

## Governor Snyder's first "Special Message" focuses on reforms for local government

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April 1, 2011

Governor Rick Snyder has issued the first "Special Message" of his term, a practice he intends to continue as a forum for setting policy objectives and framing discussion with the legislature and the public. The topic of the first Special Message: Community Development and Local Government Reforms, which addressed a series of legislative priorities that will impact local governments across the state.

**Economic Vitality Incentive Program:** The Governor proposes to adjust statutory revenue sharing to create incentives for implementing certain policy changes at the local level, with state revenue distributions serving as a reward for such changes. The program will limit the allocation of these incentives to communities that would have received over \$6,000 under the existing statutory formula. To continue to qualify for statutory revenue distributions, municipalities would need to meet certain requirements and implement reforms in three areas:

- **Accountability and transparency:** By October 1, 2011, local units of government must produce a citizen's guide to their finances and a "dashboard," which will track performance indicators relating to fiscal stability, economic strength, quality of life and public safety.
- **Consolidation of services:** By January 1, 2012, municipalities must produce plans to consolidate services to realize taxpayer savings. Though not addressed directly in the Special Message, a series of bills currently pending in the legislature are designed to eliminate certain guarantees of collective bargaining agreements and to remove statutory requirements that certain employment benefits cannot be diminished by virtue of an intergovernmental agreement, both of which have been barriers to consolidation and service sharing between local governments.
- **Employee compensation:** For new, modified or extended employee contracts, municipalities must (a) place all new hires on a defined contribution or hybrid retirement plan, with an employer contribution limit of 10% of base salary; (b) use a 1.5% multiplier to determine employee pensions (2% for employees who are not eligible for social security); (c) implement certain controls to prevent pension "spiking;" and (d) require any new hires receiving health care coverage to pay at least 20% of the cost or implement certain other cost saving measures.

Under the program described in the Special Message, performance in each of these three categories will determine a municipality's total funding eligibility, with each category representing one-third of the funding. In order to receive the full benefit allocated to a category, a municipality must meet all criteria within that category according to a defined timeline.

**Broad Consolidation of Jurisdictions:** The Governor proposes legislation creating a means by which groups of local government units could voluntarily consolidate into metropolitan governments, which would supersede county government and essentially merge county government with subordinate local units creating one combined jurisdiction.

**Labor Relations Reforms:** The Governor's Special Message also contained a series of proposals aimed at reforming the relationship between management and public employees:

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- PERA amendments: Amend the Public Employment Relations Act so that the consideration of an intergovernmental cooperation agreement by a local government is not characterized as an unfair labor practice.
- Reform collective bargaining process upon consolidation: Adjust the timing of collective bargaining so that upon a merger of services, management and employees immediately begin the collective bargaining process for the new entity, and complete it within an appropriate time period.
- Reform binding arbitration for public safety workers: Amend Public Act 312 of 1969, which addresses binding arbitration, so that internal salary and benefit comparisons and a local government's ability to pay are considered by an arbitrator. The Special Message also proposes that both management and employees be required to submit a last best offer before entering into binding arbitration, and that the arbitration process should take no more than 90 days.
- Eliminate new charter staffing requirements: Prohibit any new city, village or county charters (or amendments) from containing minimum employee staffing requirements. Rather, staffing levels would be addressed in collective bargaining.

**Pension Board Reforms:** The Special Message also proposes to make local pension boards subject to transparency rules and accountability reforms, and require them to meet certain requirements modeled after Securities and Exchange Commission rules. For example, the Governor proposes a prohibition against "pay to play" so that anyone contributing to government officials in a position to influence a pension board's decision would be prohibited from conducting business with that board for two years. Moreover, the Governor proposes that a financial adviser should be prohibited from making or soliciting political contributions to a political party where the advisor seeks to conduct business.

**Unfunded Mandates:** The Special Message also addresses the Michigan Constitution's prohibition against unfunded mandates, set forth in the Headlee Amendment. The Governor proposes amendments to legislation that implemented the Headlee Amendment, which amendments would establish a "fiscal note process" and require that any state legislation imposing new costs on local governments would have no force or effect until it complies with that process.

The Governor's Special Message serves as an introduction to a series of policy priorities and recommendations. Clearly the Governor's ideas will take on more detail and will transform into proposed legislation in the coming weeks and months. Nonetheless, the priorities and direction are clear today, and local governments will want to carefully evaluate the new opportunities and challenges that will follow from the Governor's proposed reforms. That work begins now--- and it should begin with a call to Miller Canfield. With unmatched experience addressing intergovernmental cooperation, public employee relations and unfunded mandates, our team is prepared to help local governments design innovative ideas and programs to protect resources and ensure prosperity as Michigan moves forward.

Contact your Miller Canfield attorney for more information.