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# capitol currents

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## A Legislative Update for Township Officials

### Status of county road commissions deferred to 2012

Following the Thanksgiving break, the House passed legislation to allow county boards of commission to take over the powers, duties and functions of county road commissions. The bills were House Bill 5125, introduced by Rep. Jon Switalski (D-Warren), and House Bill 5126, introduced by Rep. Dale Zorn (R-Ida Twp.). However, a significant change was made to the final House version of the bills as the county board would need to submit the issue to the electorate before an elected road commission could be dissolved. If the road commission were appointed, a resolution passed by majority vote of the county board would be sufficient to eliminate the road commission.

The two-bill package then went over to the Senate where it was assigned to the Senate Transportation Committee. During the last week of session prior to the end-of-year break, the committee heard testimony and reported substituted versions of the bills that was supported by the County Road Association of Michigan. During the committee hearing, a representative of MTA testified in support of a county board holding a public hearing to give township officials and the public at large an opportunity to weigh into the decision before taking action to dissolve a county road commission. As the bills came out of committee, language was included that required a county board to hold no less than two public hearings before it could take action on dissolving a road commission, whether the road commission was elected or appointed.

Once on the Senate floor, the direction of the bills turned yet again. Sen. Mike Nofs (R-Battle Creek) offered floor substitutes to the legislation, which were both passed by the Senate on a close vote of 20-18. The Senate substitutes amended HBs 5125 and 5126 by adding in additional requirements before a county board could disband a county road commission. Those conditions maintained the Senate Transportation Committee's requirement that the county board hold at least two public hearings prior to taking over a road commission and added a three-year sunset to the legislation. The sunset would give a county board until Dec. 31, 2014, to take action to dissolve its road commission as opposed to leaving it open-ended. The Senate floor version of the bills also maintains the House requirement for a vote of the people before an elected road commission could be dissolved but does not include such a requirement for an

appointed road commission.

When the Senate-passed versions went back to the House for concurrence, the votes weren't there for passage. Several Democrats who had supported the original bills in the House switched their votes to no. Most cited the three-year window as their reason to oppose the Senate version of the bills.

The House may try to reconsider the bills once it returns to session following the holidays. ■

### State Tax Commission takes the wind out of turbine property tax assessments

At a recent meeting of the State Tax Commission, the commissioners voted to accelerate the depreciation schedule on wind turbines across the state. The decision surprised local governments and electric companies alike. Under the old guidelines, wind turbines were depreciated from 100 percent to 30 percent over a 15-year time period. The new depreciation schedule starts at 80 percent of value and decreases to 30 percent in just five years. Needless to say, this new schedule significantly reduces property tax revenues from wind turbines.

These types of major changes to the way property is assessed usually come on the heels of cases that have been presented to the Tax Tribunal to reflect facts that are presented during the hearing. In this particular situation, there have been no major questions from owners of wind turbines presented to the Tax Tribunal. In fact, conversations with several representatives of utility companies offered complete surprise to the decision.

*Turbine property tax continued on page 4*

### Gov. Snyder to attend MTA Annual Banquet

Gov. Rick Snyder will be attending the MTA Networking Banquet to be held on Thursday, Jan. 26, during the MTA Annual Educational Conference and Expo, in Detroit. Don't miss your chance to hear from the governor on issues of importance to your township.

## Legislature works on emergency manager transition

The Senate has passed additional legislation dealing with communities that are struggling financially. The Senate passed Senate Bill 865, offered by Sen. Phil Pavlov (R-St. Clair Twp.), which deals with the transition of a school district, county or municipality away from having an emergency manager and back to local operations.

In particular, the legislation requires the emergency manager to notify the governor when the financial emergency has passed. If the governor agrees, the community may either be returned to local control or the local government will be subject to the oversight of a transition advisory board. If the transitional advisory board is put into place, certain decisions will also need the approval of the advisory board.

While the local government officials will once again be meeting and running the local government, the advisory board will have significant say over monetary issues. Any budgets that are approved by the local officials will require approval of the advisory board as well. Any labor contracts will also need approval as well as any requests to approve bonds.

The advisory board will consist of representatives of the state treasurer and the budget director. If the local government is a school district, it will also have someone representing the state superintendent of schools. The governor may also appoint one or more individuals with backgrounds in operating government including one or more residents of the governmental unit.

The legislation passed despite significant opposition from Democratic members of the Senate. There is a very high likelihood that the emergency manager law will be put before the voters next November as a referendum. Petition signatures have been gathered from across the state to try and repeal Public Act 4 of 2011. If the petitions are submitted and verified, the emergency manager law will not have the force of law until its fate is determined by the voters in November 2012. Some believe that SB 865 is an attempt to circumvent this process. This legislation does not amend the Emergency Manager Act, but instead creates a new act. This is drawing

suspicion. However, the triggers in SB 865 are based on references to PA 4, which would then draw questions on how the proposed new law could function without PA 4 being operational law. ■

## House committee reports bills to limit clerk's name on election materials

In December, the House Redistricting and Elections Committee reported legislation that would limit the ability of clerks, or other elected or appointed officials, to have their name on polling place materials or ballot-related materials. The reported legislation includes House Bill 4653 (H-1) and House Bill 4656 (H-2), both introduced by Rep. Anthony Forlini (R-Harrison Chtr. Twp.).

HB 4653 would amend Michigan Election Law to prohibit the names of state and local appointed officials from appearing on any materials that are temporarily posted, displayed, or distributed in a polling place or polling room on Election Day. Anyone who violated provisions contained in the bill would be guilty of a misdemeanor that would be punishable by a fine of not more than \$100 for a first offense, and not more than \$250 for a second and subsequent offense. The intent of the bill is to eliminate any type of unfair advantage that might be available for incumbent officials with the voters. For all practical purposes, the bill would merely put into law what is currently common practice.

However, HB 4656 is a bit more controversial as it would change common practice. The bill would prohibit the name of an elected or appointed official from appearing on any ballot-related materials that are provided to an elector. The reported version of HB 4656 (H-2) defines ballot-related materials as: an absent voter (AV) ballot, AV ballot instructions, an envelope used to mail an AV ballot or any other ballot material and an envelope used to return an AV ballot to the clerk. The legislation would carry the same fines as HB 4653 for a person who violated the provisions contained in the bill. The original bill also included voter identification cards as ballot-related materials. MTA worked with the bill sponsor to delete voter identification cards from the list of ballot-related materials.

The cost of unused ballot-related materials was the other major concern expressed by MTA and other groups representing clerks. Should the bill become law, it made no financial sense to require the disposal of any ballot-related materials that were already printed containing the name of an elected or appointed official and replace with materials without a name. MTA argued that already printed materials should be utilized rather than being discarded. Under the reported version of the bill, any ballot-related material printed or prepared before the effective date of the proposed legislation that contained the name of a state or local elected or appointed official could be used. However, those materials could not be used for an election in which the state or local elected or appointed official was a candidate. For township clerks, this would mean that any already printed or prepared materials containing a township clerk's name could not be used for the 2012 August and November elections.

The bills now move to the House floor for consideration. ■



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**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

## Legislature completes action on aquatic invasive species package

In the final days before the end-of-year break, the Legislature completed action on a package of bills to help address aquatic invasive species (AIS) issues. Senate Bills 508-510, introduced by Sens. Tom Casperon (R-Wells Twp.), Howard Walker (R-Peninsula Twp.) and Geoff Hansen (R-Hart Twp.), respectively, would create an Aquatic Invasive Species Advisory Council and prescribe specific tasks for the council to consider and report back its recommendations.

Specifically, SB 509 creates a 19-member Aquatic Invasive Species Advisory Council within the Department of Environmental Quality (DEQ) and provides a mechanism for choosing members to serve on that body by allowing the governor, the Senate majority leader and the speaker of the House to designate individuals representing certain interest groups. Among other appointees, the bill stipulates that the speaker of the House appoint a representative of a public utility as well as a representative of a statewide association of local units of governments. The primary task of the advisory council would be to provide recommendations to DEQ for updating the Aquatic Invasive Species Management Plan and submit a report to both the Legislature and the governor with recommendations on the funding needed to implement the management plan.

SB 510 would further require the advisory council to submit a report outlining recommendations for legislation or administrative rules to help prevent the introduction and spread of AIS through commerce or trade. Under the bill, trade issues include the aquarium, bait, pet, water garden, horticulture, aquaculture and shipping trades. The advisory council would need to address risk assessment processes to screen AIS proposed for trade. The assessment process would need to take into consideration the potential harm to public health and safety, environment and natural resources and the economy, and places the burden to demonstrate harmlessness on the importer or other person responsible for introduction or distribution. The assessment process would further classify species into three categories: prohibited, permitted and restricted.

The advisory council would be required to consider relevant recommendations and reports by other state, regional, federal, provincial, Canadian, and international bodies and collaborations; and regularly consult with the Great Lakes Commission and the DEQ, including the Office of the Great Lakes, to facilitate coordination and minimize duplication in fulfilling its duties. Finally, the bill would also require the advisory council to develop a recommendation on the definition of AIS.

SB 508 adds several definitions related to the creation of the Aquatic Invasive Species Advisory Council and would require the advisory council to develop recommendations regarding Michigan's comments on the "draft next vessel general permit," including a proposed ballast water treatment standard. The nonbinding recommendations to the governor would need to be suitable for the administration in collaborating with other Great Lakes states to achieve a consistent position on the draft next vessel general permit. The next vessel general permit

is an effort to come up with a consistent ballast water standard that will be acceptable to the various entities involved and thereby curtail the introduction of additional AIS through the release of untreated ballast water from ships operating on the Great Lakes.

SB 508 also expands the current definition of AIS to mean an aquatic species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

MTA supported the bills throughout the legislative process and looks forward to the governor signing the bill package into law. ■

## Legislation limits public employee health care

Legislation is currently awaiting the signature of the governor, which will limit who may receive health insurance that is provided by a public employer. House Bills 4770 and 4771 were offered by Rep. David Agema (R-Grandville). The bills would restrict townships and other governmental units to only offering employee health insurance to their employee, their legal spouse, a dependant of the employee under the IRS definition, or a person who would have a legal claim to an estate if no will exists (specific relatives).

The legislation was designed to prohibit offering health insurance coverage to "domestic partners." The bills do not try to define who is a domestic partner, but rather define who is allowed to receive insurance and then assume that this would exclude other individuals who may be receiving health insurance benefits from certain government employers. ■

## Workers' compensation laws are changing

The Legislature has passed legislation that will impact eligibility for workers' compensation for all employees across the state. House Bill 5002 was authored by Rep. Brad Jacobsen (R-Oxford Chtr. Twp.). The legislation includes numerous changes to existing law regarding identification of a work-related injury, use of personal physicians, compensation limits, coordination of benefits as well what alternative jobs a person might be required to take after an injury occurs. Overall, the legislation will likely help control employer costs of providing workers' compensation insurance.

Police and firefighters received exemptions from the changes to the laws. So while this legislation will likely bring down workers' compensation costs for all employers, including public employers, it will not likely mean any change in cost patterns for insuring our police and firefighters. ■



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Michigan Townships Association  
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## Legislation formalizes the use of private building inspectors

Townships across the state have been changing the way that they handle building inspections. With the bottom falling out of the new housing market, coupled with declining local township revenues, many communities have reduced or eliminated local building departments. As a result, townships are looking at options for dealing with those inspections that remain. In some cases, the counties have picked up the slack and instead of having a township building inspector, county inspectors are used. In some cases, the amount of building has declined so much that even counties have closed down their operations. This leaves the state to fill the void. However, there are times when these inspections are not accomplished in a timely manner.

The other option that is being considered by local governments is the use of private inspectors. In fact, in many areas of the state the use of contract inspectors is a fairly common practice. Unfortunately, over the past year, the Department of Licensing and Regulatory Affairs at the state level has been resistant to approving the use of private companies to perform local inspections on a contract basis.

The House has passed legislation that would solidify the process of contracting with private companies to perform building inspections. House Bill 5011 was introduced by Rep. Mark Ouimet (R-Scio Twp.) in response to recent situations where the state has been resistant to authorizing these types of arrangements. HB 5011 establishes specific standards that must be followed in order to make use of this option.

The importance of the legislation is that it gives each township one more option to meet the needs of its citizens. Cost, timely service and convenience will be the determining factors on how this service is provided in each community of the state. ■

## Legislation impacts rural assessors

Earlier this year, the Legislature placed greater restrictions on who may qualify for the Homestead Property Tax Credits, under the Michigan Income Tax Act. One of the big changes was that only people who own homes that are valued at less than \$135,000 are eligible for the credit.

As a follow-up issue, the Legislature has now passed House Bill 4990, which deals with a concern from the agricultural community to the new limitations to the tax credit. Farmers could not even begin to be considered for the credit, because the farmland alone would likely exceed the value cut off. Rep. Jud Gilbert (Clay Twp.) offered the legislation that will help some members of the agricultural community but will not be easy to administer locally. HB 4990 states that in areas classified as agricultural property, the uninhabited land associated with the property will not be included in the property value cap.

This will likely mean quite a few phone calls being placed to assessors to find out how much of the property value is associated with the farmhouse and how much is associated with the surrounding cropland. None of this information would be part of either the annual assessment notice or the tax bills, so it would require an individualized response for each situation. The bill now moves to the governor for approval. ■

*Turbine property tax continued from page 1*

MTA has written a letter to the State Tax Commission asking for additional information regarding the changes made to the depreciation schedule. The state equalized value of wind turbines, along with all other property, may not exceed 50 percent of the true cash value of the item as required by the state constitution and state law requires that it be valued at 50 percent of true cash value. What local governments are now questioning is: do the new state values reflect the reality of the market? ■