

CAPITOL CURRENTS

A Legislative Update for Township Officials

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2005 MTA Capitol Conference a Success!

Close to 200 township officials attended the 2005 MTA Capitol Conference held at the Lansing Radisson Hotel on March 2. “Breakfast with Legislators” kicked off the day, as more than 50 members of the Michigan House and Senate came to see township officials from their area. In all, 59 legislators attended breakfast or participated in the Capital Conference.

Township officials heard from newly elected Speaker of the House Craig DeRoche (R- Novi) during the opening session. Speaker DeRoche, a former city council member in Novi, outlined many of his views of local government and shared some thoughts about legislative ideas for the 2005-06 session. Speaker DeRoche also fielded questions from township officials in the audience. Gary Olson, the Director of the Senate Fiscal Agency, also spoke during the opening session about the fiscal condition of the State of Michigan.

Concurrent panel discussions were held on the general topics of “Local Control” and the “State Sanitary Code/Annex 2001.” Reps. Darwin Booher (R-Osceola Twp.) and Frank Accavitti, Jr. (D-Eastpointe) served on the Local Control panel while Sen. Patty Birkholz (R-Saugatuck Twp.), Rep. Kathleen Law (D-Gibraltar), Jim Bredin of the Office of the Great Lakes and Jim Cleland of the Department of Environmental Quality attended the Sanitary Code/Annex 2001 session.

In the afternoon, general sessions were held on a new budget process being used at the State Capitol, called, “The Price of Government,” and “Tax Restructuring.” Sen. Michael Prusi (D-Ishpeming Twp.) and Steve Struthers from Public Strategies Group spoke about how concepts and ideas from the book called “The Price of Government” are being used in the 2006 fiscal year for the State of Michigan budget process. The Tax Restructuring Panel was attended by Reps. Jack Hoogendyk (R-Texas Twp.) and Paul Condino (D-Southfield), Frank Audia of Plante & Moran and Scott Schrage of the Department of Treasury.



Speaker Craig DeRoche (R- Novi), middle, spoke at MTA’s Capitol Conference held in Lansing on March 2. Here he poses after a recent meeting in his office with (l-r) MTA Legislative Liaisons Tom Frazier and Bill Anderson, MTA Executive Director Larry Merrill and MTA Legislative Liaison David Bertram.



State Treasury Studies Property Tax Collection Issues

Just over a year ago, the State Auditor General issued a highly critical **report** of the Local Government Division of the State Treasurer’s Office. In many ways, the report was also critical of the way disbursements are handled by local government treasurers. The Michigan House has renewed its interest in this report and has scheduled a series of hearings, the first of which occurred in mid-March.

The Michigan Department of Treasury has responded to the audit by establishing a workgroup that involves county, city and township treasurers, along with Department officials. This

group has been meeting over the past year to look at collection and disbursement issues related to the property tax system.

One of the major issues identified in the audit was the handling of the Industrial Facilities Tax, otherwise known as PA 198 tax abatements. The audit identified 150 communities that had abatements, but had not remitted the receipts to the



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State as required by law. It was later discovered that part of the problem involved the auditors themselves. The auditors were not aware that villages do not collect or disperse the IFT tax, except that portion associated with the village tax. Ninety of the 150 communities identified by the audit were villages. In other words, the auditors were not aware of who was required to collect the tax, and thus were unable to verify if it was collected. The workgroup has taken this problem and focused on the real issue: the fact that we are now spreading out collection responsibilities to too many different levels of government as property taxes can be collected by townships, cities, counties, school districts, intermediate school districts and the state under current statute. When you are looking for an IFT payment, any one of the above listed units of government can be collecting all or part of that tax revenue and thus is causing problems in auditing the disbursements.

The treasury workgroup is also looking at the way current law allows for varied due dates and penalties on property taxes. As an example under current law, property taxes can be due any of four different dates in February, without any interest or penalty being applied. This is based on the community using the February 14 date or the February 28 or 29 for the due date and the second option of using a postmark or not. The postmark issue has already lead to legislation being introduced and discussed to establish a uniform policy across the state for property taxes.

One of the major discussion areas to create better collection and disbursement procedures is the idea of each local treasurer disbursing only to the county treasurer and then having the county treasurer disburse to all other units of government. State officials like the idea because they would only need to process checks from 83 counties instead of the 2,000 local units. They are also hopeful that accounting and audit procedures would be improved with the counties being more involved in the audit of receipts compared to the current process.



In the Michigan House: Supplying U.S. Flags for Graves of Veterans

A package of bills moving in the Michigan House would expand current law to allow local governments to supply U.S. flags and flag holders for graves in private or church-owned cemeteries within their boundaries. The package of bills is made up of HBs **4272**, **4273** and **4438**.

HB 4272, sponsored by Rep. Tim Moore (R-Farwell) specifically allows cities, villages or townships to procure and furnish a flag holder and a U.S. flag for the grave of a resident who was a veteran in a cemetery within the limits of the local unit that does not belong to the local unit. A local unit would first need to receive a petition signed by five eligible voters in the community requesting the flag or flag holders before it would be eligible to make a purchase for such a grave in a private or church-owned cemetery.

P.A. 63 of 1915 requires a city, village or township, upon the petition of five eligible voters, to provide at its own expense a flag and flag holder for the grave of each veteran who served in the U.S. armed forces and is buried within the limits of a cemetery belonging to that unit of government. This package of bills was reported out of the **House Veterans Affairs and Homeland Security Committee** on March 8.



Military Differential Pay Passes House

Bill now moves to Senate Committee

In February, the Michigan House approved a bill by a 102-0 vote that would permit local units of government to provide differential pay for their employees who enter into active military service. Sponsored by Rep. John Proos IV (R-St Joseph Twp.) to address a situation in St. Joseph Charter Township (Berrien Co.) where a police officer was called to active duty in Iraq, **HB 4117** would create a new section under current law that protects re-employment for officers and enlisted personnel when on military leave from their regular place of employment. The bill clarifies that a city, village, township or county through an ordinance, resolution or personnel policy could pay for the difference between the amount the employee is paid by the local unit of government and the amount the employee receives through uniformed service. The bill now moves to the Senate where it has been assigned to the **Local, Urban and State Affairs Committee**.



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Senate Bill Takes Aim at Building Inspectors

A bill has been introduced in the Michigan Senate to create a new 33-member disciplinary board within the Department of Labor and Economic Development (DLEG) to determine whether building inspectors have appropriately enforced the state construction code. **SB 150** proposes drastic changes to the "Building Officials and Inspectors Registration Act" and would essentially create a grievance process for builders to file complaints against building inspectors.

Under provisions of the bill, a building inspector could be stripped of his or her license after one violation and could be subject to a \$10,000 fine. SB 150, sponsored by Senator Wayne Kuipers (R-Holland), is being pushed by the Michigan Association of Home Builders.

Under SB 150, a building inspector could be found guilty by the new disciplinary board of 18 specific violations when enforcing the state construction code. The following is a list of just some of those violations:

- Failing to perform duties in a professional manner
- Failing to perform duties in a timely manner
- Failing to enforce the code in a consistent and uniform manner
- Failing to enforce a published interpretation
- Demonstrates a lack of good moral character
- Exercises poor judgment in the performance of his or her duties

If a building inspector was found guilty of one or more of the 18 specific violations while enforcing the state construction code, one or more of the following sanctions or penalties could be applied by the disciplinary board:

- A license registration could be revoked
- A civil fine not to exceed \$10,000 per violation
- A license registration suspension
- Place limitations on a license registration
- Deny a future license registration or deny for a period of time
- Place an individual on probation with automatic penalties or sanctions assessed for any subsequent violation
- Order restitution and costs to a complainant
- Censure an individual for their conduct

SB 150 has been assigned to the **Senate Economic Development, Small Business and Regulatory Reform Committee**. On March 16, an identical bill (**HB 4507**) was introduced in the Michigan House by Rep. Baxter (R-Hanover). The House bill has been assigned to the **House Committee on Commerce**. MTA has very strong concerns about these bills and will be closely following any scheduled action on them.



Shooting Range Legislation Introduced

No Committee action scheduled to date

SB 220 would exempt sport shooting ranges from township noise ordinances or regulations.

A short but powerful bill has been introduced in the Michigan Senate that would exempt sport shooting ranges from local government noise ordinances or regulations. Sponsored by Sen. Gerald VanWoerkom (R-Muskegon), **SB 220** is less than one page in length but would have a significant impact

on the ability of local governments to regulate noise at these ranges. In recent years, there have been several court cases involving high decibel noise levels being measured more than a mile away from shooting ranges. SB 220 has been referred to the **Senate Local, Urban and State Affairs Committee**. Though no committee action had been scheduled to date, MTA wants township officials to be aware of this legislation and will be watching this bill very closely.



Conditional Zoning Raises Questions

Numerous townships have contacted the Michigan Townships Association regarding the use of **PA 579 of 2004**, which allows for conditional zoning. Most are looking for guidance on the use of this development tool. Obviously, being a new concept to this state there are questions on how to handle this situation.

The MTA is working with other organizations to review the legislation in order to establish better guidance on how to use the new law without creating additional legal liabilities. This may include the creation of model ordinances to be used by local townships.



Status of Legislation

You can search for the status of legislation introduced in the Michigan House or Senate by visiting www.michiganlegislature.gov. You can search by bill number, sponsor or category. Journals of both chambers are also available at this site, detailing the proceedings of each daily session.



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Senate Committee Reports Soil Erosion Control Bill

On March 15, **SB 282** was reported with recommendations by the **Senate Natural Resources and Environmental Affairs Committee**. The bill, introduced by Sen. Jud Gilbert (R-Clay Twp.), makes significant changes to the Natural Resources and Environmental Protection Act with respect to soil erosion and sedimentation control enforced by counties and municipalities. The legislation arose out of a situation in St. Clair County where many residents have complained about the need for soil erosion and sedimentation control permits, and excessive fines for not obtaining permits for minor activities on their property.

The version reported from committee exempts several activities occurring on individual residential property from the permit requirements, including: an earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance; gardening, if the natural elevation of the area is not raised; post holes for fencing, decks, utility poles, and mailboxes; and stockpiling of soil, sand or gravel not greater than 10 cubic yards if the stockpiling occurs at least 100 feet from the waters of the state. The exemptions also include normal and customary residential landscaping including planting of trees, scrubs and other vegetation; seeding or reseeded of lawns less than 1 acre if the seeded area is at least 100 feet from the waters of this state; and seeding or reseeded of lawns closer than 100 feet from the waters of this state if the area to be seeded or reseeded does not exceed 100 square feet.

The bill also sets up a process where the Department of Environmental Quality (DEQ) may issue general permits for specific categories of projects that are not exempt from permit requirements and that have minimal risks of adverse impacts to the waters of this state. These categories include landscaping, minor household maintenance, minor soil

stabilization activities, and seawall maintenance. Under the bill, the DEQ would establish criteria that define the projects that qualify for each type of general permit. The DEQ would also provide application forms for “certificates of coverage” for each general permit. The county or municipal enforcing agency, after receipt of an application for a project covered by a general permit, would then be able to issue certificates of coverage pursuant to a general permit. The county or municipal enforcing agency, after receipt of an application for a project covered by a general permit, would then be able to issue certificates of coverage pursuant to a general permit.

The legislation is expected to see Senate floor action soon and will then move over to the House for consideration. While MTA is generally supportive of what Senator Gilbert is trying to accomplish with his legislation, we are hopeful that additional minor changes can be made to the legislation before final passage.

CC

BOYNE HIGHLANDS IN HARBOR SPRINGS

August 10
Golf Outing

MTA'S ANNUAL
SUMMER LEGISLATIVE FORUM
AUGUST 10-12, 2005

MTA will mail registration materials, including the resort's reservation form, the last week in April.

Make your hotel reservations early as rooms are limited.

WATCH YOUR MAIL FOR REGISTRATION MATERIALS