

April 2019

## **LINE 5 LAW: ATTORNEY GENERAL NESSEL RULES IT UNCONSTITUTIONAL; GOVERNOR WHITMER HALTS ACTION**

Saying the Line 5 tunnel law provisions go beyond the scope of what was disclosed in its title, Attorney General Dana Nessel has opined that the law is unconstitutional.

Following Attorney General Nessel's opinion, Governor Gretchen Whitmer issued an executive directive barring state departments and agencies from doing anything more related to the law.

But can they decommission Line 5?

According to retired environmental consultant Alex Sagady, they can't. He cited a federal law (49 U.S. Code 60104 (c) saying states cannot enforce "safety standards for interstate pipeline facilities or interstate pipeline transportation." Sagady also said Enbridge's Line 5 is an interstate pipeline.

Now, Governor Whitmer is working with Enbridge and has not ruled out ultimately supporting a plan from Enbridge to build a new buried pipeline beneath the Straits of Mackinac.

Governor Whitmer said her goal "is to get the oil out of the water as quickly as possible."

## **GOVERNOR WHITMER: NO ROAD FUNDING FIX, NO BUDGET SIGNING**

In response to House and Senate Republicans ranking road funding third on their 2019 session priority list behind auto-insurance reform and the budget, Governor Whitmer said she will not sign any Fiscal Year (FY) 2020 spending plan that doesn't include the road-funding piece.

Senate Majority Leader Mike Shirkey (R-Clarklake) says the road funding issue and the budget process are separate, as far as Senate Republicans are concerned.

It appears, however, that the Senate Republicans' budget will have more road funding dollars, but not from new revenues, rather by having the dollars coming from sources already in the budget, such as using more of the General Fund for roads and other shifts.

## **IS THERE A GOP ROAD PLAN ON THE WAY?**

According to House Judiciary Chair Representative Graham Filler (R-DeWitt), "...there is nothing in writing yet but 'two or three' plans are being kicked around that do not include Governor Whitmer's new formula for distributing new road dollars... and it is not going to include the 45-cent gas tax hike..."

So, stay tuned.

## **POLL: LESS THAN 25 PERCENT SUPPORT WHITMER PROPOSED GAS TAX HIKE**

Based on a recent poll, it appears Governor Whitmer's statewide effort to pump support for her 45-cents-per-gallon gas tax increase to "fix the damn roads" is taking a pounding.

Data from polling done by Marketing Resource Group between April 9-13 shows only 21.2 percent among the 600 likely voters support the hike.

Almost 75 percent oppose the road-funding increase with 60.7 percent strongly in opposition.

## **COLLEGE SCHOLARSHIP PROPOSALS NOW IN BILL FORM**

Legislation (HB 4456 and SB 268) that creates the Michigan Reconnect program is being sponsored by Republicans, while Democrats are sponsoring the MI Opportunity program through House Bill 4464 and Senate Bill 267.

Governor Whitmer unveiled the two tuition-free programs in her first State of the State address and budget proposal.

The Michigan Connect program allows those 25 and older and graduating high school seniors to take two years of community college or receive an industry recognized certificate for free if they earn good grades and don't drag out the process.

The Michigan Opportunity Scholarship program would provide graduating high school students in the class of 2020 and beyond three years or 60 credit hours of tuition at a community college or a two-year \$2,500 annual scholarship to those attending a four-year college or university. The latter would only qualify with a 3.0 GPA and a household income of under \$80,000.

## **GOVERNOR WHITMER MOVING FORWARD ON STATE PFAS STANDARDS**

Governor Whitmer has taken the first steps toward creating Michigan-based standards governing PFAS levels in drinking water.

Governor Whitmer has not come out with a specific PFAS level, but has charged the Michigan Department of Environmental Quality (DEQ) to get moving on the rulemaking process to establish "enforceable" maximum contaminant levels for PFAS in drinking water.

Governor Whitmer wants the advisory workgroup to finish its work by July 1 and wants the new rules "completed on an accelerated schedule" no later than October 1.

Senate Majority Leader Mike Shirkey said in a statement that the Governor Whitmer administration rules "will be vetted and scrutinized by the Senate and will be subject to the regular rule-making process."

## **ATTORNEY GENERAL NESSEL LAUNCHES HATE CRIMES UNIT**

A new Hate Crimes Unit charged with investigating and prosecuting hate crimes has been launched within the Criminal Division of the Department of Attorney General. Assistant Attorney General Sunita Doddamani has been assigned by Attorney General Nessel as lead prosecutor in the unit and Special Agent David Dwyre has been named lead investigator.

Attorney General Nessel said the Attorney General's office will follow up on every credible tip, will launch independent investigations when sufficient cause exists, and will offer departmental resources to assist local and federal law enforcement partners.

### **NO-FAULT REFORM NOWHERE YET**

Senate and House leaders are coordinating their efforts to reach an agreement on no-fault auto insurance reform, up front at the beginning of the legislative process.

A spokesperson for Senate Majority Leader Mike Shirkey said he hopes to see a bill substitute for SB 1 and action taken on that in the next few weeks. They said the substitute will be unveiled once every 'I' has been dotted and 'T' has been crossed.

### **GOVERNOR WHITMER SEEKS ADDITIONAL MONEY TO EXPAND PROBE OF PRIESTS**

Governor Whitmer is requesting \$2 million in her budget to be used for state investigations into abuse by Catholic clergy in Michigan.

The money Governor Whitmer is asking for would be used by the Michigan Attorney General's office for an investigation and victims' advocates to continue the detailed investigative work necessary to review and pursue the information that has been gathered from all seven Michigan dioceses, according to Attorney General spokesperson Kelly Rossman-McKinney.

### **SUPREMES INVITES ARGUMENTS ON PAID SICK LEAVE, MINIMUM WAGE**

The Michigan Supreme Court (MSC) has scheduled oral arguments for July 17 to consider the House and Senate's requests for an opinion on whether the Legislature can amend two citizen-initiated laws during the same session they were adopted in, after the Legislature did that to the minimum wage and paid sick time ballot proposals.

The court has invited any member of either chamber to file briefs answering that question, as well as whether the court should use its discretion to grant the request and whether Public Act 368 and PA 369 were enacted within the Constitution.

The Justices also asked Attorney General Nessel to submit a brief arguing both sides of the question. Attorney General Nessel will accept the invitation, but will not issue a separate opinion anytime soon.

### **IS CIVIL ASSET FORFEITURE ISSUE CLOSE TO RESOLUTION?**

An agreed-upon, three-bill package of legislation on the civil asset forfeiture issue appears to be setting the stage for passage. The bills (SB 2 and HBs 4001 and 4002) have broad support from groups across the political spectrum.

The three-bill package is both bipartisan and bicameral.

The legislation requires a conviction or a guilty plea before police can take personal property less than \$50,000 through civil forfeiture.

The Senate Judiciary and Public Safety Committee, last week, amended HBs 4001 and 4002 to reflect the way the bills are to be constituted and reported to the Senate floor. The third bill, SB 2, is currently on the House floor.

### **TASK FORCE TO FOCUS ON CRIMINAL JUSTICE DATA AND REFORM EFFORTS**

The three branches of state government are joining together in a state task force to focus on jail and pretrial incarceration, with the goal of improving the effectiveness of the front end of Michigan's justice system, according to an executive order signed last week by Governor Whitmer.

Besides Lt. Governor Garlin Gilchrist II, Supreme Court Justice Bridget McCormack and Attorney General Dana Nessel, the task force will also consist of three people nominated by the Chief Justice, Senate Majority Leader, House Speaker, Michigan Association of Counties, and the Michigan Sheriffs Association. The Governor will have three other appointees as well.