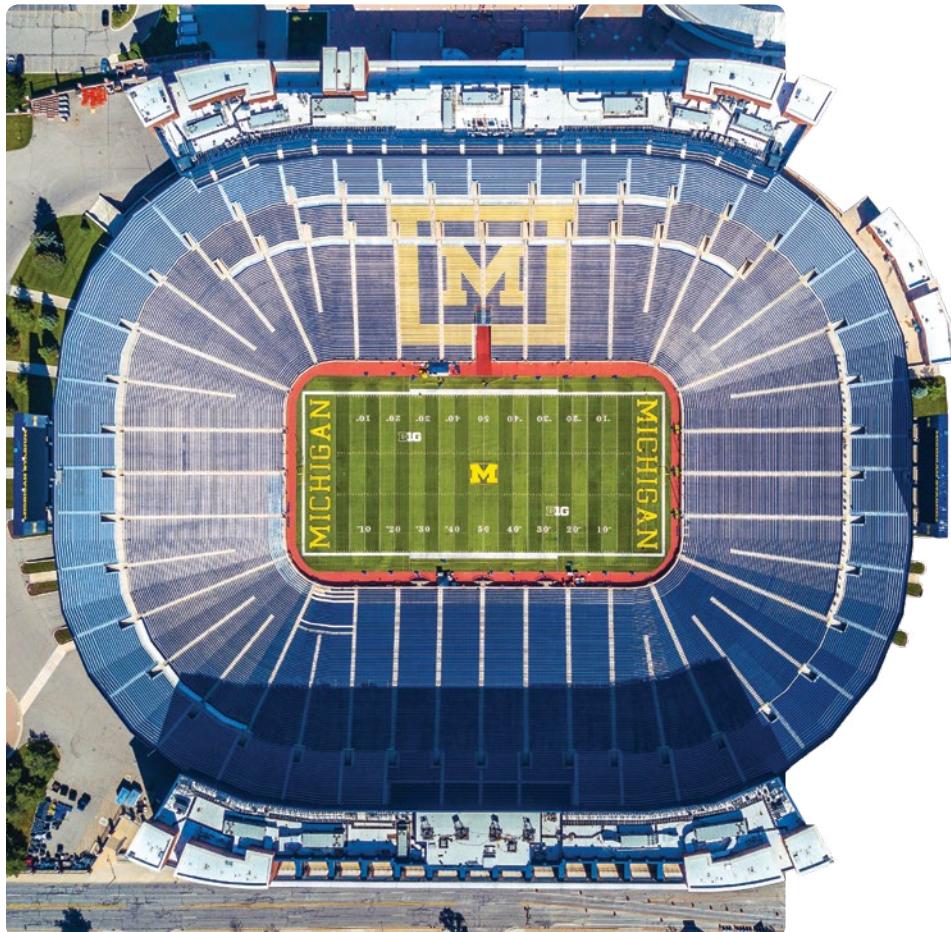




Lawsuit: U-M Defies Open Records Law To Hide Pay Rates



BY TOM GANTERT

The union pay scale for a teacher in the Troy School District tops out at \$91,750.

But according to district records, the highest paid teacher had a gross pay of \$116,115. That's \$24,365 more than the highest salary offered in the collective bargaining agreement between the district and the local teachers union.

The difference exists because there are many ways in Michigan's public sector to make far more money than the base pay specified in union contracts.

In the city of Westland, one police officer took home \$221,331 in 2020. He was allowed to cash in \$129,661 in unused sick and compensation time he had banked in previous years.

While these examples exceed the norm, the practices they illustrate are commonplace across the state, with municipal employees often collecting extra money beyond their base salary.

In April 2020, early in the coronavirus pandemic, the University of Michigan announced it would freeze its employees' base salaries. But the word "freeze" did not mean employees couldn't receive pay increases.

The Mackinac Center for Public Policy submitted a Freedom of Information Act

request to discover gross pay collected by U-M employees in a particular department.

The university refused to comply, claiming that disclosing salary information outside of base pay would be an invasion of an employee's personal privacy, even though salaries generally come from taxpayer dollars.

U-M stated: "Your appeal has been carefully considered and is denied for the reasons stated in Ms. Sellinger's response of Tuesday, February 2, 2021, specifically, the records are exempt from disclosure pursuant to MCL 14.243(1)(a) (sic), which exempts from disclosure [i]nformation of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

The Mackinac Center for Public Policy sued U-M, and the case is pending. It argues that the university's claims go against the law and cites a series of Michigan case law precedents supporting this. The lawsuit is one of seven the limited-government think tank filed as government bodies narrow the flow of information available to the public through open records laws. ■

The original version of this story was posted online on Mar. 19 2021 and is available at MichCapCon.com/28668.

PAGE 8

**State Agencies And
Local Governments Get
Creative Dodging Open
Records Requests**

MEET THE STAFF



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NEWS BITES

Michigan Attorney General Rebuffs Lawmaker Request To Investigate Nursing Home COVID Deaths

Michigan Attorney General Dana Nessel has refused a lawmaker's request to investigate Gov. Gretchen Whitmer's handling of COVID-19 patients in the state's nursing homes.

Republican Sen. Jim Runestad had asked for Nessel to begin an investigation. Nessel rejected his request in a March 15 letter.

"I see no evidence in your letter or elsewhere to suggest that Governor Whitmer's efforts to contain COVID-19 in Michigan's nursing homes resulted in increased deaths," Nessel wrote in the letter. "In any event, bad policy alone would not be grounds for an investigation by my office. As the governors of each state grappled with an unprecedented public health emergency, they were forced to make quick decisions with imperfect information to protect residents of long-term care facilities."

No 'Defund The Police' In Whitmer's State Budget Proposal

"Defund the Police," a slogan from the summer of 2020, was not reflected in Gov. Gretchen Whitmer's budget proposal for the next fiscal year.

Under Whitmer's budget recommendation, total spending for the Michigan State Police would increase from the \$738.1 million authorized for the current (2020-21) fiscal year to \$773.2 million next year.

Teacher Describes Sacrifices In Union Video; Her Pay Up 27% In Six Years

A teacher in Rochester Public Schools is one of several Michigan teachers featured in an ongoing campaign by the Michigan Education Association to demean the teaching profession.

In a May 8 video posted by the state's largest teachers union, Kelly Cusmano says that her husband's law school was fully paid for while no one paid for her two college degrees.

"I went to grad school. My husband went to law school. His law school was fully paid for," Cusmano said in the video. "I've never had anybody pay for my undergrad or graduate so we came out, like, you know, totally uneven. One of us had student loans you know for years, and he just like walked away from this higher education. I think if I wasn't in a position where I could pay that back or in a family structure that supported that, I wouldn't be able to financially afford it. And that is sad that you would

sacrifice making an impact on someone because your bottom line doesn't give you that opportunity."

Cusmano's gross pay has increased from \$60,878 in 2013-14 to \$77,344 in 2019-20, a 27% increase over that six-year period. Gross pay figures include all forms of compensation paid to district teachers, including extra pay for taking on optional duties such as coaching a sports team or teaching summer school.

Virus Hard On Everyone? Not These Rochester School Employees

Rochester Community Schools restructured its grounds and maintenance department in March 2019, which created new positions for zone maintenance technicians.

Four custodians saw their gross pay levels increase from 2019 to 2020.

Custodian #1: \$63,290 to \$82,747 (31% increase)

Custodian #2: \$86,593 to \$104,853 (21% increase)

Custodian #3: \$64,478 to \$76,458 (19% increase)

Custodian #4: \$89,265 to \$95,615 (7% increase)

The raises occurred in 2020, a year when the private sector was devastated by government-imposed lockdowns due to COVID-19.

At a March 2 press conference, Gov. Gretchen Whitmer said the pandemic has been hard on everyone, including "everyone who serves in state and local government," according to MIRS News.

State To Businesses: We Will Allow You To Give Free Water After 10 PM

Small businesses closures mandated by government in resp State of Michigan officials have been fine tuning, in ever greater detail, the restrictions and mandates imposed under pandemic lockdowns.

An example is an official clarification of whether and when businesses may offer free water to customers under a 10 p.m. to 4 a.m. curfew in effect on service in restaurants and taverns.

From the state's most recent coronavirus emergency orders Frequently Asked Questions:

Q: Can a guest be provided water outside the designated hours permitted for indoor dining?

A: Under the current Order's rules for indoor dining, between 10:00 PM and 4:00 AM, sales of all food and beverages must cease, areas for indoor dining must be closed, and guests/patrons are not permitted to eat and/or drink indoors. Food and beverages may not be provided as part of an all-inclusive package during these hours. Nevertheless, facilities may make water available as a courtesy for guests to allow for adequate hydration.

Former Gov. Granholm's Clean Energy Promises Go National

BY TOM GANTERT

Since former Michigan Gov. Jennifer Granholm was appointed as U.S. Secretary of Energy, she has made many comments about creating clean energy jobs.

"So what we need to do is to make sure that all parts of the country and their leaders understand that this clean energy economy, that reducing carbon emissions, is a job creator for every corner of the nation," Granholm said in an interview with National Public Radio. "So even in coal country, even in gas and oil country, there's an opportunity for jobs. ... There will be millions of jobs that will be created in clean energy."

Granholm's comments echo claims she made as Michigan's governor from 2003 through 2010 about how giving subsidies to alternative energy promoters would create jobs and grow the state economy.

It never happened. Granholm boasts of making Michigan the "clean energy capital of North America" never came close, and the subsidies she promoted did nothing to reverse job losses

inflicted by a one-state recession and the subsequent worldwide financial crisis of the 2000s. There were 596,000 fewer in jobs in Michigan after Granholm's eight years in office. Michigan had the nation's highest unemployment rate from April 2006 through May 2010.

Michigan's clean energy projects and subsidies were announced with buoyant press releases featuring optimistic projections of thousands of new jobs to come, which were uncritically parroted by the state's media establishments.

Proposed taxpayer subsidies for a firm called Global Wind Systems were one example. State officials issued press releases in 2008 and 2009 boasting that the company would build a \$32 million wind turbine assembly plant in Novi, creating a total of 807 new jobs. A May 5, 2009, state press release actually claimed the company had started building the new facility. Global Wind Systems was awarded a \$7.3 million tax credit by the Michigan Economic Growth Authority for the project. (The tax credit was refundable, meaning the company could receive payments regardless of its income tax liability.)

Many news agencies inside Michigan and elsewhere published reports on the project in 2008 and 2009. As late as Feb. 13, 2010, The New York Times was still touting Global Wind Systems as a jobs creator for its business of building wind turbines.

There was just one catch: It never happened.

A search of Michigan newspaper archives finds just one reference to what really did happen, or rather, not happen: A Dec. 12, 2010, Detroit Free Press article that appeared on page 6B. The 13th paragraph included this belated epitaph:

"Novi officials say the investment never happened."

This minimal report on a subsidized project's failure was an exception. After numerous reports on Granholm's clean energy spending, state and national news outlets rarely did follow-up stories on whether many projects fulfilled their projections. ▀

The original version of this story was posted online on May 4, 2021 and is available at MichCapCon.com/28814.



Flint's Bookkeeping Was A Mess Before Water Crisis — And Still Is

BY TOM GANTERT

Ten years ago, Flint's broken finances led to officials raiding some city funds to shore up other funds, and then a state takeover. It all contributed to a health crisis involving the city water system, and since that time, there has been little improvement in Flint's bookkeeping.

Auditors' notes from the accounting firm Rehmann portray a city whose financial records for public funds were still a mess in 2019 and 2020.

The audit for 2020 revealed mistakes made by city staff and officials — in one case, a mistake so large as to create a \$12.7 million misstatement. This item was corrected through a recommended audit adjusting entry and correct amounts are reported in the final audit report.

"This condition was a result of lack of management oversight," the auditor

wrote about the series of accounting mistakes the city made last year.

Among the issues highlighted in the 2020 audit:

The city recorded money in its water and sewer revenue accounts — \$469,511, specifically — that should have been recorded as a liability owed to the county.

The auditor found a lack of oversight in the city's employee credit card program. Workers who used the cards approved their own purchases, and the purchasing manager did not approve the issuance of each card, as was required by a written city policy.

"This is not a proper level of independent review," the auditor stated.

The city recorded \$4.2 million of property taxes for distribution to other local units of government. The auditor stated, "The city was not able to provide

detail or an explanation for" this money and could not provide support of who they expected to collect the \$4.2 million from and who it would be owed to.

The city initially misstated investments by \$1 million because it failed to record the change in fair-market value of an investment. That was corrected in the final audit report.

The claims that were due to be paid out of the city's self-insurance fund were understated by \$543,565.

The auditor noted similar problematic accounting practices in 2019.

Flint Mayor Sheldon Neeley did not respond to an email seeking comment.

Editor's note: This story had changes made for clarification purposes. ▀



The original version of this story was posted online on April 12, 2021 and is available at MichCapCon.com/28747.

Very Big Raises For Some Rochester Schools Managers During Year of the Coronavirus

BY TOM GANTERT

Top officials at Rochester Community Schools in Oakland County enjoyed significant pay increases in 2020, a year when private businesses were closed by government order during the coronavirus pandemic.

Robert Shaner, superintendent of the school district, saw his gross pay increase from \$233,771 in 2019 to \$261,263, a \$27,492 increase or 12%.

Debra Fragomeni, an assistant superintendent, received a 9% gross pay increase, from \$159,933 in 2019 to \$173,550 in 2020.

Elizabeth Davis, the chief human resources officer, had her gross pay increase 7% to \$169,818 in 2020.

Carrie Lawler, an assistant superintendent, received a gross pay increase of 10%, taking her pay to \$163,363 in 2020.

Lori Grein, executive director of strategic communications, said the pay increases came prior to coronavirus pandemic in 2019.

"In referencing compensation without regard to the pandemic: With more than



15,000 students and 1,800 employees and contractors, the Rochester Community Schools is one of the largest school districts in Michigan," Grein said in an email. "Compensation of district employees aligns with those across the state."

Grein's gross pay increased from \$113,360 in 2019 to \$121,014 in 2020, a 6.75% raise.

Michigan Capitol Confidential is reviewing the salaries of public sector employees across the state.

The gross pay records of school employees come from the state's Office of Retirement Services.

In 2020, many private sector employees lost their jobs as the state government shut down many businesses due to the pandemic. In May, Gov. Gretchen Whitmer told residents, "We're all in this together."

But many people employed by the government in Michigan felt no financial effects, according to salary records received in response to Freedom of Information Act requests. The public salary records for school districts show gross pay, which includes all forms of compensation.

Other Rochester school district employees flourished in 2020, even though the school district was closed for part of the year due to the pandemic.

For example, Robin Carter-Cooper was the executive director of instruction equity at Rochester Community Schools. She enjoyed a 40% compensation increase, from \$90,249 in 2019 to \$126,672 in 2020.

Carter-Cooper left the school district to become the chief diversity, equity and inclusion officer for Oakland County in July.

The employees mentioned here are in the district's management and not covered by collective bargaining agreements negotiated

with teacher unions. Those contracts prescribe pay scales that reach a maximum level after a specified number of years on the job. This sometimes leads to complaints about stagnant salaries for instructors who have reached that level.

These individuals can still earn more though. The union contracts also prescribe pay rates for accepting optional duties and responsibilities. For this reason, even the district's unionized staff gross pay can vary greatly from year to year.

According to the teachers union contract, the top of scale's base salary was \$93,113 in 2019-20. One teacher, however, made \$106,054 in 2020, in part by coaching the district's sports teams.

A high school gym teacher who also coached was able to increase his gross pay from \$91,423 in 2019 to \$114,389.

Coaching jobs at the school district pay as much as \$6,400 a sport. ■

The original version of this story was posted online on Feb. 23, 2021 and is available at MichCapCon.com/28558.

Big 2020 Paychecks For Many Government Workers In Michigan

Private sector experienced lost jobs and income; a CapCon series

BY TOM GANTERT

The city of Sterling Heights has a reputation for having the most highly compensated police officers in the state of Michigan.

The average gross pay of all the city's sworn officers was \$104,947 in 2020, up 3.3% from the average of \$101,563 in 2019.

The most highly paid department employees were two sergeants, who collected \$181,353 and \$160,961 in 2020. The police chief came in third among sworn officers at \$159,840. In 2019, the police chief collected \$188,690.

Salary figures represent gross pay, which includes overtime and any payouts for unused sick, comp or vacation time.

In 2020 the COVID-19 pandemic struck.

Many private sector businesses across the state were closed and their workers made jobless by government-ordered lockdowns. But government employees appear to have been largely protected from lost jobs and pay.

For this reason, Michigan Capitol Confidential has been reporting 2020 compensation levels at some prominent public sector workplaces.

The Michigan Municipal League, the lobbying group for municipalities, stated in November that cities, townships and villages faced a "dire fiscal situation" due to the pandemic. ■

The original version of this story was posted online on Feb. 16, 2021 and is available at MichCapCon.com/28549.





City Official Prospering In Pandemic As Businesses And Workers Struggle

BY TOM GANTERT

A Michigan mayor who helped feed a media narrative of dire fiscal problems facing local governments during the pandemic saw his total pay increase by 13% in 2020.

City of Westland Mayor Bill Wild enjoyed a 13% pay increase in 2020, going from \$111,749 to \$126,224. This happened even as many local businesses in the Wayne County city were shuttered and employees put out of work by government lockdowns.

Wild is also president of the Michigan Municipal League Board of Trustees. The Michigan Municipal League is a lobbyist for the state's municipalities.

Last November, the Michigan Municipal League launched a media campaign to pressure state legislators into giving cities, villages and townships more taxpayer dollars.

Wild had a base pay of \$109,116 in 2019, but he also received a \$2,633 "salary

adjustment," for a total salary of \$111,749 that year.

In the year the coronavirus pandemic struck, Wild's base salary was increased to \$111,905. He also had a \$2,100 "on call allowance" and a \$724 "salary adjustment." He also cashed in unused vacation time for another \$11,495, for a total pay of \$126,224.

The mayor also received an additional \$5,000 for expenses for both years, which was not included in the analysis of his pay. The salary data came from the city in a Freedom of Information Act request.

Wild didn't respond to an email seeking comment.

The median household income in Westland was \$50,710, according to the U.S. Census. ■

The original version of this story was posted online on Jan. 19, 2021 and is available at MichCapCon.com/28434.

Whitmer's Health Department Boss Got Nice Raise While Administering Lockdowns

BY TOM GANTERT

As director of the Michigan Department of Health and Human Services, Robert Gordon managed COVID-19 lockdowns on private sector businesses and blamed state residents for the persistent spread of the virus in 2020.

And while private businesses struggled and workers lost their jobs under his department's orders, Gordon received a big pay increase.

Gordon was one of four members of Gov. Gretchen Whitmer's cabinet who enjoyed pay hikes in 2020, a year when 70,088 Michigan businesses and millions of workers were harmed by the state-ordered lockdowns.

Gordon's gross pay went from \$162,007 in 2019 to \$175,097 in 2020, an 8% increase.

The other cabinet members who received 2020 pay increases were:

Rachel Eubanks, state treasurer: \$170,655 in 2019 and \$175,436 in 2020.

Chris Kolb, budget director: \$158,555 in 2019 and \$168,573 in 2020.

Lizabeth Olson, director of the officer of the state employer: \$144,243 in 2019 and \$159,604 in 2020.

All four of these cabinet members were appointed by Whitmer in 2018. Gordon stepped down from his position last month.

The gross pay data comes from the response of the Michigan Civil Service Commission to a Freedom of Information Act.

Whitmer's office didn't respond to emails seeking comment. ■

The original version of this story was posted online on Feb. 1, 2021 and is available at MichCapCon.com/28493.



Part Of A Pattern: Farmington Cop's Pay Went From \$92k In 2019 To \$141k In 2020

BY TOM GANTERT

A police detective for the city of Farmington Hills who was also president of the local police union, the Farmington Hills Police Officers Association, saw a large increase in pay in 2020.

In 2019, the detective's gross pay from the city was \$92,817; in 2020 he received

\$141,716. Gross pay includes all forms of payment to the employee, including overtime and raises that come with promotions. Some municipalities allow their employees to "cash out" (get paid for) unused vacation time.

The detective's large increase in pay does not appear to be unusual, based on

responses to Freedom of Information Act requests that Michigan Capitol Confidential submitted to the state's largest municipalities. The pay increases are notable in a year when the state government shut down thousands of private businesses in response to COVID-19, costing hundreds of thousands of

private sector employees to lose work and income.

In the coming weeks Michigan Capitol Confidential will be reporting more examples of this pattern. ■

The original version of this story was posted online on Jan. 15, 2021 and is available at MichCapCon.com/28430.

The New York Times Cheers Whitmer But Clams Up On Her Florida Trip

News outlets across the nation and world ran headlines about governor — with one notable exception

BY TOM GANTERT

Gretchen Whitmer has been a favored politician of The New York Times.

The news publisher has run many positive stories on Michigan's governor over the last 13 months. Five articles written by Kathleen Gray, to cite one reporter, have featured Whitmer's name in the headline since the pandemic started.

For example, a headline from April 18, 2020, read, "Gretchen Whitmer Isn't Backing Down."

The article stated, "She is a first-term governor and rising star in the Democratic Party, a frequent critic of the Trump administration for its handling of the coronavirus health crisis and a prominent foil of the president's in the heated debate over when to reopen the nation for business."

On Aug. 10, 2020, the New York Times published a glowing story on the governor. Its title: "Michigan Democrats Hesitate on Whitmer as V.P.: 'Selfishly, We Need Her Here.'

The subhead added: "She is suddenly on Joe Biden's shortlist. Can Michigan afford to lose her?"

The New York Times-Whitmer relationship has produced consistently positive coverage for the state's chief executive. In fact, while Whitmer limits media interaction at her press conferences to a select handful of reporters, she has given unprecedented access to the New York Times.

The coverage included a highly complimentary June 25, 2020, story in The New York Times Magazine, written by Jonathan Mahler. The reporter mentioned his frequent interactions with Whitmer,

noting, "I have been talking to Whitmer every couple of days."

His lionizing prose included: "Whitmer is not naturally introspective. Recounting the almost incomprehensibly consequential decisions she was making on a daily basis, she rarely lingered on how she felt or the magnitude of the moment. She was more inclined to review events and discuss strategy, approaching it all with the same practical mind-set and vocabulary she brought to more manageable governmental challenges like fixing potholes. The effect wasn't necessarily stirring — there was no soaring rhetoric about the need to rise to this historic challenge — but it was oddly reassuring; she was channeling panic into process."

Now Whitmer has been caught in an embarrassing situation. For the past week, stories in print and online outlets have

reported that the governor disobeyed her own recommendations to not travel during the pandemic by going to Florida to visit her father.

A governor whose pandemic guidance has been held up as a model by a leading newspaper has been caught in what looks like case of hypocrisy and ignoring her own rules.

Even foreign news outlets have noticed, with London's Daily Mail weighing in.

Newsweek, The Associated Press, Wall Street Journal, Washington Post, People magazine and dozens of other news sites have also reported on Whitmer's travel.

There has been one notable exception: As of 11 a.m. on April 22, The New York Times has been silent. ■

The original version of this story was posted online on April 22, 2021 and is available at MichCapCon.com/28786.





Government Workers A Protected Class In 2020

BY TOM GANTERT

A police officer in the Wayne County city of Westland received gross pay of \$221,331 in 2020. That officer retired and received payments of \$63,813 for sick time and \$60,848 in compensation time.

Another Westland police officer had a gross pay of \$197,402 in 2020, with \$40,745 in vacation time and \$50,721 in sick time paid to him. That officer also had \$21,979 in what the city called a "non-pension" payout.

Other police officers in the city received six figures due to retirement payouts. One officer had gross pay of \$148,716 in 2019. This included money from 19 different forms of compensation, including: compensation time payout (\$12,556), retroactive pay (\$2,817), sick time "sell back" (\$7,226), an education stipend (\$2,500), a clothing stipend (\$1,500) and seniority pay (\$3,500).

The officer retired in 2020. He appears to have worked a nominal number of regular hours that year, for which he was paid \$1,813. But he also collected \$44,229 in vacation payout and \$76,109 in sick time payout, for a gross pay of \$127,917.

Another city of Westland police officer who retired in 2020 collected \$1,271 for regular hours and had a gross pay of \$112,862. Most of that came from a \$64,857 payout for sick time and a \$41,036 payout for vacation time. In 2019, this officer's gross pay was \$133,602.

In 2020, the private sector in Michigan was hit by government lockdowns that cost many residents their jobs and income. In contrast, public sector employees appear to have been protected to an extraordinary degree from anything comparable. ■

The original version of this story was posted online on Mar. 23, 2021 and is available at MichCapCon.com/28614.

State, Media Likely Oversell Impact Of Taxpayer-Funded Business Grants

BY TOM GANTERT

Media outlets across the state are repeating claims from state government that certain grants of taxpayer money have helped Michigan businesses keep 54,000 jobs during the coronavirus pandemic.

But a closer look indicates it is highly unlikely that the handouts, called Michigan Small Business Survival Grants, do that.

MLive reported that, according to the state, the grants are "helping retain more than 54,000 jobs in Michigan."

According to the Michigan Economic Development Corporation, it was up to each business to determine how many jobs would be retained or rehired at the time it applied for one of the grants.

The state then used these figures to claim that just that many jobs had been saved.

But a review of the data suggests the actual number of "retained" jobs may be a fraction of the official claim.

The state has presented figures showing 55,783 jobs were retained by 5,960

businesses that got a share of \$52.5 million in state taxpayer funds. That averages out to \$941 per job saved, or about 100 hours of employment at Michigan's \$9.45 per hour minimum wage.

But many companies received far less than the average grant amount.

Examples include:

The nonprofit Little Villagers in Wayne County received a \$5,000 survival grant and is shown as retaining or rehiring people for 22 jobs. The amount comes to \$227 per

employee whose job was allegedly saved.

Farah Franchise in Washtenaw County listed 25 jobs retained or rehired. That business received a \$7,500 grant, or \$300 per employee claimed.

The 76th Street Truck Stop Diner in Kent County listed 50 jobs retained or rehired, and it received a \$11,375 grant. That would amount to \$228 per employee retained. ■

The original version of this story was posted online on Feb. 24, 2021 and is available at MichCapCon.com/28602.

County Clears Restaurant On COVID Violation, State Nails It For Missing A Later FAQ

BY TOM GANTERT

A restaurant in the city of Plymouth was found by state administrators to have violated COVID-19 restrictions, despite a county inspector's report stating the establishment had no violations.

The issue at the Plymouth ROC Restaurant was the fact it served people in an outside tent with four walls. The finding of a violation came during a hearing in December brought by the state Liquor Control Commission. The hearing was held before, in the words of one official document, a "duly authorized agent of the Commission," Administrative Law Judge Michael J. St. John, an employee of the Department of Department of Licensing and Regulatory Affairs, of which the commission is a part.

When the current round of statewide lockdowns was ordered on Nov. 15, there was confusion of just what constituted "outdoors" for many restaurants attempting to provide food service in outdoor tents.

The state clarified the initial order 23 days later with a specific definition of "outdoors," which was included in a Frequently Asked

Question section of a state website on Dec. 7.

The FAQ stated: "'Indoors' means within a space that is fully or partially enclosed on the top, and fully or partially enclosed on two or more contiguous sides. Additionally, in a space that is fully or partially enclosed on the top, and fully or partially enclosed on two non-contiguous sides, any part of that space that is more than 8 feet from an open side is indoors."

But the administrative law judge did not accept an argument that the definition was buried in an FAQ add-on to the order already in effect. He wrote, "One of the most well established maxims in law is that ignorance of the law is no excuse. Although the November 15, 2020 Emergency Order did not define indoor dining, the FAQ section noted exactly what was required."

The timeline that led to the administrative law case started on Dec. 3, when a Plymouth Police Department officer warned the restaurant it was in violation. ■



State Agencies And Local Governments Get Creative Dodging Open Records Requests

BY TOM GANTERT

Over the last several years, many municipalities in Michigan have adopted policies and stances that raise barriers to people who seek public records. Across the state and at every level of government, officials are attempting to thwart the release of public records as required by Michigan's Freedom of Information Act, or FOIA.

Some of the barriers are minor and appear to be intended to make acquiring records more inconvenient. A recent example comes from the Jackson Area Transportation Authority. Its executive director, Michael D. Brown Sr., demanded that a FOIA request for information on his employees' annual salaries be delivered through the United States Postal Service rather than electronically. Brown did not press the issue, though, after being informed that the law specifically states that document requests sent electronically are allowed by law.

In many other cases, acquiring documents to which the public is entitled by law has required requestors to challenge an agency or municipality in court. In the past year, the Mackinac Center for Public Policy has been involved in six different legal cases regarding governments' failures to abide by Michigan's open records law.

The week of March 14-20 is Sunshine Week, an annual event started in 2005 by the American Society of News Editors to promote open government.

It's common for municipal governments to ignore the legal deadlines for responding to requests. The law gives government entities five business days to respond, with an extension of 10 business days permitted.

But many government agencies go much longer than the 15 days allowed when responding.

For example, the Michigan Department of Licensing and Regulatory Affairs acknowledged that on July 7 it received a

\$1,327 payment for documents requested in a FOIA.

But the department did not produce the public records requested for five months, despite having cashed the check. In November, the Mackinac Center Legal Foundation sued.

An even larger obstacle to transparency is the fee demanded by units of government as a condition of gaining access to public records.

In 2019, the Mackinac Center requested documents from Tuscola County related to wind turbine developers and projects. The county refused to release the information unless it received a payment of \$3,224. Officials claimed the county had to pay a law firm for 50 hours of staff time at \$56.70 per hour to review these public records.

The Mackinac Center for Public Policy also tracks the compensation rates of public school employees. To do so, it submits a FOIA request each year to the Michigan Office of Retirement Services.

That information doesn't come cheap. The state has charged the Mackinac Center \$14,273 for five years' worth of salary data. Charges of this magnitude deny most people access to important information about the actions and performance of their government.

Moreover, the amount of information provided by the Office of Retirement Services has grown more sparse over time. For example, the state no longer provides job titles when it releases the names of public school employees, as it had previously. Nothing in state law requires withholding such information.

This week, Michigan Capitol Confidential and the Mackinac Center are publishing reports documenting their experiences in obtaining government records that under the law are supposed to be open. ■

The original version of this story was posted online on Mar. 15, 2021 and is available at MichCapCon.com/28655.



This District Has A Student Shortage, Not Teacher Shortage

BY TOM GANTERT

WXYZ-TV published a story based on claims there is a statewide shortage of public school teachers. The May 20 article quoted Carol Baaki-Diglio, assistant superintendent of human resources at Oak Park Schools.

She said:

"The perfect storm being far fewer people are choosing education, so we have fewer coming in, and then we have a mass exodus going out."

But "teacher shortage" does not describe Baaki-Diglio's school district.

Oak Park Schools has 274 teachers on its payroll in 2020-21, or one more than in 2016-17.

But over that same four-year period, the number of students enrolled in the district plummeted 25%. There were 5,160 students attending Oak Park schools in 2016-17; in the current year, that has fallen to 3,871 students. ■

The original version of this story was posted online on May 26, 2021 and is available at MichCapCon.com/28886.



Flint Has 29 Cents For Each Dollar Needed To Cover Pension Promises

BY TOM GANTERT

The city of Flint is \$388 million short of the amount it should have invested to cover the pension promises it has made to its employees. The amount represents just 29 cents for every dollar in unfunded pension debt.

Flint has also offered to provide post-employment health insurance benefits to

retirees, for which it should have \$266 million set aside. Unlike pensions however, these payments are not guaranteed by a specific provision in the state constitution.

The city of Flint's annual revenue is around \$100 million a year. ■

The original version of this story was posted online on April 1, 2021 and is available at MichCapCon.com/28719.

Granholm Green Energy Handout: A Glowing Promise And Cattle Feed

'Those are not the claims we are making,' says economic development official

BY JAMIE A. HOPE

At its launch in 2009, an operation called the Alpena Prototype Biorefinery was lauded by Gov. Jennifer Granholm, the federal government and managers in the corporate welfare arm of Michigan's state government as the future of green energy.

The plant still existed as of February 2021, according to various reports, but it appears nowhere close to helping Michigan become, in Granholm's words, "the alternative energy capital of the world."

The plant has received millions of dollars in taxpayer subsidies to produce energy from nonconventional sources. But it is instead making wood molasses to feed livestock, according to the latest reports in 2021.

Understanding how a project born amid promises of becoming an energy source became a producer of an obscure agricultural product is not easy task.

Sporadic reports in local news media indicate the original company was sold to new owners. And according to The Alpena News, the city is seeking back taxes owed by the original owner, called American Process Inc. The company also defaulted on a subsidy deal with the Michigan Economic Development Corporation, the state's corporate welfare arm.

One media report says that 33 jobs were created with the taxpayer grants, but by 2015, the company suspended operations and quit producing ethanol. The plant reopened in March 2016 and began producing wood

molasses. The company breached its agreement with the state when it stopped producing ethanol, according to The Alpena News, and thus lost its tax-exemption deal with the MEDC.

The local newspaper also reported that the Alpena refinery was bought by GranBio, a Brazilian company. As of February 2021, the city of Alpena was still pursuing over \$800,000 in back taxes from the current and previous owners, going back to 2016.

Alpena City Manager Rachel Smolinski did not return an email asking about the status of the biorefinery.

The Alpena biorefinery is not the only Michigan renewable energy scheme to be launched on a wave of promises and publicity and then sink out of sight when the promises went unfulfilled.

"We are continuing to diversify Michigan's economy through the development of green energy technologies," Granholm said when announcing that the area around the Alpena facility had been designated a tax-exempt Renewable Energy Renaissance Zone. The designation allowed the company "to operate free of virtually all state and local taxes for 15 years," according to the MEDC.

Companies that receive the designation often received multiple subsidies, and this project was no exception.

American Process, Inc., original owner of the refinery, was awarded \$4 million by the Michigan Economic Development Corporation in 2009, and \$22 million by the



U.S. Department of Energy under the Obama administration stimulus program.

"This grant, in support of one of our Centers of Energy Excellence, will bring 160 jobs to the Alpena area and strengthen Michigan's efforts to be a leader in the development of the next generation of biofuels," Granholm said in 2009.

Greg Main, president and CEO of MEDC, also stated in 2009, "Developing and harnessing green energy sources in Michigan is critical to securing a strong economic future."

When Granholm attended a ribbon cutting ceremony at the plant, she said, "We are here today celebrating that Alpena has become a

center for clean energy excellence. This plant is not just good for Alpena, it is good because it provides great hope for the great future of waste-to-energy."

The U.S. Department of Energy also touted the promises in a statement that read, "In the future, the Alpena Biorefinery may also be hired by other innovators to evaluate emerging conversion technologies for the growing U.S. bioindustry." The department has not updated information on its website to reflect on the company's current activities in producing a cattle feed input. ■

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Thank Goodness Michigan Officials Ignored CDC Head's April 12 Call For Lockdown

BY TOM GANTERT

Dr. Rochelle Walensky, director of the Centers for Disease Control and Prevention, urged Michigan officials to lock down the state back into the 2020 "stay-at-home" order stage because of a rising number of COVID-19 cases.

Walensky made those comments on April 12. Michigan officials did not choose to follow her stern advice, and yet since it was offered, COVID cases in Michigan have plummeted.

When Walensky urged Michigan to shut down, the seven-day average rate of positive test results was 651 per million. By April

20, the latest date for which complete state data is available, the rate had fallen to 463 per million per day. More recent data that is not complete has the new positive tests per million dropping to 298.

Michigan saw 5,277 new COVID cases on April 12, according to Worldometers.com. On April 13, that number had risen to 10,277, the highest number since the onset of the pandemic. Since then, the number of new cases dropped to 3,540 on April 26 and 4,584 on April 27. Michigan reported 4,371 cases on April 28.

This is not what Walensky predicted. "So when you have an acute situation,

extraordinary number of cases like we have in Michigan, the answer is not necessarily to give vaccine," Walensky said on April 12, according to The Associated Press. "The answer to that is to really close things down, to go back to our basics, to go back to where we were last spring, last summer and to shut things down, to flatten the curve, to decrease contact with one another, to test ... to contact trace."

Walensky said it can take up to six weeks to see the impact of vaccinations. ■

The original version of this story was posted online on April 28, 2021 and is available at MichCapCon.com/28806.





Whitmer Erroneously Claims State Taxpayer Handout To Pfizer Covered Vaccine Work

BY DAWSON BELL

Gov. Gretchen Whitmer pitched a corporate welfare program she said helped pay for a building from which the Pfizer COVID-19 vaccine was shipped from in Michigan.

However, that Pfizer building has not yet been built.

Whitmer invoked one of the new COVID vaccines in urging the Legislature to reauthorize a corporate welfare program called Good Jobs for Michigan.

Whitmer said that renewing the program will “boost our economy and create good paying jobs.” She then supported the claim by noting that pharmaceutical giant Pfizer — now riding a wave of positive publicity for its COVID vaccine — had been the first recipient of the Good Jobs program in 2018.

Whitmer announced her push for a massive COVID relief package in a Jan. 19 news conference.

“Little known fact,” she said, “but Pfizer was the first business to utilize Good Jobs for Michigan and did so to build their sterile drug manufacturing plant in Portage, creating 450 good paying jobs. That’s right, the same

Portage, Michigan, plant where the first doses of Pfizer’s safe, effective and approved vaccine shipped from at the end of last year that gave us all such pride.”

There is one problem with that assertion. Construction is not yet underway on the plant for which Pfizer is set to receive \$10.5 million in state taxpayer-funded cash subsidies, plus an additional state grant of \$1 million.

The sterile drug manufacturing plant, more formally known as a modular aseptic processing facility, it is projected to contain 400,000 square feet. But it has not been built, according to multiple news reports, which Portage officials confirm.

“They have not started construction,” building department supervisor Terry Novak said Friday. “We haven’t received any plans yet. We’ve heard that it’s still on track, but may be modified.”

There is also no concrete evidence that any of the “450 good paying jobs” the Pfizer expansion promised to create have appeared so far. Pfizer’s most recent report to the Michigan Economic Development Corporation, required under the terms of the

state subsidy, attributed zero new jobs to the project as of last September. It is possible that some jobs involved in the COVID vaccine rollout were backed by state funding.

Another Portage building official said he believed the company made investments in equipment modifications at existing facilities that have some role in the vaccine.

But according to several detailed news reports about Pfizer and its overseas partner BioNTech, much of the vaccine’s development and manufacturing was conducted elsewhere. The Pfizer complex in the Kalamazoo County acted as a packaging and distribution center for the final product.

Pfizer company officials had not responded to a request for clarification by late Friday afternoon.

Text and email requests to Whitmer’s media affairs office for comment also went unanswered.

The Good Jobs program Whitmer touted in her event was initiated in 2017, and it handed out \$190 million through 2019. But a bill to renew the temporary program with an additional \$300 million stalled in the

Legislature last year. It is unclear how much money Whitmer intends for Good Jobs for Michigan to give corporations in 2021.

James Hohman, the director of fiscal policy at the Mackinac Center for Public Policy, wrote on the center’s blog this week that even if state subsidies had been a (minor) factor in development of the COVID vaccine, that was “weak justification” for renewing the program. State subsidies of this sort simply don’t make sense for taxpayers, he said.

“For this program, it’s been all projected costs and no benefits” to date, he said.

Whitmer is right in saying that Michiganders take pride in a home state facility playing a significant role in the near miracle of quickly developing a vaccine to address a worldwide pandemic. Pfizer’s Michigan employees certainly deserve praise. But their achievements appear to have next to nothing to do with a state taxpayer subsidy for a facility that’s still on the drawing board. ■

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East Lansing Officials Prospered In Pandemic

Like many Michigan local governments, state lockdowns were accompanied by big raises

BY TOM GANTERT

The city of East Lansing, like so many other Michigan municipalities during the COVID-19 pandemic, delivered hefty pay hikes to many of its officials and workers in 2020.

Here are the changes in gross pay received by top city managers from 2019 to 2020. The salary data came from the city in response to a Freedom of Information Act request:

City Manager George Lahanas: \$174,900 to \$184,786

Director of Public Works Scott House: \$115,770 to \$124,718

Finance Director Jill Feldpausch: \$125,463 to \$137,101

Fire Chief Randall Talifarro: \$133,131 to \$140,568

Director of Human Resources Shellie Neumann: \$112,367 to \$121,883

Director of East Lansing Public Library Kristin Shelley: \$124,864 to \$133,812

City Assessor David Lee: \$104,095 to \$111,332

Court Administrator Nicole Evans: \$115,251 to \$122,828

The superintendent of the water resource recovery facility saw his gross pay increase from \$93,230 in 2019 to \$106,310 in 2020.

The sum of the gross pay received by all East Lansing city employees rose from \$21,845,303 in 2019 to \$22,802,272 in 2020, a 4.35% increase.

Lahanas said in an email the city had an extra pay period in 2020 compared to 2019. There were 27 pay periods in 2020 while just 26 in the previous year. He said it was just a matter of timing in the city's biweekly pay periods.

Lahanas also stated that the cost-of-living adjustments for nonunion employees ranged from 0% to 3% during the years 2011 through 2020.

"This reflects a 1.25% wage increase per year over the preceding 10-year period. The public sector took longer to recover post-2008, so looking at one year does not provide the full picture," Lahanas said in an email.

Michigan Capitol Confidential is reviewing the salaries of public sector employees across the state.

Last May, Gov. Gretchen Whitmer told Michigan residents, "We're all in this together."

While many thousands of private sector workers here lost jobs and income under state-ordered lockdowns, public sector employees appear to have been protected and in many cases done very well. ■

The original version of this story was posted online on Feb. 25, 2021 and is available at MichCapCon.com/28603.



Professor: MSU Segregating Campus By Affinity Groups Violates Civil Rights Act

BY JAMIE A. HOPE

Michigan State University may have violated the Civil Rights Act of 1964 by inviting students to participate in campus affinity groups, organizations which are separated by race.

That is the view of University of Michigan professor Mark Perry, who cites the 1964 law to support his contention.

MSU compares an affinity group to a caucus that is set up to provide "spaces for people to work within their own identity groups."

MSU distributed a document called the Affinity Group Invitation for its Student Success Spring Conference. The invitation read, "There will be an affinity group for white folk and an affinity group for people of color."

The term "folk" is used by progressives who regard the term "folks" to be oppressive to marginalized groups and not gender inclusive.

This document defined the objective of the groups: "For white people, an affinity group provides time and space to work explicitly and intentionally on understanding white culture and white privilege and to increase one's critical analysis around these concepts. For people of color, a caucus is a place to work with peers to address the impact of racism, to interrupt experiences of internalized racism, and to create a space for healing and working for individual and collective liberation."

The invitation also stated, "When you receive the Zoom information, we are asking participants to opt into the affinity group that aligns with their racial identity. This is not the opportunity for white folk to engage in the POC [People Of Color] affinity space and vice versa."

Perry explained his position with a tweet: "I believe that @MSU will violate Title VI's prohibition of discrimination on

the basis of race/color with these events. Note to self: File a complaint with the Office for Civil Rights ASAP."

Perry's tweet concluded by repeating a key phrase from Title VI of the Civil Rights Act of 1964: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

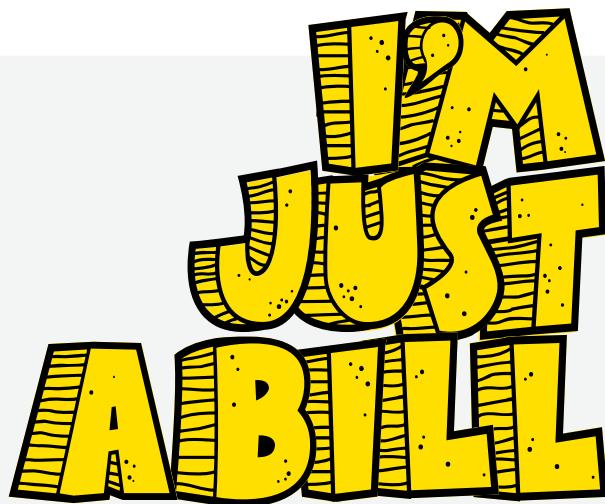
Perry confirmed in an email that he has filed a complaint against the university.

MSU spokeswoman Emily Guerrant did not respond to an email seeking comment. Two MSU employees listed as contacts for the event — Lynn Lamers and Kirby Gibson — did not return emails seeking comment.

Perry is a member of the Board of Scholars at the Mackinac Center for Public Policy, which publishes Michigan Capitol Confidential. ■



The original version of this story was posted online on April 15, 2021 and is available at MichCapCon.com/28759.



MichiganVotes.org

A sampling of proposed state laws, as described on MichiganVotes.org.

Senate Bill 358

Repeal state ban on local plastic grocery bag bans

Introduced by Sen. Jeff Irwin (D)

To repeal a 2016 law that preempts local governments from imposing regulations, restrictions or taxes on plastic grocery bags or other "auxiliary containers," defined as a disposable or reusable bag, cup, bottle, or other packaging.

Senate Bill 405

Increase allowable pawnbroker interest rate

Introduced by Sen. Michael MacDonald (R)

To increase the maximum interest rate a pawnbroker may charge on merchandise-backed loans from 3% per month to 4% per month, and make charging more a civil offense subject to a \$5,000 fine.

Senate Bill 487

Create women's prison oversight committee

Introduced by Sen. Erika Geiss (D)

To create a state women's prison oversight advisory committee comprised of political appointees representing various groups and interests.

House Bill 513

Revise government subsidies to "broadband" developers

Introduced by Sen. Rosemary Bayer (D)

To create a new government "broadband and digital infrastructure office" to allocate taxpayer subsidies to cable and internet companies.

House Bill 4428

Require Legislative Service Bureau produce publications in many languages

Introduced by Rep. Cynthia Johnson (D)

To require that when the Legislative Service Bureau produces publication or newsletters for a legislator to distribute they must also produce versions written in Arabic, Chinese, French, German, Haitian, Hindi or Spanish, if requested by a legislator.

House Bill 4463

Require state post procurement contract awards

Introduced by Rep. Steve Marino (R)

To require the state to announce all procurement contract awards within 48 hours of awarding the contract, and post on the internet the name of the vendor who was awarded the contract and the total dollar amount of the contract.

House Bill 4520

Allow workplace regulations training as substitute for school health and physical ed

Introduced by Rep. David Martin (R)

To permit a student to substitute the health and physical education courses required for Michigan public high school diploma with "a 30-hour educational training course" designed by federal occupational safety and health officials, that is related to standards and regulations imposed on "general industry or construction."

House Bill 4544

Stop earmarking Indian casino revenue to corporate welfare

Introduced by Rep. Jeff Yaroch (R)

To establish that all money and assets held by a "Michigan Strategic Fund" are declared public money and assets, and like other state receipts, may be spent only as authorized by an appropriation enacted by the Legislature and as provided by law. Also, to redirect \$60 million in annual Indian casino revenue now earmarked to this agency to transportation and road funding budgets instead. The "Strategic Fund" is the state government agency that oversees giving taxpayer-funded subsidies to particular corporations and developers selected by its staff and approved by its board of political appointees.