



State Insurance Regulators Violating Law

The office of Financial and Insurance services (OFIS), the agency that regulates the insurance industry, will begin complying with a state law requiring mandatory reporting every two years regarding the medical malpractice market, specific claims insurance and recommendations concerning the medical malpractice market in the state after nearly 15 years of failed reporting states director Mary Waters.

The reporting failure was brought to light earlier this year during testimony taken on the history of tort reform by the House Tort Reform Committee, chaired by Representative Kevin Elsenheimer (R-Bellaire).

In a letter to Director Waters, Representative Elsenheimer wrote that OFIS representatives confirmed the report has not been issued since 1989, because the agency felt the reporting requirements were unnecessary and no longer a problem. NOTE: Prior to the agency being renamed the Office of Financial and Insurance Services in 2000 it was known as the Insurance Bureau.

In response to Representative Elsenheimer, Director Waters wrote that, while reports were produced by the agency for a number of years, legislation in the early 1990's eliminated the report requirement in favor of a bi-annual statement regarding the degree of competitiveness in the commercial marketplace in Michigan.

Director Waters' letter said it appears the original decision not to issue the 1991 report was made under then-Commissioner David Dykehouse, and successive Commissioners: Patrick McQueen (acting), D. Joseph Olsen, D.A. Annunzio (acting), E.L. Cox, Frank Fitzgerald, and Ronald C. Jones (acting), further acquiesced to the initial determination. Former Governor John M. Engler appointed all.

"Admittedly, my review of this information leads me to the conclusion that this information does not satisfy the

remaining requirements of MCL 500.2477d, which has caused me to take steps that will bring OFIS into substantial compliance with our statutory obligations," Director Waters wrote.

Director Waters further stated that it was the belief of OFIS staff that much of the information required by the statute is also collected and made publicly available by the NPDB, an electronic database maintained by the Health Resources and Services Administration (HRSA), within the Department of Health and Human Services and some believe the information is a superior resource that has made the statutory required report of limited necessity.



Director Waters says she has instructed OFIS staff to create a Request for Proposal for a consultant to enter the required information into a database and provide analysis of the data, after which OFIS staff will produce a market analysis component of the report as the law requires. Based on those results, OFIS will make a series of recommendations concerning the medical malpractice insurance market in the State.

The lacking report became evident based on assertions that since the number of malpractice lawsuits has dropped dramatically in Michigan, why have there not been reductions in medical malpractice premiums to reflect the decrease in litigation.

"Castle Doctrine" Bills To Become Law

A 14-bill package of legislation giving Michigan residents the right to defend themselves and their homes with guns, without facing lawsuits or criminal prosecution is expected to be signed into law by Governor Jennifer Granholm. The Legislature has given final approval to the bills and they are headed to the Governor's desk.

The key bill in the package, House Bill 5143, would allow persons to use deadly force to defend themselves or their families as needed to prevent death, harm or rape.

U.S. Supreme Court Sides With Michigan Developers

The U.S. Supreme Court determined, in a split 5-4 decision, that the U.S. Army Corps of Engineers exceeded their authority when they ordered a Midland area developer to obtain a federal permit in order to backfill 54 acres of land that the agency claimed was wetland and would drain through ditches into Lake Huron.

In *Rapanos v. United States*, the court ruled that isolated ponds are not the waters of the United States and only those wetlands with a surface connection to a river, lake or significant body of water need federal permits.

The high court's ruling overturned an earlier appeals court ruling that John Rapanos and Keith Carabell backfilled their property located 11 to 20 miles away from a river that empties into Lake Huron, despite a warning from state and federal regulators to stop.

The U.S. Supreme Court's ruling does not put an end to the issue. The high court sent the case back to the lower courts for further proceedings.



Although the ruling is being hailed by some as a major victory over federal regulators' overbroad reading of their wetlands regulatory powers, it sets an ambiguous precedent that could leave few checks on federal agencies' abilities to regulate private property.

Former Department of Environmental Quality Director, Russ Harding, said Congress must act to clarify the law.

Shuman Wants To Be A Judge

Former House Appropriations Chairman Marc Shulman (R-West Bloomfield) is seeking the Republican Party's blessing to run as one of the party's two nominees for Supreme Court Judge in the November election. He hopes to join incumbent Justice Maura Corrigan against the two Democrat nominees.

Although judges run as non-partisan candidates on the ballot, the nominees are selected at the party conventions in the fall.

Seeking re-election along with Justice Corrigan is incumbent Justice Michael Cavanagh who is expected to be one of two Democratic Party picks.

Redistricting Ruling Could Have Impact on Michigan

The impact of a recent U.S. Supreme Court ruling, allowing state legislatures to redraw political districts whenever they want in order to give the controlling party an edge in U.S. House elections, remains to be seen.

Currently, the U.S. Constitution requires states to redraw congressional district lines every 10 years to reflect the decennial census yet a recent high court ruling upheld the Texas congressional redistricting plan where lawmakers there redrew U.S. House District lines in 2003, just two years after a court had made up its own map.

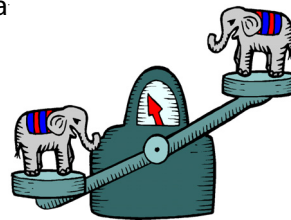
In this decision, the high court ruled the Texas mid-decade redistricting plan was not "excessively partisan," a standard that would have invalidated the map.

Under the new Texas plan, Republicans won six new seats in the 2004 congressional elections giving Republicans a 21 to 11 edge over Democrats. That prompted Democrats to judicially challenge the new plan as unconstitutional. The Supreme Court disagreed, ruling the U.S. Constitution does not prohibit a state from drawing new political maps more than once a decade.

Now It Is Down To Two

With Republican U.S. Senate candidate Jerry Zandstra deciding against pursuing legal action to add his name to the August primary ballot, the Republican field of candidates seeking to unseat incumbent U.S. Senator Debbie Stabenow has narrowed to two; Oakland County Sheriff Michael Bouchard and Detroit area minister Keith Butler.

The Board of State Canvassers ruled Mr. Zandstra did not have enough valid signatures to make the primary ballot.



Unemployment Rate Down, But...

Michigan's unemployment rate took a sharp downward plunge in May, dropping to 6 percent from a 7.2 percent rate in April. Unfortunately, the downturn is not attributable to a sudden surge in jobs for Michigan workers.

According to the Department of Labor and Economic Growth (DLEG), the drop is a result of some 66,000 workers leaving the job market in Michigan.

DeVos Unveils Lengthy Economic Plan

Republican challenger Dick DeVos, in a dead-heat race against Governor Jennifer Granholm, is touting an economic turnaround plan for Michigan that includes tax cuts, as well as increased spending on higher education, tourism, the life sciences and middle school math programs.

In the 65-page "Michigan Turn Around Plan, Version 2.0," Mr. DeVos pledges not to cut State funding for schools, police and health. He would, however, eliminate the State's Cool Cities program, abolish assistance after four years for able-bodied welfare recipients, and require health care coverage for public school teachers to be provided through the state employee pool.

As for cutting taxes, Mr. DeVos calls for the elimination of the income tax on families earning less than \$14,000 a year, business taxes on health care, the tax on farming machinery, technology and equipment, and property taxes on emerging technology firms.

Mr. DeVos says the Single Business Tax (SBT), should be eliminated and any replacement tax would not have to be revenue neutral.

Opponents immediately attacked his plan as lacking sufficient details. The DeVos campaign responded with a three-hour long briefing for the Capitol press corps to detail the multitude of specifics contained in the plan.

The entire DeVos plan can be viewed at www.devosforgovernor.com.

State Revenues Take A Hit

The State's cash registers were not ringing up a storm in May. Revenues collected from 13 major taxes in May were four percent below the level for the same month a year ago, according to the Senate Fiscal Agency. A drop in collections was anticipated due to a calendar change that affected when the Single Business Tax (SBT) was collected, but the decline was significantly more than had been anticipated.

To date this fiscal year, state revenues are up slightly, a mere two-tenths of one percent compared to the same period last fiscal year.



Granholm 401K Plan Moves To Legislature

Legislation has been introduced in the House and Senate that puts in place Governor Jennifer Granholm's proposal to allow businesses to go through the State for a discounted employee retirement plan.

The measures, introduced by Senator Buzz Thomas (D-Detroit) and Representative Steve Bieda (D-Warren) would create a program as suggested by Governor Granholm in her January State of the State address. The program was crafted to entice smaller businesses and their employees to invest for their retirement through expanded State 401k plans.

The plan is being touted by the Granholm administration as a new tool for small businesses to recruit and retain employees. However, some small business owners that already provide a 401k for their employees say it would take away the edge they have over competing businesses that do not provide a retirement plan. Others contend this is not an issue government should be involved in.

No other state has such a plan, but three states, Washington, Vermont and Maryland, are considering similar.

Budget Agreement Reached

Just before the July 4th holiday weekend, Governor Jennifer Granholm and GOP legislative leaders announced an agreement on the 2007 budget. The deal appears to be holding.

The House and Senate are scheduled to meet July 25th and July 26th to put the final "stamp of approval" on the budget that begins October 1st.

The agreement calls for a 2.5 to 6 percent increase; based on a new formula for the 15 state universities, with overall spending for higher education reflecting a 3 percent increase. K-12 schools would receive at least a \$210 per pupil increase in the per pupil state foundation grant.

Governor Granholm was denied the elimination of \$100 million in tax exemptions she had sought and Republicans lost out in their efforts to impose a time limit on welfare assistance for able-bodied workers or restrictions in Medicaid eligibility.

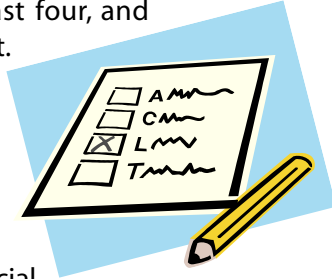
Republican leaders were most happy about being able to reach a new budget agreement without raising taxes.

Overall, the \$9.2 billion General Fund budget for 2007 reflects an increase of 2.06 percent over the current year spending.

A Big Ballot In November

Candidates for Governor, U.S. Senator, U.S. House of Representatives, the Michigan House and Senate, Secretary of State, Attorney General, and Michigan Supreme Court will all be on the November ballot for voters to decide. It now appears there will also be at least four, and possibly six, proposals on the ballot.

They are:



- √ Michigan Civil Rights Initiative (MCRI) would amend the Michigan Constitution to prevent racial preference in hiring and/or admissions at state public universities and local units of government.
- √ Mourning Dove Hunting Referendum that would overturn a new Michigan law that ended the State's long-standing ban on hunting mourning doves.
- √ Anti-Eminent Domain Proposal that would constitutionally prohibit governmental units from applying eminent domain to seize private property for private development.
- √ Natural Resources Fund Protection would constitutionally prohibit raiding the State's natural resources funds for other State purposes.
- √ K-16 Proposal would lock in annual increases in State funding for education.

Two additional proposals that could still make the ballot are:

- √ Stop Over Spending Proposal intended to limit State spending to a formula based on population growth and inflation, but the petition language leads with wording that would eliminate lawmaker pensions. Having two separate issues in the same proposal could be problematic in gaining ballot approval from the Board of State Canvassers.
- √ SBT Elimination would move up the date for the scheduled expiration of the Single Business Tax (SBT) from 2009 to 2007. Voters will vote on the SBT Elimination only if the Legislature does not approve the proposal because it is a citizen's initiative. It is expected the GOP-controlled House and Senate will approve the initiative, which is not subject to a gubernatorial veto.

Senate Holds Up Minimum Wage "Fix-It" Bill

The Senate called back from the House legislation to correct mistakes Republicans made when they passed a bill early this year to increase the State's minimum wage, after Governor Jennifer Granholm signaled she would veto the "fix-it" bill (HB 6213).

The move appears to be an attempt by Senate Republicans to either encourage the Governor to change her mind through media and public pressure, or to cut a deal with the Democrats on other issues.

Republicans rushed the minimum wage increase legislation through the Legislature in March to stave off a Democratic/Labor Union effort to put a minimum wage increase tied to inflation on the November ballot. That ballot initiative has since been abandoned.

In the hurry to pass the wage hike legislation, wording that would have kept some longstanding overtime exemptions in place was left out of the bill. As the new law stands, some employers will have to pay overtime when it takes effect on October 1st.

The issue is certain to see its way into political battles this fall. Democrats will accuse Republicans of wanting to dilute the minimum wage increase. Republicans will argue that Governor Granholm's veto will result in employers laying off workers and moving their jobs to other states.

State Hospital Costs Are Below The National Average

As health care costs continue to rise, a recent study by the Michigan Health and Hospital Association (MHHA) put forth some good news for Michigan residents; hospital costs in Michigan are now below hospitals nationwide and rank lowest among the Great Lakes States.

According to health care economist Dr. Harold Cohen, who conducted the study, the lower costs result from "more than a decade of continuous quality and efficiency improvements made by Michigan hospitals, led by efforts to significantly reduce patient length of stay."

Cohen said Michigan employers this year would pay about \$500 million less than they would pay if Michigan hospital costs were just at the national averages.

The entire study, *A Decade of Quality & Efficiency Improvements at Michigan Hospitals*, is available at: www.lowerhospitalcosts.org