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A Legislative Update for Township Officials

Courts Stop Comcast From Moving PEG Channels

Actions by two separate judges in Michigan on Jan. 15, have at least temporarily stopped Comcast from moving Public, Education and Government (PEG) channels from their current location on basic cable to the 900 tier on the digital cable system.

Macomb County Chief Circuit Judge David Viviano granted a Temporary Restraining Order (TRO) to the City of Warren, while U.S. District Judge Victoria Roberts granted a TRO on the same issue in filings from Meridian Charter Township and Dearborn. The township was the primary local unit in the filing.

Judge Roberts said, "While the Court agrees there are some general benefits with digitizing channels, it finds the public interest is better served by the temporary preservation of PEG channels in their analog format so the public may maintain access to vital information." The cases will likely be combined under one in U.S. District Court.

The court orders prevent Comcast from moving PEG channels to the 900 level of digital cable. Comcast had announced in mid-November that it would move all PEG channels by Jan. 15, to the higher cable tier. The move would require subscribers, with analog televisions, to buy digital cable-ready televisions or rent converter boxes for each set to continue to receive PEG channels. Even current digital cable subscribers would have difficulty finding the PEG channels on the 900 tier as they would be grouped where no other channels would be active with programming. In most cases, television remotes would not even scroll up to the 900 level unless a viewer entered the exact channel of one of the PEG channels in the group.

Comcast claims they need to move the channels to free up more bandwidth so they can provide more high definition programming. However, many PEG operators and viewers feel it was a move to limit



the audience of PEG channels and eventually push them out. Comcast has responded by saying they have made long standing commitments in the past to PEG channels.

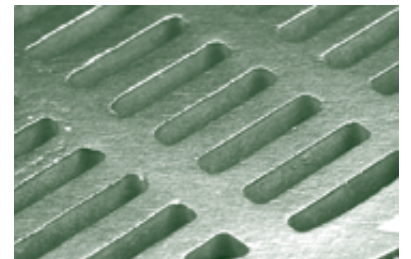
In recent months, Comcast has also closed many studios in Michigan where individuals were allowed to tape PEG programs. Now, taping and delivering of PEG tapes must be done at one studio located in Southfield. There is also speculation that Comcast is taking this action because their newest cable competitor (AT&T) is not delivering as good a quality PEG product to their cable customers as Comcast.

Legislators are also voicing opposition to efforts to move the PEG channels. Sen. Dennis Olshove (D-Warren) introduced Senate Resolution 140 condemning such actions while Reps. Steve Bieda (D-Warren) and Tory Rocca (R-Sterling Heights) are drafting legislation that would prohibit cable companies from moving PEG channels without local government approval. MTA will continue to closely monitor this issue and report on any new developments.

A report required under Public Act 480 of 2006, new Michigan cable law, is expected to be made by the Michigan Public Service Commission to the Michigan Legislature in February regarding the status of cable competition in Michigan. MTA will share the results of the survey once they become public. ■

Governor Signs Legislation Putting Storm Water Phase II Court Decision in State Statute

On Jan. 17, Gov. Jennifer Granholm signed into law Senate Bill 545, which now becomes Public Act 2 of 2008. The bill, introduced by Sen. Mark Jansen (R-Gaines Charter Twp.), stipulates that a municipality that is determined not to be an "owner/operator" of a municipal separate storm sewer system (MS4) would not be required to obtain a permit or pay an



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annual storm water discharge permit fee to the Michigan Department of Environmental Quality (DEQ) under the Storm Water Phase II program.

The new law implements statewide the "Charter Township of Kalamazoo and Comstock Charter Township court decision" rendered in January 2007. In that decision, Judge J. Richardson Johnson ruled that the two townships are not subject to rules promulgated by the DEQ relating to MS4s and, therefore, are not required to comply with the Phase II permit requirements or pay annual permit fees to the DEQ.

The key issue in the case revolved around whether or not the townships owned or operated an MS4. The townships argued that they didn't own or operate an MS4 as either the county drain commissioner or the county road commission handled these functions. The judge found that the townships were not owners or operators of the storm sewer system because even though they had the power and authority to create such a system, these two townships had not done so.

Rather than contest the decision, the DEQ decided it would implement the court ruling statewide for those communities that were determined not to be an owner/operator. Early last year, a process was created for communities that felt they were not owner/operators to appeal their annual fee and permit requirements to DEQ. The department has now processed those appeals with approximately two-thirds of the appeals leading to termination of permits and another one-third of the appeals being denied based on individual circumstances. The new law, which was supported by the DEQ, implements these actions in state statute and brings clarity and certainty to this issue.

Meanwhile, it should be noted that those communities that still fall under Storm Water Phase II requirements are nearing the end of their five-year permit. The DEQ is in the final stages of drafting a new permit to cover the next five-year timeframe. Initial drafts have raised concerns over additional costs associated with the new permit as well as the delineation between the current watershed permit and the jurisdictional permit. MTA continues to follow this process as the DEQ moves towards development of the new permit. ■

Michigan Presidential Primary Provides Opportunities and Challenges

The Jan. 15 presidential primary has now come and gone with Hillary Clinton getting a needed boost and Mitt Romney earning a victory that likely saved his national campaign for president. However, the question remains was it all worth it and what happens next?



The main goal of both political parties in moving up Michigan's presidential primary was to make Michigan more relevant in the national presidential selection process. For a long time, with court challenges and presidential candidate boycotts, it looked as if this goal would not come to fruition. However, the mixed results from Iowa and New Hampshire changed all of that and in the last two weeks preceding the Michigan primary several candidates put a great deal of emphasis into Michigan.

In particular, on the Republican side, Mitt Romney pulled ads in other states and spent approximately \$2 million in Michigan. He, John McCain and Mike Huckabee made several swings through the state in the final days leading up to the Michigan primary.

On the Democratic side, the activity was much less as all Democratic candidates had promised not to campaign in Michigan or any other state that broke national party rules by moving up their primary election. In addition, two of the major Democrats removed their names from the Michigan ballot which caused some voter confusion but in the end proved to be exciting to see if "uncommitted" could come close to the total vote cast for Hillary Clinton.

The one thing the Michigan primary did achieve was to put an emphasis on economic issues and the future of manufacturing in Michigan and throughout the country. Up until the candidates started focusing on Michigan, not a great deal was said concerning the economy and issues of importance to Michigan and other larger states. The Michigan primary also laid the groundwork for us and other states to challenge Iowa and New Hampshire for relevancy in future presidential elections.

But now that the candidates have left our state and moved on to focus on other primary contests what remains to be done in Michigan and what have we learned from this experience?

One of the key things yet to be done by clerks is to follow through on the process for transferring election information over to the two



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political parties. You may recall that under the legislation to establish the early primary, the voters had to choose whether they would vote a Republican ballot or a Democratic ballot and that information would then become available to the two parties. This issue nearly caused the primary to be cancelled until the state Supreme Court overruled two lower court decisions.

However, the issue of the lists only going to the two political parties still remains an issue as a lawsuit has now been filed in federal court to open to others the availability of the lists. Regardless, clerks have been given a deadline to enter all primary ballot preference information into the Qualified Voter File (QVF) by Feb. 29. As of now, the secretary of state then must forward the compiled information to the parties by March 26.

The other key issue remaining for clerks is to submit reimbursement vouchers for the costs of conducting the presidential primary to the state. These itemized lists of expenditures are due no later than April 14, which is 90 days following the election. While state leaders have estimated the election will cost the state around \$10 million, costs could very easily exceed that figure as the state will be required to reimburse locals at a much higher level due to unforeseen expenses with this election.

One thing the Michigan Primary did achieve was to put an emphasis on economic issues and the future of manufacturing in Michigan and throughout the country.

The tight timeframe to conduct the election and the extra effort associated with the absentee voter (AV) ballot process occurred this time around. When voters initially requested their AV ballot, many failed to indicate which party ballot they wanted. This required follow up correspondence to have voters complete the AV ballot application correctly. This, along with significant overtime being required to efficiently conduct this election, will significantly increase the costs of running this election.

The election taught us that despite a very tight turnaround time, it still could be conducted with minimal problems. While many voters were asked for the first time to request a partisan ballot in writing and to show photo I.D., the election, with a turnout of approximately 20 percent, still proved to have the third highest voter participation for presidential primaries in state history.

While the candidates have now come and gone and additional attention was focused on Michigan, clerks still have more work to do to complete the process. However, one thing that can definitely be stated is that our clerks ran a superb election, as usual, with very few problems and complaints. Congratulations! ■

New 2007 Laws That Impact Townships

Although much of 2007 focused on the Michigan Business Tax and the state budget, there were actually 221 new laws enacted. Below is a summary of the new laws that have potential impact on township government. (The **bolded** laws are likely to have a significant impact on the majority of townships.)

- PA 8 (Rep. Bieda) designates certain marine safety violations as state civil infractions.
- PA 22 & 23 (Sen. Gleason & Rep. Spade) changes the definition of qualified interpreter for deaf or deaf/blind individuals as it applies to certain official or public hearings.
- **PA 38, 39 & 40 (Rep. Griffin, Corriveau & Ebli) exempts commercial and industrial personal property from certain property taxes.**
- PA 51 (Rep. Accavitti) allows the county to change the name of the Drain Commissioner to the Office of Water Resource Management in certain situations and provides a procedure to name a new drain commissioner in certain cases.
- PA 53-58 (various sponsors) requires county register of deeds to edit certain documents to eliminate social security numbers.
- **PA 98 & 99 (Sens. Patterson & Gilbert) creates a state committee on statutory mandates on local government and provides that a report be generated.**

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Stay on Top of Legislative Issues

Plan to Attend the MTA Capitol Conference

March 11, 2008, 8:30 a.m. – 3:30 p.m.

Radisson Hotel, Lansing, MI (Just East of the State Capitol)

Just some of the issues on the agenda:

- Michigan's Economy: The Impact on Local Government Revenue
- Recall Pressures State and Local Levels: Is It Time For Reform?
- Law Enforcement Without State Police?
- New State Mandates Committee: Measuring Mandates on Local Governments

Register by February 26 and receive the discount rate of \$75.

For further information, or to register, call the MTA at 517-321-6467 or go to <http://www.michigantownships.org/capitolconf.asp>.



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Lansing, MI 48917



MTA Thanks Legislators Who Attended Our Banquet

MTA would like to thank the following Legislators who attended the annual MTA Banquet held at the Renaissance Marriott in Detroit on Jan. 10, 2008. The banquet is a part of the MTA Education Conference that took place January 8-11.

- Senator Glenn Anderson (D-Westland)
- Senator Valde Garcia (R-Marion Twp.)
- Senator Jud Gilbert (R-Clay Twp.)
- Senator Randy Richardville (R -Frenchtown Chtr. Twp.)
- Senator Michael Switalski (D-Roseville)
- Representative Darwin Booher (R-Osceola Twp.)
- Representative Terry Brown (D-Winsor Twp.)
- Representative Brian Calley (R-Portland)
- Representative Bruce Caswell (R-Adams Twp.)

- Representative Bill Caul (R-Mt. Pleasant)
- Representative Marc Corriveau (D-Northville)
- Representative John Espinoza (D-Croswell)
- Representative Rick Jones (R-Oneida Twp.)
- Representative Robert Jones (D-Kalamazoo)
- Representative Phil LaJoy (R-Canton Chtr. Twp.)
- Representative Richard LeBlanc (D-Westland)
- Representative Mark Meadows (D-East Lansing)
- Representative Arlan Meekhof (R-Olive Twp.)
- Representative Kim Meltzer (R-Clinton Twp.)
- Representative Chuck Moss (R-Birmingham)
- Representative Paul Opsommer (R-DeWitt)
- Representative Phillip Pavlov (R-St. Clair Twp.)
- Representative Tonya Schuitmaker (R-Antwerp Twp.)
- Representative John Stahl (R-Arcadia Twp.)
- Representative John Stakoe (R-Highland Chtr. Twp.)
- Representative Mary Valentine (D-Muskegon)

We know our officials appreciate you participating in this event.
Thank you. ■

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- **PA 106-108 (Sens. Jansen, Kuipers & Birkholz) requires all local governments to seek bids for health insurance for its employees every three years, requires insurance companies to disclose claims experience history to local governmental entities under certain conditions and allows local governments to self insure or form health care insurance pools under certain circumstances.**
- PA 115 & 116 (Sen. Kahn and Rep. Coulouris) allows personal property exemptions to be transferred to new owners if factory is sold, with permission of local government.
- PA 165 (Sen. Basham) extends funding for 911 emergency system, through tax on phone lines and extends tax to cell phone and computer based telecommunication systems, but sunsets the act in Feb. 2009.
- PA 200 (Sen. Richardville) expands the definition of urban townships for economic development purposes.
- PA 201-204 (various sponsors) extends the sunset on the Brownfield Redevelopment Authority Act and modifies the act to deal with certain eligibility and operational issues.
- PA 210 (Sen. Gilbert) provides bonding for critical bridges.
- PA 212 (Sen. Sanborn) requires registration of composting operations and provides for exemptions.
- PA 213 (Sen. Stamas) requires quarterly reports to the board by the treasurer on the investment of surplus funds instead of the current annual report.
- PA 221 (Sen. Gilbert) establishes an alternative road funding task force. ■