor the addition of new rooftop solar panels on the assessment of a property.

The local assessors will now go back to reassess the value of the properties with solar panels.

The measure now moves to the Governor’s desk.

## **STATE LEGISLATIVE LEADERS, VNP TALK TERM LIMITS EXPANSION AND ETHICS REFORMS**

Senate Majority Leader Mike Shirkey (R-Clarklake) and House Speaker Lee Chatfield (R-Levering) are working with the Voters Not Politicians (VNP) group on term-limit expansion and would add other ethics reforms into the mix that VNP members are passionate about – such as lame-duck reform, ending the “revolving door” of legislators becoming lobbyists and expanding the Freedom of Information Act to include legislators and the executive branch.

The conceptual plan, which has not been finalized, would be that lawmakers could serve a combined 20 years in both the House and Senate before they would be term-limited out. Any change in term-limits would require a change to the Constitution and require a vote of the people. And to get term-limits on the ballot, the Legislature could either pass a joint concurrent resolution with a two-thirds vote majority or the VNP would need to collect 425,059 valid Michigan voter signatures within a six-month window.

Michigan State Chamber of Commerce President Richard Studley said they have been in recent discussions with “traditional and non-traditional partners” as well as legislators about seeing what proposals the Legislature could enact to strengthen state government and transparency.

## **GOVERNOR WHITMER TALKS EXPANDING OVERTIME PAY TO ADDITIONAL WORKERS**

Governor Gretchen Whitmer says she will pursue administrative rules to expand how many Michigan workers would automatically qualify for overtime pay.

She did not, however, specify what threshold she has in mind, but a press release did make note that it would benefit 200,000 workers. The current threshold is \$23,600. Any employee who works 40 hours a week and paid a salary below the threshold would be required to be paid overtime under the law.

Governor Whitmer said she would pursue the action via a rulemaking request pushed by the Michigan Department of Labor and Economic Opportunity (LEO), which could take six months to a year to complete.