

From the Capitol

April 2011

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Snyder's Tax Plan: An Update

Two months have passed since the Governor proposed his new business and individual tax plan, which included:

- Elimination of the Michigan Business Tax (MBT)
- Replacing the MBT with a flat income or profits tax of 6% on "C" corporations making over \$350,000. Partnerships and limited liability companies would not be taxed
- Elimination of business tax credits such as brownfield, historic and MEGA credits
- Imposing a state income tax on public pensions (heretofore not taxed) and removing the \$45,000 exemption for private pensions

Since that time, the Republican majorities in both Houses have held numerous hearings on the proposal. At present, there is general consensus among Republicans that a flat tax on business income is the right way to go. What made GOP legislators nervous is the proposed tax on pensions. Even though Michigan is only one of a handful of states with a state income tax that does not tax pensions, lawmakers, especially Republicans, don't want to impose a new tax "on their watch."

However, when all was said and done, Republicans reached an agreement to phase in the pension tax, which initially will raise \$600 million less than the Governor wanted. There is also concern that elimination or significant curtailment of business tax credits, especially brownfield credits, will put a halt to needed economic activity, especially in urban areas. It now appears the Governor may budge on elimination of the brownfield tax credit.

The Governor wants both the tax and budget issues on his desk by May 31. A more realistic timeline is July 4.

Preparing For the Worst

Some in state government believe municipalities and school districts will be facing huge budget shortfalls as early as this year. Over objections from organized labor and advocates of home rule, HB 4214, the emergency manager law, was enacted. It says that, after a series of findings, a municipality may be declared to be in a financial emergency and the Governor would be required to appoint an Emergency Manager who would, among other things, be required to:

- Develop a financial and operating plan
- Allow for the termination, modification or renegotiation of contracts
- Authorize modification or rejection of a collective bargaining agreement
- Order millage elections
- Allow actions to make a municipal government's pension fund to become actuarially sound
- Prohibit the Chief Executive Officer and local legislative board from exercising any powers during the financial emergency
- Authorize disincorporation of a municipal government with the approval of the Governor

The Governor signed the bill on March 16, the same day one of the largest protests in years occurred at and in the Capitol. The demonstration was organized by public employee unions and, if nothing else, was loud. Several protestors were arrested when they would not leave the Capitol premises by 6 p.m.

Unemployment Benefits Trimmed

In order to extend federal unemployment benefits, states are required to enact their own agreement on legislation regarding their share. The legislature did just that, but in so doing trimmed the state's obligation from 26 weeks to 20 weeks, saving employers millions of dollars. Predictably, the vote was pretty much along party lines with Democrats backed by organized labor objecting.

The provision was added to HB 4408 which originally was introduced to amend the Michigan Employment Security Act to create a "Special Fraud Control Fund" for the prevention, discovery and collection of unemployment overpayments. Amounts obtained would first be used to acquire software with a proven record of detecting and collecting benefit overpayments.

Teachers Threaten to Strike Over Funding Cuts

With the Snyder Administration's call for a cut in K-12 funding of \$470 per pupil and passage of the Emergency Manager legislation which could alter collective bargaining agreements, the Michigan Education Association (MEA) rattled sabers by suggesting a full blown teacher strike could occur.

Of course, teacher strikes are illegal in Michigan. So, the choice facing the MEA and the Republican legislative majority is to up the ante (striking by the MEA, and the legislature enacting severe sanctions against the same). In fact, the legislature is now giving serious consideration to measures that would impose severe sanctions on school teachers that strike and their unions.

This and That

- Legislation that would ban the promulgation of separate state ergonomics rules has been signed by the Governor and is now Public Act 10 of 2011.
- Senate Bill 7, which would in most instances place an 80 percent cap on the amount a public employer could pay for an employee's health care benefits, has been reported from the Senate Committee on Reinvention and Reform this month and should pass the Senate next week.
- A measure providing relief from the gross receipts portion of the MBT for logistics companies that use subcontractors to haul freight was reported from the House Committee on Tax Policy.
- Legislators are still deliberating on whether to accept the Snyder Administration's recommendation of placing single source mental health drugs on the preferred provider list instead of exempting them from prior authorization altogether.
- Look for the Administration's 1 percent tax on unpaid healthcare claims to be spearheaded by Sen. Roger Kahn (R-Saginaw) and considered first by the Senate Department of Community Health Subcommittee on Appropriations. The tax would replace the 6 percent use tax now imposed on certain Medicaid providers in order to draw down more federal dollars (\$800 million) for the program. Introduction of the bill is imminent.
- Look for the New International Trade Crossing, formerly known as DRIC, to wait to receive public legislative attention until the second half of this year, after the budget and tax issues are settled.
- A recent Court of Appeals decision in the case of Attorney General v Merck expanded the so-called FDA Defense in pharmaceutical product liability actions to actions by Michigan under the False Claims Act.