

In This Issue:

- 2 Principal residency and foreclosures
- 3 Court ruling on sewer systems
August primary produces high
percentage of millage increases
- 4 Federal broadband grants coming to
Michigan
NATaT conference reminder



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A Legislative Update for Township Officials

Senate Fiscal Agency issues report on consolidation



The Senate Fiscal Agency, the non-partisan agency working on behalf of the Senate, issued a report in August that evaluated the evidence of cost savings associated with consolidation of governments. The paper examined three different issues: the impact of political consolidation on the cost of government, the impact of service cooperation on cost and the impact

of having fewer governmental units improving economic performance.

The report looked at local government spending on a per person basis on a nationwide basis and then looked at the number of local units of government within each state. The report concluded that there was no obvious correlation between the cost of operation and the number of local governments.

As the report moved into the issue of cooperative services, the conclusions became less absolute. Generally, labor-intensive services do not benefit as much from cooperative services as do capital-intensive services. The report points to fire services as one area where cooperation can be beneficial. This is especially true for specialized equipment situations. Issues such as the need for ladder trucks, hazmat teams or dive teams do not need to be provided in every community. They do need to exist somewhere in the general proximity. These are areas where cost savings can be found.

The questions of whether structures like "unigovernment" spur on economic development are at best inconclusive. People point to Indianapolis as a success of a government system where multiple governments were consolidated and positive economic growth has occurred. On the other hand, the report points to the merger of Louisville/Jefferson County and the merger of Jacksonville and Duval Counties in Florida. In these cases, the mergers have not produced any identifiable boost in economic development. The study points out that consolidating govern-

ment operations does not mean that economic development will follow, but there are situations where economic development did follow.

The study reinforces everything that MTA has been stating for years. Opportunities exist to save money through cooperative ventures. However, this is not the case in all situations or even in most situations. The best results occur when local communities can identify their specific needs and tailor programs to meet those needs. The one-size-fits-all approach is not a magic answer to all questions. The full Senate Fiscal Agency report can be found at: <http://www.senate.michigan.gov/sfa/Publications/Notes/2010Notes/NotesSum10es.pdf>. ■

State budget update; revenue sharing report



It appears that approval of the state budget for the 2011 fiscal year will come down to the final weeks or perhaps days before it is implemented. While late budget approvals are becoming way too common in recent years, there were quite a few Capitol insiders who thought that due to election year activity, there was more incentive to get

the budget approved earlier rather than later this time. The Legislature will return to Lansing on Sept. 7, following a brief Labor Day break. The new state fiscal year begins on Oct. 1, 2010.

The Legislature is facing deficits totaling \$786 million in this fiscal year and next. There is an existing \$302 million hole that remains in current 2009-10 fiscal year. The \$480 million deficit for next year is largely due to the state receiving \$200 million less in Federal Medical Assistance Percentages (Medicare pharmaceutical payments) and recent projections that state revenue collections are not meeting original estimates. In mid-August, the governor outlined two strategies to address the current year budget shortfall. She is suggesting a transfer of more than \$200 million from the School Aid Fund to community colleges and bringing

Budget continued on page 2

forward \$94 million in Medicare pharmaceutical payments. She is also advocating for a tax amnesty program, creating new state liquor licenses (that allow longer bar hours), restructuring the state's long-term debt, shortening (from five years to three) the time the state takes to process and sell unclaimed property and providing incentives for school district consolidations. Her plans also include a 3 percent cut across the board for all state departments along with some specific cuts in the departments of Community Health, Human Services and Corrections.

The governor's announced budget solution did not address the issue of revenue sharing for local governments. However, in recent weeks there has been discussion inside the GOP caucus in the Senate about further cuts to revenue sharing. Senate Majority Leader Mike Bishop (R-Rochester) has stated that overall the governor's budget solution does not involve enough cuts to satisfy the Republicans in the Senate.

The Senate Fiscal Agency issued a report in mid-August that takes an early look at the impact of the 2010 Census on revenue sharing. The report titled, "A Preliminary Look at the Impact of the 2010 Census on Revenue Sharing," warns that once the new 2010 Census data is available, there will be drastic changes in revenue sharing payment amounts for local governments all over Michigan, which will result in significant underfunding of revenue sharing. The report states, "Some local units that experience population growth will see commensurate increases in their revenue sharing payments, while others will experience no change at all -- losing statutory payments on a dollar-for-dollar basis as constitutional payments increase. Other local units with population increases will fare between these two extremes." By statute, the 2010 Census population numbers will take effect in April 2011, having an immediate impact on revenue sharing payments. MTA is working to make sure there are no changes to this process, as there have been some suggesting a delay in effective date to allow the state more time to assist communities that are losing population. The report can be found at, <http://www.senate.michigan.gov/sfa/Publications/Notes/2010Notes/NotesSum10dz.pdf>. ■

Principal residency and foreclosures

The Senate Finance Committee took up legislation in August to deal with the issue of the May 1 deadline for filing Principal Residence Exemptions (PRE). Senate Bill 77, as introduced by Sen. Jud Gilbert (R-Clay Twp.), would have required all PREs to be prorated based on the date that they were filed. However, MTA has made it clear that this concept of proration contains numerous significant administrative problems. As a result, the legislation took a new and unique approach to the PRE issue.

The May 1 filing deadline for PREs has been an issue since its inception in 1994. The PRE was only an issue for newly constructed homes, homes that were converting from vacation homes to full-year residences, and homes that have sat vacant for a long period of time while on the market. However, a new category has developed that may be as large as the others combined, which would be homes that have gone through bank foreclosure proceedings. Virtually all homes that have gone through foreclosure have lost their PRE status, which becomes an issue when any sale occurs after May 1. If the sale occurs prior to May 1, the PRE becomes effective for the first tax bill paid by the new homeowner.

SB 77, as amended, tries to deal with the issue that these new homeowners are paying higher property tax rates on a temporary basis. SB 77 would establish two deadlines for filing a PRE with the local assessor. The law would maintain the May 1 deadline, which would place the home in good standing for the entire tax year. The real change that the bill seeks to make is to allow a second deadline of Oct. 1, which would only impact the winter tax bill.

The legislation states that if a person files the PRE between May 2 and Oct. 1 of any tax year, they would be exempt from paying any of the 18-mill school tax that occurs on the winter tax bill. As MTA pointed out to the Senate committee, this will have different impacts in different parts of the state. If 100 percent of the local school tax is billed on the summer bill, this legislation will have no impact on the PRE status of that home for the current tax year. If, on the other hand, the school taxes are all billed in the winter, this proposal would effectively extend the deadline for the new homeowner to save on their property tax bill. However, there is a third situation as well. Some districts split the 18-mill tax 50/50 between the summer and winter bills. In this case, the new homeowner would be exempt from the 9 mills levied in the winter.

Finally, the legislation does have some negative impacts on other individuals who are trying to sell their homes. The value of homes has been severely impacted by the glut of foreclosed properties on the market. This legislation will mean in some cases the foreclosed homes will be even more attractive to the potential buyer compared to the current situation. Unfortunately, this means that a person who might have walked away from a foreclosed property and instead purchased an owner-occupied property may instead buy the vacant home. Good for the neighborhood, not so good for the owner-occupied home. ■



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Court of Appeals provides win for townships related to sewer systems

A ruling made by the Michigan Court of Appeals on Aug. 18 handed a significant win to townships across the state related to failing private septic systems. The 2-1 decision in *MI Department of Environmental Quality v. Worth Township* (___Mich. App.___) determined that the township is not responsible for replacing failing private septic tank systems with a public sewer system.

The case began when the MDEQ sued Worth Township (Sanilac Co.), which had no sewer system, to force it to build a public sewer system to alleviate a number of failing private septic systems along a five-mile stretch of Lake Huron. Years ago, many cottages were built on small lots along Lake Huron. Over the years, many of the cottages were converted into year-around homes but still relied on septic systems for sewage disposal on small lots in an area with a high water table. In recent years, many of those systems have failed causing raw sewage to empty into roadside ditches, storm sewers, streams and outfalls that empty into Lake Huron.

Over the years, the township and MDEQ had been working together to alleviate the problem with the township agreeing to build a sewer system by June 1, 2008. However, due to the cost of the project and the lack of sufficient funds, the township was not able to honor the compliance agreement with the MDEQ. This resulted in a lawsuit against the township by the MDEQ which claimed that the township was in violation of MCL 324.3110 et seq. as it was allowing human waste to discharge into the waters of the state within its jurisdictional boundaries. Unfortunately, efforts to require the homeowners to replace their own septic systems would not solve the problem due to the severity of the public health aspect.

The township had argued that neither the MDEQ, nor the courts, had the authority to hold it responsible for the discharge of human sewage from private residences into state waters. The trial court had rejected the arguments of the township and determined that the township was liable for the discharges under state statute. Worth Township then appealed the trial court decision to the Michigan Court of Appeals with support from an *amicus curiae* brief provided through the MTA Legal Defense Fund.

The Michigan Court of Appeals held that the township should not be required to construct a public sewer system if it was not responsible for the violation: "Where an unauthorized discharge occurs, the presumption arises that the municipality within whose boundaries the event occurs is responsible for the violation unless the municipality can establish that the discharge did not occur as the result of actions by the municipality. Where, as here, the municipality could not be the source of the discharge because it does not operate a sanitary sewer system, it has overcome that presumption and is not subject to the statutory remedies for a discharge."

The Court also found that the MDEQ had no authority to require a town-

ship to install a sanitary sewer system, and held that if judges were to find a municipality liable for the discharge, the state could be held equally liable because the Legislature defined "municipality" as including state government along with local governments.

MTA considers this a big victory for townships and other local units of government. It remains to be seen if the decision will be appealed to the Michigan Supreme Court. ■

August primary produces a high percentage of millage increases

In the 2010 August primary, there were 623 millage proposals on the ballot across Michigan and voters approved 86 percent of them. According to a review conducted by the Center for Michigan, voters were willing to approve tax increases to keep local services even under pressures of high unemployment, shrinking incomes and declining property values. Voters approved millage renewals or restorations of Headlee rollbacks by 96 percent. Proposals for new millages or tax increases were approved by the voters 69 percent of the time. Overall, county millages had the highest approval with a 93 percent success rate. Township questions equaled the statewide average with an 86 percent approval rate, while school, city and village proposals gained a 72 percent success rate.

Inside the numbers demonstrate that support for fire-fighting proposals was very high with an overall 94 percent approval. There were 40 proposals asking for new taxes for fire services and 82 percent were approved. Millage renewals for fire-fighting were approved 91 times out of 99 questions. Combined proposals that split revenue between police and fire services were approved in all cases for renewals (six times) and were defeated three out of five times in cases where new millages were being proposed.

Voters also strongly recognized the need for funding for local roads as 85 percent of all the road proposals gained approval. Road millage renewals were approved at a rate of 98 percent while new road millages had a 60 percent success rate.

Ballot proposals supporting senior citizen programs had a perfect score with votes in the August primary as all 45 questions were approved (33 renewals and 12 new proposals). Library funding proposals enjoyed an 87 percent success rate as all 16 renewals were approved and 77 percent rate of success when requests for new millages were asked (18 of 22 questions approved).

MTA attributes the high millage success rate to voters recognizing the strong threats of cutbacks to local services. Voters recognize, appreciate and enjoy their local services. They use their local services and know the pressures that local governments are under to maintain them. MTA has been warning the Michigan Legislature for several years that continued cuts to state revenue sharing and other local government programs will result in higher taxes at the local level. Many local governments are out of alternative funding options and millage questions become inevitable. ■



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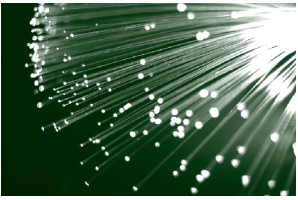
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Federal broadband grants coming to Michigan



The federal government recently announced grant awards for expanding broadband access in 37 states, including Michigan. The most recent announcement involves \$1.8 billion in funding under the Recovery Act. It is part of an overall total

of almost \$7 billion in federal funding under the Recovery Act initiative. The awards are part of a program administered by the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the Department of Agriculture's Rural Utilities Service (RUS) to expand broadband access and adoption across the country. The three Michigan projects include:

- \$69.6 million awarded to Merit Network, Inc. The award will allow Merit Network to offer affordable middle-mile broadband service in Michigan's Upper Peninsula and Lower Northern Peninsula, with additional connections to research and educational networks in Wisconsin and Minnesota. The project plans to directly connect 61 community institutions to broadband.
- \$6.1 million awarded to Michigan State University. The grant will allow Michigan State University to establish and upgrade more than 200 public computer centers in the south-central Michigan region.
- \$5.6 million awarded to Bloomingdale Communications, Inc. This award will allow Bloomingdale Communications to offer affordable middle-mile broadband service in southwest Michigan. The project plans to directly connect 40 community institutions to broadband. ■

Important NATaT Conference Reminder:

Time is running out to register for America's Town Meeting in Washington, D.C.

Time is running short to make plans to attend the National Association of Towns and Townships (NATaT) *America's Town Meeting* in Washington, D.C. The conference will be held Sept. 15-17 at the Hyatt Regency Washington on Capitol Hill.

Although the Aug. 11 early-bird deadline has come and gone to register for the conference, that same deadline has been extended to make a hotel reservation at the Hyatt Regency Washington. Currently, the conference fee is \$259. You can register for the conference at www.natat.org. Hotel reservations can be made by calling (888) 591-1234 or by going on-line at <http://washingtonregency.hyatt.com>. The special room rate of \$239 plus tax for single or double is still in effect.

MTA works closely with NATaT to develop a proactive federal agenda to ensure that the needs of townships are central to federal statutory, regulatory, funding and policy decisions. This year's conference will focus on preserving local democracy. MTA considers it vitally important for township officials to attend the NATaT conference to meet with your members of Congress and help make the voice of towns and townships heard in Washington, D.C.

For further information, please consult the NATaT website at www.natat.org or contact Debbie Shue at (517) 321-6467 or debbie@michigantownships.org. ■