

MICHIGAN AFSCME COUNCIL 25  
EXECUTIVE BOARD  
LEGISLATIVE REPORT  
MARCH, 2012

Prepared by

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## 2012 – THE ATTACK ON LABOR CONTINUES

The Legislature reconvened at Noon on the second Wednesday in January as required by the Constitution. Its first day was largely ceremonial. Within two weeks the House had already held two hearings on bills of concern to the labor movement:

### House Oversight, Reform and Ethics Committee

The Committee held a hearing Tuesday, January 17<sup>th</sup> to take testimony on the following bills. The bills were reported out two weeks later on party line votes and are currently pending before the full House.

- HB 5023 purports to extent penalties for violation of the provisions in PERA sanctioning public school employee work stoppages (even by one employee) with \$5000 a day fine for unions even if they have not sanctioned the strike and a provision authorizing anti-strike injunctions without the need to show irreparable harm to all public employees. Both of these provisions have already been held unconstitutional. The bill would not apply to the State Civil Service as labor management relations are covered by Civil Service rule not PERA.
- HB 5024 would clarify the provisions limiting mass picketing.
- HB 5025 would provide for annual approval for dues (but not fair share) payroll deductions and would apply to all employers, public and private.
- HB 5026 would eliminate the statutory requirement for notification that workers are being solicited as strikebreakers.

### House Education Committee

The House Education Committee met at 9 am January 18, to further discuss the school “reform” package adopted last year by the Senate including:

- SB 619 removing limits on the number of “cyber schools” in the state (later amended to increase the cap from 2 to 15 and then to 30 at a later date).
- SB 621 increasing private school students access to public school programs
- SB 622 authorizing increased dual enrollment eligibility of high school students in college courses
- SB 623 authorizing increased dual enrollment eligibility of high school students in career and technical preparation programs
- SB 709 expanding dual enrollment opportunities for high school students in career and technical preparation programs to nonpublic school and home school students.
- SB 710 expanding dual enrollment opportunities for high school students in certain postsecondary institutions to nonpublic school and home-schooled students.

The bills were reported out of committee on February 8<sup>th</sup> and are pending on the House floor.

## STATE OF THE STATE MESSAGE

The Governor's State of the State message was delivered on January 18<sup>th</sup>. The major theme of the Governor's message was to continue the unfinished agenda of 2011. Here are some of the main points the Governor made:

- We need to review the dashboard data. He noted a reduction in the unemployment rate, an increase in obesity, a slight but disappointing uptick in college readiness, minor changes in the state's bonding rating, improvements in the level of crime but that 4 of the top ten cities in Michigan are on the most violent list. Others have noted that the Governor's Departments have been slow in releasing dashboard information (the Governor's major "transparency" initiative).
- Among changes not reflected in the dashboard he cited the auto comeback, gratitude to the agriculture industry, the lack of snow and its impact on tourism, and efforts at rebuilding Michigan's images.
- He congratulated himself on his 2011 "accomplishments" including his attack on "legacy" costs (i.e. pensions and retiree health care), improvements in the "job environment" (i.e. cutting business taxes), passage of 323 acts, early adoption of the budget; what he referred to as "shared sacrifice;" tax "reform" that is simple, "fair," "efficient" and elimination of the Michigan Business Tax; local government "reform" (i.e. cutting local units of government, forcing "dashboards" and forcing "consolidation;" education "reform" (i.e.: reductions in collective bargaining rights for teachers, and allowing more charter schools).
- He called for higher performance levels for all public schools and adoption of legislation codifying this Educational Achievement Authority (which has already been established by Interlocal Agreement).
- He called on Michigan residents to take "personal responsibility" for obesity and other health concerns, a resolution of the controversy over health insurance coverage of autism (a condition that afflicts his Lt. Governor's daughter); and the implementation of a Michigan Health Marketplace (legislation has stalled in the House over objections to state implementation of federal health reforms (the Patient Protection and Affordable Care Act also referred to as "Obamacare" – see article below).
- The Governor repeated his call for increased funding for roads and bridges and for the creation of a regional transit system for southeast Michigan.
- He lamented the fact that veterans fail to fully use services available through the Veterans' Administration and that the State is failing to adequately provide workforce development.
- The Governor urged the federal government to tackle the difficult issue of immigration reform.
- He urged cuts in the business personal property tax but argued for a "long term solution" that recognized the impact that these cuts would have on local services.
- The Governor revisited familiar themes like state pensions, medical costs, local financial problems and regulatory reform.
- He called again for a new bridge between Canada and the United States.
- The Governor indicated he would make more specific recommendations in two special messages to be delivered later this year, one on public safety and one on energy and the environment.
- The Governor called for "good government" that was neither too small nor too large, that concentrated on customer service, delivered real measurable results, was financially responsible in both the short and long term and in which the State acted as a "team player" that encouraged private jobs but did not create jobs itself.
- Finally he urged reinvention of the political culture that he labeled too negative and too divisive.

## GOVERNOR SNYDER'S 2012-13 BUDGET PROPOSALS

Governor Snyder presented his 2012-13 budget to a joint meeting of the House and Senate Appropriations Committees on February 9<sup>th</sup>. Some of the major components he hit were:

- an additional \$130 million to the Budget Stabilization Fund

- an additional \$200 million for educational “best practices”
- community colleges and university “best practices” incentives aimed at offering degrees and certificates in areas of study needed for private sector job opportunities and to promote completion
- a new emphasis on public safety
- encouragement of the creation of mental health courts
- financial support for maintenance of the state armories
- \$50 million in IT improvement
- \$4.5 million in new money for “distressed communities”
- moving local government EVIP money from planning to implementation
- 3% increase (with strings) for community college and university funding
- 0.8% increase in K-12 funding (though House Fiscal Agency reports that will vary among school districts)

The Governor indicated we should expect a proposal to impact on school employee pensions similar to the “reforms” enacted in the state employee’s system but his budget does not reflect any anticipated savings from that at this time.

## **GOVERNOR SIGNS PENSION CHANGES, NEW HIRES LOSE RETIREE HEALTH CARE**

While we were successful in court against the 3% assessment against state employee checks, the State has adopted legislation which “allows” defined benefit members to pay a 4% coerced assessment if they wish to remain in the DB (Tier 1) plan. The new act virtually eliminates health care benefits for new hires but we were successful in maintaining health care benefits for all existing employees. All employees must make decisions or accede to default options in the near future. I have attached a detailed analysis of the legislation to this report as well as a bulleted summary. More information and calculators to help you decide what is best for you can be found at the Treasury and Office of Retirement Services web sites.

Michigan AFSCME Council 25 is a part of a coalition of state employee labor unions challenging the new law.

### **RIGHT TO WORK FOR LESS**

A renewed concern that Michigan legislators will push for the adoption of a “Right to Work” bill surfaced as Indiana became the 24<sup>th</sup> state to exercise the Taft-Hartley option. We have also heard unconfirmed reports of petitions circulating. (On this point, please let the Council know *immediately* if you see any such petitions and try to get a copy of one.) No legislation has as yet been introduced except the Senate bill that would apply to public school which has seen no action.

### **WORKPLACE HEALTH AND SAFETY**

The House passed House Bill 5030 (introduced by Rep. Joe Haveman, Republican of Holland) which would prohibit the Michigan Occupational Safety and Health Administration (MIOSHA) from promulgating any rule “stricter” than federal standards (when there is a federal standard) without legislative approval. The bill was passed by the House

mainly along party lines. The bill has been referred to the Senate Reforms, Restructuring and Reinventing Committee. The fate of the bill is undetermined as the Governor did sign a bill that prohibited rules on ergonomics but vetoed a bill that would have limited all administrative rules that are “stricter” than federal rules. In his veto message he specifically identified MIOSHA as an example where such a requirement could be problematic (see attachment).

### **NO-FAULT AUTO INSURANCE**

Legislation which would gut Michigan’s no-fault auto system’s benefit protections has languished on the House floor with opposition from all but insurance company interests.

### **BRIDGE BETWEEN CANADA AND THE UNITED STATES**

Probably the only proposal supported by the Snyder Administration that would actually create jobs stalled in a State Senate Committee. Republican members of the Senate Transportation Committee blocked an agreement between the Administration and Legislative Democrats to authorize the construction of the bridge with appropriate community supports to rebuild the area of Detroit that would be impacted (Delray). The Governor is considering other options.

### **HEALTH INSURANCE EXCHANGE**

Legislation creating a Health Insurance Exchange to help implement major portions of the Patient Protection and Affordable Care Act passed the Senate but House Republicans are delaying action. The Governor and Senate Republicans – no great fans of federal health care reform – were convinced that allowing for a free exchange of information on health care options and keeping the exchange under state control was worth action. But House Republicans continue to be afraid of “tea party” extremists who oppose the federal reform act and do not want to act on anything that could open them to charges of support for “Obamacare.” If the state does not create an exchange, Michigan will be assigned to a federally created exchange to implement the act.

### **STATE AFL-CIO’S 2012 MICHIGAN JOBS PLAN**

In contrast (though with some overlap and a commitment to try to work together) the Michigan State AFL-CIO presented its 2012 legislative priorities a few days before the State of the State address.

Labor’s 2012 Michigan Jobs Plan calls for:

- a ***Keep Jobs in Michigan Act*** to keep Michigan tax dollars working in Michigan by ensuring that our tax dollars are used to create Michigan jobs by requiring companies that hold state contracts or receive state assistance not ship jobs out of state
- a ***Buy Michigan, Buy American Act***
- legislation that protects collective bargaining for all workers
- a ***Contract Services Budget Act*** to provide transparency, accountability and efficiency when privatization is proposed providing detailed information about how much and to whom taxpayer dollars are spent on service contracts
- a ***Responsible Contracting Act*** that requires a full economic impact study before privatizing public services
- ***Green to Gold Revolving Loan Fund*** legislation to provide businesses capital through a low-interest loan fund to help retool manufacturing facilities that could be used for clean-tech start-ups
- ***Economic Development and Fiscal Accountability*** legislation to hold corporations accountable for any tax dollars they receive from the state
- legislative and other actions at the state level to keep our infrastructure safe, secure and up-to-date

- expanded digital communications networks across the state
- a commitment to Michigan's public pre K-16 education
- support for our core cities' rebirth that attracts business development and tourism
- protection of our waterways from pollution and support for our world-class public parks
- restoration of unemployment benefits cut in 2011
- **Work Share Programs** that allow employees to agree to scale back hours instead of forcing lay-offs
- **Unemployment Insurance Modernization** legislation that would expand unemployment insurance coverage to workers forced into part-time work and workers attending approved worker-retraining programs (qualifying Michigan to receive its share of the remaining \$2.8 billion in federal stimulus funds)
- restoration of workers compensation benefits cut by the Legislature last year and restoring the power of MIOSHA to promulgate ergonomic regulations
- corrective action to halt the misclassification of workers by enacting laws that clearly state the definition of employee and employer, target specific sectors with rampant misclassification, change workers' compensation and unemployment statutes to target abuse, and ensure state agencies are collaborating and sharing data
- a **Fair Chance for Employment Act** that makes it illegal to refuse to consider hiring the unemployed

## **PUBLIC EMPLOYEE PAYROLL DEDUCTIONS**

House Bill 4929 passed the House and if enacted into law would prohibit public school employers from collecting union dues or fair share fees through payroll deduction. The bill was considered by the Senate Committee on Reforms, Restructuring and Reinventing but was NOT reported out.

House Bill 5085 (Rep. Shirkey, R-Clarklake) and House Bill 5086 (Rep. Opsommer, R-Dewitt) would prohibit public employers from collecting PAC contributions through payroll deduction. The bills codify and expand the Supreme Court's decision that such activities are "contributions" and "expenditures" by the employer in violation of the Campaign Finance Act. The bills expand the prohibition to federal PAC's directly affecting AFSCME and add a private right of action against a local government that does not comply. The bills have passed the Senate and are awaiting the Governor's signature. AFSCME is reviewing its options both in terms of legal action against the bills and alternate ways to raise dollars for more than ever needed political action.

## **DOMESTIC PARTNER BENEFITS**

No state or local government may provide health care benefits to non-family member dependents under legislation which has passed both houses of the legislature and signed by the Governor. The provisions do not apply to state civil service employees (as wages and benefits are controlled by Civil Service rule). Some contend that the provisions apply to universities but the Governor and others argue that it does not. The language in the bill is murky on this point and universities will probably argue that they are not covered because of constitutional autonomy.

## **COUNTY ROAD COMMISSIONS AT RISK**

The Legislature has passed and sent to the Governor bills that would allow a county board of commissioners to abolish and assume the responsibilities of an appointed county road commission by a resolution adopted by a simple majority of its board or submit a ballot question with the same result where there is an elected county road commission. There are no labor protections included in the bill.

## **GOVERNOR FORWARDS TRANSPORTATION PACKAGE TO LEGISLATURE**

The Governor has proposed, and a bipartisan group of legislators have introduced a package of bills that impact on both roads and mass transit. The package contains new revenues and yet another effort to develop a regional transit authority for southeast Michigan.

### Regional Transit Authority

Senate Bill 909 the provisions of the transit bill that AFSCME signed off on last term but without any of the labor protections we had insisted upon. A Democratic House included those provision last term but there was no final passage as the Senate did not act. Not surprisingly, they have been stripped this year. But one of the proposals we wanted was retained. While allowing for eventual absorption of existing transit agencies like D-DOT and SMART, the RTA would not take over but only coordinate the services provided by those agencies adding a measure of fairness to our members as they would remain in their current pension systems and retain their current contracts. We are looking closely at federal laws to see how much more we need to protect our members in the event of an eventual consolidation. Under the current bill, the RTA would handle new, multi-county modalities whether rail or rapid bus and have the authority to retain 5% of federal funds from sub-recipients who do not agree to coordination with each other. There has been one Senate Committee hearing but no action as yet.

### Roads

The Road provisions include both new taxing authority and labor concessions. The House has indicated it would not act on new revenues unless the anti-labor provisions moved and moved first. Those bills would cut off Act 51 funds to any recipient who did not comply with the limitations on employee health care contributions in PA 152 (currently there is no penalty for a road agency that fails to comply). They would further cut off PA 51 funds to recipients that did not end defined benefit pension plans for any new employees. This latter point was opposed by labor and pension plans alike with employer side spokespeople voicing serious concern that closing existing DB plans in this fashion would dramatically increase costs over the next fifteen to twenty years at a minimum. Indications are that we will win on the pension issue but lose on the health care issue.

We have urged Democratic leaders to use the leverage they have as Democratic votes are needed for passage of any revenue enhancements to protect worker benefits.

# CHANGES TO STATE EMPLOYEE RETIREE HEALTH CARE BENEFITS (PA 264'11)

Analysis<sup>1</sup> prepared by NICK CIARAMITARO, Director of Legislation and Public Policy for  
Michigan AFSCME Council 25 and MSEA AFSCME Local 5  
December, 2011

With record speed, Governor Snyder signed HB 4701 upon presentment on December 15th.

**All employees will see the return of the 3% deductions that have been made since the enactment of PA 185 of 2010 plus interest** shortly both as a result of our victory in the State Supreme Court and as a result of provisions of this act. The Supreme Court decision will result in an earlier return of the dollars than was anticipated under the Act. The Supreme Court decision also resulted in an immediate cessation (as of the December 22, 2011 paycheck) of the unconstitutional deductions. Active employees will receive their refund in their January 19, 2012 paycheck. An active employee may defer the refund to their 401(k) or 457 account by contacting ING at (800) 748-6128 by **4:00 p.m. (EST), Thursday, January 5, 2012**. (A decision can be changed up to 4 P.M. January 5, 2012 but is irrevocable after that.)

**The new act requires Defined Benefit members to file an "election" to contribute 4% of compensation earned after April 1, 2012 to continue in their current defined benefit pension system.** (AFSCME is exploring any legal recourse we may have on this and other provisions of the new law.)

The balance of **the law affects state employees in different ways depending on their date of hire and options they have made or will make** in the near future.

## State employees in the Defined Benefit (Tier 1) Plan

For employees who were hired before March 31, 1997, and did not opt into the Defined Compensation Plan created at that time, the following changes apply:

**To remain a member of Tier 1 (Defined Benefit Plan) a member MUST make an election to do so "during an election period that begins on January 3, 2012 and ends at 5 p.m. eastern standard time on March 2, 2012."** The member may choose to remain in Tier 1 either up to retirement or make a designation to remain a member of Tier 1 only until attaining 30 years of service by making a designation for the latter during the same election period.

***If a member does not make such an election, the following apply:***

- the member will be entitled to a **pension based on years and fractions of years of service earned, credited, purchased prior to April 1, 2012** or purchased under a payment plan that was in effect as of March 31, 2012 upon retirement;
- that pension will be **based on compensation received by the member before April 1, 2012;**
- plus up to 240 hours of accrued annual leave paid at the hourly rate of pay for the member as of March 31, 2012 which for purposes of final average compensation shall be treated as being paid on March 31, 2012.
- **beginning on April 1, 2012, the member will become a participant in the Tier 2 (Defined Contribution 401K) plan.**
- retirement health care coverage is unchanged

***If a member makes an election to remain a member of Tier 1 and files a designation to remain a member only until attaining 30 years of service then the following apply:***

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<sup>11</sup> This is a general analysis of changes made to the Michigan State Employees' Retirement System in PA 264 of 2011. It is not intended as legal or financial advice nor should it be used for retirement or estate planning purposes. Many aspects of the retirement system are not covered in this paper and the decisions made under the Act will affect individuals differently. Workers are urged to consult the Office of Retirement Services, their Human Resources Department and appropriate professionals as needed.



- the member will **contribute 4% of compensation** to the retirement system (not for health care as in the old act but to partially cover the cost of their pension) until his or her attainment date (that is when he or she attains 30 years of service) or separation whichever is earlier.
- pensions will be **based on compensation received on or before attaining 30 years of service** or separation whichever occurs first (referred to as the “attainment date”);
- plus 240 hours of accrued annual leave paid at separation multiplied by the members’ hourly rate at the attainment date which, for purposes of determining final average compensation will be treated as though it were paid on the attainment date.
- Years of service worked and compensation earned after the attainment date will only count toward determining the earliest retirement date but not toward pension amount.
- For all other purposes the member will still be considered a member of Tier 1 but will also **become a participant in Tier 2 after the attainment date.**
- retirement health care is unchanged

***If a member makes an election to remain a member of Tier 1 but does not file a designation to remain a member only until attaining 30 years of service than the following apply:***

- the member will **contribute 4% of compensation** to the retirement system (not for health care as in the old act but to partially cover the cost of their pension) until separation.
- pensions will be **based on compensation and years of service up to separation;**
- plus 240 hours of accrued annual leave paid at separation multiplied by the members’ hourly rate at the date of separation which, for purposes of determining final average compensation will be treated as though it were paid on the date of separation.
- retirement health care is unchanged

“Final average compensation” will include *overtime earned on or after January 1, 2012* as follows:

- The average annual overtime compensation earned in the last six consecutive years ending on the same last day used for calculating final average compensation for ordinary pay if that date is on or after January 1, 2015.
- For those whose final average compensation final day is on or before January 1, 2015, the average annual overtime compensation earned between January 1, 2009 and the final date used to calculate final average compensation.

Overtime compensation includes both the ordinary wages for wages in excess of 80 hours in a biweekly period and the overtime premium.

For 80 hours of work in a biweekly period, final average compensation will continue to be calculated on the best three years of service.

**For more information and/or to make an election or designation visit the Michigan Office Retirement Services website at <http://www.michigan.gov/orsstatedb>.**

### **State employees in the Defined Contribution Plan**

These employees (hired on or after March 31, 1997 or who opted out of Tier 1 into Tier 2 at that time) and who were hired prior to January 1, 2011 will **remain in the current graded scale premium health care program upon retirement.** They **need take no action to choose this option.** These employees **can opt out of retirement health care coverage and opt to have their current vested benefits monetized and placed into a health care retirement account** as follows.

Beginning January 3, 2012 and ending at 5 p.m. eastern standard time on March 2, 2012, a Tier 2 participant as of December 31, 2011 may elect to opt instead to participate in the following system:

- opt out of health insurance coverage

- The retirement system will calculate *an amount to be credited at termination* to an appropriate tax deferred account that approximates the actuarial present value as of 12 midnight March 31, 2012 of the projected retiree's health benefits based on the current benefit structure. The statute provides a complicated formula for determining the amount of money which would be placed in that account and the Office of Retirement Services is working on a calculator to help determine the exact amount for any given employee. Look for a link to that calculator at <http://www.michigan.gov/orsstatedc/0,4655,7-209--266689--,00.html>.
- contribute up to an additional 2% to a tax deferred account which will be matched by the State.

Tier 2 401K retirement provisions will remain as is. However, **unless a Tier 2 participant elects to contribute a lesser amount, the state will assume the employee wishes to contribute the maximum matchable amount (3%) to his or her 401K account.** The State will begin an *automatic* enrollment in this provision beginning April 1, 2012. The state will continue to contribute 4% plus the matchable portion.

Employees can opt to contribute additional unmatchable amounts subject to Retirement System and IRS rules.

Elective contributions can be made to the Tier 2 account, another tax exempt account or the state's 457 account. Any state match may go to a different account than the account to which the employee's contribution is made.

**For more information and/or to make an election or designation visit the Michigan Office Retirement Services website at <http://www.michigan.gov/orsstatedc>.**

### **Employees hired on or after January 1, 2012**

New hires will be hit the hardest by this package. **Retirement health care is eliminated.** They will have the **option of contributing up to a matchable 2% of pay to either their Tier 2 retirement plan or to a 457 plan.** In either case the state match will go to an appropriate tax deferred account and cannot be used as the basis of a loan to the employee.

New hires **will automatically contribute the maximum matchable amount to their Tier 2 account (3%) unless they designate a lesser amount.** The state will continue to contribute 4% plus the matchable portion. Employees can opt to contribute additional unmatchable amounts subject to Retirement System and IRS rules.

Elective contributions can be made to the Tier 2 account, another tax exempt account or the state's 457 account. Any such contributions may be matchable up to the maximum available match and the state match may go to a different account than the account to which the employee's contribution is made.

**In lieu of health care the State will make a small (\$1,000 to \$2,000) contribution to a Health Reimbursement Account for employees hired on or after April 1, 2012 if and when the employee *retires* from the State Civil Service.**

There are additional changes not covered in this analysis – particularly as applies to state employees who leave employment and return to work at a later date and deferred members of the Michigan Public School Employees Retirement System (MPSERS) who join the State Civil Service.

# GOVERNOR SNYDER'S VETO MESSAGE ON H.B. 4326

The following veto message from the Governor was received and read:

Executive Office, Lansing,  
Michigan House of Representatives  
State Capitol Building  
Lansing, MI 48913

November 30, 2011

Ladies and Gentlemen:

Today I am returning to you **Enrolled House Bill 4326** without signature. While I strongly support the bill's goal of reducing burdensome state regulations and have recently signed several bills that will have that desired effect, Enrolled House Bill 4326 would preempt state agencies from crafting any regulatory program that exceeds federal standards in order to meet the specific needs of Michigan's citizens, businesses, and natural resources. I am concerned that Enrolled House Bill 4326 would inhibit the state's ability to work with businesses and citizens to ensure that our regulatory structure fits Michigan's unique profile.

The extraordinary economic challenges confronting the state of Michigan provide us with a historic opportunity to create a regulatory reform environment that is fair, efficient, and conducive to attracting and maintaining business growth. That is why I issued Executive Order 2011-5, which calls upon the Department of Licensing and Regulatory Affairs, through its Office of Regulatory Reinvention (ORR), to engage stakeholders and regulators in a thoughtful and deliberative process to systematically review all rules, regulations, guidelines, and non-published regulatory policies. The ORR will provide me with recommendations on how to rewrite our regulatory rule book to create an environment that is conducive to economic growth.

A cursory historical review of Michigan's administrative records reveals several recent instances in which Michigan businesses and citizens have petitioned the administration to promulgate regulations that go beyond existing federal standards to meet the unique needs and protect the interests of Michigan citizens, businesses, and natural resources.

- Over the last decade or so, several MIOSHA rules have been promulgated at the behest of the Michigan business community that exceeded or differed from federal OSHA rules addressing similar issues or operations. Most have focused on workplace safety issues in Michigan's construction industry: rough terrain forklifts in construction; communication tower erection; lock out of injection molding machines; lifting and digging; provisions that allow riding the headache ball (in limited situations) for initial connectors; and masonry wall bracing.

- Michigan has prided itself on recognizing the uniqueness of the natural resources in areas such as ballast water standards and the Great Lakes Basin Compact. In both of those instances, the state went beyond federal standards to craft a regulatory program that more specifically highlighted and protected our distinctive natural resources. Michigan has shown the value of this approach with its ballast water treatment standard that allows for zero discharge of ballast water containing invasive species. This far exceeds Coast Guard and EPA standards that have failed to protect our waters as evidenced by the presence of more than 200 forms of invasive species.

- D EQ sets a more stringent standard for the discharge of phosphorous than federal law in order to better protect the Great Lakes and all of Michigan's waters from algae and aquatic weeds. This is critical to safeguarding our lakes and streams.

- D TMB's procurement rules differ in numerous ways from federal procurement rules, which are difficult to catalog. Some may be more stringent while others may be less. In some instances, more stringent rules actually benefit the business community. For example, state rules regarding bidder protest guidelines are specific and user friendly, while the federal rules are more vague and difficult to navigate.

- Michigan is currently the only state with mandatory ID on its cattle herd. This has allowed us to maintain market access and achieve TB-free status for 72 counties. This clearly exceeds federal standards, but is key to protecting our state's agricultural commodities, industry, and consumers.

- In the future there are areas where we would like to consider standards more strict than the federal government in areas of preventing fraud and abuse in our Medicaid system.

I believe Enrolled House Bill 4326 creates several other administrative problems. First, the bill would require the ORR to identify an "applicable federal standard" for every proposed state rule. This is a most difficult – if not practically impossible – task and would require subjective determinations that are inconsistent with the concept of a fair and objective regulatory process.

I am also concerned Enrolled House Bill 4326 casts doubt on existing Michigan rules and regulations as well as future rules that may be promulgated in the absence of any federal counterpart. Would the state be prohibited from crafting a regulatory program to meet its needs in an

area of the law where the federal government had yet to promulgate an “applicable standard”? Enrolled House Bill 4326’s outright ban constitutes an unacceptable flaw in the bill.

Finally, Enrolled House Bill 4326 would create statutory conflicts between the provisions of Michigan’s Administrative Procedures Act of 1969, MCL 24.201 *et seq*, and the statutes that confer substantive rule-making authority on state agencies. The APA sets forth the process for rule promulgation in the state. The enabling statutes provide state agencies with the legal authority to promulgate rules to implement and run the programs they are required to oversee. Enrolled House Bill 4326 purports to implement an outright ban on certain rules within the APA but cannot, under Article 4, Section 25 of the Michigan Constitution, amend the terms of the substantive statutes that confer regulatory authority upon state agencies. Such statutory confusion and conflict between these various state laws constitutes a serious flaw in the bill.

The Legislature remains free to draft statutes that specifically repeal burdensome agency regulations. I welcome such efforts.

In summary, Enrolled House Bill 4326 attempts to send the right message but does so in the wrong way. Its overly broad prohibition preempts necessary administrative flexibility. Regulatory reform is a priority of my administration and will continue to be through Executive Order 2011-5’s call for a systematic review and evaluation of all state regulations to yield a fair and efficient regulatory framework for the state. Enrolled House Bill 4326, on the other hand, invites greater uncertainty in our regulatory environment.

Therefore, I am returning Enrolled House Bill 4326 without signature. My actions today, taken together with the signing of Enrolled House Bills 4017, 4042, 4043, 4500, and 4573, send the message that I am committed to working with the Legislature to enact the right kind of regulatory reform—the kind that will result in a simple, fair, and efficient regulatory environment in the state. I commend the Legislature for its action on these proposals, and look forward to working with you to continue our work in enacting additional regulatory reforms to simplify the regulatory environment of the state for the betterment of the lives and livelihoods of our citizens and protection of our natural resources, businesses, and economy.

Sincerely,  
Rick Snyder  
Governor



Tuesday, April 28, 2009

# Obama works to lift Michigan

## In his first 100 days, president tackles auto woes, sends state aid

Deb Price and David Shepardson / The Detroit News

*Washington* -- In his first 100 days, President Barack Obama has tried to jump-start Michigan's troubled economy by pumping at least \$18.4 billion in federal aid and tax breaks into the state and steering a massive restructuring aimed at keeping Michigan's auto industry alive.

Money from the economic recovery package that Congress passed and Obama signed in February will have created or saved 109,000 jobs in the state by the end of 2010, the White House projects.

Some of the earliest jobs will be seen in the road construction sector: Michigan will receive more than \$1 billion to overhaul its transportation system, including \$847 million for highways and bridges.

Tom Clementson of Indian River, laid off from his road construction profession in November 2007, hopes Obama's efforts will turn his unemployment check into a paycheck.

"You can't expect everything to turn around in just 100 days," Clementson said. "I'm willing to give the guy some time. At least he's trying."

Even before his 100 days started, Obama faced the money problems of the auto industry, getting briefings and working in consultation with the Bush administration on a plan to loan General Motors Corp. and Chrysler LLC \$17.4 billion.

Obama has taken a tough stand with automakers, rejecting GM's and Chrysler's viability plans on March 30 and their requests for \$21.6 billion in additional aid. He forced out GM Chairman and CEO Rick Wagoner.

But he has also approved a number of programs for the auto industry -- \$2 billion more for GM, a \$5 billion program to aid struggling auto suppliers and a \$1.25 billion program to guarantee the warranties of GM or Chrysler vehicles if either company files for bankruptcy.

He set an April 30 deadline for Chrysler and June 1 deadline for GM to complete tough new restructuring plans.

### Action on tailpipe emissions

Obama's dealings with the auto industry extend beyond deciding how to keep the American car industry vital.

On his sixth day as president, he ordered the Environmental Protection Agency to review a request from California and 13 other states to impose a 30 percent reduction in tailpipe emissions by 2016 and directed the National Highway

Traffic Safety Administration to set only the model year 2011 fuel efficiency standards by March 31, in accordance with a 2007 energy law.

On March 30, NHTSA imposed the Bush administration's proposed regulation, putting off a decision on much higher requirements until March 2010, when the agency is expected to set the 2012-15 model year requirements.

And on April 17, the EPA declared that carbon dioxide and five other greenhouse gases were a danger to public health, and said it would regulate tailpipe emissions unless Congress acted -- the latest area of increased regulatory scrutiny of automakers.

Obama earmarked some of the stimulus money for automakers, including \$2 billion for battery research, and agreed to buy 17,600 cars from Detroit's Big Three with \$285 million in stimulus money. The Center for American Progress, a liberal think tank, calculates that the Recovery Act will result in at least \$18.4 billion for the state by the end of 2010.

That includes \$1.9 billion in tax breaks for individuals, the White House says.

## 'Major infusion to the state'

Michigan also expects to use hundreds of millions of dollars to plug part of its budget deficit this year, which is approaching \$800 million, and next year.

"This is a major infusion to the state," Charles Ballard, an economist at Michigan State University, said of the stimulus package. "It's of the right magnitude, both for Michigan and the nation as a whole. And it helps those most at risk."

Workers will be hired for a \$243 million weatherization program that will fix leaky roofs and add insulation to homes of low-income residents.

And part of the nearly \$2.6 billion for education can be used to avoid teacher layoffs.

## Help for poor, jobless

Funding to help the needy includes \$2.6 million for two new Community Health Centers, \$8.5 million to expand services at 29 established centers, \$3.1 million to feed low-income seniors and \$6.6 million for vaccines for the poor.

The state also is receiving \$2.3 billion to shoulder rising demand on its Medicaid health plan for the poor. Jobless benefits, which had been set to expire at the end of March, instead are extended through the year, and workers will receive \$100 a month more than they received previously.

To help jobless workers keep their health insurance, the federal government is also subsidizing COBRA coverage by picking up 65 percent of the cost.

Other help for the poor will come in the expansion of the SCHIP program -- known as MiChild in Michigan -- which will mean 74,000 additional low-income children in the state will have health care. But smokers were hit with higher taxes -- 61 cents on each pack of cigarettes -- to pay for it.

And the omnibus appropriations bill Obama signed includes \$179 million in earmarks for Michigan, including \$17 million to start construction of a commercial shipping lock at the Soo Locks in the Upper Peninsula, as well as \$3.8 million for a business redevelopment plan for Tiger Stadium, and \$950,000 for runway and taxiway improvements at Oakland County International Airport.

Obama's fingerprints will also be seen on the state's public lands.

The Omnibus Public Land Management Act that he signed established the River Raisin Battlefield in Monroe as part of the National Park System, moving it closer to becoming a world-class tourist attraction; designated 12,000 acres in

Pictured Rocks National Lakeshore in the Upper Peninsula as a wilderness area; and authorized the federal government to buy land for the North Country Scenic Trail, which will be the country's longest hiking trail.

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**From:** Pres. McEntee & Sec.-Treas. Saunders [President\_SecretaryTreasurer@afscme.org]  
**Sent:** Friday, December 09, 2011 12:16 PM  
**To:** nick@miafscme.org  
**Subject:** Our endorsement for President



**American Federation of State, County and Municipal Employees, AFL-CIO**

Dear Sisters and Brothers:

**AFSCME's International Executive Board voted this week to [endorse President Barack Obama](#) for a second term.** The vote was unanimous. The board acted after a substantial majority of AFSCME members indicated in a large telephone poll that they wanted the union to endorse the president. [President Obama is the only candidate for president who is fighting to put people back to work, make the wealthiest Americans pay their fair share and protect vital public services.](#)

**Mitt Romney and Newt Gingrich have a different agenda.** They have been travelling the country attacking your work, your benefits and your salary. They oppose your right to collective bargaining and a voice on the job. They want to privatize your job.

They have targeted the modest pension you earn after a career of public service, falsely claiming that pensions are a major part of the budget problems facing communities across the country. They are dangerously wrong.

In recent months, Romney travelled to Ohio to support Gov. John Kasich's outrageous attempt to destroy the rights of workers in the Buckeye State. Gingrich is even worse. He calls for the firing of union janitors in our schools. He would replace them with poor children working at low pay.

They oppose President Obama's American Jobs Act which would put millions of people back to work. They reject the President's proposal to ask the wealthiest 1 percent to pay a little more in taxes. They want to end the guarantee of Medicare and privatize Social Security. They put the interest of wealthy corporations and billionaires above the interests of working Americans, the poor and the middle class.

Make no mistake, these men are not conservatives. They are radical ideologues. We must not allow them to implement their fundamentally flawed agenda.

**President Obama believes in pulling together to find real solutions to our problems. He is standing up to the top 1 percent and fighting to get America moving again.**

No one knows how important elections are than the members of our great union. You know what can happen to your job, your rights and the services you provide when anti-worker politicians win elections and take the reins of power. That is why we must win the 2012 election.



## **AFSCME Endorses President Obama for Reelection**

Only one candidate believes that nothing is more important than putting Americans back to work — and that candidate is President Obama. **Click here to let us know how you can help reelect President Obama in 2012.**

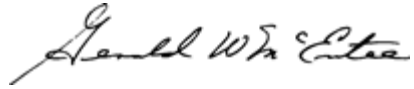
**GET INVOLVED!**



**Will you fight to protect your job and our country's future? Can we count on you to join this historic effort to reelect President Obama?**

We know you will make a difference. Thanks for everything you are doing to protect America's vital public services.

In solidarity,



GERALD W. McENTEE  
President



LEE A. SAUNDERS  
Secretary-Treasurer



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# State Senate OKs plan to let GOP redraw Oakland County maps

The state Senate passed and sent to the governor Wednesday a bill to reduce the number of Oakland County commissioners and let Republicans redraw the county's district lines.

Senate Democrats decried it as a power grab by Republicans upset that they lost the majority on the reapportionment commission after the 2008 elections. "This boils down to a notion of fairness," said Sen. Vincent Gregory, D-Southfield. "I'm appalled and disgusted that this issue would even come up."

The bill, passed last week by the House, would affect only Oakland County.

Senate Minority Leader Gretchen Whitmer, D-East Lansing, challenged Gov. Rick Snyder to hold to his mantra of wanting to avoid divisive issues and to veto the bill. "We'll see if he really is above it all. And whether he'll be able to tell right from wrong," she said. "Because this is about messing with Michigan elections to ensure a better partisan result for your friends."

State Rep. Brad Jacobsen, R-Oxford, sponsored the bill and said it was intended to cut Oakland County costs by about \$250,000 a year. But he also said he would like to see the county remain in Republican control. The bill cuts the number of county commissioners from 25 to 21. It also transfers the power to redraw district lines from a reapportionment commission -- made up of the county clerk, treasurer and prosecutor and the heads of the Democratic and Republican parties -- to the County Commission. For the first time, Democrats had a 3-2 majority on the reapportionment commission, but Republicans hold a 15-10 majority on the County Commission. The redistricting plan drawn by the reapportionment commission was upheld by the state Court of Appeals last month.

If Snyder signs the bill, Democrats plan to challenge it as an unconstitutional breach of the separation of powers, since the courts have already ruled on the county's plan. "There clearly is no conscience in our Capitol or no integrity left in the men who lead the Republican Party in Michigan," said Frank Houston, chairman of the Oakland County Democratic Party. "Assuming the Republican Party doesn't abolish the judicial branch of our government, we will be filing a lawsuit and we will win."

No Republicans spoke out about the bill before the 20-17 vote, but six joined every Democratic senator in voting against it: Sens. Tom Casperson of Escanaba, Geoff Hansen of Hart, Mike Green of Mayville, Patrick Colbeck of Canton, Bruce Caswell of Hillsdale and John Moolenaar of Midland.

Snyder's office didn't return phone calls about his intentions for the bill.

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**For Immediate Release:**

Wednesday, February 15<sup>th</sup>, 2012

CONTACT: Frank Houston (248) 808-7166



## **COURT OVERTURNS OAKLAND COUNTY “REPUBLICAN POWERGRAB BILL”**

**LANSING, MI** – Judge William Collette, from the Ingham County Circuit Court, issued a ruling today, overturning the controversial Republican powergrab legislation (Public Act 280 of 2011) that was to allow Republicans in Oakland County to redo redistricting to their advantage prior to the 2012 election.

“We are glad that Judge Collette saw the “Republican Powergrab Bill,” for what it was – an outrageous attempt by Republicans to change the law, just for Oakland County, for Republican political gain,” stated Frank Houston, plaintiff and Chairman of the Oakland County Apportionment Commission who successfully sued Governor Snyder on the constitutional grounds of Public Act 280. “Judge Collette’s decision allows candidates and voters to begin a conversation about how to move State and County forward instead of worrying about (Oakland County Executive) Brooks Patterson’s trying to cheat democracy for personal political advantage. Hopefully for everyone’s sake, Brooks and the Governor stop wasting taxpayer dollars and re-focus on real issues that working people in Oakland County care about.”

Judge Collette’s decision states:

“PA 280 violates the Michigan Constitution, Article 4, Section 29’s prohibition on local acts, violates the Headlee Amendment’s prohibition on unfunded mandates, and violates MCL 46,406 by impinging on Oakland County voters’ rights to petition for judicial review of the reapportionment plan.” Further, Judge Collette granted Plaintiffs’ Motion for Summary Disposition and direct the attorneys involved to work on the order of the Court.

The violation of the Headlee amendment allows for lawyers fees to be covered by the State and County and reaffirms the Court’s decision that taxpayers were unconstitutionally responsible for the potential costs of redoing redistricting in Oakland County – a process that approached six figures in 2011.

The ruling affirms the plaintiffs allegations that the Republican Powergrab Bill would have shortchanged proper review and appeal of any new redistricting plans and impact the voters opportunities for due process before the May filing deadline.

“Justice is truly blind. It sees neither the Left nor the Right. It sees the Truth, and today Truth prevailed, the People have won,” said Eric Coleman, former Oakland County Commissioner and past President of the National Association of Counties.

The political consequences are clear for Governor Snyder and Oakland County Republicans. Having been rebuffed by the Circuit Court, they now have the choice of spending more taxpayer dollars appealing the decision to the Michigan Court of Appeals, and potentially the Michigan Supreme Court in an attempt to salvage the politically unpopular legislation. Or they can let the decision stand and follow the Apportionment Commission plan that was approved last spring and upheld previously by the Court of Appeals and Supreme Court.

Houston indicated the Court’s decision should put an end to the illegal actions of the GOP members of the Oakland County Commission who rushed to implement the unconstitutional statute before the law took effect and the Courts could review the law.

“I hope that both our County Executive and Governor stop wasting taxpayer dollars on these political games so we can all get back to work on the issues voters really care about,” said Gary McGillivray. “In my district people care about finding good paying jobs, property values and having quality services.”

McGillivray also expressed that he was glad that he now finally knew what communities and voters he'd be representing moving forward.

The "Republican Powergrab Bill," was rushed to the Governor's desk and signed into law in December with virtually no opportunity for public comment. In letters between Patterson and Governor Snyder, Patterson advocated for changing the law just for Oakland County to allow the Republican controlled Oakland County Commission draw their own district boundaries for the 2012 election and beyond. No other County has such a process.

It is unclear if Republicans will be appealing the case.

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