



MICHIGAN TOWNSHIPS ASSOCIATION

WEEKLY LEGISLATIVE REPORT

August 29, 2008

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Please route to all interested parties in your township.

WEDNESDAY COURT ACTION NEGATIVELY ALTERS RECALL PROCESS

Federal District Court Judge Robert Holmes Bell ruled that a state law requiring recall petition circulators to be registered and residents of the district in which they are circulating recall petitions violates the First Amendment right to free speech. The ruling resulted from an appeal of an earlier secretary of state decision not to allow over 2,000 signatures collected by non-residents of the 17th House District in the recall effort against House Speaker Andy Dillon (D-Redford Twp.). Judge Bell ordered Secretary of State Terri Lynn Land to re-examine the petitions filed seeking Speaker Dillon's recall. The judge further stated that "If upon such re-examination Defendant (Land) determines that the required 8,724 valid signatures were gathered, then defendant shall place the recall against Rep. Dillon on the Nov. 4, 2008 General Election ballot." The "re-examination" needs to occur quickly as the deadline to finalize ballots for printing is Sept. 5. The ruling, if left to stand, would create a scenario where people from out of state could organize recalls or people from outside a particular township could organize recall efforts against township officials in that township. Speaker Dillon has filed a motion to ask the U.S. District Court to reconsider its action. The decision could also be appealed to the U.S. 6th Circuit Court of Appeals. Should Speaker Dillon face a recall election in November, a possible scenario exists where he could potentially lose the recall election and yet garner enough votes to be elected to another two-year term in office. The result would be the need to vacate his office for the remainder of the year and then be sworn in to office on Jan. 1, 2009.

LOCAL FERTILIZER PRE-EMPTION BILL COULD SEE ACTION IN SEPTEMBER

In May, the House Agriculture Committee reported HB 6115, the latest effort to implement a state standard for lawn fertilizer application and pre-empt local lawn fertilizer ordinances. The original version of HB 6115 would have prohibited the application of lawn fertilizer containing more than 0.5 percent phosphate and would grandfather in existing local fertilizer ordinances addressing phosphorus. However, the bill was changed significantly in committee to increase the amount of phosphorus allowed in lawn fertilizer, thus minimizing the environmental benefit. The substituted bill also would impose an immediate ban on new local fertilizer ordinances rather than on a future specified date. MTA feels that communities currently pursuing local ordinances should not be penalized for their efforts to protect local water bodies and that the legislation fails to address enforcement efforts and educational training. Should action proceed on implementing a statewide standard, MTA would also like to reserve the opportunity for local units of government to have a more stringent local ordinance if conditions warrant. **Please let your representative know that this legislation needs work before consideration by the full House.**

FCC ATTEMPTING TO LIMIT CELL TOWER ZONING

The Federal Communications Commission (FCC) recently started a proceeding to effectively limit local zoning related to cell towers. In the document, WT Docket 08-165, the FCC proposes to implement 45- and 75-day "shot clocks" for municipalities to act on local zoning approval for cell towers, with such applications "automatically deemed granted" if the deadlines are not met. The FCC's proposal directly violates provisions of the Telecommunications Act Congress passed in 1996 which preserves local zoning of cell towers. There is also a companion proposal to prohibit requiring variances for cell towers (with likely cell industry arguments that such a prohibition means no local zoning approval is required). This could be especially harmful to municipalities without cell tower or similar ordinances. For more information and sample letters to send to Congress, go to www.varnumlaw.com/serviceGroups/cableTV/cellularwireless.

NATaT CONFERENCE EARLY BIRD REGISTRATION DEADLINE IS TUESDAY!!!

The National Association of Towns & Township's (NATaT) 2008 *America's Town Meeting* Legislative Conference in Washington, D.C. is fast approaching with the early bird and hotel deadline **Tuesday, Sept. 2**. The NATaT Conference is your opportunity to be the voice on federal issues affecting local government. Join hundreds of local government officials from across the nation and our state as they converge on Capitol Hill to network, attend educational sessions, and meet with lawmakers. Visit the MTA's Web site for more information and to download a registration brochure: <http://www.michigantownships.org/NATaTconference.asp>.

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