

SB 882 – STATUTE OF LIMITATIONS

Action to Date: Bill was passed unanimously by the Senate on December 1, 2009. The bill was referred to the House Judiciary committee and is awaiting a hearing.

A/E POSITION: We SUPPORT this bill.

ISSUE

In 2006, the Michigan Supreme Court issued its ruling in *Ostroth v. Warren Regency*, 474 Mich. 36; 709 N.W.2d 589 (2006). *Ostroth* changed the existing law and significantly lengthened all statutes of limitations for the design and construction industry. The longer statutes of limitations created by the Court do not reflect the original intent of the Legislature and directly contradict Michigan's strong public policy of preventing stale claims. Further, the ruling creates new confusion and instability in the legal environment for the construction industry because *Ostroth* leaves completely open the question of when the statute begins to run for claims on incomplete projects.

KEY POINTS

- For 100 years in Michigan, the statute of limitations for architectural malpractice has been 2 years, running from the date of the last professional services rendered. Negligence claims against contractors have long been subject to a three-year statute of limitations. The *Ostroth* Court in effect repealed these statutes, even though the Legislature never repealed them but instead chose to preserve them.
- This ruling is negatively affecting the businesses here in Michigan. Michigan firms are spending dollars to revise their document retention policies and their insurance policies. Some firms have experienced the re-introduction of old claims that were previously dismissed under the 2-year statute of limitations. Under the ruling, Michigan becomes a less-friendly place to practice and operate a business which will cause businesses to consider locating to other states. This is not what Michigan needs in our current economic condition.
- With this ruling, Michigan's Statute of Limitations is now longer than **every** other state.

ACTION REQUESTED

- **Support passage of Senate Bill 882 that will correct the statutes and restore the original legislative intent.**
- **Urge leadership to pass legislation in 2010.**

STATUTE OF LIMITATIONS - SB 882

KEY LEGISLATIVE COMMITTEES

HOUSE

Judiciary Committee

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Lisa Brown
Bob Costan
Marc Corriveau
Andy Coulouris
Andrew Kandrevas
Bettie Cook Scott
Rebekah Warren

Republicans

Tonya Schuitmaker, MVC
Justin Amash,
Joseph Haveman
Rick Jones
Eileen Kowall
Tory Rocca

SENATE

Judiciary Committee

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Hansen Clarke
Ray Basham

Republicans

Wayne Kuipers, Chair
Alan Cropsey, VC
Alan Sanborn
Bruce Patterson
Tony Stamas

TRANSPORTATION FUNDING

Action to Date: SB 862 was introduced and passed out of committee by Senator Gilbert. It would raise the motor fuel carrier tax by \$.04, HB 5768 was introduced by Rep. Dick Ball would increase the gasoline tax immediately by \$.04 and the diesel fuel tax by \$.06 and in 2013 would again increase by the same amounts.

A/E POSITION: We SUPPORT SB 862, HB's 5768-5770.

ISSUE

- If no action is taken by the state, Michigan stands to lose over \$2 billion in federal funds in the next 5 years because transportation agencies will not have enough revenue to provide the required matching funds.
- The condition of Michigan's roads and bridges will continue to deteriorate, with 30 percent of the state's roads predicted to decline into poor or fair condition during the next decade.
- Without new revenue sources, Michigan is expected to lose more than 17,000 jobs related to the industry.

KEY POINTS

- The Governor-appointed Transportation Funding Task Force determined that a "good" level of investment in transportation infrastructure would mean the state would need to increase revenues by almost \$2 billion per year.
- A "good" level of investment will sustain the 126,000 Michigan jobs, attract new business, open new global markets for Michigan products and services. It will yield nearly \$15 billion in other economic benefits for all sectors of the Michigan economy.
- For highways, roads, and bridges, a "good" investment level will ensure that the most frequently used roads and bridges remain largely in good condition. It will allow local road agencies to do more than just plow snow and patch potholes – they will be able to preserve the current condition of local roads.
- Investment will also reduce congestion and improve safety by allowing road widening and construction of the highest-priority capacity improvements.
- The Federal Stimulus dollars will NOT fix our long-term funding issues for Michigan. Michigan drivers currently pay approximately \$30 per month to have access to over 120,000 miles of roads.

ACTION REQUESTED

- **Support SB 862 and HB's 5768-5770 that will increase investment in our transportation infrastructure and ensure we do not lose the federal tax dollars Michigan motorists send to Washington D.C.**
- **Make it a priority in 2010 to pass this important legislation.**

TRANSPORTATION FUNDING

KEY LEGISLATIVE COMMITTEES

HOUSE

Transportation Committee

Democrats

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Marie Donigan
Douglas A. Geiss
Martin J. Griffin
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Gabe Leland
Judy Nerat
Roy Schmidt
Coleman A. Young II

Republicans

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James Bolger
Larry DeShazor
Marty Knollenberg
Tom Pearce
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Paul Scott

SENATE

Transportation Committee

Democrats

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Republicans

Jud Gilbert, Chair
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