



CAPITOL REPORT

March 1, 2002

The Legislature moves into the month of March in high gear, as appropriations bills speed through the process at record pace. Lawmakers appear serious in their resolve to finish the entire budget by mid-June. K-12 and Higher Ed budgets may be done by late April or even much sooner.

The Detroit Metro Airport Authority bill also is moving on a fast track, while separate efforts to create a better metro mass transit system and raise the diesel fuel tax face a more uncertain future.

New directors are appointed to fill vacancies at the Departments of Corrections and State Police, as Engler Administration personnel head for the door ahead of a new governor being elected next November. Legislation extricating Wayne County municipalities from the Wayne County Community College district also heats up. Broadband legislation passes the Senate, a \$2 billion state bond issue for school and sewer construction is unveiled, and a multitude of health care issues begin to gain new steam.

Here are details of these happenings, and more:

2002-2003 Budget

The Senate late last week completed action on a \$12.68 billion K-12 budget, perhaps the quickest action ever on a major school spending bill. The House could wrap up the measure before the Legislature's March 21-April 9 Spring break. The bill which raises the foundation grant to \$6,700 is close to what Governor Engler recommended in his annual budget message with these exceptions: ISD's will receive a 3% boost, all teen health centers will be funded including those not in at-risk school districts, and classroom size reduction grants were restored. There remains an outside chance that small school declining enrollment aid could be restored by the House. The Senate rejected mandating electronic filing for CEPI data for this year and stripped substantial monies from the

Career Development program to pay for the increases it made over the Governor's proposed budget.

Meantime, the Senate also completed unprecedented early action on the Higher Education (colleges and universities) and Community College budgets. Fortified by a unique pact on tuition between university presidents and the Governor, the Higher Ed budget keeps each institution at its current level and adds \$4 million for a new nursing scholarship program. The community college budget is practically a duplicate of last year's.

The always controversial Department of Community Health budget is beginning to move in the Senate, as is the Family Independence Agency budget, both of which Kelley Cawthorne is carefully monitoring.

Pharmaceutical manufacturers and key legislators are currently negotiating in the DCH budget regarding access to prescription medications by Medicaid patients. The current DCH plan has severe prior authorization restraints affecting all classifications of drugs. Under study is a proposal to eliminate prior authorizations in exchange for requiring manufacturers to pay what is known as "best price" for all state-paid prescription drugs (except for state employees). Meanwhile the Engler Administration proposes to nearly triple funding for EPIC (Elder Prescription Insurance Coverage Program) from its current \$50 million to \$145 million by federal approval of an "Illinois" type waiver program.

Metro Airport Authority

After an agreement between Governor Engler and Wayne County Executive Ed McNamara which took many by surprise, legislation is on a fast track to place Detroit's Metro Airport governance under a newly-created authority. The Senate passed the bill (SB 690) late last week, 26-10, and will be taken up by the House this week. Despite criticism of the method of appointment and duration of terms for the seven member governing body, the bill appears poised to pass the House and probably the only significant remaining question is whether the bill will be given immediate effect. That requires a 3/5 "yes" vote in each chamber. Failure to get immediate effect would mean the bill would take effect in the Spring of 2003 and board appointments would thus be made by Engler's and McNamara's successors. Odds are that immediate effect will be approved. The newest version of the bill does not require the authority to use competitive bidding for professional services. The same authority would also govern Willow Run Airport.

Metro Surface Transportation and Diesel Taxes

The Senate Transportation Committee may act as early as next week on legislation (HB 5467) establishing the Detroit Area Regional Transportation Authority which would coordinate mass transit in the Detroit metro area. The bill is only a first step in a

possible down-the-line merger between the existing DDOT and SMART transportation systems serving a five county area. Only 45% of Detroiters have access to a car while 75% of area jobs are outside the City of Detroit. The bill creates no new taxing mechanism.

Taxation is the major theme, however, of a four bill package pending before a House committee. The bills would increase the diesel tax by 4 cents per gallon and put 85% of the proceeds into a new fund to pay for improvements on heavy truck usage routes and 15% into the Critical Bridges program to then be leveraged into a major bond issue for bridge repairs. Opponents argue against any tax increase and against dividing the revenues outside of the traditional Act 51 split which gives cities and counties a portion of funds. Diesel tax collection would also be simplified under the bills. As of this week there are doubts the House committee will approve the bills and further doubt that the Senate would act on them in any event. Still, a lame duck session (which there will be in November and December) seems tailor-made for such legislation.

New Department Directors

Not surprisingly, as the Engler Administration winds down, its key personnel are looking to future job opportunities. Department of Corrections Director Bill Martin resigned effective March 1, to enter the private sector and has been succeeded by Deputy Director William Overton who worked his way up the system after stints in probation and warden positions. State Police Director Michael Robinson resigned March 1 to accept a federal position and has been succeeded by his deputy, Stephen Madden. Expect the personnel hemorrhage to increase between now and December 31.

Wayne County Community College

Believing they were ambushed by an unfairly timed millage increase vote, Wayne County suburban communities are fighting back with a bill (HB 5157) that would allow local school districts, cities, villages or townships to sever all financial obligation to college districts organized by intermediate school district alignment. Prospects for passage are murky, especially with almost the entire community college network fighting back fearing the precedent set if the bill passes. So far, a hearing has been held on the legislation but it's presently unclear what will happen next, if anything.

Broadband Legislation

Legislation (SB's 880, 881 and 999) to more quickly develop the state's high speed communication system has passed the Senate but in a form considerably different than first proposed by Governor Engler. The package creates a 2 cent per foot right of way tax for all but wireless communications providers, increases it to 5 cents in 2004 and

charges a \$500 application fee on top of actual costs for right of way construction. The taxes would be reduced to rural providers by limiting their costs per customer line to that paid by SBC Ameritech, the state's largest local provider. The taxes also would go only to local governments, not to the Broadband Development Authority. Instead of the one cent of the right of way fee in the governor's proposal, the authority would only have revenue from bonds and legislative appropriations to work with under SB 881. The Committee also removed the authority's ability to issue grants and enter into partnerships to develop infrastructure that had been included in earlier proposals. Its sole power would be providing low-interest loans for the construction projects. With approval from the Public Service Commission, phone companies would be able to offset the right of way maintenance fee on their property taxes. The House will take up the legislation in the next few weeks.

Bonding for Infrastructure

Senate Republicans have unveiled a proposal to bond for up to \$2 billion to be evenly split between fixing K-12 buildings and local sewer systems. The plan would have to be approved by state voters in the November election. The funds would be repaid by local governments and could be used for projects including splitting combined sewers that have been to blame in many cases for sewage spilling into storm sewers. The school bond proposal is aimed mostly at low valuation school districts that have trouble raising local millage to finance new school construction and school improvements.

Health Care Heats Up

A wide array of health care issues is beginning to move to the forefront. Certificate of need reform is getting major attention. While approval for up to 19 more PET scanners has just been granted by the CON Commission and there is a possibility of up to 50 new MRI machines, many legislators believe the present system of limiting hospital beds and new medical equipment should be thrown out completely. We expect something less than that but a spirited battle is underway that all affected parties will want to carefully monitor.

Legislation to change the restrictions on physician self referral (SB 517) has passed the Senate and is pending in the House. The bill would bring Michigan's statutes in line with federal "Stark I & II" restrictions and, bottom line, allow a physician in some circumstances to refer patients to institutions in which they have a financial interest.

The House late last week passed "timely payment" bills (SB 451 and 452) that requires health insurance companies and HMOs to pay "clean" claims within 45 days of their submission from health care providers. Unpaid claims would be subject to 12% annual interest. The bill has already passed the Senate, but there is a ray of doubt that the Governor will sign the bills into law.

Governor Engler surprised many in his State of the State message by calling for major revisions in the make-up of the Blue Cross Blue Shield board of directors. A new House committee has just been appointed and will soon begin an intensive review of broader aspects of BC/BS issues.

A so-called “provider tax” that could generate more federal medicaid dollars for hospitals and other providers is still a real possibility but remains controversial in part because it arguably establishes a precedent for taxing non-profit entities. Legislative budget committees continue to work on the issue.

Other Notes

Attempts to alter the “habitable space” definition in the architects licensure law are heating up again. . . the state’s probate judges are being asked by the Legislature to draft a model rewrite of the state Mental Health Code. . . relief from liability in the design and construction of school buildings could be at hand if the House Committee on Regulatory Reform soon takes up Senate Bills 358 and 670 which have already passed the Senate. . . proposals to change the structure of the Office of (Horse) Racing Commissioner appear to be going nowhere. . . changes in the law regarding taxation of public park lands is moving very quietly in the Legislature. . . bills to set fees in the State’s scrap tire program are beginning to move. . . legislation has been introduced (HB’s 5756 and 5757) to adopt a “property maintenance” code. . . with five months to go before the gubernatorial primary, Jennifer Granholm appears to be gaining momentum in the Democratic race and Dick Posthumus remains the overwhelming favorite on the Republican side despite having a high quality opponent.

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Kelley Cawthorne
Attorneys and Governmental Affairs Counselors
101 S. Washington Square - 9th Floor
Lansing, Michigan 48933
Phone (517) 371-1400
FAX (517) 371-3207
E-mail: kc@Kelley-Cawthorne.com

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