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A Legislative Update for Township Officials

Public employee health care sent to the governor



Senate Bill 7, which would prohibit public employers from spending more than a specified amount on employee health care, is quickly moving towards the governor's desk for final approval. The legislation, sponsored by Sen. Mark Jansen (R-Gaines Chtr. Twp.), is a hybrid of two different approaches to the problem, the first being a "hard

cap" where the employer can't pay more than a specific amount for insurance, while the second option is to require the employee to pay a certain percentage of health care premium cost.

The legislation starts with a provision that no local government may expend more than a calculated amount of money for health care. Health care is defined as medical and prescription insurance. The township may not expend more than \$15,000 for family coverage, \$11,000 for a married couple and \$5,500 for a single individual. The amount not only includes actual premiums paid, but also any township funds that may go to employees to cover copayments or deductibles. It needs to be noted that the legislation is based on a calculation for all employees who are covered by insurance, so it is possible to average the rates to meet the requirements. If the total expenditures for health insurance exceed the calculated maximum, then the employees would be required to make up the difference.

The legislation then makes an option available to the local governments. Instead of using the hard cap method, the governing body, by a majority vote, may instead adopt a spending cap based on a percentage of total health care expenditures. Under this option, the public employer would not be allowed to pay for more than 80 percent of the total amount expended for health care. The legislation does not mandate that every employee pay 20 percent of the actual costs, but rather that in total the employee contributions must account for at least 20 percent of the cost.

The caps on employer contributions to health care costs apply to any

health care plan year that begins after the end of the calendar year. The provisions of the legislation do not impact any employee covered by contract during the duration of the contract. Any new contract or extension of contract must comply with the legislation.

SB 7 includes a provision that allows cities, villages, townships, counties and certain authorities to opt out of the requirements of the act by passing a resolution with a two-thirds majority each year. Schools and other entities are not given the option to opt out of the requirements of the act. Finally, the legislation also specifies that if a local government fails to comply with the act they must agree to allow the state treasurer to withhold 10 percent of their EVIP money (statutory revenue sharing). The vast majority of townships do not receive any funding under EVIP so there is effectively no penalty for not complying with the act for those entities. School districts would lose 10 percent of their state school aid if they fail to comply with the act.

The legislation also impacts state employees and university employees, but their salary and benefits are not controlled by the Legislature under our state's constitutional provisions. As a result, the only way that the provisions of SB 7 would impact those employee groups is if the constitution is amended.

A more detailed description of the legislation is being prepared for the October issue of the *Michigan Township News*. ■

MTA Summer Legislative Conference hits key township issues



Left to Right: Sen. Steve Bieda, Sen. Mike Kowall, Rep. Bob Constan and Rep. Jud Gilbert.

Key township topics were addressed at MTA's Summer Legislative Conference held Aug. 3-5, 2011, at Crystal Mountain Resort in Thompsonville, MI. State legislators, state officials, township officials and others engaged in good discussions on timely topics such as personal property

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taxes, Uni-gov form of local government and current requirements for publishing local government legal notices. More than 100 township officials and 14 Legislators took part in the event held in northern Michigan.

Welcoming remarks were delivered by MTA's President, Jack Randolph, supervisor of East China Charter Township on Aug. 4, before Larry Merrill, MTA's Executive Director, made some opening remarks about the importance of having township officials engage with legislators on a routine basis. MTA Legislative Team Leader David Bertram and Legislative Liaisons Bill Anderson and Tom Frazier provided issue briefings during the "Latest News from Lansing" session. Up-to-date information was provided about the new zoning law changes related to gravel operations, building code inspections, State Tax Commission training, changes to the binding arbitration law, public employee healthcare legislation, Federal Emergency Management Agency flood maps, and the direction of Michigan's upcoming presidential primary.

A general session panel discussion titled, "Reforming Our State's Tax Structure", grabbed the attention of conference attendees as personal property tax reforms were the central topic. Sens. Mike Kowall (R-White Lake Chtr. Twp.) and Steve Bieda (D-Warren) as well as Reps. Jud Gilbert (R-Clay Twp.) and Bob Constan (D-Dearborn Heights) shared their thoughts about what tax changes are emerging in Lansing. Personal property tax reform is likely a fall agenda item at the Capitol.

Luncheon speaker, Bob LaBrant, from the Michigan Chamber of Commerce, provided a review of Michigan's new legislative redistricting law. The PowerPoint presentation showed new district lines for Michigan's Congressional seats and district outlines for seats in the Michigan Legislature. LaBrant also showed figures and demographics about Michigan's changing population. According to the 2010 Census, Michigan lost more than 54,000 people since 2000.

Concurrent panel sessions tackled the issues of "Challenges Facing Law Enforcement" and "Reforming Environmental Regulations" following lunch. Reps. Brad Jacobsen (R-Oxford Twp.) and Richard LeBlanc (D-Westland) joined Lt. Col. Dan Atkinson, Deputy Director, Michigan State Police to address the financial stress being felt in law enforcement. Reps.

Ken Goike (R-Ray Twp.) and Eileen Kowall (R-White Lake Chtr. Twp.) took part in the discussions on environmental regulations along with Randy Gross of the Michigan Department of Environmental Quality and James Clift from the Michigan Environmental Council.

August 4 concluded with a Dinner in the Crystal Center sponsored by the Burnham and Flower Insurance Group and Michigan Township Participating Plan.

The timely topics of "Publication of Legal Notices" and "Uni-Gov/Cooperative Services" filled the agenda on August 5. The general session panel discussion that targeted Michigan's outdated laws related to the publishing requirements for notices and associated costs was made up of Sen. David Robertson (R-Grand Blanc Chtr. Twp.), Rep. Kevin Daley (R-Arcadia Twp.) and Jim Young, representing the Michigan Press Association. A lively discussion about the "One-Kent" proposal that is swirling in west Michigan dominated much of the debate during the session addressing Uni-Gov. Sens. Arlan Meekhof (R-Olive Twp.) and David Hildenbrand (R-Lowell Chtr. Twp.) as well as Reps. Amanda Price (R-Park Twp.) and Ken Yonker (R-Caledonia) served on the panel. Nyl Deems, Varnum Law Firm, who heads up the "One Kent" effort also joined as a panelist. The panel was purposely made up of west Michigan Legislators; however, the concept of combining a major city, like Grand Rapids, with Kent County, could be proposed in any location where an urban center exists. ■

Thank you legislators for participating in our 2011 MTA Summer Conference and helping to make it a success.

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|------------------------|----------------------|
| Sen. Steve Bieda | Rep. Eileen Kowall |
| Rep. Phil Cavanagh | Sen. Mike Kowall |
| Rep. Bob Constan | Rep. Richard LeBlanc |
| Rep. Kevin Daley | Sen. Arlan Meekhof |
| Rep. Jud Gilbert | Rep. Amanda Price |
| Rep. Ken Goike | Sen. David Robertson |
| Sen. David Hildenbrand | Rep. Ken Yonker |
| Rep. Bradford Jacobsen | |

Senate committee approves drug forfeiture bill

The Senate Judiciary Committee approved a bill on Aug. 24 that allows local governments more flexibility on how they can use the proceeds obtained from the sale of property forfeited for crimes involving controlled substances. House Bill 4349, sponsored by Rep. Kurt Heise (R-Plymouth Chtr. Twp.), still requires that drug-related proceeds are to be used for law enforcement purposes, but expands its use to go beyond current limits that allow it to only be used related to law enforcement for controlled substance violations. MTA supports the legislation. The bill moves to the Senate floor where a vote is expected shortly after Labor Day. The House approved the bill by an 81-26 vote on June 30, just prior to the Legislature's summer recess. ■



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U.S. House passes flood insurance reform legislation

The U.S. House of Representatives has passed H.R. 1309, the Flood Insurance Reform Act of 2011, by an overwhelming vote of 406 to 22. The bill, introduced by Rep. Judy Biggert (R-IL), would, in addition to many reforms, extend the National Flood Insurance Program (NFIP) through fiscal year 2016 and provide the financing for it.

However, key to Michigan township officials and residents are the numerous reforms included in the legislation as flood plain re-mapping has been underway in Michigan and across the nation since the 2003 congressional mandate that the Federal Emergency Management Agency (FEMA) update flood hazard maps. The legislation includes reforms that would give authority to the FEMA administrator to temporarily suspend mandatory flood insurance purchase requirements for those in special flood hazard areas and provide a five-year phase-in of flood insurance rates for newly mapped areas. Under the measure, local governments could request an extension of flood insurance requirements for 12 months with the opportunity to receive up to two extensions.

More specifically, the bill would require flood insurance regulations to allow payment of flood insurance premiums in installments, at increased chargeable premium rates and surcharges. It raises from 10 percent to 20 percent the annual limitation of premium increases but prescribes a four-year phase-in, after the first year, in annual 20 percent increments, of full actuarial rates for a newly mapped risk premium rate area. In addition, it requires both the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to accept private flood insurance as satisfaction of the flood insurance purchase requirement if it meets specified requirements. The legislation contains language to require the FEMA administrator to study options, methods, and strategies for privatizing the flood insurance program.

The bill would also establish a Technical Mapping Advisory Council to propose new standards for flood plain maps and then would require flood plain maps to be updated within five years of the development of the new standards. The House approved a floor amendment, offered by Rep. Tim Walberg (R-MI), to place a moratorium on the issuance of any updated rate maps from the date of enactment until the Technical Mapping Advisory Council submits the proposed new mapping standards to the FEMA administrator and Congress.

Additional amendments were also added on the House floor. They include an amendment to allow communities to be reimbursed for certain costs associated with a successful challenge to a bona fide mapping error made by FEMA resulting in a Letter of Map Revision (LOMA). LOMA is the formal process undertaken to appeal the placement of properties/structures within special flood hazard areas. Another amendment approved would require the FEMA administrator to provide to a property owner (newly included in a revised or updated proposed flood map) a copy of the proposed flood insurance map and information regarding the appeals process at the time the proposed map is issued.

Still another significant amendment added to the bill would require FEMA to notify a prominent local television (TV) and radio station of

projected and proposed changes to flood maps and to grant an additional 90 days for property owners or a community to appeal proposed flood maps under the following circumstances: community leaders would need to certify that they believe there are property owners unaware of the proposed flood maps and appeal period and that community leaders would use the additional 90-day appeal period to educate property owners on the proposed maps and appeal process.

Two other amendments, offered by Rep. Candice Miller (R-MI), were attempted but not approved on the House floor. They included an amendment to terminate current spending on TV and radio commercials being aired to promote the NFIP in all 50 states and an amendment to terminate the NFIP by Jan. 1, 2012, and allow states to form interstate compacts to provide flood insurance. The latter amendment was patterned after legislation (H.R. 435) introduced by the representative to accomplish the same goal.

The bill has moved over to the U.S. Senate where it has been assigned to the Committee on Banking, Housing and Urban Affairs for consideration. The bill is expected to be a key focus of Michigan township officials heading to Washington, D.C. for *America's Town Meeting*, organized by the National Association of Towns and Townships, during the first full week of September. ■

Redistricting maps signed into law despite minor flaws

On August 9, Gov. Snyder signed into law two pieces of legislation that create the new districts for Congress and the state Legislature. The bills, and corresponding public acts, are House Bill 4780 and Senate Bill 498, which become Public Acts 128 and 129, respectively, of 2011.

The new districts are created after each decennial census. However, just after the maps were made official, it was pointed out that the maps did not include all areas of the state. The maps did not include a large area of Lake St. Clair within Macomb County. While no one lives in that area, census tracts in the lake should still technically be assigned to a congressional, state Senate and state House district. Subsequent to the discovery of this omission, some additional census tracts also including water bodies with no residents were also discovered. These include portions of Lake Michigan in Allegan County and portions of Lake Huron in Tuscola County.

Majority Republicans have indicated that if subsequent legislation is needed to fix the technical flaws it could be addressed but the district boundaries on land would not be affected and the maps would essentially stand as signed into law since no one lives in the omitted census tracts. House Republicans have more recently stated that it really is a non-issue since no one lives in the particular census tracts and assigning representation is not needed.

At the time of writing, it remains to be seen if Democrats will challenge either the congressional or state legislative district maps in federal court or the state Supreme Court based on perceived violations of the U.S. Voters Rights Act or any other state or federal statute. ■



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Personal property taxes: What does the future hold?

While legislators have spent most of their time this summer back in their districts and the pace in Lansing has slowed significantly, there are still many activities occurring. Now that the Legislature has concluded their work on revamping the business tax, most of those resources have now been redirected to the issue of personal property taxes.

Unlike the debate over the business tax, where the governor had a clear plan on what he wanted eliminated and what he wanted in its stead, the personal property tax issue may be more difficult to solve than the much more high profile issue of business income taxes. While the objective is clear, the administration and the Legislature are looking to eliminate this tax, how to deal with its aftermath is far from clear. While many meetings are taking place to develop a plan to deal with the personal property tax, they are taking place behind closed doors and very little information is being leaked into the general public. But even with this approach, some insights have been noted.

Currently, approximately \$1.2 billion is collected each year in personal property taxes. The stated objective of eliminating the personal property tax is to make the state more competitive for business development. This issue is hardly new, current economic development laws already focus in many situations on exempting personal property from taxation in order to lure a development to a particular community. Currently, eligible distressed communities, which include many of our largest cities in the state, can exempt all personal property for a new development forever.

All personal property is not created equal. Assessors divide personal property into three categories: industrial, commercial and utility. The state has already substantially reduced industrial personal property taxes by exempting them from 24 mills associated with school operations. Commercial personal property is exempted from 12 mills associated with

schools. Utility personal property receives no exemption.

One of the concepts that has made its way out of the closed door discussions is that any changes are not nearly as likely to impact utility personal property, at least for the foreseeable future. This issue alone can have a major impact on many townships. Consider Winterfield Township in Clare County. State records indicate that nearly 62 percent of the total property tax base in Winterfield Township is personal property. They have the highest percentage of personal property of any community in the state. However, virtually all of that personal property is classified as utility, which means that there is a possibility that Winterfield Township may not be significantly impacted by any potential changes in our tax structure.

While this is potentially great news for communities that have substantial utility property, it doesn't help those communities that have significant industrial development or commercial property. At the MTA Summer Legislative Conference, the panel of legislators who discussed personal property issues were in agreement that an alternative revenue source was needed to offset the loss of revenue that would be caused by the elimination of personal property taxes. However, the members of the panel admitted there is no obvious method to raise the necessary replacement revenue or a method to guarantee distribution of the revenue. This explains the reason for so many closed doors. Those doors may be opening soon and there will be much to talk about. ■

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