

In This Issue:

- 2 Energy Package
- 3 Property Tax Exemption
- 4 Water Package
- 5 MTA-PAC Endorsements
- 6 Lawn Fertilizer Legislation



capitol currents

Official Publication of the Michigan Townships Association

july 2008



A Legislative Update for Township Officials

Legislature Breaks With State Budget Incomplete



A strong effort was made by legislators to finish work on the state budget for fiscal year 2009 before their traditional July 4 break. They worked in a marathon session on Friday, June 27, that lasted until the early morning hours on Saturday, June 28. As they departed, four budgets remained incomplete.

One of these budgets contains funding for revenue sharing. A strong three-day push was made to complete the budget once an overall target agreement was reached on Wednesday, June 25, between legislative leaders, but final approval remained elusive. The leaders have vowed that the budget approval process will not drag on as it did last year and that there will be no threats of a state government shutdown. The House and Senate are scheduled to return on July 16 and 17, respectively, to finish the budget.

The general government budget (House Bill 5816), which contains funding for revenue sharing payments for local governments, failed to gain approval. Although the budget conference committee failed to meet prior to the Legislature's three-week adjournment, MTA has been informed that the unresolved issues in the budget are not related to items that MTA has been working on.

The budget compromise deal includes a 2 percent increase in statutory revenue sharing in the general government budget for FY'09. The governor's original budget included a 4 percent increase in statutory revenue sharing. The Senate had eliminated the increase due to reduced revenue projections released in May. This 2 percent increase is only on the statutory portion of each local government's revenue sharing payment and therefore does not represent an overall 2 percent increase for each community. However, townships that only receive constitutional revenue sharing will be assured the same level of revenue sharing as in the current year.

Another important budget item within the general government budget is a half million dollar line item for large utility property tax appeals. MTA has been working to involve the state when utility companies challenge their property tax assessments. Local assessors use tax schedules approved by the State Tax Commission when assessing utility property; however, utility companies have been challenging these assessments costing local governments significant legal fees and long-term reductions in tax revenue. The state has not been involved in several recent cases. This line item is an attempt to invoke the state in the process. Due to significant work by Sen. Jud Gilbert (R-Clay Twp.), the Senate originally approved a \$1 million line-item amount for the utility property tax appeals, while the House version contained no such funding. It is expected that the conference committee will approve a \$500,000 amount in this line-item.

Budget continued on page 3

Annexation Reform Stalled in Senate; Senators Punished

It appears any chance of getting annexation reform legislation approved in the state Senate before an August vote on a 400-acre annexation in Northville Township has all but vanished.



Sen. Bruce Patterson (R-Canton Twp.), who represents Northville Township, pushed incessantly since February to convince Senate leadership to move annexation reform legislation. Running out of time and growing impatient, Sen. Patterson used a small window of opportunity on June 19 to work with Senate Democrats on a procedural move to force a vote on the annexation reform bills. Unfortunately, the efforts by Patterson to work with Democrats to gain enough votes for passage of annexation reform has caused him and Senate Democrat leaders to be stripped of their seats on certain committees.

Any progress that appeared to be made on June 19 on getting annexation reform legislation through the state Senate was quickly

Annexation continued on page 2

Annexation continued from Page 1

jammed into reverse as the Senate was attempting to complete their budget work in marathon sessions during the final full week of June. House Bill 5779, sponsored by Rep. Marc Corriveau (D-Northville), which protects charter townships with a population of 20,000 or more from annexations, was referred back to a Senate committee on June 24. Also referred back to committee was HB 5859, sponsored by Rep. Mark Meadows (D-East Lansing), which prohibits the same townships from detaching territory from neighboring cities.

Sen. Patterson worked with Senate Democrats on June 19 to discharge the bill from committee to attempt a floor vote before the Senate summer recess. The Senate Republicans were missing several members, which opened an opportunity for Patterson to work with Senate Minority Leader Mark Schauer (D-Battle Creek) and Senate Minority Floor Leader Gretchen Whitmer (D-East Lansing) to gain a discharge vote on annexation reform. While the discharge motion was successful and the bills gained approval on general orders during a temporary 20-minute shift of power to Senate Democrats, the legislation did not make it to final passage before late arriving Republicans returned power to the majority party. The bills have been referred to the Senate Government Operations and Reform Committee that is chaired by Senate Majority Leader Mike Bishop (R-Rochester).

The final actions of the Senate before their summer recess included the approval of resolutions that stripped Senate Democrat Leader Mark Schauer of his seats on the Government Operations and Reform Committee and the Campaign and Elections Oversight Committee. Further, Senate Democrat Floor Leader Gretchen Whitmer was stripped of her seat on the Judiciary Committee while Sen. Patterson lost his seat on the Government Operations and Reform Committee and his vice chair position on the Health Policy Committee. The actions were pursued by Senate Majority Leader Bishop in response to the attempt by Patterson to move the annexation reform bills.

It appears that an August vote is now inevitable on a 400-acre annexation in Northville Township. It is highly unlikely the annexation bills will be addressed by the Senate when they return for a one-day session on July 17 to finish work on the budget. ■

Senate Inserts Local Zoning Pre-emption Into Energy Package

On June 27, in a late night marathon session prior to summer recess, the Senate acted on a highly publicized energy package that had been held in the Senate Energy Policy and Public Utilities Committee with no action since November 2007.

The comprehensive package, including some bills previously approved by the House, attempts to create incentives for renewable energy in Michigan. However, for the first time, one of the bills includes language that pre-empts local zoning for the siting of wind energy facilities.



The Senate narrowly approved SB 213, sponsored by Sen. Patty Birkholz (R-Saugatuck Twp.), a nine-page bill that as originally introduced would have created renewable energy standards to require public utilities to sell at least 10 percent of their retail electricity from renewable sources by 2016. However, the nine-page bill was replaced with a 66-page substitute (S-5) to SB 213 that was approved by the Senate and was loaded with new concepts, including sections on wind energy resource zones that require the Michigan Public Service Commission (MPSC) to issue "expedited siting certificates to electric utilities, affiliated transmission companies or independent transmission companies."

The bill goes on to state, "A wind energy conversion facility that is issued an expedited siting certificate is exempt from any local zoning ordinance except for provisions regulating setbacks and noise." The bill outlines circumstances under which the MPSC is required to grant an expedited siting certificate and says that "If the commission grants an expedited siting certificate, the certificate shall take precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of a transmission line for which the commission has issued a certificate."

MTA has been following the energy package in committee and there has been little to no discussion about pre-empting local zoning regulations. This substitute adopted on the Senate floor heads in many new directions, including the local zoning pre-emption. Immediate overall reaction from House leadership and members was that the bill was unacceptable. However, none of those early negative comments were directed towards the local zoning pre-emption. It is possible House members are not aware of the inclusion of the local zoning pre-emption as is likely numerous senators were unaware of the entire details of the last minute substitute.

Township officials and MTA will have to communicate to House members over the summer, as they are campaigning, about our strong opposition to the local zoning pre-emption. ■



capitol currents

Official Publication of the Michigan Townships Association

Editor: David Bertram **Associate Editors:** Bill Anderson & Tom Frazier

Michigan Townships Association
512 Westshire Drive, P.O. Box 80078
Lansing, MI 48917
(517) 321-6467 Fax (517) 321-8908
legislation@michigantownships.org
www.michigantownships.org

House Considers Modifying the Property Tax Exemption

Legislation that would significantly change the way that poverty exemptions for property taxes are granted by boards of review was introduced and discussed in the House Intergovernmental, Urban and Regional Affairs Committee in June.



At issue was House Bill 6162, offered by Rep. Steve Tobocman (D-Detroit). This bill was part of a legislative package to reduce the number of properties going through property tax foreclosure proceedings.

As introduced, the legislation would have changed the exemption process found in Section 211.7u of the property tax act. Currently, boards of review, with the concurrence of the supervisor, may grant a property tax exemption, in whole or in part, for a person's principal residence if they find that the person, by reason of poverty, is unable to contribute to the public charges. Existing law further directs the townships to establish guidelines for determining the exemptions using the federal poverty standards as the base but the guidelines shall include but not be limited to the specific income and asset levels of everyone residing in the household.

Rep. Tobocman's concerns centered on the relatively few exemptions that were offered. This included the fact that many communities do not advertise the availability of the exemptions. Other communities were very conservative in the granting of exemptions. One example that was noted was that the City of Inkster would only exempt 10 percent of the property value of someone who met their criteria.

HB 6162, in its original form, would have required the complete exemption of any property meeting the minimum standards, that being a household income that is no more than 200 percent of poverty and having no personal property assets, other than the house, that were worth more than \$5,000 individually, and no cash or equivalent assets of more than \$5,000. Exemptions could also be granted above those minimum standards.

During the first committee hearing, it was pointed out that nearly a quarter of the homes in the state would qualify for consideration based on household incomes of 200 percent of poverty. It was also pointed out that these homes are clustered, making the impact much more prominent in select communities, both urban and rural. The maximum potential local government exposure based on the original legislation was in excess of \$600 million per year.

Rep. Tobocman convened a workgroup on the issue. In a discussion that included two county treasurers, it was noted that having the ability to exempt a homestead for up to two years prior would signifi-

cantly help county treasurers, who were trying to keep people in their homes, when the seriousness of the homeowner's financial situation was not uncovered until the person was nearing foreclosure. Most people at the table considered this to be more important than expanding the eligibility of the program based on income.

The sponsor of the legislation is still concerned that not enough homeowners are granted the exemption. Other provisions would include newspaper notification of the availability of the program and additional notice requirements on the assessment notice.

Of concern to the local government representatives is the deletion of language that allows other factors besides income and assets to be considered. In some communities, seniors and persons with disabilities are considered by a different standard than other homeowners. Some might consider how long a person has resided in the home before granting an exemption. Many take into account the impact of the Michigan Homestead Property Tax Credit found in the state income tax laws and how this plays into the situation. Many people having problems are unaware that the state refunds money when a person pays in excess of 3.5 percent of their income for property taxes. In many situations, lowering a person's property taxes may simply mean that they receive a dollar for dollar reduction in their state income tax refund check. The property owner may see little, if any net financial difference; the local governments lose money and the state actually saves money under this scenario.

It should be noted that saving money for the state was not the intent of the author of the legislation. Discussions continue regarding the direction of this legislation. ■

Budget continued from page 1

The Department of Natural Resources (DNR) budget (Senate Bill 1106) did gain approval during the marathon session on June 27, and contains some changes for the payment-in-lieu-of-taxes (PILT) process for local governments. The approved budget shifts administration of the PILT program to the Department of Treasury from the DNR. In future years, PILT funding will now be included in the general government budget where revenue sharing is also housed.

MTA was successful in including boilerplate language in the DNR budget that will require the state to make timely PILT payments to local governments. The language, requested by MTA in April and included by the House Appropriations Subcommittee on Natural Resources, will require the state to make PILT payments by mid-February of each year if the local government sent a correct property tax statement to the state by Dec. 1. Even though the traditional payment time frame is mid-February, the DNR has been holding payments until June over the last six or seven years.

MTA greatly appreciates the work of Reps. Mike Lahti (D-Hancock) and Darwin Booher (R-Osceola Twp.) for making timely PILT payments a priority in the budget negotiations. ■

House and Senate Finalize Water Package

After several months of debate and negotiations, the House and Senate finalized the Great Lakes Compact and its implementing legislation prior to adjourning for the July 4 summer break. The compact is contained in Senate Bill 212, introduced by Sen. Patty Birkholz (R-Saugatuck Twp.), with the related bills consisting of SBs 723, 727, 858-860 and House Bills 4343, 5065-5067, 5069 and 5073.

The highlight of the 12-bill water package is the Great Lakes Compact. The compact is an agreement among the eight Great Lakes states to prevent water diversions from the Great Lakes Basin and to self impose regulations on new and expanded water withdrawals of 100,000 gallons or more per day. Key among the Michigan implementing language is that any new or increased water withdrawal to supply a common distribution system over 2 million gallons per day from the waters of the state would be required to obtain a permit from the Department of Environmental Quality (DEQ). Once signed into law by the governor, Michigan will become the seventh of the eight states to enact the compact in state statute. Once all eight states enact the compact at the state level, the compact will then go to the U.S. Congress for approval. If approved, the Great Lakes region would then have final authority over water in the Great Lakes Basin rather than the federal government.

The key component of the implementing language is what is known as the water withdrawal assessment tool. The assessment tool is a scientifically based Internet device that will be used to determine if a proposed water withdrawal is likely to cause an adverse resource impact. Water withdrawals would be placed into four different categories—zone A, B, C or D. Under each zone, an adverse resource impact would be caused if the proposed withdrawal decreases the flow of a river or stream enough to cause a certain percentage of fish loss in various types of streams and rivers. The zones take into consideration the type of stream or river and whether the water body is a cold, cold-transitional, cool or warm stream or river. The assessment tool will be available for testing and evaluation purposes starting on Oct. 1. The tool then becomes the basis for making regulatory decisions one year from the date of enactment of the bill.

The bills also allow a property owner to request a site-specific review. This would likely occur when the assessment tool determines that the proposed withdrawal could cause an adverse resource impact. The DEQ would have to conduct a site-specific review within 10 days of receiving a request. If the department determines through a site-specific review that a proposed withdrawal falls into zone C, and has a capacity of more than 1 million gallons per day from the waters of the state to supply a common distribution system, the person proposing the withdrawal would be required to obtain a permit.

The implementing bills also require the DEQ, by March 31, 2009, to prepare and post on its Web site generic water conservation measures for each major sector performing large quantity water withdrawals. These sectors include municipal water suppliers, agriculture, industry, business and the aggregate industry. Each sector may also submit to the DEQ its

own water conservation measures, which once approved by the DEQ, would supersede the generic version prepared by the department. Most sectors, including the municipal water sector, have already submitted water conservation measures to the department. Starting in 2010, a water withdrawal registrant must acknowledge that they have reviewed applicable environmentally sound and economically feasible water conservation measures. However, for permit applications received after Jan. 1, 2009, the applicant must certify that he or she is in compliance with environmentally sound and economically feasible water conservation measures developed by the applicable water user's sector or has self-certified that he or she is in compliance with environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal.

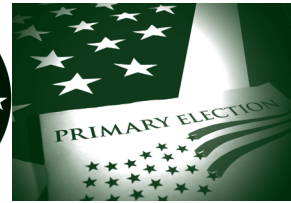
The legislation also expands the current use of water user committees. Currently, water user committees may be set up locally to evaluate the status of current water resources, water use, and trends in water use within a watershed and to assist with long-term planning. Water user committees may be composed of all water withdrawal registrants, permit holders and local government officials within the watershed. The new legislative package expands the concept of a water user committee to permit a participating local unit of government official to create an ad hoc subcommittee of residents within that community to provide the official with information and advice on water resources, water use, and trends in water use within the local unit of government. Also, the DEQ would be required to notify a water users committee when it authorizes a zone B withdrawal in a cold-transitional stream or a zone C withdrawal.

The legislation also establishes the 17-member Water Resources Conservation Advisory Council within the Department of Natural Resources (DNR). Four additional members will be representatives of the DEQ, DNR, Department of Agriculture and the attorney general. Three of the 17 public members will be appointed from local units of government or public utilities. The Water Resources Conservation Advisory Council will make recommendations on how the assessment tool could be updated to reconcile differences between baseline capacity and actual withdrawal amounts to assure the accuracy of the assessment tool's determinations. This is an important issue for municipal water systems as many have baseline amounts grandfathered in under the 2006 water withdrawal legislation, but do not currently utilize that baseline capacity.

The Advisory Council is also to conduct testing and evaluate the operation and accuracy of the assessment tool; study and make recommendations regarding the development of the assessment tool; study and make recommendations on whether and how the definition of adverse resource impact should be modified; and submit a report to the Legislature that makes recommendations regarding how the water withdrawal assessment process could be improved. The report shall contain specific recommendations on the use of the assessment tool, the site-specific review process, and the permitting process.

Parts of the overall package will be phased in over time with permitting requirements starting right away and penalties for permit violations occurring 90 days later. ■

MTA-PAC Committee Makes Primary Election Endorsements



After careful review of all the information obtained by MTA-PAC Committee members, the committee made endorsements for the Aug. 5 primary election. Members of the committee reviewed all 110 races for the MI House of Representatives and determined that the following candidates would best benefit MTA's efforts in gaining positive legislation on behalf of townships, as well as opposing legislation harmful to townships. For those districts not listed, no endorsement was made for the primary. If more than one name per district is listed, a candidate in both the Republican and Democrat primary election was endorsed. Following the primary, the committee will again review the races for the November General Election. General election endorsements will be published in the October issues of the *Michigan Township News* and *Capitol Currents*.

The MTA-PAC Committee encourages township officials to do all they can to support these candidates. Involvement by township officials in many cases can make the difference in closely contested races. The MTA-PAC Committee also wishes to thank those township officials that took the time to send in their ballots and information on the candidates. Your input was very important to us in making our decisions on which candidates to endorse in the Aug. 5 primary election. Thank you!

MTA would like to offer a reminder to township officials that all political activities must take place outside of your public office and may not involve any public funds in any manner. ■

001 R-Mary Tredar Lang and D- Kenneth A. Poynter	031 D-Fred Miller	058 R-Kenneth Kurtz	085 R-Richard J. Ball
002 D-LaMar Lemmons Jr.	033 R-Kim Meltzer	059 R-Matt Lori	086 R-Dave Hildenbrand
003 D-Bettie Cook Scott	035 D-Vincent Gregory	060 D-Robert B. Jones	087 R-Brian N. Calley
004 D-Coleman A. Young	036 R-Pete Lund	061 R-Margaret E. O'Brien	088 R-Shelly Edgerton
005 D-Bert Johnson	037 D-Vicki Barnett	063 R-James Bolger	089 R-Arlan B. Meekhof
008 D-George Cushingberry Jr.	038 R-Hugh D. Crawford	064 D-Martin J. Griffin	090 R-Joseph Haveman
009 D-Shanelle Jackson	039 R-Amy Peterman and D-Lisa Brown	065 D-Mike Simpson	091 D-Mary Valentine
010 D-Gabe Leland	040 R-Chuck Moss	066 R-Bill Rogers	092 D-Doug Bennett
011 D-Gary Pollard	041 R-Marty Knollenberg	067 D-Barb Byrum	093 R-Paul E. Opsommer
012 D-Rashida Tlaib	042 D-Harold L. Haugh	068 D-Joan Bauer	094 R-Kenneth B. Horn
014 D-Ed Clemente	043 R-Gail Haines	069 D-Mark S. Meadows	095 D-Andy Coulouris
015 D-Gino H. Polidori	044 R-Eileen Kowall	070 R-Tom Humphreys	096 D-Jeff Mayes
016 D-Bob Constan	045 R-Copper S. Rizzo	071 R-Rick Jones	097 R-Tim Moore
017 D-Andy Dillon	046 R-James Marleau	072 R-Linda Steil	098 R-Jim Stamas
018 D-Richard LeBlanc	047 R-Cindy Denby	073 R-Tom Pearce	099 R-Bill Caul
019 R-John J. Walsh	048 D-Richard E. Hammel	074 R-Dave Agema	100 R-Gooff Hansen
020 D-Marc R. Corriveau	049 D-Lee Gonzales	075 R-Robert Dean	102 R-Darwin L. Booher
021 R-Todd LaJoy	050 D-Ted Hammon	076 D-Roy Schmidt	103 D-Joel A. Sheltroun
023 D-Deb Kennedy	051 R-Paul Scott and D-Michael J. Thorp	077 R-Kevin J. Green	104 R-Wayne A. Schmidt
024 R-Bryan Brandenburg and D-Sarah Roberts	052 D-Pam Byrnes	078 R-Sharon Tyler	105 R-Kevin A. Elsenheimer
025 D-Jon M. Switalski	053 D-Rebekah Warren	079 R-John Proos	106 D-Andy Neumann and R-Peter A. Pettalia
026 D-Marie Donigan	054 D-Alma Wheeler Smith	080 R-Tonya L. Schuitmaker	107 D-Gary McDowell
027 D-Ellen Cogen Lipton	055 D-Kathy Angerer	081 R-Phil Pavlov	108 R-Mike Falcon and D-Janis Burgess
029 D-Tim Melton	056 D-Kate Ebli	082 R-Kevin Daley	109 D-Steven W. Lindberg
030 R-Tory Rocca	057 D-Dudley Spade	083 D-John Espinoza	110 D-Michael A. Lahti
		084 R-Terry L. Brown	



capitol currents

Official Publication of the Michigan Townships Association

Michigan Townships Association
512 Westshire Drive
Lansing, MI 48917

PRSRT STD
U.S. POSTAGE
PAID
PERMIT NO. 765
LANSING, MI

 printed on recycled paper

House Holds Action on Lawn Fertilizer Pre-emption Bill

The House left for its July 4 summer break without taking action on House Bill 6115 (H-1), legislation that would establish a state standard for lawn fertilizer application and to pre-empt future local lawn fertilizer ordinances.

The original version of HB 6115 would prohibit the application of lawn fertilizer containing more than 0.5 percent phosphate. The bill as introduced was intended to take effect on Jan. 1, 2010, and would utilize the same date for pre-empting new local ordinances. It would grandfather in existing local fertilizer ordinances addressing phosphorus.

However, the legislation was significantly changed by the House Agriculture Committee from its original version. First, the environmental benefit of the bill was compromised when the prohibition of lawn fertilizer containing more than 0.5 percent phosphate was changed to indicate that a fertilizer labeled for use on lawns shall have use directions that do not exceed an application rate of 0.25 pounds of available phosphate per 1,000 square feet of lawn area and that a person shall not apply fertilizer to a lawn exceeding that amount. Language added by the committee would also impose an immediate ban on new local ordinances if the bill was signed into law while retaining those local ordinances already enacted.

During previous committee testimony, MTA testified in opposition to the substitute arguing that communities currently pursuing local ordinances should not be penalized for their efforts to protect local water bodies. MTA also expressed that strengthening enforcement efforts and including educational training are needed in the legislation. Both of these issues are normally addressed within local ordinances. Some committee members expressed a willingness to work with MTA to try to reach a compromise on key elements of the legislation, including

extending the time frame that a local unit of government could enact a local ordinance through the end of this calendar year.

Since committee activity, both the Michigan Environmental Council and MTA have continued to raise concerns over the legislation. Despite efforts by Michigan agri-business representatives to hold a vote on the bill as soon as possible, Rep. Terry Brown (D-Windsor Twp.), the sponsor of the legislation, has decided to work on the bill over the summer to try to reach consensus. MTA appreciates Rep. Brown's willingness to continue to work on the legislation.

In the meantime, those townships that are contemplating passing a local fertilizer ordinance—or are in the process of doing so—to protect local water bodies from excessive amounts of phosphorus are encouraged to complete their efforts as soon as possible. Should the pre-emption effort gain steam once the Legislature returns from its summer recess, it would be advantageous to have as many communities as possible to have completed their work. ■

Resolution Reminder

Do you have a new policy idea in mind for MTA? Under the rules adopted by the MTA's Board of Directors, advance resolutions involving legislative policy must be submitted to MTA 150 days prior to the Annual Meeting. ***The deadline for submissions is Wednesday, Sept. 3, 2008.*** Resolutions adopted at the Annual Meeting in January 2009 will be the basis for MTA's 2009 Policy Platform.