



Township Law *E-Letter*

INTERLOCAL AGREEMENTS AND AUTHORITIES: THE OPPORTUNITIES ABOUND

There's a lot of talk in Lansing lately about interlocal cooperation. For most townships, that's nothing new. With tighter revenues, townships are joining forces to stretch limited revenues to provide existing services more affordably. Here are some ideas for other interlocal arrangements that may benefit your township's delivery of services.

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Increasing Interlocal Cooperation

A recent study of Michigan municipalities by the Gerald R. Ford School of Public Policy found unprecedented activity, interest and satisfaction with interlocal cooperation. 72% of local governments report some kind of interlocal collaboration, and this increases to over 92% for municipalities with populations over 10,000. 81% of local officials believe these efforts have been successful and only 2% report lack of success. This new wave of cooperation is happening voluntarily, without any state mandate, and it is happening all over the state. Interlocal cooperation is a key factor in the present and future of township governance.

There are many constitutional statutory provisions that give wide authority for interlocal cooperation. Under the 1963 state constitution and existing statutes, townships can partner to deliver existing services more affordably or expand or create new services, including fire, police and ambulance; water and sanitary sewer service; joint township buildings; solid waste disposal; and planning and building inspection, to name a few. Virtually any power, privilege, or authority that one township can exercise individually can also be performed in cooperation with another township, county, city or village. The opportunities are limited only by our imagi-

nations and our ability to act cooperatively for mutual benefit.

General Authority for Cooperation

Article III § 5 of the Michigan Constitution: Provides authority for townships to enter into interlocal agreements and joint authorities with other local and state government agencies.

Article VII, § 28 of the Michigan Constitution: Provides authority for townships to enter into contracts with other public entities for the joint administration of any of the functions or powers they would otherwise have the power to perform individually.

Urban Cooperation Act (Public Act 7 of 1967): Public agencies (including counties, cities, villages, townships, charter townships, school districts, single and multipurpose special districts, or single and multipurpose public authorities) may collaborate to exercise any power or authority that each party could exercise separately on its own. This includes providing a mutual exchange of services (without any payment other than the exchange of services).

Public Act 35 of 1951: Authorizes municipal corporations to enter into contracts with other municipal corporations for the operation of a facility, performance of a service, or ownership of a property.

Intergovernmental Transfers of Functions and Responsibilities Act (Public Act 8 of 1967): Authorizes townships to enter into contracts to transfer functions or responsibilities to other municipalities, other political subdivisions, or combinations thereof. The authority provided by this Act exists regardless of the charter language of participating municipalities.

In addition to the above general authority, the Michigan Legislature has adopted a multitude of special acts designed to promote and guide the operation of a variety of specific joint activities, including joint fire, police and ambulance service, joint water and sewer systems and services, joint local development finance, joint hospital authorities, joint building authorities, and joint agreements or authorities for such wide-ranging services as cable television regulation, airports, recreation, transportation, planning, insurance pooling, and tax collection, to name only a few.

Joint Fire, Police and Ambulance Cooperation

Township Police and Fire Protection Act (Public Act 33 of 1951): Provides authority to adjoining townships, villages, and qualified cities to jointly purchase fire protection vehicles, equipment, and buildings, and to provide funding to maintain and operate fire, police and ambulance services. Act 33 also allows townships to contract with an adjoining municipality to obtain fire, police and ambulance service (or a non-adjoining municipality if no adjoining municipality provides such services). Each individual participating entity may also enact an ordinance to collect fees for providing fire protection services. All or a portion of such fees are frequently paid by the insurance companies of the person who receives the fire protection services.

Municipal Emergency Services Act (Public Act 57 of 1988): Allows two or more municipalities

(including townships) to incorporate an authority to provide emergency fire, police and ambulance services. A participating municipality may transfer its existing department employees, buildings, and equipment to the authority. Contracts for fire, police and ambulance services with participating and non-participating municipalities are limited to a term of no longer than thirty years. However, contracts with non-participating municipalities may include higher fees.

Urban Cooperation Act (Public Act 7 of 1967): As discussed above, Act 7 is a broad enabling statute. It permits townships to enter into interlocal agreements for all or part of the township's fire, police or ambulance services. The participating municipalities may also contract for the mutual exchange of services without any other type of compensation.

Intergovernmental Contracts Act (Public Act 35 of 1951): Pursuant to the direction in Article 7, § 28 of the Constitution, Act 35 is an enabling statute that allows townships (and other municipal corporations) to contract or join with other municipal corporations for the operation or performance of fire, police or ambulance services, or any other services that either contracting municipal corporation would have the power to operate or perform individually. Since townships have the authority to operate fire departments, they may contract under Act 35 with any other municipal corporation to operate a fire department.

County Fire Protection Act (Public Act 15 of 1942): Act 15 applies to counties with populations of at least 5,000 where areas outside of cities are not covered by fire protection. Under Act 15, counties may contract with local townships, villages, or cities with fire departments to provide fire protection to inadequately protected areas.

Mutual Police Assistance Agreements: Townships, villages, cities, and counties may enter into contracts to provide mutual police assistance to each other in emergency situations pursuant to MCL 123.811.

Joint Water and Sewer Agreements and Authorities

Joint Water Supply Authority: MCL 124.251 et seq. provides authority to two or more cities, villages, or townships, or any combination thereof, to incorporate an authority to acquire, own, and/or operate a water supply system or systems.

Joint Charter Water Authority: Pursuant to MCL 121.1 et seq., two or more cities, villages, or townships, or any combination thereof, may incorporate an authority for the purpose of acquiring, constructing, purchasing, operating, and maintaining a water supply and transmission system.

Joint Sewage Disposal System, Water Supply System, and Solid Waste Management System Authority: MCL 124.282 provides authority for any two or more municipalities to incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending, and operating a sewage disposal system, a water supply system, a solid waste management system, or any combination of those systems. As used in this Act, the term “municipality” includes each county, township, city, or village.

Joint Water Supply and Waste Disposal System Agreement: MCL 123.381 et seq. (and specifically, MCL 123.382) authorizes townships, alone or in conjunction with other units of government, to construct, maintain, and operate waste disposal systems and water supply systems through agreements with local units of government located in another state.

Joint Sewer Agreement: Pursuant to MCL 123.231 et seq., townships may contract with any one or more political subdivisions for the joint ownership, use, and/or operation of sewers and/or sewage disposal facilities. Townships may also contract with any one or more political subdivisions regarding furnishing sewage disposal services by one (or more) of the

participating entities. Such agreements must be approved by the legislative body of each participating entity and cannot exceed a term of fifty years.

Specialized Cooperative Tools

Joint Planning Commission: The Joint Municipal Planning Act authorizes two or more municipalities to establish a joint planning commission. This Act allows multiple municipalities to collaborate on a regional master plan, and the goal is to provide the participating entities more efficiency in terms of legal and financial resources to control and direct growth. MCL 125.131.

Metropolitan District Act: For the purpose of acquiring, operating, and maintaining parks or public utilities for supplying sewage disposal, drainage, water, or transportation, two or more townships, cities, or villages can create metropolitan districts. MCL 119.1.

Joint Local Development Finance Authority: Two or more municipalities, including a city, village or urban township, may join together to establish a Joint LDFA to support a certified technology park within the district. MCL 125.2153.

Joint Cable Television Authority: Two or more municipal corporations, other than counties, in a county with a population of one million or more can enter into a contract for the purpose of establishing an authority to select a single cable television franchisee. MCL 124.13.

Joint Building Authority: Any combination of two or more townships, counties, cities, or villages may incorporate one or more joint authorities for the purpose of acquiring and maintaining buildings, parking lots or structures, recreational facilities, and stadiums for any legitimate public purpose. MCL 123.951.

Joint Hospital Authority: Two or more cities, villages, or townships can form a hospital authority and issue bonds for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and

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operating one or more community hospitals and related buildings, structures, or facilities. MCL 331.1.

Joint Airport Authority: Two or more counties, cities, villages, or townships may form an airport authority to plan, promote, acquire, construct, improve, enlarge, extend, own, maintain, and operate the landing, navigational, and building facilities necessary for one or more community airports. MCL 123.951

Joint Recreational Authority: Two or more townships, cities, counties, or villages may establish a recreational authority. The statute (Recreational Authorities Act) also allows an assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority. MCL 123.1131

We Can Help

Fahey Schultz Burzych Rhodes PLC, Your Township Attorneys, works with townships to help develop and implement legal strategies to achieve successful interlocal contracts and joint authorities. Please contact our office if you need any assistance in contracting for joint services or forming joint authorities.

Fahey Schultz Burzych Rhodes PLC

Announcing an August Workshop on Consolidating Local Government Services

- Michigan laws related to interlocal agreements
- Deciding which services to consolidate
- Case studies of other local governments
- Key steps in successful service consolidation
- Resolving disagreements and reaching consensus

Presenters:

Lewis Bender, Consultant and Trainer

Steve Schultz, Fahey Schultz Burzych Rhodes PLC

August 18, 2011 | 8:30 am - 4:00 pm (includes lunch)

Comfort Inn Hotel & Conference Center,

Mount Pleasant, MI 48858

Cost: \$125.00 (\$175.00 after 8/1/11)

Register online: http://www.lewbender.com/seminar_11.html

Contact Mary Bender 231-797-5536 or mbender102@aol.com for more information.

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