



## **CAPITOL REPORT**

May 21, 2008

The Michigan Legislature heads into the Memorial Day weekend trying to get near the finish line of a proposed FY **2008-2009 budget** that will need another \$400 million in cuts or new revenue to be in balance.

The good news, however, is that for the current budget year -- due to end September 30 -- no further cuts will be necessary, welcome news especially to the state's **K-12 schools**.

At last week's revenue-estimating conference, the Senate Fiscal Agency said the 2008-2009 imbalance will be \$393 million in general fund and school aid fund monies, slightly more than the State Treasurer's projection of \$368 million. For K-12 schools, the likely impact is 2008-2009 foundation increases ranging from \$52 to \$104 per pupil, as compared to some earlier projections of \$108 to \$216 per pupil. The new lower number could be increased, some observers say, if money the governor wants for **infrastructure** was instead put into the foundation, but so far Governor Granholm is unpersuaded.

To balance the 2008-2009 budget State Treasurer Robert Kleine says the administration has ruled out a general tax increase, but officials are talking about changing the new Michigan Business Tax (MBT) to make it impervious to the new **federal stimulus** package which, if left alone, will cost the state \$92 million in the new fiscal year. Another option would be scale back the new Earned Income Tax Credit for low-income families, but the administration has not embraced that suggestion. And the Michigan League of Human Services (MLHS) has dusted off Gov. Jennifer Granholm's oft-mentioned "tax loophole closings" as a way to raise \$122 million, but that will probably go nowhere. One sure bet: after last year's tumultuous tax battle, **no income or MBT tax increase** will see the light of day in 2008.

Senate Appropriations Committee Chair Ron Jelinek (R-Three Oaks) says the latest budget numbers will not prevent the Senate from finishing its budget work by July 1 and House Appropriations Chair George Cushingberry seems to be of the same mind. It's likely, therefore, that the Legislature will finish the new budget much earlier than last year and probably very close to the self-imposed **July 1 deadline**.

\* \* \*

**Filing deadline** for State House elections was last Tuesday, with a bumper crop of 426 candidates qualifying. Forty-four members of the House are term-limited. The Senate is not up for re-election until 2010. Most observers see the House remaining in Democratic hands, perhaps with a margin slightly bigger than their current 58-52 edge.

\* \* \*

The key bill in a **water protection package**, which its backers praise as precedent-setting, has won divided Senate approval. While months of behind-the-scenes work resolved a myriad issues, a number of contentious items remained so that the bill passed 24-14 with mostly Republican votes. Among the differences, which are eventually expected to be worked out in a Senate-House conference committee, are a one-year delay in the effective date, the threshold of large-scale withdrawals at which a \$2,000 permit is needed (the bill has 2 million gallons per day; some wanted 1 million) and the amount of allowable fish reductions due to water use (3 percent is in the bill; some want 1 percent).

Critics also faulted the package for “emasculating” the Department of Environmental Quality's ability to enforce the new provisions or adopting additional regulations beyond what is contained in the legislation. But Sen. Patricia **Birkholz** (R-Saugatuck), chair of the Senate Natural Resources and Environmental Affairs Committee and the Senate's lead negotiator on the water package, said, "We have a very good product we can use to protect our waters going forward and still make sure the waters are available for jobs and the economy of the future."

Also, legislation implementing the **Great Lakes Compact** passed the Senate and House unanimously. The Compact would give the world's largest freshwater watershed greater protection from possible diversions as well as provide new rules governing water bottling operations and internal diversions. If the Compact, drawn up by the governors of the Great Lake States and premiers of the Canadian provinces in the watershed, is not enacted then Congress could take action to govern the Great Lakes in a manner not necessarily favoring the bordering states and provinces.

\* \* \*

**Licensed foster care** providers would see a \$4.9 million increase under the Department of Human Services budget bill passed last week by a Senate subcommittee. The bill (HB 5814) totals \$1.35 billion general fund, which is less than the \$1.38 billion recommended by the governor, but more than the \$1.31 billion passed by the House.

\* \* \*

**The Senate Education Committee** has approved changes to the School Code, adding five extra professional development days for some K-12 teachers. SB 842, reported unanimously, requires teachers to complete, before July 1, 2011, a three-credit course taking five full days that covers reading disabilities as part of their continuing education requirements. Also in the bill, the Department of Education is required to offer summer language arts instruction guidelines for students struggling with literacy in the first through fourth grades, as well as offer information for parents to improve their children's literacy through public and private outlets.

\* \* \*

**Universities would get** equal across-the-board increases in state appropriations under a \$1.8 billion higher education budget given unanimous approval last week by a House budget subcommittee. That puts the House in basic agreement with the Senate, which had also approved across-the-board increases while ditching Governor Jennifer Granholm's proposal for a formula-driven funding model.

The bill (SB 1099) approved by the House Appropriations Higher Education Subcommittee provides a general 2.7 percent increase, compared to 3 percent in the Senate-passed version, but provides more money to offset Indian tuition waiver costs which vary from campus to campus, and more funding for state competitive scholarships. The House bill, unlike the Senate version, does continue the current-year structure of dividing the budget into four articles, including a separate one for the three Carnegie I research universities.

**Community colleges** will see an increase ranging from 1.8% to 3.5%.

\* \* \*

Legislation is pending that would require **personal watercraft** users to be at least 16 years of age. Supporters said the proposal would reduce injuries and fatalities by ensuring that those operating the machines, some of which can travel 70 miles per hour and none of which have means to stop quickly, are up to the challenge. A spokesman for the Personal Watercraft Industry Association, which is supporting the bill, noted that 37 percent of the injuries reported on the crafts nationally between 2002 and 2006 were to operators age 19 and younger. The change in the hours of operation was to make it clearer when the crafts have to be at dock. Current law allows them to operate only until an hour before sunset, which supporters said has led to a number of tickets for being minutes past that deadline. The age limit provision would not take effect until 2010.

\* \* \*

**Michigan's former punk prison** in Baldwin is going to be tripled in size as the prison's corporate owner, seeks to win a contract with the U.S. government to operate the site as a privately-held federal prison.

GEO Group announced this week that it planned to complete the renovation and expansion of the prison by the first quarter of 2009. The project, expected to cost \$60 million, would be the largest in impoverished Lake County. When completed, and with a federal contract, the prison could employ as many as 300 people, making it by far the largest employer in the county.

\* \* \*

**A package of bills** to revise the state's energy regulations and require adoption of renewable power and energy efficiency has passed the House but is undergoing intense scrutiny in Sen. Bruce Patterson's Senate Energy Policy and Public Utilities Committee. The committee

has passed essentially a vehicle bill that knocks out most of the House's initiatives. Rewriting of PA 141 by the Patterson committee also continues to plod along.

\* \* \*

The Senate Health Policy Committee has approved three Governor Granholm appointments to the **Certificate of Need Commission**, but much of the discussion during the appointment hearing centered on the need for the commission, not on the qualifications of its members. Committee Republicans questioned whether the commission was needed or whether it inhibited innovation in health care.

Two current members of the Commission said the body has held down the cost of medical care in the state, but both agreed the commission needed to review the equipment and procedures it oversees to determine if regulation is still necessary.

\* \* \*

After spending months reviewing a package of bills that would restructure **Blue Cross/Blue Shield** of Michigan, the Senate recently rushed through two key bills (HB 5282 and HB 5283) that supporters said would provide greater consumer protection to all persons with private health insurance. The measures were criticized by BCBSM, however, as not providing meaningful change and adequate consumer protections.

The new bills attempt to blend elements of the substitutes to the bills that Sen. Tom George and Sen. Jason Allen both sponsored. The bills do not create a high-risk pool for individuals otherwise unable to get insurance, as Mr. Allen's substitutes did, but require the state to conduct a year-long study on high-risk pools and make a determination if one should be enacted in Michigan. The bills also shorten to six months, from the current 12 months the length of time a commercial health insurance company can refuse to provide coverage for pre-existing conditions. The substitutes do not change current oversight provisions for BCBSM but provide a shorter time frame for the state to act on rate requests by BCBSM.

The measure also allows BCBSM to base rates on an individual's tobacco use and participation in health screenings and wellness programs (as Mr. George's substitute proposed) and allow for the company to establish rates in five different territories (as Mr. Allen's substitute proposed). It also adds two new members of the BCBSM board, one appointed by the House speaker and the other by the Senate majority leader, and requires BCBSM to issue an annual report on its social mission activities. Finally, the package requires that commercial health insurance companies maintain a standard loss ratio of 60 percent and to provide refunds to customers if that ratio is not met.

\* \* \*

Legislative infighting over a major **capital outlay** bill has jeopardized federal funding for state airports. A state bill authorizing \$167.5 million in funding needs to pass by June 1 to capture available federal aviation funds, but House Democrats have insisted on adding millions

of dollars in **higher education** facility funding to the measure, something Senate Republicans have refused to do. Even Gov. Granholm appears luke-warm at best about adding the funding but the net result is a stalemate that so far remains unresolved. The real issue is whether to fund the higher education projects now or over a five to seven year span.

\* \* \*

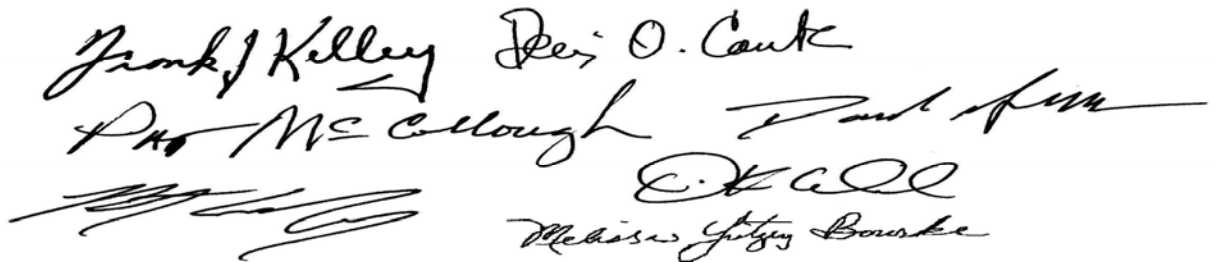
Bills designed to protect residents from **identity theft** could, in their current form, instead interfere with bank transactions, representatives of banks and credit unions told the House Banking and Financial Services Committee this week.

The bills (HB 6106 and HB 6107) are part of a larger package dealing with identity theft, all of which is heading to a **workgroup** to work out those and other issues, sponsors told the committee.

The bills would require banks and credit unions, respectively, to notify customers before they transfer or sell personal information to another party. The actual transfer or sale would have to wait 10 days from the date of the notification to give the customer the option to disapprove the transfer.

\* \* \*

Proposals for a **gas tax** “holiday” by House Republicans will go nowhere . . . **Wayne State University** continues to fight legislation which would dictate how its college of medicine interacts with its affiliated non-profit physician groups which provide clinical training to med students . . . Legislation to restore the state’s old statute of limitations for actions against **architects and engineers** is expected to be taken up soon by the House Judiciary Committee . . . **Pharmaceutical companies** are vigorously opposing repeal of Michigan’s ban on lawsuits claiming damage by drugs approved for efficacy and safety by the U.S. food and drug Administration. The measures (HB 4044-4046) are facing strong opposition in the Senate.



**Kelley Cawthorne**  
**Attorneys and Governmental Affairs Counselors**  
208 N. Capitol Avenue – 3rd Floor  
Lansing, Michigan 48933

Phone (517) 371-1400 FAX (517) 371-3207

E-mail: [kc@Kelley-Cawthorne.com](mailto:kc@Kelley-Cawthorne.com)