

CAPITOL CURRENTS

A Legislative Update for Township Officials

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Governor Proposes Another Revenue Sharing Freeze for '07

State Budget Director Mary Lannoye presented Governor Granholm's 2007 budget to a joint meeting of the Senate and House Appropriations Committees on February 9. The plan calls for another freeze in total revenue sharing amounts for townships, cities and villages.

Freezing revenue sharing again in 2007 would mean that roughly 200 more townships (or about 1,000 of the 1,242 townships) would no longer receive any statutory revenue sharing as a part of their payments beginning on October 1, 2006. The amount that townships receive in statutory revenue sharing would be reduced from \$22 million in 2006 to roughly \$17 million in 2007.

Also mentioned during the budget presentation, was the

governor's intent to create a \$100 million fund that would act as a local government capital outlay fund. While few details were offered, it is apparent that the concept is intending to create an incentive for "cities" to partner with the state, private sector and other municipalities on a regional basis for infrastructure projects for economic development.

To review revenue sharing numbers for your community, the Michigan Department of Treasury Web site contains a listing of projected revenue sharing amounts for all of Michigan's local units of government under the "Local Government" button. Go to www.michigan.gov/treasury. 

Cable Franchising Gets Attention at State Capitol

On November 21, 2005, Governor Granholm signed the new Michigan Telecommunications Act (HB 5237; P.A. 235 of 2005) into law. How telecommunication companies operate under the new law will not be fully understood for many months; yet, AT&T (formerly SBC) continues to push the idea of eliminating local franchising authority when it comes to cable service.

AT&T claims it is ready to get into the cable business, but is interested in following different regulations than existing cable providers to gain a competitive advantage. Specifically, AT&T is attempting to eliminate local franchising authority and replace it with a state regulated/statewide franchise. Amendments to eliminate local control were drafted and submitted for consideration last fall when the telecommunications act was being amended by the Michigan Senate Technology & Energy Committee. However, the amendments were too controversial to attract a sponsor. Further, AT&T, knowing that the language to eliminate local control was controversial, did not want to jeopardize passage of the entire act because it contained other changes that were favorable.

Discussion at the state capitol about eliminating local franchising authority for cable has remained constant because AT&T and the Telecommunications Association of Michigan (TAM) are attempting to have legislation introduced that would eliminate local control. A letter dated January 30 from TAM to state representatives says "the road to competition is littered with expensive

and time consuming local regulations. Clearing away this debris will speed the development of competition in the video market ..."

Though no legislation has been introduced to date, MTA and other associations lobbying on behalf of local governments are aware that a bill has been drafted for weeks and is circulating for sponsorship.

AT&T has also launched television and radio ads that vaguely dance around the cable issue. The ads make references to competition and AT&T's interest in delivering cable service but do not mention that local franchising would be eliminated under their plan. The MTA will alert township officials as the issue progresses or when legislation is introduced.

At jeopardy for local governments is the ability through our franchising authority to discuss and secure service to specific areas of our communities. Townships are working to attract economic development and to secure service in our key economic development corridors, commercial zones and residential areas. Township business owners and residents are starved for broadband service



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that often comes through cable service; yet, if local franchising authority is stripped away, service providers will only choose to provide service in the areas where they can make the biggest profit margins; highly populated areas. Local governments need the ability to sit at the table during the local franchising process and discuss service areas in their communities with providers.

Also, at jeopardy is current and future cable franchise fees and the new Metro Authority, that requires telecommunications companies to pay five cents a linear foot for use of the public rights-of-way for placement of their telecommunications lines.

Making the issue twice as difficult, AT&T and other telecommunications companies are also pushing legislation in Congress to eliminate local franchising authority. MTA has been monitoring this issue in Washington, D.C. as well. It is apparent that both the U.S. Senate and the U.S. House have intentions of addressing this issue in the coming weeks. CC

House Committee Requires Report on Local Gov't Vehicles

On February 14, the House Government Operations Committee approved a substitute version of HB 5521 (H-2), which would amend the state revenue sharing act to require local units of government to make information on government-owned or leased vehicles available to the public through a Web site. The bill, sponsored by Rep. Gosselin (R-Troy), was also reported out of committee and would require local governments to keep records of all motorized vehicles under their ownership or lease on their own Web site or on a county Web site. If local governments failed to comply with this new record-keeping requirement, five percent or \$1,000 per month, whichever is less, would be withheld in state revenue sharing payments from each community.

The bill's sponsor claims the idea for such legislation came

from California, where the state lost track of 30,000 vehicles in its database. The sponsor further claims that the bill is aimed at exposing misuse of vehicles.

Testifying against the bill in committee, MTA explained that none of the requirements under the bill will reveal misuse of local government vehicles. Instead, the bill requires a new bureaucratic report at the local level that explains basic details about the vehicles and how many miles are driven each year. MTA also stated that if townships do not have appropriate management policies in place regarding use of township vehicles, local officials run the risk of it becoming an election-year issue for them.

The bill would require townships, counties, cities and villages to maintain records on the following information and include it in an annual report by January 1, of each year:

- Date of purchase or initial lease date and duration of lease
- Purchase price or lease price
- Date of sale, if the vehicle is subsequently sold
- Year, make and model of the vehicle
- The supervisor responsible with charge of the vehicle
- Authorized users, except when disclosure would jeopardize public safety or safety of the authorized user
- Mileage driven in the previous fiscal year
- Total mileage

The bill was reported out of committee on a party-line vote. Voting in favor of the bill were Reps. Drolet (R-Clinton Twp.), Hoogendyk (R-Texas Twp.), Garfield (R-Rochester) and Sheen (R-Plainwell). The bill now moves to the floor of the House. CC



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MARK YOUR CALENDARS:

2006 Capitol Conference

April 26, 2006

Radisson Hotel, Downtown Lansing

Topics to be discussed:

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- Local Law Enforcement: Who pays for it?
- New State and Regional Water Regulations
- Eminent Domain
- Telecommunications
- Franchise Fees
- Rights-of-Way
- Wind Energy

For registration information, visit

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Legislature Completes Work on Water Withdrawal Package

On February 9, after nearly two years of debate with numerous meetings and negotiation sessions, the Legislature has completed work on a five-bill package to address new or expanded large quantity water withdrawals in Michigan. Once signed into law, the package of bills (SBs 850-852, 854, 857) will result in changes in how large quantity water withdrawals (those over 100,000 gallons per day averaged over a 30-day period) are handled. The package also grandfathered in all existing users of water withdrawals.

After the Senate had passed the package in December (January issue of *Capitol Currents*), the House began debate on the issue in mid-January and ultimately made several changes to the package before final House floor action and Senate concurrence. A key House change for rural townships included exempting a new water withdrawal that is used solely for fire suppression. This stipulation was added at MTA's request and will exempt rural wells that are drilled to suppress fires from the new regulations.

Another change added by the House impacting townships with municipal water supply systems is that water user groups are required to begin working on best management practices to conserve water within the first 12 months after the effective date of the bills. Within 24 months, each water sector is required to report their process on developing these guidelines to the Department of Environmental Quality (DEQ).


For municipal water systems, this could include such things as efforts to minimize water loss from underground pipes or establishing ways for customers to reduce their water consumption, such as installing high efficiency showerheads or appliances. DEQ is then required to compile a report of the process of all the water sector users and then provide the report to the Legislature. Ultimately, this process could lead in the future to water conservation measures being implemented for all large quantity water withdrawals.

The House made two changes to the Safe Drinking Water Act found under SB 857. The first was to clarify that the permit exemption for community water suppliers is only for those water supply systems that are owned by political subdivisions. The other major change was to specify that a person who proposing the production of bottled drinking water that has a new or increased withdrawal in excess of 250,000 gallons per day must obtain a permit from the DEQ. Conditions of the permit would include: there can be no adverse resource impact, the proposed use is reasonable under common law water principles, the withdrawal will be conducted in such a manner as to protect riparian rights as defined by Michigan common law, the owner/operator has to address hydrologic impacts commensurate with the nature

and extent of the withdrawal and require them to consult with local government officials in assessing impacts, and they must pay a \$5,000 permit fee.

Other changes made to the package clarify that the initial reporting of annual water use will occur on April 1, 2007 and a change to treat newly constructed, but not yet operating wells, as existing users therefore not subject to the new legislation. In addition, a person operating a seasonal well that withdrawals less than 1.5 million gallons per year does not have to report water use as long as they certify that they will not exceed 1.5 million gallons per year.

Finally, the last major House change dealt with local pre-emption. The Senate version had pre-empted local units of government from enacting or enforcing an ordinance regulating an adverse resource impact caused by a large quantity withdrawal. The House version is much improved as it pre-empts local units of government from enacting or enforcing an ordinance that regulates a large quantity withdrawal except as authorized by the public health code. The House further said that the pre-emption language is not intended to diminish or create any existing authority of municipalities to require persons to connect to municipal water supply systems as authorized by law.

It is likely that by the time you are reading this article, the governor will have signed the five-bill water withdrawal package into law. 

Legislature Deals with Boards of Review

The Legislature has enacted one change to the laws regarding the operations of boards of review and may well enact a second change in the coming weeks. Public Act 13, offered by Rep. Kevin Green (R-Wyoming), was signed into law by the governor on February 7. PA 13 greatly enhances the ability of the board of review to deal with errors that are discovered after the March board of review.

The Property Tax Act allowed boards of review to change assessments at the July and December boards of review for clerical errors and mutual mistakes of fact. Over the years interpretations by the state have defined those terms in a very narrow manner. PA 13 greatly expands the definition of clerical errors and mutual mistakes of fact to include such simple issues as mismeasurements or improperly identified property listed on the assessment. The new law also tries to deal with the problems caused by late filings of personal property statements. If an assessor assigns a value to personal property in the absence


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of a statement from the property owner, the board of review can adjust the valuation if a statement is filed at a later date.

The legislation does not allow the July and December boards of review to review the assessment of the property. That is still an issue that must be handled at the March meeting. However, the new law should allow for the correction of any error that is uncovered after the March meeting. The legislation will expire after the 2009 tax year to allow for a review of the new procedures, particularly for personal property, at a future date.

The second change that is still making its way through the legislative process comes at the suggestion of the **Kalkaska Township** (Kalkaska Co.) supervisor. HB 5313 was offered by Rep. Walker (R-Peninsula Twp.). The legislation would allow a township to appoint up to two alternates to the board of review. The alternate would serve on a decision of the board of review whenever a regular member was absent or when members of the board needed to excuse themselves from a decision that involved a conflict of interest. The legislation has passed the House and is currently awaiting action in the Senate. 

House Approves Forest Package; Senate Poised to Act

The House approved a package of bills in mid-February in an attempt to spur Michigan's timber industry. The package includes HBs 5453-5458, 5462 and 5628. The legislation eliminates the indexing of the Commercial Forest Tax and instead relies on distributing money from increasing the sale of timber harvested from state properties to local units of government.

Under current law, property placed into the Commercial Forest Act (CFA) is not subject to the ad valorem general property tax. Instead, these forests are subject to an annual specific tax of \$1.10 per acre. The \$1.10 rate has been frozen for the last 12 years. The act actually requires the rate to be increased every 10 years, but two years ago, when the rate was scheduled for an increase, the Legislature extended the \$1.10 rate for two more years. The act is once again under review.

The package passed by the House retains the \$1.10 per acre rate and instead attempts to require the state to make more state timberland available for sale. The idea is that this additional state acreage would provide an additional \$2.2 million to local units of government. MTA has been very skeptical of the plan because

currently the Department of Natural Resources (DNR) is not able to keep pace on marking timber it currently makes available for harvesting (63,000 acres), let alone dedicating revenues from the first 90,000 cords to local government, which is called for in HB 5628. The DNR is opposed to the legislation.

MTA is also concerned about HB 5456, which amends the Michigan Renaissance Zone Act to allow for the creation of up to 20 additional renaissance zones for forest products. MTA believes the broad language in this bill should be tightened so that it would be limited to the forest industry. MTA has also been closely scrutinizing other aspects of the package including the impacts on assessing and recapture when property is taken out of the CFA.

In the Senate, the Senate Agriculture & Tourism Committee, chaired by Sen. Van Woerkem (R-Muskegon), is likely to report at least portions of the package out of committee on February 23. HBs 5454-55, 5628, SBs 912-914 and 917 were listed on the committee agenda. Senator Van Woerkem has met with MTA and listened to our concerns. MTA is working with Van Woerkem's staff to help address some of the areas of concern for townships. 