



CAPITOL REPORT

July 10, 2002

Taxes

After much hand-wringing and gnashing of teeth, the Legislature yesterday (July 9) did what this office said weeks ago would have to happen before state budgets for this year could be finalized: legislators “paused” for at least two years scheduled cut backs in the Single Business Tax, which in turn produced enough votes for a 50 cent hike in the state cigarette tax, which in turn provided enough revenue for at least semi-palatable state budgets to be approved by legislators for the year 2001-2002 and 2002-2003.

Many newer Republican legislators had backed themselves into a corner with “no new taxes” pledges that veteran GOP legislators knew were unrealistic given the sharp downturn in existing State revenues. But Governor Engler, reaching a deal with Democratic and Republican legislative leaders, put together a package that contained enough face-savers to allow a majority of legislators to rationalize a “yes” vote on a SBT cut freeze and a big jump in the cigarette tax . . . as we predicted weeks ago.

The highlights:

- scheduled cuts in the Single Business Tax do not go into effect so long as the rainy day fund balance stays below \$250 million; that's virtually certain to last for at least two years; the SBT rate will now stay at 1.9%.
- as a “trade off” the SBT exemption rises to \$350,000, so that an additional 13,000 businesses will not have to pay the tax at all.
- the SBT will expire in 2010, instead of being phased out through 2022.
- the cigarette tax increases 50 cents per pack (to \$1.25) and becomes the third highest in the nation; it raises an additional \$58 million for FY 2002 and \$292

million for FY 2003. The additional cigarette tax money will be split between the general fund, school aid fund, Medicaid benefits trust fund, and Wayne County's indigent health care program.

- local revenue sharing, school aid and higher education funding will be held at current levels for FY 2003.
- each state department will take a 1% cut for the current fiscal year; for FY 2003, the state budget will be 11% below 2000-01.
- the legislature may make further revisions in this year's Medicaid budget, especially as it relates to care for pregnant women and pharmaceuticals.
- even with the new revenue, most observers believe there will still be a significant revenue shortfall in FY 2003 and predict the new Governor and Legislature will face a Herculean task in balancing the 2003-2004 budget which may face a deficit of up to \$970 million.
- if there's a bright spot, it's that the budget has been temporarily patched, and with a lot less pain than many States are experiencing.

The House, which recessed July 3, and the Senate which quit July 9, will return for one day on August 13 and then again briefly in September. The lame-duck session of November and December could see the wildest free-for-all in years, as all sides seek to jam their pet projects past a governor and nearly 100 legislators who won't be returning in 2003.

Ballot Proposition on Tobacco Settlement Money

One of the nastiest battles taking place in the November elections is shaping up to be a ballot proposition to amend the State Constitution to require that tobacco settlement money be spent on health care instead of college scholarships and other general fund projects. A group supporting the proposal filed petition signatures to put the issue on the ballot and were immediately attacked by an opposition group for trying to bend the State Constitution to benefit a special interest, which backers strongly deny. Governor Engler, also opposing the ballot initiative, has vetoed in retaliation a special provider tax on hospitals (HB 5103) that would have given hospitals an additional \$83 million in federal monies. A veto override is highly unlikely.

Health Care

On the health care front: Funding for cancer research, education and prevention for Wayne State University and Michigan State University is contained in the final

version of the Department of Community Health budget and will go forward with passage of the cigarette tax increase. . . The same bill contains boilerplate language, advocated by Kelley Cawthorne, which adds a measure of due process for Medicaid pharmaceutical recipients who have prior authorization disputes. . . Legislation providing for reciprocity of health care professional licenses with Canada has been signed into law and should help with possible staffing shortfalls. . . Legislation to provide nursing scholarships (SBs 792, 793 and HB 6053) is still very much alive but will have to await final action until the Fall. . . Physician self-referral legislation has been signed into law (PA 402) and puts Michigan into closer alignment with existing federal law.

DEQ Reorganization

Sixty-one senior staffers with the Department of Environmental Quality are taking early retirement under the State's phase two of that program and this provides the DEQ with an opportunity to reorganize. Under a reorganization plan announced last week and to be implemented in September, the DEQ will move from eight divisions to six.

Only our environmental and infrastructure clients (or lovers of minutia) need to read further in this paragraph: A new Water Division will be created from the Surface Water Quality Division and the Drinking Water and Radiological Protection Division. A Geological and Land Management Division will be created out of the Geological Survey and the Land and Water Management Divisions. Also being created is a new Waste and Hazardous Materials Division that takes the current Waste Management Division and the storage tank technical review and field inspection duties from the existing storage tank division. It also moves the radiological protection program from the current Drinking Water Division. The groundwater program is also moved from the current Water Management Division. A Remediation Division will be created by taking the Environmental Response Division and the cleanup program from the Storage Tank Division. Enforcement personnel from the Storage Tank Division will be split between the Remediation Division and the Waste Division. A new Environmental Science and Services Division will be created by combining the Environmental Assistance Division with the environmental laboratory in the Drinking Water Division.

Early environmentalist reaction is negative.

More on schools

The Legislature has re-inserted declining enrollment aid for Upper Peninsula schools for 2002-2003. Touting a special technology program to help U.P. schools, the Legislature earlier restricted declining enrollment help to districts of 1,550 or less below the Mackinac Bridge. The ensuing firestorm caused a legislative re-evaluation and prompted the new action. We think the Governor will probably reluctantly go along with the U.P. provision. Meantime, little has been heard of the ballyhooed technology

initiative. . . A school infrastructure aid program, to be paid for by state-issued bonds, still hasn't cleared the Legislature even though a sewer infrastructure bill has. Both would need voter approval in November. . . The State Chamber of Commerce continues to oppose expanded school sinking fund powers, so that measure remains tied up in the Senate.

Bills Affecting Architects and Engineers

Two bills important to architects and engineers have passed the Legislature and are poised to become law. HB 5883 to create a QBS (qualification based selection) system for state government took a strange turn on its way to enactment. After passing the House intact, it was hijacked by senators looking for a vehicle to address state budget problems. They stripped out all QBS language, inserted their own budget-fixing language, passed the bill and sent it back to the House. That body re-inserted the QBS language but modified it by requiring "competitive" QBS (whatever that means) and sent it back for Senate concurrence which was obtained Tuesday.

Then, after years of legislative warfare, lawmakers voted to change (HB 5819) the square footage exemption for requiring an architects' seal for certain residential construction. But a case can be made that the new law actually helps design professionals because it nails down that any exemption applies only to one and two family residences. The square footage remains the same as present law, but the definition of how it is calculated is changed to produce the practical effect of increasing considerably the square footage threshold. . . Meantime, changes in law sought by interior designers have gone nowhere and school construction law changes remain in the House after passing the Senate.

Other items

Use of credit information for insurance premium ratings is the subject of a public hearing this week in Grand Rapids. . . Public park taxation remains at the top of the Senate calendar, but remains on "hold" for now until peripheral issues are worked thru. . . Proposals to possibly change Michigan's watercraft manufacturer-dealer agreement law are being very carefully watched. . . New criticisms have been leveled that the Department of Corrections is paroling too few prisoners. . . Governor Engler has signed into law (SB 112) to include for the first time federally recognized Indian tribes in the State's Intergovernmental Agreements Act. Tribes and police agencies will now be able to enter into agreements affecting non-Indians on tribal property . . . The Governor also has signed into law (HB 5380) a bill reforming the DEQ's scrap tire regulatory program. This office was instrumental in removing from the original version onerous new reporting requirements and search provisions. . . The new DEQ budget (SB 1104) bill also contains a provision requiring that department to study options for removal of mercury components from in-service vehicles. . . The House has passed HB 4726 which increases the statutory fees and costs recoverable in landlord-tenant cases. It's the first such increase in nearly 40 years. . . A package of bills designed to give more teeth to the

Friend of the Court efforts to collect on the toughest deadbeat parent cases won mostly easy passage in the Senate Tuesday. However, the principal bill in the package, HB 6008, won approval on a straight party-line vote, 23-13, and did not win immediate effect. Another effort will be made to win immediate effect for the bill. . . The Family Independence Agency budget for 2002-2003 was also given approval on a party-line vote.

August Primaries

The August primary election draws closer and intra-party battles heat up. Dick Posthumus remains a heavy favorite for the GOP governor's nomination, but Sen. Joe Schwarz has picked up endorsements from the Detroit Free Press and former Governor William Milliken.

On the Democratic side, some polls say Congressman David Bonior is gaining, but we still think the race favors Attorney General Jennifer Granholm who has big reserves of campaign funds for a final blitz. Former Gov. James Blanchard remains highly competitive. Legislative primaries are becoming white-hot in many areas, with term limits forcing many battles that would not have occurred under the old system.

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