



Capitol Services, Inc.

110 W. Michigan Ave., Ste 700. Lansing, MI 48933

517.372.0860 Fax 517.372.0723

www.CapitolServices.org

To: MCA GC
From: Noah Smith
Re: Update on Legislation
Date: April 1, 2013

EAA Bill Passed by House

Despite strong opposition from every public education group, EAA legislation was passed on a purely party line vote just before legislative Spring Break, with 57 yes votes and 53 no votes. On March 5th, Rep. Lisa Lyons (R-Alto) introduced HB 4369, which would establish in statute the Education Achievement Authority (EAA). The House Education Committee heard heated testimony on the bill during two specially scheduled committee meetings. Rep. Lyons, chair of the committee, claimed that the language drafted “addressed concerns of education groups” from last term’s legislation (a charge “education groups” would dispute).

The EAA was originally created through an interlocal agreement under the Urban Cooperative Act by the Detroit Public Schools (DPS) and Eastern Michigan University in August 2011.

The EAA began at 15 schools in Detroit in September of last year. Along with Governor Snyder’s policy chief, Bill Rustem, EAA Chancellor John Covington testified at the hearing, ironically saying that the EAA rejects the “one size fits all approach” to education. Covington told the committee that he couldn’t guarantee that the EAA would turnaround education in Michigan, but that essentially, “let’s just try this.”

Proponents of the legislation presented data in committee claiming that it demonstrated that students were achieving gains of a year’s progress in less than a year. In fact, the tests were diagnostic tests, not achievement tests, and various factors including summer learning loss likely contributed to the extent of the “lowness” of the original scores. Opponents to the legislation pointed out how briefly the existing schools have been in the EAA—too briefly to demonstrate success—and the negative impact of eliminating local control on parental input. Rep. Theresa Abed (D-Grand Ledge) called in question the ability of “success coaches” to provide the kinds of mental health and social support services needed by many students who fail to make adequate progress. She pointed out that these success coaches are DHS caseworkers, not “social workers” as they have been improperly called.

As it passed the House, the bill would expand the EAA to 50 schools performing in the lowest 5 percent for three consecutive years. The original 15 would constitute the EAA, within up to 27 permitted by June 30, 2014; up to 27 through June 30, 2014, and maximum of 50 thereafter. The schools could get out of the EAA if the school improves performance for four consecutive years or if the superintendent of the district shows the school is attempting to reform itself with a redesign plan.

The bill would eliminate employees' seniority and participation in MPSERS, and collectively bargained contracts do not "carry over" from the surrounding district to employees working within the achievement authority. An amendment added on the House floor regarding MPSERS has not been properly described. While it would require that any employee hired by the EAA who came from the originating school district to continue to be in MPSERS, we believe the main impact of this amendment will be to guarantee that no employee of the originating district will be hired by the EAA.

The bill awaits action in the Senate Education committee, chaired by Senator Phil Pavlov (R – St. Clair).

Human Trafficking

The last time the GC met, some MCA members indicated interest in following some legislation regarding human trafficking. Of note, State Representative Kurt Heise (R – Plymouth), chair of the new Criminal Justice Committee, has announced that anti human trafficking measures are at the top of his agenda for 2013. Indeed, we can shortly expect to see some criminal penalties and definitions to go after perpetrators of human trafficking.

On Tuesday, March 12, the Attorney General held a press conference with law enforcement, the U of M Human Trafficking Clinic, the Michigan Human Trafficking Task Force at MSU, and a few members of the legislature, announcing the formation of the Michigan Commission on Human Trafficking. The Commission will seek to develop ways to prevent trafficking and provide services to victims, including specialized training of law enforcement, health care providers and others to recognize signs of trafficking.

The Commission will be broken into several subcommittees, one of which is policy-driven. Each of these is open to the public for input, and will be driven largely by State Rep. Kurt Heise (R – Plymouth), Chair of the House Criminal Justice Committee.

Regarding human trafficking legislation already in the works, Senators Emmons and Schuitmaker and Representatives Zorn and Kowall have introduced SB 205 and 206 and HB 4209 and 4210, respectively, which increase penalties for soliciting a sex act from a 16 or 17 year old minor. The solicitation is for prostitution or "any other lewd or immoral act" and the "john," so to speak, must also be at least 16. The solicitation must happen in a public place or from a vehicle or building. The bills may not move until other legislation is prepared via the Human Trafficking Commission.

Finally, the Polaris Project, along with U of M's and MSU's human trafficking groups, have recommended three victim-centered proposals that the Commission will consider:

- Safe Harbor: provisions preventing children under 18 years of age who are victims of sex trafficking from being prosecuted for prostitution.
- Affirmative defense: provisions permitting human trafficking victims to explain, during criminal proceedings, that they are victims of human trafficking;
- Vacating convictions: provisions providing human trafficking victims the opportunity to clear their criminal records

Rep. Heise's subcommittees will meet to consider legislation for the next six months or so, when draft bills on the concepts discussed will be introduced.

Mental Health and Wellness Commission

Governor Rick Snyder created the Michigan Mental Health and Wellness Commission on February 20th, 2013 via Executive Order 2013-6 (available on the Governor's web site). The Commission, which was created in part in response to the Newton tragedy, will help to address any gaps in the delivery of mental health services. With Lt. Governor Brian Calley appointed as Chair and DCH Director James Haveman as Vice-Chair, the six-member commission will serve in an advisory role to the Department of Community Health. Speaker Jase Bolger appointed Rep. Matt Lori and Rep. Phil Cavanagh to the Commission, and Majority Leader Randy Richardville appointed Sen. Rebekah Warren and Sen. Bruce Caswell. The Commission will make a final report of their findings by December 20, 2013.

MCA is currently developing a "white paper" of sorts on key concerns for Counselors and recommendations for addressing those concerns. That way, not only will the commission have timely input from workers in "the field," but MCA will be able to use it to testify on the several public hearings the Commission will certainly hold around the state. We expect the Commission to release a schedule of dates in early May. Further, the Commission will consider site visits to organizations or institutions relevant to their charge as they gather data for their final report and recommendations.

Medicaid Expansion

Expanding Medicaid to 133% of the federal poverty level, despite its \$206 million savings, faces an uphill battle to pass through the legislature. A few Republican Senators blasted Medicaid expansion as "funny money" that simply shifts costs onto the federal government.

House and Senate leadership, however, are looking for ways to adopt the expansion, given the big-ticket relief it provides to the General Fund.

To help pay for the expansion without spending any new tax money (especially in years 2017 and beyond, as the Federal share of the expansion shrinks from 100% to 90%), the Governor

created a concept called the Health Savings Fund. The Health Saving Fund would be made up of 50% of the direct and indirect cost savings to GF/GP, which is about \$100 million a year. That money would accumulate from now until FY 19-20. By 2020, the federal match on Medicaid expansion drops to 90%, and the accumulated fund balance is then used to fund the increase in the state's share (the direct and indirect savings are exceeded by the cost of expansion to the state's GF). This balance is projected to last until 2035 if the fund is used to cover *half* of the state's increasing share, 2031 if it covers the state's *entire* increased GF commitment.

Though SB 41 (Senator Bruce Caswell, R – Hillsdale) prohibits Michigan from expanding Medicaid in such a manor, given Senate and House leadership's desire to see the expansion through has at least meant that the measure hasn't yet been heard. Still, the DCH budget bills have swapped chambers *without* taking the expansion into account.

Marchman Act

Last session, Speaker Pro Tem John Walsh (R – Livonia) introduced HB 5689, modeled after Florida's "Marchman Act" (named after a Florida pastor who championed the rights of people with SUD). It is an involuntary commitment law. The bill allowed family members or three friends to petition the Probate court to remand someone to treatment. The measure has been reintroduced as HB 4486.

The bill was meant to catch people with substance use disorders who fall through the cracks; their substance use disorder is bad enough that it affects their and their families' lives, but not bad enough for law enforcement to be able to do anything about it. Under the measure, the person must be an adult, and must be either incapacitated or whose judgment is "so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care" and has otherwise refused voluntary treatment. The person must also be a clear danger to themselves or others (by way of threats, attempts, or actual harm).

There are other technical aspects of the bill, including access to attorneys (this is a court proceeding), but the gist is that families and friends would be empowered to enter a loved one into treatment who needs it, but won't do it themselves and hasn't triggered access to the criminal justice system. This is supposed to be an alternative to incarceration, and access to drug treatment, including all of the weight normally attributed to drug courts (complete a program or face incarceration). However, several groups – including judges – are concerned about Due Process issues. Rep. Walsh is open to working with any group that has concerns in order to make a bill that's workable.

House Approves Federal Funding for State-Federal Partnership on Health Exchange, But...

The Michigan House passed HB 4111 which will appropriate just over \$30 million in federal grant money to establish an online health exchange. The health exchange would then be scheduled to be online by October 1.

The vote was 78-31, with all but one of the "no" votes coming from Republicans. The bill now moves to the Senate where it will likely be referred to the Appropriations Committee.

However, the Senate left for Spring Break without taking any action on HB 4111. HB 4111 would have paved the way for the 2nd option states have to adopt a Health Exchange: the state-federal partnership. However, because HB 4111 didn't move out of the Senate, the federally-imposed deadline for adoption of the partnership has *also* expired. The only real option left at this point is the completely federally-controlled Exchange, which would still require a state appropriation of about \$9 million. Unbelievably, there is resistance even to this, not only because of a state appropriation, but because it's a state appropriation with no state control.

Conscientious Objector Bill Resurrected

Last session, Senate Bill 975, "The Religious Liberty and Conscience Protection Act", was defeated. It would have made it ok for medical providers to refuse care to individuals if they opposed certain things based on moral grounds. The bill died in the House. It returns, now as SB 136 (Senator Moolenaar, R – Midland).

SB 136 received three hearings in the Senate Health Policy committee. MCA opposes the measure. If common-sense could be applied to the legislation, it was certainly attempted in terms of amendments to require posting of medical services a private medical professional would deny, and a requirement to proceed with such "objectionable" procedures if the provider in question were the only professional of that particular license type of specialty within a 50-mile radius. These amendments failed. Despite stiff opposition from many different organizations, proponents felt like there were enough exceptions in the legislation to vote it out of committee just before legislative Spring Break. Though the bill has not yet moved off the Senate floor, it is expected that it will move this Spring.

Don't forget: MCA's Legislative Day is next Thursday, April 18, 8:30 – 2:30, at Lansing Community College.