April 20, 2015

Memorandum to:
The Hon. Al Pscholka, Chair, House Appropriations Committee
Members of the House Appropriations Committee

From: Bruce A. Timmons

Re: FY 2015-16 Proposed Budget for the Department of Community Health – Funding for the Statewide Trauma System – CVRF

The following comments about the DCH Budget are a logical extension of my testimony before the full Appropriations Committee last month on SB 138.

Two years ago I retired after 45 years as an employee of the Michigan Legislature, the last 30 years as a policy advisor for the House Republican Policy Office. I did not cover health or DCH issues but I did cover judiciary and criminal justice issues for all 45 years, including working closely with Rep. William VanRegenmorter on the Crime Victim's Rights Act that now bears his name and on 1988 HJR P that is now Art I, Sec. 24. That is why I am concerned about what I believe is an inappropriate, if not illegal, use of the Crime Victim's Rights Fund (**CVRF**) for a statewide trauma system.

First, five years ago another House Committee heard testimony that Michigan was one of the few states without a statewide trauma system. I am not aware of anyone who is questioning the need or benefit of such a system. It would improve the medical response of anyone, whether resident or visitor, in immediate need of emergency time-dependent treatment. I support the effort to create the system.

Second, I would encourage the Committee to include in the FY 2015-16 Budget for DCH **$3,500,000** from the general fund (**GF/GP**) for development of the statewide trauma system. This is a program that would benefit the entire state. The request represents – about 0.02% (0.00019) out of a budget of $18 Billion. I am fully aware that Medicaid, federal funds, and restricted revenues may not be available, but the proposed sum would represent 0.1% (.001) of the proposed GF/GP. It is a matter of priorities.

Third, **HB 4102 (H-1) represents misuse of the crime victim's rights fund (CVRF)**. The authority for the CVRF is the Michigan Constitution, Article I, Section 24, that established 9 specific "rights" to which a crime victim is entitled. Art I, §24, allows for an "assessment against convicted defendants to pay for <u>crime victims' rights</u>". (Emphasis added.) Those rights are as follows:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing. →

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

The purpose of the assessment was to create a funding mechanism to reimburse counties for the expenses incurred in providing crime victim's rights under 1985 PA 87, the Crime Victim's Rights Act – to honor the portion of the Headlee Amendment against unfunded mandates on local government. 1985 PA 87 and HJR P (Art I, §24) were sponsored by the same legislator – William Van Regenmorter.

The only expression of legislative direction to DCH with regard to establishment of a statewide trauma system is in Section 1904 of the DCH Budget in 2014 PA 252 – for which 2015 PA 9 (SB 138) shifted the source of funding from GF/P to CVRF – stating how a $1.3 million one-time appropriation for a statewide trauma system is to be used:

> **Sec. 1904**. From the funds appropriated in part 1 for the statewide trauma system, the department shall allocate funds to establish and operate statewide systems for **trauma, stroke, ST segment elevation myocardial infarction, perinatal, and other time-dependent systems of care**.

It is readily apparent that the purpose declared in Sec. 1904 has nothing to do with the rights specified in Art I, §24 – all of which are related to the criminal justice process. The purported benefit to crime victims is little more than a guise to access restricted revenue that was never intended for that purpose. The Legislature cannot amend the Constitution by statute. Use of CVRF assessment money for a statewide trauma system is contrary to what voters adopted in Art I, §24, in 1988.

Fourth, in 2010 the crime victim rights assessment was extended to all misdemeanors (like trespass, minor damage to property {no injury to a person}, or minor in possession of alcohol) simply to raise enough money – not for crime victim rights services – but for the statewide trauma system. That is a misuse of the court system to raise revenue for purposes unrelated to the case – not as punishment for the crime, or to reimburse government for the cost of the criminal justice system, or for restitution to victims. That is a precedent we could do without.

Fifth, there is an utter lack of transparency in the budget about the statewide trauma system – both as to the amount appropriated for it and the source of funding. That program currently [2014 PA 252] and as proposed for FY 2015-16 is buried under a line-item for "Emergency medical services program" in the DCH budget with no identification that the money for the trauma center system component is from the CVRF – obscured as to funding by the generic "other [unidentified] state restricted revenue". There is no reference whatever that the money to be used now is from the CVRF. In fact, even the appropriation for Crime Victim Services Commission does not identify the restricted revenue source and there is no reference to the CVRF among the state operating funds in PA 252, Art IX, Sec. 1201, even though the CVRF has more revenue and balance than many of those listed. That is continued under HB 4102 (H-1). The public has no way to track this funding in DCH or how it is being spent – since 2010.

Therefore, I urge the Committee and Legislature to cease using the Crime Victim's Rights Fund as the source of funding for the statewide trauma system.