

THE SIMMONS LEGAL NEWS

Volume 8 Issue 1

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Michigan Laws that Negatively Affect Working Families

323 new laws passed in 2011 (Snyder)

625 new laws passed in 2012 (Snyder)

THE LAW	WHAT IT DOES?	HOW DOES IT AFFECT YOU?
P.A. 397 of 2012 Personal Property Tax	Repealed a tax that was levied against industrial and commercial equipment and furniture, salon/barber shops, grocery stores, plants, etc).	<ul style="list-style-type: none">○ Eliminates the revenue that local municipalities receive from business located in those areas.
P.A. 348 of 2012 P.A. 349 of 2012 Right-to-Work	Allows employees in a union (public and private) shop to opt out of paying union dues but having the same union negotiated benefits.	<ul style="list-style-type: none">○ Reduces your political power.○ Reduces your negotiation power.○ Creates hostile work environments.○ Allows employees not to pay their fair share for fair representation.
P.A. 39 of 2012 P.A. 77 of 2012 Big Tax Shift	Increased taxes on individuals by 23% and cut business taxes by 83%.	<ul style="list-style-type: none">○ Earned Income Tax Credit reduced from 20% to 6%○ Earned Income Tax Credit dropped from an average of \$439 to \$132. For big families, the impact is even greater, with an average of \$1,178 to \$353.
P.A. 53 of 2012	Amends the Public Employment Relations Act (PERA) to prohibit a public school employer from using school resources to assist a labor organization in collecting dues from employees' wages.	<ul style="list-style-type: none">○ Reduces your political power.○ Creates hostile work environments.○ Makes it really difficult for labor unions to properly staff and service its' members.
P.A. 41 of 2011 Retiree Pension Tax	Allows the State of Michigan to tax retiree pensions.	<ul style="list-style-type: none">○ No longer eligible for the senior citizen subtraction for interest, dividends and capital gains.○ No longer eligible for public or private pension subtraction.

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<p>P.A. 98 of 2011 (Stricken by Federal Court)</p> <p>P.A. 238 of 2012</p> <p>Michigan Fair and Open Competition Act</p>	<p>Attacks project labor agreements (PLAs) between unionized trade workers and public/private contractors.</p>	<ul style="list-style-type: none"> ○ Allows the state and private contractors to enter into construction agreements without PLA's if it is deemed a condition of performing work. ○ Bans government-mandated PLAs on taxpayer-funded projects within the state.
<p>P.A. 152 of 2011</p> <p>Publicly Funded Health Insurance Contribution Act</p>	<p>Imposes a mandatory 80/20 cost-sharing model regarding benefits for public employers, with penalties imposed in the event the employer fails to adhere to that minimum. The bill authorizes a public employer to allocate the employee share of the medical benefit plan costs among its employees as it sees fit; however, elected public officials would have to pay 20 percent or more of the total annual costs of their plan.</p>	<ul style="list-style-type: none"> ○ For the medical benefit plan "coverage year" beginning on or after January 1, 2012, a public employer may not pay more than: <ul style="list-style-type: none"> ○ Hard Cap Aggregate: \$5,500 times single contracts plus \$11,000 times two-person contracts plus \$15,000 times family contracts; or, by electing ○ 80/20 Aggregate: 80% of the total annual costs of all medical benefit plans it offers to employees/public officials
<p>P.A. 54 of 2011</p> <p>Wage and Benefits Freeze During Collective Bargaining</p>	<p>Amends the Public Employment Relations Act (PERA) to require that wage and benefit levels are frozen following the expiration of a CBA (e.g. no step movement following expiration); prohibits retroactive wage and benefits increases following the expiration of a CBA; and requires that employees bear any increased cost of maintaining health, dental, vision, prescription, and other insurance benefits that occurs after the expiration date of a CBA.</p>	<ul style="list-style-type: none"> ○ Freezes wage and benefit levels at the expiration of a collective bargaining agreement until a new agreement is put into place. ○ Requires employees to pay any increased cost of maintaining benefits following the expiration of a collective bargaining agreement. ○ Prohibits new collective bargaining agreements from retroactively increasing wage or benefit levels.
<p>P.A. 72 of 1990 (repealed by</p>	<p>Greatly expands the role and power of emergency</p>	<ul style="list-style-type: none"> ○ Allows one dictator to suspend, amend or terminate your

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<p>P.A. 4) P.A. 4 of 2012(repealed by the people) P.A. 436 of 2012 Emergency Manager Law</p>	<p>managers, including when an emergency manager can be appointed. The EM has the right to renegotiate, alter or void existing collective bargaining agreements and may remove public administrators and elected officials should they fail to adhere to the terms imposed by the EM. The EM may also suspend collective bargaining for up to five years if the local government is placed into receivership.</p>	<p>collective bargaining agreement.</p> <ul style="list-style-type: none"> ○ Allows one dictator to outsource all of your internal and external operations, like trash collection, water waste, building safety, janitorial, etc. ○ Allows one dictator to sell off assets without public hearing or input. ○ Allows one dictator to change your pension board. ○ Allows one dictator to make all of the decisions without any checks and balances.

DID YOU KNOW?

Despite the will of the people, the Legislature passed a replacement emergency manager law, called the Local Financial Stability and Choice Act, that can't be repealed by the people because they attached appropriations to it, e.g. money. The Snyder administration would have you believe that it gives distressed local units of government more options and better financial support than a 2011 law, Public Act 4 that voters repealed at the polls last month. But in reality it is virtually the same law that was repealed because it disenfranchised citizens.

The new law gives financially distressed cities and school districts four options once a financial emergency is determined: a consent agreement, mediation, an emergency manager or Chapter 9 bankruptcy. The only thing good about it is that it makes the State pay, rather than the cash-strapped local units of government/schools. The State will pay the salary of the emergency manager and other related costs like the many law firms and consultants they hire to "manage." The law also provides guidance on how a city or school district can exit from receivership but doesn't give a timeframe for doing so.

Suspending Democracy for a Financial "Emergency," what does that look like?

Detroit Public Schools are currently under their 3rd emergency manager and have more debt now than what was deemed the "emergency." So does the emergency manager need an emergency manager?

As a resident of Pontiac, currently on my 3rd emergency manager, I would just like to know when does the "emergency" stop? Does it stop after you have sold all of the city assets? Does it stop after you have given all the city contracts to your family and friends? Does it stop after you have raided the pension plans? When does it stop?

As a registered voter and litigator, I would like to know when is a good time to suspend democracy and take my constitutional rights away? Is it when you think I don't know how to vote for who you want in office? Is it when I have acquired too much power in my ability to elect who I want to represent me? Is it when you see a city functioning despite the massive disappearance of its tax base? When is a good time for me to lose my rights?

It looks like I lost my right to vote!

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<p>P.A. 266 of 2011</p> <p>Workers' Compensation</p>	<p>Changes the Workers' Comp Statute in favor of the employer.</p> <p>HOW DOES IT AFFECT YOU? (CONT'D)</p> <ul style="list-style-type: none"> ○ The legislation eliminates the 100-Week Rule, meaning the employer is no longer obligated to pay wage benefits after an employee performing light duty for less than 100 weeks is terminated for "whatever reason." If an employee is terminated from reasonable employment (light duty) due to the employee's fault, he is considered to have voluntarily removed himself from the workforce and is not entitled to wage loss benefits. 	<ul style="list-style-type: none"> ○ If an injured worker is eligible for a pension, but has elected to NOT take it at the time of injury, the new law will allow for the reduction of work comp benefits based on the amount the injured worker could have been collecting had they chosen to retire. ○ Workers' comp benefit recipients are now obligated to work if they can physically perform another job. If they don't put forth a good-faith effort to look for work (or don't accept work offered), their benefits will be reduced by the wages that they could have earned. ○ A provision of the law indicates an employer may stop payment of work comp benefits if an employee is terminated for fault.
<p>P.A. 336 of 1947</p> <p>As amended in 2013</p> <p>Public Employment Relations Act (PERA)</p>	<p>Prohibits certain subjects from collective bargaining between a public school employer and a bargaining representative.</p>	<ul style="list-style-type: none"> ○ Prevents a union from being able to negotiate: ○ Teacher discipline or discharge ○ Teacher layoff and recall ○ Teacher tenure ○ Teacher evaluation ○ Allows probationary teachers to displace teachers that have been rated effective and have tenure

Death by a Thousand Cuts is a creeping normalcy. It is the way a major negative change, which happens slowly in many unnoticed increments, is not perceived as objectionable. What has been done here in Michigan must not go unnoticed!

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The “Yet To Be” United States of America Bill of Rights

Amendment 1: Congress shall make no law respecting an establishment of **religion**, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment 2: **A well regulated militia**, being necessary to the security of a free state, the right of the people to keep and **bear arms**, shall not be infringed.

Amendment 3: No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment 4: The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable searches and seizures**, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a **grand jury**, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in **jeopardy** of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of **life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without **just compensation**.

Amendment 6: In all criminal prosecutions, the accused shall enjoy the right to a **speedy and public trial**, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment 7: In suits at common law, where the value in controversy shall exceed twenty dollars, **the right of trial by jury** shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment 8: Excessive bail shall not be required, nor excessive fines imposed, nor **cruel and unusual punishments** inflicted.

Amendment 9: The enumeration in the Constitution, of **certain rights**, shall not be construed to deny or disparage others retained by the people.

Amendment 10: The **powers not delegated to the United States** by the Constitution, nor prohibited by it to the states, are **reserved to the states** respectively, or to the people.

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