



MICHIGAN TOWNSHIPS ASSOCIATION

2006
Policy Platform

Michigan Townships Association

PURPOSE

The purpose of the Michigan Townships Association shall be:

- A. To secure the cooperation of all of the townships throughout the State of Michigan for the purpose of improving township government and administration, and to aid in the purpose to maintain a central bureau of information and research.
- B. To encourage the study of statutes, which might affect township operation, and for that purpose to hold conventions and meetings and to disseminate information regarding township ordinances, laws, and administration, and to disseminate information regarding model township ordinances, laws and administration.
- C. To encourage the adoption of good legislation in aid of township operation and advancement among and for the benefit of all of the citizens and townships of the State of Michigan.
- D. To publish and circulate publications of any kind and description to assist in carrying out the above and other objectives of the organization.

MTA LEGISLATIVE DEPARTMENT

Lobbying on behalf of township government:

David Bertram
Tom Frazier
Bill Anderson

Support staff:

Erma Linn

Executive Director:

Larry Merrill

To Contact Us:

Michigan Townships Association
512 Westshire Drive
PO Box 80078
Lansing, MI 48908-0078

Phone: (517) 321-6467

Fax: (517) 321-8908

E-Mail: legislation@michigantownships.org

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District 25: Larry Rutledge, Supervisor, LaSalle Township, Monroe Co.

PAST PRESIDENTS:

Maxine McClelland, Supervisor, Big Rapids Township, Mecosta Co.

Bradley VanHaitsma, Supervisor, Clam Union Township, Missaukee Co.

Patrick White, Supervisor, Pavilion Township, Kalamazoo Co.

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RESOLUTIONS SET POLICY

MICHIGAN TOWNSHIPS ASSOCIATION BYLAWS GOVERNING RESOLUTIONS AT ANNUAL MEETING ARTICLE IV - MEETINGS

Resolutions at Annual Meeting

1. Advance Resolutions. Resolutions submitted for consideration at the Annual Meeting shall be approved by the Legislative Policy and Resolutions Committee and the Board of Directors. The deadline for submission of resolutions shall be 150 days prior to the Annual Meeting. These resolutions shall be published in the Michigan Township News and shall be provided in the convention packet.

2. Resolutions from the Floor.

- A. Resolutions from the floor shall be submitted to the MTA Headquarters Room not later than 12:00 noon the day prior to the Annual Meeting. The Resolutions Committee shall review the wording and legality of such resolutions.
- B. No resolution shall be accepted from the floor unless a petition signed by at least one hundred (100) registered delegates to the convention accompanies the resolution.
- C. The resolution sponsor shall furnish sufficient copies of the resolution to be distributed to all delegates at the beginning of the Annual Meeting.

3. Amendments to Resolutions. Amendments are permitted to any resolution submitted at the Annual Meeting provided the purpose of the original resolution remains unaltered.

4. Non-conforming Resolutions. Resolutions failing to comply with the above provisions shall be considered by the Board of Directors at its next regular meeting.

ASSESSMENT AND TAX ADMINISTRATION

1.0 GENERAL ASSESSMENT AND TAX ADMINISTRATION STATEMENT

Property taxes are the foundation of local government financing. Townships are not only concerned about the revenue that is generated for their own functions but also from the standpoint of administering the property tax system itself. Townships look for a property tax system that is equitable, reasonable to administer and user-friendly for the taxpayer. While the Legislature has the power to exempt property from the property tax system, it should only be done for specific purposes and under limited circumstances, with the understanding that relieving one person from the burden of taxation usually means an increased burden on all other taxpayers.

1.1 MANUFACTURED HOME TAXATION

Since the post World War II era, manufactured homes located inside mobile home parks have not paid property taxes. Instead, they have been assessed a monthly tax amounting to \$36 per year. Despite this diminutive contribution to local government, park residents demand and receive the same public services as those residents living outside parks who are paying ad valorem property taxes. MTA supports:

- legislation that places manufactured homes in parks on the ad valorem property tax roll.

1.2 STATE-OWNED PROPERTY TAXATION

Providing adequate local services is a concern to every local government. State-owned land and buildings require as many local services as any piece of private property. The state is considering limiting or withdrawing its payments on land or buildings as a budget-saving measure. This would hurt local taxpayers who must pay more to provide the needed services. The state is compounding the problem by acquiring additional land when it is not able to maintain the land it currently owns. MTA supports:

- legislation that assesses taxes on state-owned property in the same manner as all other property;
- a moratorium on the state acquisition of land until it can fully fund the payment-in-lieu-of-taxes (PILT) program; and
- fully fund the fire grant program so that public buildings can be fully protected, especially now that these buildings are a target of our nation's enemies.

1.3 SWAMP TAX

All tax-reverted recreation land or forestland that was under the control and supervision of the state before 1933 is exempt from the ad valorem property tax roll and pays instead a \$2 per acre specific tax. The tax is divided equally between counties and townships. This specific tax has not been increased since the early 1900s. Approximately 3.5 million acres are subject to this program or approximately 10 percent of the land mass of Michigan. MTA supports:

- legislation to increase the swamp tax; and
- legislation that provides an annual inflationary adjustment to the tax.

1.4 USE VALUE ASSESSMENT

The constitutional requirement of uniformity prevented the Legislature from requiring agricultural land to be assessed at its current use. MTA supports:

- assessing farmland property at its current use rather than highest and best use; and
- legislation that would enable local governments to voluntarily identify and establish agricultural production areas where landowners could voluntarily enroll and receive tax benefits in the program.

1.5 ECONOMIC DEVELOPMENT

Townships are a vital component in economic development. Economic development is key to the growth of our state. This development occurs in townships as well as cities and villages. In many situations, economic development laws are enacted in this state that are only available to city and village governments. MTA supports:

- making all economic development tools available to townships so long as the townships meet all other prescribed qualifications.

1.6 CHARTER TOWNSHIP TAX LIMITATION

Due to the growth in many charter townships, there is a demand for additional services. Providing these services is often difficult because of constitutional and statutory tax limitations. Exempting specific purpose millage from the limit calculation would address this problem. Therefore, MTA supports:

- raising the millage limitation from 10 to 12 mills; and

- permitting the levy of up to two mills for emergency services that is not counted against the millage limitation.

1.7 MICHIGAN TAX TRIBUNAL

The current tax appeal process for tribunal decisions fails to provide the resolution of appeals in a timely manner. The Tax Tribunal has shown tendencies to use decisions to protect segments of the economy at the expense of other taxpayers. When rendering a decision, the tribunal is not required to use the same value standards required of assessors and the board of review. MTA encourages:

- the state of Michigan to provide the Michigan Tax Tribunal with adequate tools, resources and trained personnel to assure timely resolutions of appeals; and
- Tax Tribunal decisions that are based upon facts and the value standards contained in the *Assessor's Manual*.

1.8 TAX EXEMPTIONS WITHOUT REIMBURSEMENT

The Legislature continues to introduce legislation that exempts specific items from taxation. In almost all instances, no replacement revenue is provided. Examples include exempting items from sales tax or types of property from property taxes. Therefore, MTA opposes:

- all legislation that grants a tax exemption without reimbursement for the revenue loss or a corresponding savings to the township in administrative costs.

1.9 GOVERNMENT AND OTHER TAX-EXEMPT ACQUISITION OF TAXABLE LAND

The shrinking tax base is a great concern to townships throughout the state but especially those in rural northern areas. Many townships have government-held land that far exceeds 50 percent of their total land base and cannot afford to lose more tax base to such nontaxable ownership. Therefore, the following is recommended:

- that governmental and other tax-exempt entities consult with affected township boards when acquiring additional land; and
- that some consideration be given to taxes continuing to be paid to the township when private property is acquired by governmental entities.

1.10 PERSONAL PROPERTY TAX EXEMPTION

Businesses have argued that the personal property tax (PPT) is an onerous tax, which makes them uncompetitive and should be eliminated. Townships find the tax very difficult and costly to administer, especially when dealing with very small businesses. Elimination of small miscellaneous bills would save more than enough money to offset lost revenues. Uncollectible bills languish for six years on the roll before they are written off. However, if the PPT were eliminated, it would reduce state and local revenues in the amount of \$1.7 billion. Without an identified replacement revenue source, townships would find it difficult, if not impossible, to serve their residents. MTA recommends:

- establishing a threshold for total personal property subject to assessment of \$5,000 taxable value; and
- allowing uncollectible personal property tax to be stricken from the tax roll after two years.

1.11 SUMMER TAX COLLECTION

In order to balance the state budget, the state has moved the collection of the state education tax to a summer tax bill and is contemplating moving the county taxes to the summer as well. School districts, including ISDs, already have authority to collect on the summer property tax bill. This leaves very little millage left on the winter bill. Currently, schools must pay the cost of collecting the summer property tax bills in all townships. If county millage is moved to the summer tax bill, MTA supports:

- moving all property taxes to a single summer tax bill; and
- finding a new method to pay for the cost of collecting summer taxes until all taxes are collected on a once-per-year summer tax bill.

1.12 INTERPRETATION OF ADDITIONS AND LOSSES

In a recent Supreme Court decision, (*WPW Acquisition Company v. City of Troy*) the court ruled that change in occupancy in commercial buildings could not be considered an addition for the purposes of calculating taxable value. However, the court made no comment on the issue of diminished occupancy creating a loss under the same formula. This creates a situation where taxable values can be artificially manipulated by property owners. MTA supports:

- legislation that will delete change in occupancy from the definition of losses as well as additions in the Property Tax Act.

1.13 SALES AND USE TAX

Few people can distinguish the difference between our state's sales tax and the use tax. If a car is purchased, a sales tax is applied; if it is leased, the use tax is due. Sales tax is paid when an item is purchased in a local store, but use tax is applied if it is purchased from a catalog or the Internet. The single biggest difference between the sales tax and use tax is that the sales tax supports local government through revenue sharing and use tax does not. MTA supports:

- balancing the disbursement provisions of the sales tax and the use tax so that changes in how an item is purchased does not change how government is funded.

ELECTIONS

2.0 ELECTION PHILOSOPHY STATEMENT

Our democratic system of government demands that we have an election process that is run fairly, openly and efficiently. Every effort should be made to allow voters equal access to the polls while maintaining the integrity of our elections. We feel that the government that is closest to the people can best accomplish this and that local clerks should be the backbone of our election system. We further feel that the "one-size-fits-all" mentality is often not good public policy and that the state needs to be cautious when enacting or amending election law so that it does not require inordinate resources of our valued part-time clerks. Therefore, we generally support efforts to give local clerks more authority to run elections and oppose efforts that would diminish their authority.

2.1 ELECTION OF TOWNSHIP OFFICIALS

As it is already difficult to get individuals to run for local office, imposing term limits on local offices and staggering terms could result in internal conflict and exacerbate the difficulties. If township officials are elected on a nonpartisan basis, they risk losing their political clout with a party affiliation. Because recent legislation amended the number of signatures required to be filed, permitting the filing of a fee in lieu of petition signatures is not necessary. MTA recommends:

- opposing term limits and staggered terms of township officials; and
- opposing the filing of a fee in lieu of petition signatures for township office.

2.2 STATE TERM LIMITS

In 1992, Michigan voters changed the state Constitution by supporting term limits for state elected officials. This pertained to all members of the state Legislature, the governor, Lt. governor, attorney general and secretary of state. Many have argued that the result of term limits has been, and will continue to be, a drain on state elected officials who have the experience and knowledge to effectively run the state. Many have indicated that the term limits implemented in Michigan are too short. MTA recommends:

- support for legislation and a constitutional amendment that would increase term limits to 12 years for all state offices.

2.3 DIRECT ACCESS OF QVF BY SMALL GOVERNMENTAL UNITS

Continuous software updates are needed to maintain the integrity of the Qualified Voter File (QVF), which must also be available to smaller governmental units. Without state funding of a system for direct access, the accuracy of voter records cannot be ensured. MTA recommends:

- state funding for QVF software and equipment upgrades for all governmental units;
- the state to develop the QVF to allow direct access by all governmental units; and
- adequate state funding of equipment to ensure the maintenance of accurate voter registrations and street index changes.

2.4 ELECTION JURISDICTION

Following the general election of 2000, there has been a great deal of discussion of election reforms at all levels of government, and several election reform recommendations have been offered by various national organizations, with some having been passed into law. Since we recognize the importance of voter and election integrity, we strongly feel that the administration of elections can best be accomplished by the government that is closest to the people. MTA recommends:

- resistance to federal or state legislation that takes away the local units' authority to administer elections.

2.5 ABSENTEE VOTER BALLOTS

The fast-paced lifestyle of today's society has presented circumstances which prevent individuals from going to the polls to vote. Yet these reasons are not included under provisions of the Election Law, which permit obtaining an absentee voter (AV) ballot. Additionally, AV ballots are often not delivered by vendors in a timely manner to meet statutory timelines, thus preventing clerks from getting the ballots to voters. The following is recommended:

- no reasons required to obtain an AV ballot; and
- permit applications to be requested and filed by e-mail if digitized signatures are available.

2.6 RECALL

The recall process occurs because a number of registered voters signed recall petitions, in many cases without understanding the intent and ramifications of signing the recall petitions. The holding of a recall election is not a judicial or governmental determination that the official or officials who are the target of the recall engaged in any illegal conduct. Recall elections are a political, rather than a judicial, process. While MTA's preference would be to require that recall petition language be truthful, and that recalls be limited to malfeasance, misfeasance and nonfeasance, questions of constitutionality are substantial barriers to legislative adoption. Therefore, legislation should be enacted to amend the recall process to ensure that this process is used by the voters for removing individuals from office who are in violation of the public trust. The recall law should be amended to:

- require a filing fee and multiple signatures when a petition for recall is first submitted to the board of county election commissioners (prior to the clarity hearing);
- extend the length of time that an elected official cannot be recalled from the first and last six months of their term to the first and last 12 months of their term for those officials whose term of office is greater than two years;
- require that, for a recall to be successful, there must be one more affirmative vote cast than the official was elected by;
- allow those who have signed recall petitions to rescind their signatures up until the time that the local clerk verifies the recall petition signatures with the registration records; and
- require that recall petitions must be filed with the county clerk within 60 days of petition language being approved by the county election commissioners if the officer facing recall is an officer of a county, city, village, township or school district.

2.7 ACCREDITATION AND TRAINING OF CLERKS

The Michigan Election Law mandates that election administrators be trained and accredited. The office of the secretary of state should be responsible for such training unless other qualified trainers are provided. MTA supports:

- placing the responsibility of all training of clerks and all costs associated therewith with the secretary of state; and
- allowing all local clerks who have been accredited to train their own election inspectors.

2.8 PRIMARY ELECTIONS

Political parties have primary elections to select their candidates for federal, state and local offices. As voters mark their primary ballots, numerous ballots are spoiled due to split-party voting. MTA recommends:

- color-coding the August primary ballot to prevent split voting.

2.9 VOTING REGISTRATION PROCESS

The registration process is critical to the integrity of elections. While Michigan has vastly improved the voter registration process, some aspects still need improvement. Also, additional ideas have been put forth to expand how citizens can register to vote. Of utmost importance is preserving the integrity of elections. MTA recommends:

- supporting a requirement that voter registrations submitted at secretary of state branch offices must be signed to be valid;
- supporting full implementation and state funding of a digitized signature system within the QVF, provided it does not affect the integrity of the system;
- opposition to any legislation that would permit registration on election day or same-day registration; and
- supporting a requirement that a person taking voter registrations within a local jurisdiction or county be registered with the local or county clerk to take registrations and that the registrations taken by such a person be turned in within 10 days of the registration form being signed or by the close of registration.

2.10 INCREASE IN VOTER PARTICIPATION

Voter participation in elections is crucial to the credibility of elections. Voter participation has decreased significantly over the past several years. While the decreases in voter participation numbers can partially be

attributed to the fact that voter records are inflated with names of people who are no longer eligible to vote within that community, there are steps that can be taken to increase voter interest and participation. MTA recommends:

- opposing any efforts to eliminate straight party ticket voting; and
- supporting the concept of early voting if modified to accommodate communities with clerks that do not maintain full-time business hours.

2.11 FILING DEADLINE FOR WRITE-IN CANDIDATES

With increasing pressure to ensure that elections are run properly, it is sometimes difficult for local clerks to provide election inspectors with a list of qualified write-in candidates. In addition, it is very time-consuming to check individual ballots for write-in votes, resulting in tabulation delays. Write-in candidates also miss their opportunity to receive absentee ballot votes as absentee voters often vote prior to when write-in candidates formally declare their candidacy. Therefore, MTA recommends:

- moving the filing deadline for write-in candidates from 4 p.m. the Friday before the election to 4 p.m. the second Friday before the election.

ENVIRONMENT

3.0 GENERAL ENVIRONMENTAL PHILOSOPHY STATEMENT

The Michigan Townships Association's primary environmental focus will be on those environmental issues that have a direct impact on the operation of township government. However, being a responsible organization, MTA strives to be a good environmental steward and supports sound pro-environmental policy and legislation that will enhance Michigan's overall environmental condition so long as it does not adversely infringe in any way upon local control.

3.1 WATERSHED MANAGEMENT

In the past, legislation has been introduced to create watershed management councils that would determine how watershed districts would operate. Various bureaucratic levels would be created to prepare regional watershed management plans, review local projects and require all governmental units within a district to levy taxes or special assessments to fund these efforts. If a unit failed to levy a tax, revenue sharing would be withheld. Members on the council would be appointed, causing accountability concerns. The following is recommended:

- oppose any loss of local control;
- oppose legislation creating an authority with governmental powers; and
- encourage voluntary coordination by local units of government to develop and implement policies to enhance and protect watersheds.

3.2 NATURAL RIVERS ACT

Once a river has been designated a natural river under the Natural Rivers Act, the state has control over much of the activities in the water and on the shoreline. The act requires that a local advisory committee be named to work with the Michigan Department of Natural Resources (MDNR) to establish river policy. Even though local input is sought, the committee is only advisory and state rules prevail. Rules cover shore activity, building setbacks, swimming, boating, fishing, etc., and often ignore individual property rights. The following is recommended:

- strengthen the voice of local units of government and enhance the status of local committees in setting natural rivers policy.

3.3 ROLE OF AGRICULTURE

Historically, agriculture has played an important role in Michigan's economy and culture. It is often stated that agriculture is the second largest industry in the state. At a time when farmers face growing competition from foreign producers, it is important to remember that our nation needs to maintain its ability to provide a safe and quality food supply to its citizens. In addition, farmers continuously face pressure to sell their land for development, reducing open space and sometimes creating development controversies for townships. It is important for the state and local units of government to support efforts to encourage and strengthen agriculture in our state. Therefore, MTA supports:

- policies that promote agriculture in our state while affirming a local unit of government's ability to establish zoning regulations; and
- agricultural practices that protect the environment.

3.4 TOWNSHIP DUMPS

Many townships once lawfully owned and operated dumps that have been closed for years. However, the Michigan Department of Environmental Quality (MDEQ) frequently tests the areas around these closed facilities for contaminants. When leaching is detected, expensive action plans and clean-up costs fall on the townships, as former dump owners/operators. The following is recommended:

- township clean-up cost exposure should be limited to and mitigated by the date the dump closed and rules in place at the time of operation; and
- support funding to assist local governments with grants or low-interest loans.

3.5 SOLID WASTE PLANNING

New landfills are not being sited; however, many existing landfills have sought expansions as the flow of out-of-state waste coming into Michigan increases. Landfill boundaries are outlined in the county plan. Provisions for operations, expansion and fees are negotiated subject to the solid waste plan. Landfills have traditionally been permitted to expand, over objections from the community hosting the facility. Neighboring communities are also impacted by traffic, odors, noise and other nuisances. The following is recommended:

- townships should have site plan review of landfills and expansions; and
- additional fees used for impacts on neighboring communities should be imposed.

3.6 WATER REGULATIONS

There have been numerous attempts in recent years to divert water of the Great Lakes to other states and nations. A moratorium has been put in place to block any diversion of Great Lakes water. Legislation has also been enacted to address aquifer protection needs. Additional legislation has been introduced to bring Michigan into compliance with the Great Lakes Charter and Annex 2001. The following is recommended:

- support legislation to prevent diversions of water from the Great Lakes;
- support for aquifer protection and withdrawal legislation so long as local control is not compromised and that municipal water supply systems are not subject to further regulation under any water use or withdrawal permit system that might be established; and
- support for legislation to regulate the use of surface water so long as it does not infringe upon local control.

3.7 SEPTAGE/BIOSOLIDS

There is an ever-increasing effort by counties, other local units of government and the Michigan Department of Environmental Quality (MDEQ) to regulate on-site disposal systems (septic tanks) through regular inspections and to move towards a ban of land application of septage. At the same time, wastewater treatment plants often rely on land application of biosolids, the end result of the treatment process. In order to do the appropriate thing for the environment and to enhance city-township cooperation, the following is recommended:

- support the eventual ban of the land application of untreated septage after significant alternatives become available;
- support for additional state funding through the state revolving fund for septage acceptance stations;
- support for the continued land application of biosolids; and
- support for a statewide sanitary code that distributes regulation and enforcement duties between the MDEQ and local health departments and that does not infringe upon the township board's ability to make land use decisions at the local level.

3.8 STORM WATER RULES/EPA AIR QUALITY

Federal storm water and air quality rules are placing enormous financial burdens on local governments. West Michigan is being affected by air and water pollution generated from neighboring states. In addition, many communities throughout the state are facing enormous needs to improve their water and sewer infrastructure. Therefore, the following is recommended:

- oppose unfunded state and federal mandates;
- support state, regional and local efforts to minimize the economic impact of federal air quality standards;

- adequately fund a revolving loan fund or provide state grants to assist in upgrading sewer systems through the separation of combined sewer overflows (CSOs) and the reduction/elimination of sanitary sewer overflows (SSOs); and
- support increased funding from the federal government for sewer projects.

3.9 OUT-OF-STATE WASTE

We oppose importation of out-of-state and out-of-country waste but state and local governments are prevented from regulating out-of-state waste, as it would violate the Interstate Commerce Clause. Tons of garbage, imported from other states and Canada, are filling landfill capacity. Michigan landfills attract out-of-state and out-of-country waste because the state has a surplus of landfill capacity and unreasonably low tipping fees than is the case in surrounding states. The following is recommended:

- support for additional tipping fees at Michigan landfills that will be returned to all local units of government in proportion to their population or the amount of waste going into the landfill.

LAND USE

4.0 GENERAL LAND USE STATEMENT

Townships respect the rights of all property owners. Zoning and planning regulations exist to ensure balanced protection of the rights of all property, including developed, developing and undeveloped property. MTA supports state laws that allow townships to match development with the necessary infrastructure to support the development and the tools to allow townships to maintain the important characteristics of their community.

4.1 ENHANCING THE PLANNING PROCESS

The planning process for development in this state depends on not only township officials and professional planners, but also thousands of dedicated citizens who serve on local planning commissions. All of Michigan benefits from knowledgeable local planning officials. MTA supports:

- state financial assistance for ongoing training of township officials and planning commission members engaged in planning and zoning processes to learn current approaches to land use; and
- state financial assistance for townships that practice enhanced planning.

4.2 LOCAL CONTROL

Consistent with MTA's premise that land use decisions should be made by local governments that are closest to the issue, MTA opposes:

- mandating high-density residential development that is contrary to a township's master plan and zoning ordinance;
- denying any township the authority to pursue its desired mix of land uses and its chosen community character; and
- linking revenue sharing appropriations to land use planning, practices and decisions.

4.3 SITING CONTROVERSIAL LAND USES

Currently, local units have very little, if any, control over the siting of cellular towers, prisons and adult foster care facilities. While discouraging "not in my backyard" attitudes and recognizing that zoning cannot exclude lawful land uses, local communities should have the authority to decide where to site a particular land use in their community. MTA supports:

- reinstating local authority to regulate all land uses; and
- maintaining local zoning authority over wind turbines.

4.4 LAND DIVISION ACT

Townships are required to approve an application presented under the Land Division Act (LDA) as long as the application meets the act's criteria, whether resulting parcels are buildable or not. The LDA does not grant townships the authority to require private road standards be met before divisions are approved. MTA supports:

- legislation that requires all local ordinances be complied with before land divisions are approved; and
- legislation that requires road easements contained in an application to comply with the township's private road standards.

4.5 MOBILE HOME PARKS

State law should never favor one form of private housing over another. Mobile home parks are protected under state law from having to pay local taxes and are exempted from local control. As a result, these developments are being placed in areas that are unable to accommodate the development. State laws have disrupted local communities to the point where local officials have been recalled for just trying to follow existing law. MTA supports:

- treating mobile home parks in the same manner as every other housing development in the state;
- returning all site control back to local authority;
- eliminating any law that does not explicitly give local units of government control over all building inspections; and
- taxing mobile homes in mobile home parks in the same manner as all other property is taxed in this state.

4.6 AGRICULTURAL AND OPEN SPACE PRESERVATION

Purchase of development rights (PDR) programs and transfer of development rights (TDR) programs can be effective ways to voluntarily preserve farmland and open space. Because of the concern that a landowner seeking a PDR or TDR contract subjects the land to deed restrictions in perpetuity, local communities must have input into the process. MTA supports:

- state funding for PDR programs;
- legislation requiring local input into the granting of PDR and TDR contracts; and
- incentives to preserve farmland and open space.

4.7 DRAIN CODE

The Drain Code of 1956 has been amended little since its inception and is in dire need of updating. MTA supports rewriting the drain code such that:

- unassociated township officials be represented on the board of determination;
- if a project scope is significantly changed after the final determination, another public hearing must be held; and
- if a township is to be assessed at-large or by description, the township board must be advised up-front of any costs or assessments the township will incur.

4.8 ROAD ENDS AT WATER'S EDGE

The courts have ruled on the public's use of road ends at the water's edge. These decisions specified that the public use of road ends is only going in and out of the water and does not include sunbathing, picnicking or boat mooring. There is a move legislatively to expand the court's ruling to include other uses of land at road ends. MTA supports:

- maintaining the courts' narrow interpretation of road end use.

4.9 MINING OPERATIONS

When sand or gravel mining operations cease, local communities have the authority to require that the land be reclaimed and restored to a useable state. However, local governments have no such authority over metallic or nonmetallic mining. MTA supports:

- legislation that authorizes local units of government to regulate all mining operations and requires that the land be restored to a useable state within a reasonable period of time when operations cease; and
- requiring a performance bond or letter of credit to ensure land is restored to a useable state.

4.10 COORDINATION/STATE PLANNING

Legislation has been enacted which establishes procedures that should create better coordination among neighboring governmental units. The basic concept of the new act would be to encourage cooperation among governmental units in the planning process. MTA supports:

- legislation that requires the state to coordinate with local units of government on planning issues;
- state planning should promote locally determined land use goals;
- state financial assistance for multijurisdictional planning;
- state incentives, but not mandates, for multijurisdictional collaboration on land uses and infrastructure development where there are issues that impact on multiple jurisdictions; and
- maintaining local authority of planning and zoning by townships.

4.11 GROWTH MANAGEMENT

When growth occurs, township residents are often assessed for the cost of additional infrastructure required to accommodate the development. If concurrency were required, infrastructure would be in place before development occurs and developers could share in those costs. MTA supports:

- legislation that provides sufficient tools to manage growth based on local discretion;
- legislation permitting the assessment of impact fees;
- legislation that allows townships to deny development if adequate infrastructure is not in place; and
- legislation that will provide the tools and incentives to protect scenic vistas, vital agricultural resources and environmentally sensitive areas.

4.12 MASTER PLAN IMPLEMENTATION

The state has placed a greater emphasis on the planning process and cooperative planning. However, this achieves nothing if local communities do not have the ability to implement the plan that has been adopted. MTA supports:

- further explicit and exclusive authority for township master plans and zoning ordinances to determine the township's character and design.

4.13 ZONING APPROVAL & SITE PLAN REVIEW OF SCHOOL AND GOVERNMENT BUILDINGS AND INFRASTRUCTURE

Planning and zoning officials must be given the authority to review site plans for all buildings including schools and government facilities to ensure that the necessary infrastructure is in place and that the buildings complement the neighborhood. MTA supports:

- legislation requiring local planning and zoning review of school site plans; and
- legislation that requires government buildings, infrastructure and uses to conform to local zoning and site plan requirements.

4.14 COMMERCE CENTERS

The Michigan Land Use Leadership Council recommendations included "commerce centers" as a concept to revitalize our urban centers. The report recommends targeting resources to support redevelopment and growth as the objective of commerce centers. However, early versions of legislation on this matter would identify all cities and villages as commerce centers and then adds a few townships to the list. MTA supports:

- commerce centers that would include townships based on the same quantifiable criteria as cities and villages.

LOCAL AUTHORITY

5.0 GENERAL LOCAL AUTHORITY STATEMENT

Township government in Michigan is the closest level of government to the people. Township officials derive their authority from the Michigan Constitution and laws created by the state. Townships are charged with protecting the health, safety and welfare of their citizens. Townships are also the most efficient form of local government in Michigan, often delivering services equal to cities for far less costs while continuing to meet the demands of growing populations. It is therefore essential that townships maintain their current realm of authorities and responsibilities, and gain new authority, financing and changes to laws in response to local needs.

5.1 COMPULSORY ARBITRATION – PA 312

Michigan law requires local governments to engage in collective bargaining negotiations with their employees on mandatory subjects. Under Public Act 312 of 1969, parties submit an impasse to compulsory arbitration and relevant financial information is prohibited from being submitted for consideration. Local officials in many cases feel that if arbitrators were aware of all obligations the local unit of government is under that it could help arbitrators arrive at a more fair and just decision. A full understanding by all parties of financial obligations may assist in providing full-faith negotiations toward an agreement. MTA supports:

- changes to the compulsory arbitration selection process for arbitrators to make them more neutral and independent; and
- legislation to amend PA 312 that would allow local governments to submit additional financial data demonstrating financial conditions and obligations beyond those directly related to the dispute.

5.2 FIREFIGHTERS TRAINING FUND

In recent years, legislation has been proposed to impose a fee on insurers writing homeowners, farm and commercial policies to provide funding for firefighter training through the Fire Fighters Training Council. Assessments have been proposed at .5 percent of direct earned premiums written on insurance for the prior calendar year. MTA supports:

- legislation that would impose fees on insurers writing homeowners, farm and commercial properties to provide funding to the Fire Fighters Training Council.

5.3 REVENUE SHARING

The statutory revenue sharing formula is set to expire in 2007. However, due to difficult economic conditions, state shared revenues are a constant target for significant budget cuts. In recent years, revenue sharing cuts have treated townships unfairly under the “across-the-board cuts” on combined statutory and constitutional payment amounts. Using this method of cuts places a larger burden on townships. If statutory revenue sharing continues to be cut or is eliminated, local units will be forced to cut essential local services, which may include emergency services, or increase property or other local taxes if even possible. Residents of a township should be treated the same as those residing in a city for revenue sharing purposes. Population should be designated as the highest criteria for revenue sharing distributions and weighted as such in the revenue sharing formula. MTA supports:

- criteria for distributing statutory revenue sharing to be the same for cities, villages and townships;
- basing more of the revenue sharing disbursements on population;
- full funding of statutory revenue sharing;
- new revenue sources to fund local governments at appropriate levels; and
- immediate action by the Legislature to address the fast-approaching September 2007 expiration of the revenue sharing formula in statute.

5.4 FRANCHISING – RIGHTS-OF-WAY AUTHORITY

Local governmental units are guaranteed under the 1963 Constitution of Michigan, Art. VII, Sec. 29, that a franchise must be obtained before a public utility is permitted to do business therein or use the public rights-of-way. Public Act 48 of 2002 creates a new uniform fee and process for telecommunications providers to adhere to when using public rights-of-way. MTA recommends:

- that townships maintain franchise authority guaranteed under the Constitution; and
- all attempts to reduce local authority over public rights-of-way and business activities within township boundaries be opposed.

5.5 STATUTORY DIVISION OF DUTIES

Statutorily assigned duties to individual elective offices remove the flexibility of township boards to function efficiently. Delineating duties by state statute is too stringent. MTA recommends:

- leaving the assignment of duties not currently delegated by statute to a particular office at the discretion of the township board.

5.6 ANNEXATION/DETACHMENT

Current annexation laws are archaic and favor cities and villages when attempts are made to annex property from townships. The annexation process fails to recognize the ability of townships to provide sewer, water and other services necessary for economic development. These annexation laws unfairly prohibit a right-of-referendum when less than 100 people reside within the area proposed to be annexed. Further, PA 425 of 1984, the “Conditional Land Transfer Act,” permits two or more local units to enter into an agreement to conditionally transfer property for a period of years for the purpose of economic development projects. Yet, in recent years, the State Boundary Commission has been involved in determining the validity of 425 agreements, contiguity and contract participants. MTA supports:

- legislation that encourages better long-term relations among local governments by making cities and townships equal in all matters related to boundary adjustments;
- legislation that prohibits a city from denying sewer or water services as leverage for annexation;
- a right-of-referendum of all electors in townships affected by a proposed annexation; and
- legislation to clarify that the State Boundary Commission has no authority to determine validity of Act 425 agreements.

5.7 DEFINITION OF A FARM

Recent court cases involving commercial hunt clubs (pay-to-hunt operations) have clouded the definition of a farming operation under Michigan law. In one case, it was determined that a pheasant hunting operation was a farming operation and was granted protections under the Right to Farm Act. These operations have come into conflict with local zoning authority and have often challenged local regulations. MTA supports:

- legislation that amends the definition of a farm under Michigan law to clarify that commercial hunt clubs and other commercial recreation businesses are not included under the definition of farming; and
- clarifying the Right to Farm Act such that local governments are not liable for a property owner's attorney costs when enforcing their zoning ordinances on uses that a court deems to be agricultural activities.

5.8 HAZMAT RECOVERY

Numerous local governments across Michigan have enacted hazardous material cost recovery ordinances designed to place the burden of providing local emergency services involving hazardous materials upon responsible parties rather than the local unit of government. In 2003, a Michigan Court of Appeals case (*Howell Twp. v. Rooto Corp.*) seriously impacted the effect of these ordinances by determining that Part 201 of the Natural Resources and Environmental Protection Act (NREPA) pre-empted such ordinances. MTA supports:

- legislation that amends NREPA to allow local governments to adopt and enforce hazardous material cost recovery ordinances.

TRANSPORTATION

6.0 GENERAL TRANSPORTATION STATEMENT

Townships in Michigan have a strong interest in the condition of public roads and bridges. Township officials are advocates on behalf of citizens of their township. Townships contribute approximately \$90 million per year for road maintenance and construction despite having no jurisdiction over road repair and construction or requirements to provide funding for roads under state law. It is in the interest of townships in Michigan to have input into road and bridge maintenance and repair projects.

6.1 MANAGING ROAD PROJECTS

Today, townships are locked into the decisions of road commissions regarding which projects will be undertaken. Road commissions administer these projects. If competitive bidding were allowed, project costs could be lower and more efficiently performed. When townships contribute 50 percent or more to a project, the following is recommended:

- legislation that allows the township to decide how the project is done and by whom if it contributes 50 percent or more of the cost.

6.2 COUNTY ROAD COMMISSIONS

Rapid growth in many townships across Michigan is causing significant road quality and traffic congestion issues. Currently, county road commission members can be residents of cities. Commissions should include township residents. A three-member entity cannot adequately represent the diverse interests throughout the entire county, and it creates a compliance problem with the Open Meetings Act. Further, the current road commission term of six years is too lengthy. MTA supports:

- legislation that allows county road commissions to increase from three members to five members and to encourage that the new members be residents of townships; and
- legislation to limit the term of road commissioners to four years.

6.3 STUMPAGE

The state of Michigan currently allows the cutting of trees on state forestland. The state sells the wood and retains the revenue. Many roads and bridges incur severe damage and stress during tree harvesting operations. MTA supports:

- legislation to require the state to share funds to be used for the purpose of road and bridge repairs from the sale of logs, pulpwood and stumpage in townships where forests are harvested.

6.4 PUBLIC TRANSPORTATION

The Constitution allows up to 10 percent of the Michigan Transportation Fund to be used for public transportation, such as buses, railroads and people movers. Although public transit does not receive a full 10 percent, efforts are being made to direct more funding to mass transit. As mass transit is used in both urban and rural areas, the following is recommended:

- encourage accountability of public transit expenditures to ensure efficient operations; and
- maintain the current state priority funding on road projects.

6.5 BILLBOARDS

Billboards can negatively impact local communities due to their size, location and condition. Townships should have appropriate authority over billboards to protect their communities. MTA supports:

- legislation to give townships more authority to regulate billboards.

6.6 TOWNSHIP INPUT ON ROADS

Some townships are allowed input by their county road commission when projects are selected. The Michigan Department of Transportation (MDOT) requires county road commissions to present three-year plans to MDOT on all capital projects. However, road commissions are not required to seek input or approval of their plans by township officials within their county. The following is recommended:

- county road commissions be required to review three-year plans (annually) with township officials within their county.

6.7 LOCAL TRANSPORTATION FUNDING

An analysis conducted by the U.S. Department of Transportation in 2004 shows that Michigan roads are the third worst in the nation. Further, U.S. Census Bureau data demonstrates that Michigan ranks 44th in per capita state & local expenditures on roads. Funding of the Act 51 distribution formula, Michigan Transportation Fund (MTF), has not maintained pace with growing townships. Funding levels of MTF sources, which include gas taxes, diesel taxes and vehicle registration fees, have not maintained a pace equal to the rate of inflation. Currently, the formula does not provide townships with any road funding, yet road commissions often require funds from townships before a project will be initiated. MTA supports:

- adequate state funding for local transportation needs;
- eliminating diversions of gas and weight funds from the Michigan Transportation Fund; and
- legislation to create a set-aside fund that could be used only with township direction if new revenue sources are identified as a funding source.

6.8 LOCAL/CRITICAL BRIDGES

Many bridges on local and county primary roads are in desperate need of repair. In increasing numbers, due to age and deterioration, weight limits are being placed on local bridges prohibiting fire trucks and some ambulances from crossing, causing dramatic increases in response times and jeopardizing the safety of residents. Local communities continue to struggle to find ways to keep up with increasing financial demands for local bridge repairs and maintenance. Under the current system, it can take years to secure funding for local bridge repair projects or replacements due to the competition and demand for scarce bridge funds. The following is recommended:

- encourage flexibility in bridge repair standards and construction to make it affordable.

6.9 STATE TRANSPORTATION PLANNING AND PROJECTS

Township officials should have a voice and input in initial stages of state transportation project planning. Often, decisions are made by state transportation officials without consideration of local zoning and land use plans. In 2003, an executive order required MDOT to adopt a context-sensitive design process that involves input from local officials and other interested parties on state road projects. MTA supports:

- MDOT practices that townships be notified and their input solicited as part of the planning on state road projects.

6.10 TRUCK WEIGHT LIMITS

Because libraries receive most of the fees derived from violations of weight limitations, local weigh masters have little financial incentive to enforce weight limitations. However, the purpose of the weight limitations is not to generate revenues, but to protect roads from undue wear. Therefore, MTA supports:

- enforcement of current weight restrictions.

6.11 WETLAND ROADS

Current enforcement of sections of Part 303 of the Natural Resources and Environmental Protection Act by the Michigan Department of Environmental Quality (MDEQ) is prohibiting local road agencies from performing maintenance on existing roads located in wetland areas. In some cases, road work to maintain an existing road is only allowed if the local road agency creates a new wetland related to the wetland mitigation process, causing severe cost escalations on a project. MTA supports:

- legislation that would narrowly amend Part 303 of the Natural Resources and Environmental Protection Act to specify that the MDEQ could not impose conditions on a permit regarding the mitigation of the impact of fill materials related to maintenance work on existing roads within the right-of-way of the road. Such legislation should not apply to the construction of a new road.

6.12 FEDERAL TRANSPORTATION FUNDING

For many years, the state of Michigan has received a poor return on federal gas tax dollars collected at the gas pump that are sent to the federal government. In recent years, strong efforts have been made by many associations and interest groups in Michigan to gain a greater rate of return. During the summer of 2005, after 10 temporary extensions to the act over a period of several years, the federal transportation funding formula, now titled SAFETEA-LU, was approved by Congress and the president. Michigan made marginal gains related to a more favorable rate of return. The minimum guaranteed return of gas taxes sent to Washington will increase from 90.5 cents on the dollar to 92 cents by the end of the six-year funding bill. MTA supports:

- eliminating Michigan's status as a donor state for federal transportation funding; and
- adequate federal funding for local transportation needs.