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# capitol currents

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## A Legislative Update for Township Officials

### Governor Snyder presents budget; statutory revenue sharing eliminated



Governor Snyder presented his first budget to the Legislature at a combined meeting of the House and Senate Appropriations Committees as well as the Senate Finance and House Tax Policy Committees on

Feb. 17. The governor's budget proposal contains numerous cuts that impact local governments and state agencies with a goal to balance the state's \$1.7 billion deficit. The budget proposal eliminates all statutory revenue sharing for fiscal year 2012. Currently, townships, cities and villages are receiving \$307 million in statutory revenue sharing alone. While only 40 out of 1,240 townships receive any of the statutory portion of revenue sharing funding, MTA is concerned that essential services in many of these townships will be harmed.

The governor's budget calls for the elimination of all statutory revenue sharing in the 2012 fiscal year but would replace some of the funding with a \$200 million incentive-based fund that townships, cities and villages would qualify for if they institute best practices. Details about how local governments would qualify for this new fund were not released and the governor said more information would come in March. However, MTA is continuing to work to find out as much information that is available about the new incentive-based approach.

There are some confusing signals about what local governments can expect to receive in constitutional revenue sharing amounts next year. All 1,240 townships receive constitutional revenue sharing. Gov. Snyder's budget has built in a 4 percent increase in sales tax collections for 2012, which would translate into a 4 percent increase in constitutional

revenue sharing. However, sales tax collections at the state consensus revenue estimating conference in January projected a 2.4 percent increase in sales tax amounts in FY 2012. MTA advises townships to take note of the difference and budget accordingly. Townships should also be aware that the 2010 U.S. Census numbers, reflecting population changes, will be known on April 1, 2011. State law requires local governments to be paid (or deducted) retroactively back to Oct. 1, 2010, for any changes in the population of their community reflected in the U.S. Census numbers. The Michigan Department of Treasury has calculated the revenue sharing numbers for each community under the governor's proposed budget (these projections do not reflect any population changes in U.S. Census numbers), [http://www.michigan.gov/documents/treasury/FY12RevenueSharing\\_ExecBudgetRec\\_20110217\\_346027\\_7.pdf](http://www.michigan.gov/documents/treasury/FY12RevenueSharing_ExecBudgetRec_20110217_346027_7.pdf).

Gov. Snyder is also planning to cut an estimated \$52 million in additional statutory revenue sharing designated for counties in fiscal year 2012. Counties only receive statutory revenue sharing and in the current budget year receive \$115 million. However, due to more counties coming back into the revenue sharing formula after depleting revenue sharing reserve funds (created in 2005), county amounts were supposed to increase to \$152 million. Gov. Snyder is trimming the total for counties to \$100 million in FY 2012.

Other areas of the state budget that are scheduled for cuts in the Snyder budget:

- 15 percent cut to payments-in-lieu-of-taxes (PILT) to local governments on state-owned land
- 15 percent cut to fire protection grants sent to local governments that provide fire and emergency services to state-owned facilities (state prisons, higher education institutions, etc.)
- Closure of several State Police posts (locations yet to be determined)
- Requirement that the State Police charge for fingerprinting services (could cause new expenses for local governments in criminal cases)

MTA will be working diligently on behalf of townships as the budget process moves forward. ■

## Senate committee looks at eliminating personal property taxes

The Senate Finance Committee has begun the hearing process on Senate Bill 34, offered by Sen. Mike Nofs (R-Battle Creek), which would exempt all personal property from taxation. As written, the legislation would wipe out personal property taxes at the end of 2011. The legislation was taken up by the committee at the same time that the legislation to eliminate the Michigan Business Tax (MBT) was discussed.

MTA testified before the committee in opposition to the legislation. Everyone in the room acknowledged that the personal property tax is extremely difficult to administer. An excavator from Rep. Nofs' district complained that he never knew how much his tax bill would be, because his equipment was always located in multiple taxing jurisdictions.

Even though the tax can be difficult for both property owners and local governments, certain issues can't be ignored. Personal property taxes generate \$1 billion annually for local government operations. The typical city or township will see about 5 percent to 10 percent of their tax revenues disappear if this proposal were put into effect. Some townships would only see a reduction of 1 or 2 percent. However, there are townships in this state that have over 30 percent of property taxes generated from personal property. Two cities that are currently seeing very significant fiscal distress, River Rouge and Ecorse, both have over 40 percent of their property tax revenues coming from personal property.

This legislation would impact different types of government in different ways. For townships, cities and counties, it's a straightforward reduction in revenues. The impact on schools is much more subtle. Much of the personal property taxes that go to school operations were cut when the new MBT was enacted. That budget hole was supposedly filled through the school aid formula. The additional cut would again require the state to fill the hole, something they are unable to do next year even without the additional loss of revenue. School bond millages create a separate issue. Since bonds require a specific amount to be paid each year, the

millage rate is adjusted to match the payment. If revenues go down because of the loss of personal property taxes, the bond millages must be increased to match the lost revenue. This property tax increase for the remaining real property owners is virtually automatic.

Even more interesting is the impact that this proposal would have on the state general fund. Besides reducing the personal property tax rates for most businesses by either 12 or 24 mills when the MBT was enacted, the state also allowed certain business to receive a credit on their MBT taxes for a portion of any remaining personal property taxes that are paid. If personal property taxes are eliminated, businesses would no longer receive refunds on their MBT and the state would actually see an increase in their general fund revenues. This proposal would actually cut revenues to local governments and increase revenues to the state.

Discussion in committee did take place regarding other alternatives to an immediate elimination of the tax. Some talked of phasing-out the tax over a 10-year period, others talked about only exempting new personal property. Unfortunately, there was little discussion about dealing with the loss of local revenues. ■

## More powers to emergency financial managers

When it comes time to prepare a new budget for a local unit of government, all that needs to be considered is the following: Real property tax collections are down over 30 percent from their high from a few years ago in the eight county metro Detroit region. Other areas of the state have fared better but property values still have not hit bottom. Statutory revenue sharing from the state will be taking yet another hit with the state diverting money from this fund next year to fund its own activities. Some legislators want to eliminate personal property taxes, placing another \$1 billion per year hit on local governments (see related story). Some legislators would like to see foreclosures and actual selling prices more heavily weighted in the property valuation process, further accelerating declines in property values. Throw in astronomical increases in health insurance costs coupled with skyrocketing gasoline and natural gas costs and then top off everything with a laundry list of new mandates involving everything from fire truck design to assessor training. Legislators are now concerned that some local governments may be in severe financial distress and having problems balancing their budget.

The Legislature is attempting to enact new legislation by the end of February that will greatly enhance the powers of emergency financial managers (EFM). The two main bills in play are House Bill 4214, offered by Rep. Al Pscholka (R-Lincoln Chtr. Twp.), and Senate Bill 153, offered by Sen. Phil Povlov (R-St. Clair Twp.). As introduced, both bills eliminate the old law written in 1990 to deal with emergency situations and instead create a new act. Much of the old language is retained in the new bills but many new concepts have been proposed.



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The proposals have their positives and negatives. The bills would grant unprecedented powers to EFM. They would not only take over all financial controls, they could also take over many of the duties of officers of the local government as well as the board. All appointments would flow through the EFM as well as ordinances. The most significant new power would be the ability to rewrite existing labor contracts or impose new labor contracts. Testimony from one former EFM summed up his experience succinctly. When going into a city, he had the ability to manage 25 percent of the budget, that being anything not involving police or fire operations. He stated fire and police contracts are so detailed that he had next to no ability to bring efficiencies to their operations. His point was not about basic salary and benefits, but instead about the intricate work rule issues.

While the legislation gives greater teeth into the powers of the manager, the legislation also has some major problems. The first is that the legislation tries to be punitive just to be threatening. For instance, the legislation would ban any board member from running for reelection for 10 years if they are serving when an EFM is appointed. This clause has been removed from later rewritings of the legislation, but the ability for an EFM to dissolve a local government was retained. A city or village dissolves into a township under some state laws. MTA fails to find a scenario where this would resolve a problem, especially when all ability to generate revenues is extinguished. A township would dissolve into... well, nothing; again, not a very useful solution.

One of the big concerns is that the legislation is filled with consulting contracts and secrets—two very sure ways to cause, not solve, problems. The legislation would allow the EFM to be a firm so that no one would really know who is making decisions. The legislation retains language that EFM only report expenditures over a specific value on a quarterly basis, something that might have been reasonable 20 years ago, but is hardly transparent in today's world. MTA has suggested that the checkbook should be open to the public through the Internet. If all of these consultants are going to be authorized, every contract should also be posted in the public domain to insure that the fiscal managers are being fiscally conservative. MTA also has testified that it is improper for the EFM to hide within a company. Everyone should know who is responsible for these very important decisions.

Hopefully, none of the readers of this article will need to face this reality. ■

repeal the reporting provision, was offered by Michigan Sen. Debbie Stabenow and passed by a vote of 81-17.

The Stabenow amendment also rescinds \$44 billion in unobligated discretionary funds. The amendment stipulated that the Office of Management and Budget (OMB) would be tasked with deciding the source of the rescissions to implement the provisions contained in the amendment. Several leading Democrats opposed the amendment over their concerns with granting congressional decision-making to OMB and how the cuts would impact other federal programs. Sen. Carl Levin (D-MI) had offered a competing amendment that would also repeal the 1099 requirement but would have offset the repeal mostly by increasing taxes on the oil and gas industry. His amendment was rejected 44-54.

The success of the Stabenow amendment is important as the 1099 reporting requirement requires all businesses, charities, associations, and state and local governments to file 1099 forms if they purchase \$600 or more in goods from individuals or corporations during a calendar year. This includes everything from office supplies and shipping costs to phone and Internet services. In addition, an affected entity would have to keep track of multiple payments and obtain the personal tax identification information of each vendor doing business with the entity. These requirements would present a major administrative burden on townships and other reporting entities, many of which have limited staff capacity to keep track of the required paperwork and the compliance obligations.

Under the previously passed health care reform legislation, the reporting requirement is scheduled to go into effect for purchases made in 2012 that will be reported on 1099 forms filed in early 2013. The requirement would extend the current use of 1099 forms for contract workers to purchasing goods for townships and other reporting entities. The original intent behind the requirement was to be a revenue producer for the rest of the health care reform legislation by reducing business tax evasion.

MTA is hopeful and optimistic that the repeal of the 1099 reporting requirement will make its way through the legislative process and be sent to President Obama for his signature. Democrats and Republicans, as well as the president, have indicated that the 1099 provision is too burdensome and should be repealed. ■

## Changes to liquor laws: It's enough to drive a person to ...

The first bill to change the state laws to allow alcohol sales on Sunday morning was vetoed by the governor for multiple reasons. The second bill was hurriedly adopted by the Legislature and approved by the governor, but was poorly constructed. The legislation expanded alcohol sales to Sunday mornings, but stated the local government could pass a resolution to ban the sales of alcohol on Sundays, not just Sunday mornings: just Sundays.

## U.S. Senate passes Stabenow amendment to repeal costly 1099 requirement

In early February, the U.S. Senate backed an amendment to remove a controversial tax reporting requirement from the 2010 health care reform overhaul. Under the overhaul, businesses, governments and others will be required to submit a 1099 form to the IRS for each vendor who was paid more than \$600 each year for goods. The amendment, which would

*Liquor laws continued on page 4*



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## Legislature nears completion of MAEAP bill package

Both the House and Senate are moving along quickly to pass legislation that would implement the Michigan Agriculture Environmental Assurance Program (MAEAP) into state statute. While both chambers have their own versions of the legislation, it appears that Senate Bill 122, introduced by Sen. Joe Hune (R-Hamburg Twp.), and House Bill 4212, introduced by Rep. Kevin Daley (R-Arcadia Twp.), will be the two bills that will be sent to the governor.

MAEAP is a voluntary environmental assurance program that farmers can undertake to promote natural resource conservation and receive state certification through the soon-to-be-renamed Michigan Department of Agriculture and Rural Development. Certification indicates that the farm has undergone steps to protect against environmental mishaps by implementing environmentally friendly practices. The bills in the package keep MAEAP voluntary but enhance the future of the program by including it in state statute and establish requirements for the verification of farms under the program. Many farmers and producers have become reluctant to undertake the costs of becoming MAEAP certified or to become re-certified, which is required every three years, as funding for the program has undergone significant cuts over the last few years.

One of the more controversial aspects of the package includes a stipulation that would exempt MAEAP-verified farms under certain circumstances from civil fines for a discharge to the waters of the state. Under the legislation, the farm would still be responsible for actual natural resource damages caused by a discharge. An amendment was offered by Rep. Jeff Irwin (D-Ann Arbor) to allow a farming operation two accidental discharges in a three-year period, but the third could (if determined by the department) result in a civil fine. However, the amendment was defeated 40-68 mostly along a party-line vote with the most Democrats



in support and Republicans opposed.

The bills also indicate that if a discharge from a MAEAP-verified farm that is in compliance with all MAEAP standards applicable to land application (animal manure) is caused by an "act of God" weather event, the discharge shall be considered non-point source pollution. Under the legislation, "an act of God weather event" is defined as "a precipitation event" that "exceeds one-half inch in precipitation" and it was "forecast by the National Weather Service 24 hours earlier as having less than a 70 percent probability of exceeding one-half inch of precipitation."

The bills also include the creation of the Environmental Assurance Advisory Council, which in consultation with the department director could develop and establish priorities, procedures and protocols for the implementation of a surface water quality monitoring program to promote voluntary water quality monitoring by farms and to monitor and benchmark the effectiveness of conservation practices and MAEAP standards in cooperation with participating farmers.

In addition, the legislation provides that nonpoint source pollution prevention and control grants, issued by the Department of Environmental Quality, could be used to promote MAEAP verification in addition to the current uses of reducing nonpoint source pollution and implementing watershed plans. ■

### *Liquor law continued from page 3*

The State Liquor Control Commission decided to accept resolutions from cities, villages, townships and counties that only banned Sunday morning sales, despite the lack of law to support such actions. The Legislature is now quickly working on another piece of legislation to make those resolutions legitimate. Senate Bill 100, offered by Sen. Rick Jones (R-Oneida Chtr. Twp.), modifies the liquor laws to allow locals to ban the sales of either beer and wine or spirits or both on either Sunday mornings or all day on Sunday. The statute also specifies that any resolution that was adopted in the past will be valid, hopefully ending this time of confusion. ■