

CAPITOL NEWS UPDATE

WEEK OF AUGUST 15, 2022



McAlvey Merchant
& ASSOCIATES

OAKLAND COUNTY CIRCUIT COURT JUDGE ISSUES PRELIMINARY INJUNCTION IN ENFORCING ABORTION BAN

Oakland County Circuit Judge Jacob Cunningham ruled today to bar county prosecutors from enforcing Michigan's 1931 statute banning abortions while legal challenges continue.

Cunningham granted the request from Gov. Whitmer's legal team for a preliminary injunction to block the statute, saying that allowing the ban to take effect would be dangerous to women and doctors, and would send the health care system into a crisis.

"The court finds the statute dangerous and chilling to our state's population, childbearing people and the medical professionals that care for them," Cunningham said.

Cunningham also told prosecutors who support the ban that they should focus on other crimes "that they are fully capable of investigating."

The decision was made after the court heard from expert witnesses on both sides of the issue regarding the 1931 law which criminalizes non-life saving abortions as manslaughter.

Plaintiffs focused on the uncertainty the 1931 law would cause for health professionals with concerns related to pregnancy and the law's ambiguity regarding life-threatening pregnancies.

The defense said that there is no ambiguity, with witnesses saying it is clear if a pregnancy has a life-threatening consequence.

The pretrial conference is set for Nov. 21, with Cunningham referencing the Reproductive Freedom for All abortion rights ballot initiative to be placed before voters on Nov. 8. The initiative, which seeks an amendment to the state constitution, submitted 753,759 signatures during July 2022.

A decision by a Michigan Court of Claims judge had placed a temporary injunction on the 1931 law after *Roe v. Wade* was overturned in June. This was, however, followed by a decision from the Michigan Court of Appeals which claimed the non-permanent injunction did not apply to county prosecutors. Cunningham then placed a temporary restraining order at Gov. Whitmer's request.

LET MI KIDS LEARN BALLOT INITIATIVE SUBMITS OVER 520,000 SIGNATURES

The Let Michigan Kids Learn initiative submitted 520,598 signatures on Aug. 10 with the Bureau of Elections.

The initiative would set up Student Opportunity Accounts as part of a scholarship program funded by private donors to provide grants to students to use for education-related expenses including tuition, tutoring services, curriculum materials, transportation costs or other out-of-school learning programs.

Families who qualify for free or reduced school lunches could apply for funding. Public school students who are eligible could receive grants of up to \$500, while public school students with disabilities or special needs could receive up to \$1,100.

The petition also requires 90 percent of annual public school per-pupil funding amount, currently \$8,700 and set to rise to \$9,150, for nonpublic school students.

The petition also requires 90 percent of annual public school per-pupil funding amount, currently \$8,700 and set to rise to \$9,150, for nonpublic school students.

Supported by the DeVos family, the group also has a second initiative in the works which would allow taxpayers contributing to the program to claim up to \$500 in tax credits for contributions for education expenses. The annual maximum would start at \$500 million.

Proponents of the initiative say it is a necessary measure to combat the learning loss that happened during COVID shutdowns.

"This is going to help our children. They're going to be able to compete on the world stage. And the parents are the ones who are being given the power to help their children," said Sen. Lana Theis (R-Brighton).

Opponents say the initiatives amount to taxpayer dollars going toward private or religious schools.

Due to the signatures being submitted past the June 1 deadline, the campaign will either be considered in the 2024 election cycle or by the Legislature before then if the Bureau of Elections recommends it for certification. The campaign is looking for the Legislature to enact the proposal before the end of the year.

LINE 5 LAWSUIT STAYS IN FEDERAL COURT

U.S. District Judge Janet Neff ruled Thursday that the Line 5 lawsuit will remain in federal court, denying a request to move the case to state court.

The lawsuit, supported by Gov. Gretchen Whitmer's administration, seeks to close Enbridge Energy's Line 5 and declare that the 1953 Straits of Mackinac Pipeline Easement is void, violates public trust, should be revoked and that it's Line 5 should be closed – ruled Thursday that the case will remain among federal jurisdiction and that she would not remand the case back to state court.

In *Nessel v. Enbridge Energy*, Judge Neff denied a request by Attorney General Dana Nessel to send the case back to the Ingham Circuit Court where it was initially filed.

This is the second time in a year that Neff has kept a case challenging Line 5's operation in federal court, where federal laws could give Enbridge an advantage.

Neff described Nessel's attempt to move the suit back to state court as an attempt to gain an unfair advantage "through the improper use of judicial machinery." Also, that Nessel's move was an effort "to engage in procedural fencing and forum manipulation."

"The court reinforces the importance of a federal forum in deciding the disputed and substantial federal issues at stake, with uniformity and consistency," Neff wrote.

Nessel originally filed the lawsuit in Ingham County Circuit Court in 2019. Enbridge moved the current case to federal court in December.

Enbridge supported the decision, citing underlying federal issues with the case, including "interstate commerce, exclusive federal jurisdiction over pipeline safety and the serious ramifications for energy security and foreign affairs if the state and the U.S. government were to defy an international treaty with Canada that has been in place since 1977."

A spokeswoman for Nessel said the department "strongly disagrees with the judge's mistaken characterization of both the law and the attorney general's approach to this and related cases," and that the department is considering its next steps.

MM&A BRIEFS

GOVERNOR PROPOSES SCHOOL TAX HOLIDAY

Governor Whitmer on Tuesday proposed a pause on sales tax applied to school supplies as part of her proposed MI Back to School plan.

"As families gear up for the school year, they should be able to get what they need without spending too much money out of pocket," Whitmer said. "Getting this done would lower costs for parents, teachers, and students right now, and ensure that they have the resources to succeed. I will work with anyone to lower costs, cut taxes, and help our kids thrive."

Whitmer said the plan was a progression of the bipartisan education budget signed last month. Many Republican lawmakers opposed the plan claiming that it was "too little too late" and that the plan does not go far enough to give permanent tax relief.

Others, including The Michigan Retailers Association, supported the idea of the proposal but said it was too late to help residents this year.

BARRET ENDORSES REPUBLICAN CANDIDATE FOR 28TH SENATE DISTRICT

Sen. Tom Barrett (R-Charlotte), has endorsed Republican candidate Daylen Howard in the race for the 28th Senate District which includes parts of Clinton, Ingham and Shiawassee counties. Howard is running against former Democratic House Minority Leader Sam Singh of East Lansing in an area that leans Democratic with pockets of Republican support.

CALENDAR OF EVENTS

- Aug. 26 Rep. Mike Harris (R) Golf Scramble**
Location: 8 a.m., Springfield Oaks Golf Course, 12450 Andersonville Road,
Davisburg
- Aug. 31 Rep. Rachel Hood (D) Late Summer Fundraiser**
Location: 7 p.m., 505 Ball Ave. NE, Grand Rapids