



Fall Workshop  
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# Legal Update

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# Caution

- These slides reflect general legal standards for the related presentation and are not intended as legal advice for specific situations
- Future legal developments may affect these topics
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# Outline

## I. General Legal Update

- A. Laws Affecting College Operations
- B. Laws Affecting Boards of Trustees

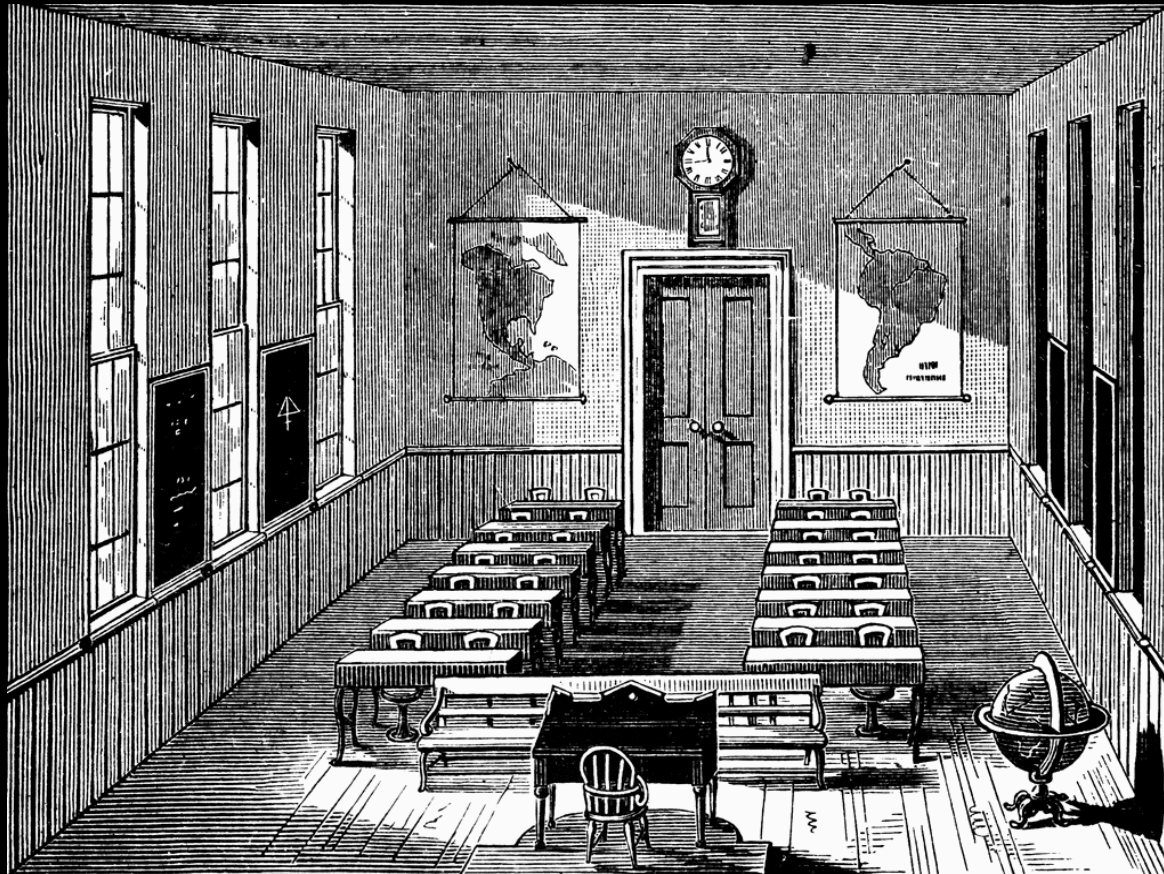
## II. Labor and Employment Law Update

- A. PAC and Payroll Deductions
- B. Basics of the Right to Work Legislation
- C. Conflicts of Interest
- D. Publically Funded Health Insurance Premiums

## III. Conclusion/Questions

**Part I:**  
**General Legal**  
**Update**

# New Laws Affecting College Operations



# State Aid / Appropriations

- Public Act 60 of 2013
- Effective June 13, 2013
- \$5.8 million (2.0%) increase for community college operations distributed through a modified version of the Performance Indicators Task Force Formula
- Distributes certain funding based on performance indicators that include business efficiency, enrollment, degree completion rates and “local strategic value.”



# Appropriations (cont.)

Renaissance Zone Reimbursements- \$3.5 million to reimburse community colleges for tax revenue lost from Renaissance Zone exemptions

Virtual Learning Collaborative- One time appropriation of \$1,100,000 to the Michigan Community College Association to expand the Michigan Community College Virtual Learning Collaborative

# Appropriations (cont.)



## MPERS Contributions:

- \$31.4 million appropriated to fund the difference between the employer's capped contribution rate for unfunded accrued liabilities (20.96%) and the actual unfunded accrued liability contribution rate pursuant to MPERS reform legislation



# Affordable Care Act

- New website posting requirement
- After the college adopts its budget it must post its estimated costs of complying with the Patient Protection and Affordable Care Act



# Baccalaureate Degrees

- PA 495 of 2012
- Effective December 31, 2012
- Allows community colleges to grant certain baccalaureate degrees
- Changed the definition of “community college” in the community college act
- Changed the powers of the college board of trustees

# Baccalaureate Degrees (cont.)

- Baccalaureate degrees may be granted in the following fields:
  - Cement technology, maritime technology, energy production technology, or culinary arts
- HB 4148 introduced in January 2013 would further amend the Community College Act allow bachelors degrees in: ski area management, wastewater treatment technology, allied health, information technology or manufacturing technology
- House Bill 4318 introduced in February would add bachelor in science in nursing

# Dual Enrollment Expanded

- PA 131-134 of 2012
- Effective July 1, 2012
- Amends Postsecondary Enrollment Options Act and Career and Technical Education Act to expand eligibility and extend dual enrollment options to students in state-approved nonpublic schools



# Dual Enrollment Options

- Expanded to grades 9-12
- Public, private, or home-school student may dual enroll in course that is not currently offered or if scheduling conflict
- Student may take 2 courses per academic year and 4 courses in senior year, with 10 course total limit
- Treasury pays for nonpublic student up to pro-rated percentage of statewide foundation payment (\$7,209 for FY 12-13)

# Student Records: FERPA Amendments

- Effective Jan. 14, 2013
- Amends FERPA to permit schools to comply with court orders addressing child abuse, neglect, or dependency matters without attempting to first notify parent or student



# Iran Economics Sanctions Act

- PA 517 of 2012
- Effective April 1, 2013
- Prevents “Iran linked business” from submitting a bid to a public entity including a community college
- Bidders must certify that they are not an “Iran linked business”
- Significant penalties for noncompliance



# Synthetic Cannabanooids Banned

- PA 183 of 2012
- Effective July 1, 2012
- Amends Public Health Code to ban the sale of synthetic THC, also known as Bath Salts, K2, Spice, Spice Gold





# New Laws Affecting School Employees



# Internet Privacy Protection Act

- PA 478 of 2012
- Effective Dec. 28, 2012
- Applies to employers of state and local government
- An “educational institutions” is broadly defined.

*“Educational institution shall be construed broadly to include public and private institutions of higher education to the greatest extent consistent with constitutional limitations”*

# Internet Privacy Protection Act

- Employer may not require access to personal internet account
- A “personal internet account” is any account created via the internet (not just email)
- Violation is criminal misdemeanor, subject to fine up to \$1,000
- Civil action permitted for damages, attorney fees, costs



# Internet Privacy Protection Act

- Prohibits employers from requesting passwords from employees/applicants for social networking sites
- Prohibits educational institutions from requesting students to grant access to, allow observation of, or disclose information used to access “personal internet account”
- Does *not* apply to devices paid for, in whole or part, by college

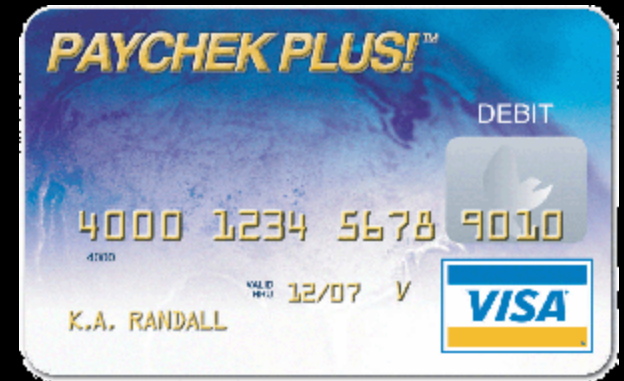


# Michigan Election Law

- PA 51 and 53 of 2013
- Effective June 11, 2013
- Amends the Community College Act to eliminate references to boards of city and township canvassers
- Requires the appropriate board of county canvassers to canvass the results of annexation elections in community college districts that consist of counties, and all elections in community college districts made up of school districts and intermediate school districts

# Payroll Debit Cards

- PA 440 of 2012
- Effective Dec. 27, 2012
- Amends payment of Wages and Fringe Benefits Act to permit payroll debit cards to be issued “*by or on behalf of a federally insured financial institution*”



# Worker's Compensation

- PA 481 of 2012
- Effective Dec. 28, 2012
- Amends Worker's Disability Compensation Act to ensure that an employer is not required to reimburse for medical marihuana treatment of employees



# New Laws Affecting Boards of Trustees





# Recall Election

- PA 417 and 418 of 2012
- Effective Dec. 20, 2012
- Amends Mich. Election Law
- If elected official's term is 2 years or less, no recall until 6 months in service
- If elected official's term is more than 2 years, no recall until 1 year in service



# Recall Election Procedures

- County Election Comm'n determines whether recall grounds is "*factual and of sufficient clarity*"
- Elected official may appeal to Circuit Court
- Special election occurs at least 95 days after petition filed, *or* at next May or Nov. election, whichever is first



# Open Meetings Act Notices

- PA 528 of 2012
- Effective Dec. 28, 2012
- Amends OMA § 5 to require posting and notice requirements for special meetings and rescheduled regular meetings
  - Central office
  - Website



**Part II:**  
**Employment/Labor Law**  
**Update**

# Political Action Committee Payroll Deductions

- 2012 PA 31
- Michigan Campaign Finance Act now *prohibits* a payroll deduction system that remits employee contributions to a political action committee
- This is true even if the union or Political Action Committee pays or reimburses the cost of administration to the school district

***MEA v Secretary of State***, 489 Mich 194  
(2011)

# Dues Deductions

- 2012 PA 53 (effective March 16, 2012), prohibits a public employer from assisting a labor organization in “collective dues or service fees”
- May 23, 2013, Sixth Circuit Court of Appeals reversed a June 11, 2012 preliminary injunction of the law
- Grandfather for CBAs in existence prior to March 16, 2012
- Unions challenging agreements entered into after March 16, 2012, but before June 11, 2012

# 2012 PA 349 Right-to-Work Amendments to PERA

- Basic concept of right-to-work legislation:
  - ✓ employees cannot be required to pay either union membership dues or alternate service fees
- Effective date: March 28, 2013
- Prohibitions apply to agreements, contracts, understandings or practices which take effect (or which are extended or renewed) *after the effective date* of PA 349

# Publicly Funded Health Insurance Contribution Act: (2011 PA 152)

- Covers “medical benefit plans” including, but not limited to:
  - medical benefits
  - hospital and physician services
  - prescription drugs
  - and related benefits
- Earlier drafts of PA 152 specifically included optical and dental benefits within the definition of “medical benefit plan”



# Publicly Funded Health Insurance Contribution Act:

## 2012 Contribution Caps

- Caps annual employer payments (including reimbursement of co-pays, deductibles, HSA and FSA contributions) at a total annual amount not exceeding:
  - \$5,500 x single subscribers
  - \$11,000 x individual and spouse subscribers
  - \$15,000 x family subscribers
- Compliance test aggregates *institutional* cost

# 2011 PA 152 (cont.)

- Caps adjusted for 2013 when “medical benefit coverage year” commences:
  - \$5,692 (single)
  - \$11,385 (individual/spouse)
  - \$15,525 (family)
- For 2014:
  - \$5,857.58 (single)
  - \$11,715.17 (individual/spouse)
  - \$15,975.23 (family)

# 2012 PA 606

## Conflicts of Interest

- Board members/trustees are prohibited from voting on contracts or other financial transactions if a conflict of interest exists
- A conflict is presumed if the board members/trustee or a family member has a financial interest in the contract or transaction

# Publicly Funded Health Insurance Contribution Act:

## The 80% alternative

- Requires majority vote of public governing body
- Applies to a particular medical benefit plan coverage year
- Employer share of costs includes reimbursement of co-pays, deductibles, HSA and FSA employer contributions
- Compliance test aggregates *institutional* cost
- 80% is ceiling, not a floor

# Implementation and Enforcement

- Penalty for non-compliance is 10% of State School Aid funds during period of non-compliance
- When a collective bargaining agreement has expired, a school district may adjust insurance premium contributions to comply with PA 152.

***Decatur Pub Schs***, MERC Case No. C12 F-123 (December 20, 2012) (exceptions filed)

# PA 152

## Compliance Alternatives

- use the statutory “hard caps” as employer contribution ceiling

-OR -

- adopt the 80% employer contribution ceiling

# Advantages of a Specific Dollar Amount Cap

- establishes a definite limit...certainty of expenditure
- avoids psychology of employer always picking up higher % of premium increase
- facilitates implementation of 2011 PA 54, Section 15b of PERA, at contract expiration

# 2011 PA 152 ... Union Strategies

- Employee premium contributions are negotiable. The law only limits how much the employer can pay.
- Employer to pay maximum allowed by law
- Recoup the money employees must now pay in another form
- “smoothing” premiums



# Conclusion



- Monitoring new legislation can be an overwhelming task
- Involves more than following new public acts or proposed amendments related to the Michigan Community College Act
- Examples would include federal and state grant and funding legislation, Open Meetings Act, Freedom of Information Act, election law, finance or borrowing related legislation (e.g., tax credit bonds, other incentives, etc.) state and federal telecommunication law, labor and employment law, legislation affecting student rights....*and more*
- It involves not just monitoring state and federal legislation, but also court decisions, Attorney General opinions, administrative rulings and other interpretative guidance ....*and more*
- Recommendations: 1) review summaries from professionals organizations, legal counsel and others; and 2) ask questions



# Questions?

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