

JULY 31, 2020

SPECIAL ALERT

Official newsletter of Khoury Johnson Leavitt



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KJL SPECIAL ALERT

The Khoury Johnson and Leavitt team remain informed and engaged during these times of uncertainty. We are in communication with leadership in the executive, legislative and judiciary branches of state government, in addition to locals on a regular basis. Updates will continue every Friday as a mechanism to recap relevant activity from the past week.

HEALS Act Passes

Senate Republicans on Monday unveiled an approximately \$1 trillion stimulus package that Majority Leader Mitch McConnell (R-Ky.) has said will likely represent lawmakers' last major legislative response to the coronavirus pandemic. Senate Republicans' legislation, titled the "Heals Act," is expected to kick off negotiations with congressional Democrats, who have already vowed to oppose many of the provisions in the Republican plan. House Democrats in May approved a \$3 trillion coronavirus response package that sharply diverges from McConnell's bill in keyways, leaving the path toward a final compromise unclear on many key questions. The GOP legislation left out some White House priorities, such as the president's demand for a payroll tax cut, but includes more than \$100 billion for America's schools; a liability shield to protect businesses from coronavirus-related lawsuits; another round of direct stimulus payments; a new round of funding for the Paycheck Protection Program, as well as more money for emergency business loans; and a reduced extension of emergency federal unemployment benefits, among other measures. The Senate package does not include the aid to states that Governor Whitmer has been calling for.

Whitmer tightens social, entertainment restrictions as caseloads climb

Gov. Gretchen Whitmer tightened restrictions on social and entertainment activity in Northern Michigan today in response to rising caseloads of COVID-19 in Michigan.

Beginning July 31, Executive Orders 160 and 161 direct that:

Bars that rely on alcohol sales for 70 percent or more of revenue are closed to indoor service.

Indoor gatherings are limited to no more than 10 people (in Regions 6 & 8, the limits are 25% of max capacity or 250 people, whichever is smaller).

These changes apply statewide, including to Regions 6 and 8 (the Upper Peninsula and 17 counties in the Northern Lower Peninsula), which have been operating with fewer restrictions for several weeks. The changes bring those regions into alignment with rules imposed on other regions in the southern parts of Michigan.

The executive orders consolidate and update a variety of existing executive orders, and it does expand activities in one area: the three casinos in the city of Detroit can reopen, but only to 15 percent of capacity.

GOP Files Lawsuit Against Whitmer Administration Challenging Emergency Authority

The lawsuit filed by the House Republicans challenging the governor's extension of a COVID-19 state of emergency without the authority of the legislature will be heard by the court of appeals next week. This suit is backed by House Speaker Lee Chatfield, R-Levering, and Senate Majority Leader Mike Shirkey, R-Clark Lake

The initial filing is a response to the dispute over Whitmer's decision to issue a trio of executive orders putting Michigan in a state of emergency due to the COVID-19 pandemic through May 28, after the Republican-majority legislature declined to issue an extension of the initial state of emergency past April 30.

Michigan has two laws on the books related to the governor's emergency powers. The 1945 Emergency Powers of Governor Act allows governors to call for a state of emergency for as long as necessary, while the 1976 Emergency Management Act includes a 28-day window for the governor to unilaterally declare an emergency without legislative approval. The 1976 law did not invalidate the prior law. Republican lawmakers claim only the legislature has the power to extend a state of emergency past 28 days, and that Whitmer's move was unconstitutional.

The Whitmer administration argued the legislature lacks legal standing to challenge the governor's authority in this manner.

Supreme Court Denies Taking Up Absentee Ballot Case

By a 4-3 decision, the Michigan Supreme Court denied hearing the case brought by The League of Women voters to extend the timeline of counting absentee ballots. The League of Women Voters sued the Department of State, seeking to allow ballots postmarked by Election Day to count even if received in the following days. The Court of Appeals ruled earlier this month the passage of Proposal 3 in 2018 did not create an inherent right to have absentee ballots mailed on Election Day counted if they were received after polls close. In an order today, Justice David Viviano, Justice Stephen Markman, Justice Brian Zahra and Justice Elizabeth Clement ruled they were not persuaded to take up the case. Justice Richard Bernstein, Justice Megan Cavanagh and Chief Justice Bridget McCormack dissented.

COVID-19 Puts MI Hospitals In The Hole \$1.1B

Michigan hospitals have lost a combined \$1.1 billion during the recent pandemic, despite receiving \$2.1 billion in emergency federal aid.

The significant loss of patients, canceled and delayed medical procedures, staffing changes and the need to buy additional personal protective equipment has cost the hospitals a combined \$2.7 billion, according to the report. The cost of treating COVID-19 patients has added \$440 million in emergency expenses for a total of \$3.2 billion in combined financial losses.

EXECUTIVE ORDERS:

- Executive Order 2020-154:
 - Alternative means to conduct government business during the COVID-19 pandemic
- Executive Order 2020-155:
 - Implementation of expenditure reductions under Section 20 of Article 5 of the Michigan Constitution of 1963
- Executive Order 2020-156:
 - Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities
- Executive Order 2020-157:
 - Temporary suspension of youth work permit application requirements
- Executive Order 2020-158:
 - Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic
- Executive Order 2020-159:
 - Amending the fire code to accommodate new instruction spaces
- Executive Order 2020-160:
 - Amended Safe Start Order
- Executive Order 2020-161:
 - Safeguards to protect Michigan's workers from COVID-19



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ADDITIONAL RESOURCES

www.michigan.gov/coronavirus.com

www.michigan.gov/ag

www.cdc.gov/coronavirus.com

www.congress.gov.com

www.michiganbusiness.org

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