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# capitol currents

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## A Legislative Update for Township Officials

### Senate Lowers Revenue Sharing Funding for Fiscal Year 2008-09

The Senate Appropriations Committee approved the general government budget (HB 5816) for the 2008-09 fiscal year on May 21 that included the elimination of a 4 percent increase in statutory revenue sharing.



The 4 percent increase was included in the governor's budget proposal and was approved by the House. However, on May 20 the Appropriations Subcommittee on General Government removed the 4 percent revenue sharing increase due to new, weaker revenue estimates that were agreed to in the state revenue consensus meeting held on May 16.

During the full Senate Appropriations Committee meeting, the Senate Democrats tried to restore the original 4 percent increase in statutory revenue sharing but failed on a party-line vote of 7-10. MTA appreciates the efforts of Sen. Deb Cherry (D-Burton) who offered the amendment to restore revenue sharing to the same level as approved by the House.

Since there is a difference between the House and Senate on revenue sharing funding amounts, the matter may not be resolved until final budget approval takes place in late June.

As originally proposed, the statutory revenue sharing increase would have benefited all townships, including more than 900 townships that only receive constitutional revenue sharing, which is based on the level of state sales tax revenues. The governor's plan would have held revenue sharing levels for communities at the current year level even though the budget was based on a 0.9 percent decrease in sales tax for next fiscal year. The idea was to allocate enough statutory revenue sharing amounts to prevent any reductions to local municipalities that were going to be caused by reduced sales tax collections.

While this plan to "keep all communities whole" appears to be in question, the latest budget projections suggest a slightly better picture for sales tax collections for next year. The 2008-09 state budget is now

being based on a 0.2 percent sales tax reduction for next year instead of a 0.9 percent reduction that was projected in the original budget proposal.

The Senate Appropriations Committee approved a total of nine budgets during the five-hour May 21 meeting, highlighted by the revenue sharing reductions. Senator Ron Jelinek (R-Three Oaks Twp.) commented that the new revenue estimates require the general fund portion of the budgets to be cut by \$102 million beyond the nearly \$100 million already cut from the governor's recommendation, with another \$50 million from school aid. The reduction in revenue sharing totaled \$16 million. ■

### House Committee to Require PILT Payments by Mid-February

The House Appropriations Subcommittee on the Department of Natural Resources (DNR) included boiler plate language in the 2008-09 state budget that would require the DNR to make payments-in-lieu-of-taxes (PILT) on state owned land by Feb. 14, 2009.

The language was offered by Rep. Darwin Booher (R-Osceola Twp.) and was also supported by the subcommittee chair Rep. Michael Lahti (D-Hancock) and Rep. Dudley Spade (D-Franklin Twp.). The language was added to the budget because the DNR has been chronically late with PILT payments to local governments over the past six or seven years.

The amendment would require the department to make next year's PILT payments by Feb. 14, 2009, provided that the billing is accurate and complete and is postmarked by the local treasurer before Dec. 1, 2008. MTA is very supportive of this amendment.

The traditional period for payments sent by the state to local governments for state owned parcels has been in mid-February. However, in recent years the DNR has been less than anxious to make timely payments. Several years ago, the DNR claimed it was too financially strapped to make the payments and legislation was approved in 2004 (PA 513) that eased the state's financial burden by freezing PILT payments at the 2004 level.

*PILT Payments continued on page 2*

## New Law Impacts July and December Boards of Review

Gov. Jennifer Granholm signed into law legislation that will give greater flexibility to when the December and July Boards of Review may meet. Public Act 122 of 2008, sponsored by Sen. Ron Jelinek (R-Three Oaks Twp.), allows cities and townships to adopt alternate dates for the meetings of the July or December Board of Review.

The meeting may be moved to any other day during the week that the meeting normally takes place. The board must pass a resolution or adopt an ordinance in order to move the meeting. The decision to move the date of the meeting should be made in a timely manner to allow the date to be included on all property tax bills that are being distributed.

PA 122 mirrors legislation that was enacted in 2003 that gave greater flexibility to when the first meeting of the March Board of Review must meet. The change in law acknowledges that in many communities the assessor is performing the same duty in multiple communities. By creating a flexible schedule, the township board will be able to ensure that the assessor is present for all Board of Review meetings. ■

### *PILT Payments continued from page 1*

Unfortunately, PA 513 has not prevented late payments by the state. Most townships won't likely receive payments this year until late May. MTA appreciates the efforts of all the members of the House Appropriations Subcommittee on the DNR.

The Senate previously had approved the budget for the DNR but took a very different approach to PILT. The Senate chose to move the entire PILT program from the DNR budget to the general government budget, where revenue sharing is also found. The House approved version of the DNR budget maintains that PILT remain in the DNR budget. This will be an item of difference that will likely have to be worked out in a budget conference committee. These types of budget differences will likely be resolved in mid or late June. ■



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**Editor:** David Bertram **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

## Levin Lends Support to Local Officials Tax Relief Act

U.S. Senator Carl Levin recently signed on as a co-sponsor of S 2154, the Local Officials Tax Relief Act.

The Local Officials Tax Relief Act, introduced on Oct. 4, 2007, in the U.S. Senate, would amend the Internal Revenue Code (IRC) to exempt small payments to public officials from FICA (Social Security and Medicare) tax withholding and reporting requirements.

Senator Levin's co-sponsorship is much welcomed as a key leader in the U.S. Senate.

The Local Officials Tax Relief Act would assist townships, and other small communities across the country, that rely on citizens to provide essential services to their communities. That includes public officials—elected and appointed—that serve on local governing boards, commissions and committees. Many of these officials receive minimal compensation for their service, but under recent federal interpretation of the federal IRC and the Social Security Act, these small payments are classified as "employment wages" and subject to FICA withholding and reporting requirements. The withholding and reporting burden on small local governments is substantial and sometimes the processing costs are greater than the tax revenue provided to the federal government.

The Local Officials Tax Relief Act would treat public officials the same way that election workers, who are compensated less than \$1,400 a year, are currently treated. These election workers are excluded from the IRS definition of employment for FICA tax purposes. S 2154 would expand this exclusion to include local public officials who are compensated less than \$1,400 per year.

Under the legislation, local governments would still be required to provide the minimally compensated public officials with a 1099 tax form, but would avoid the burdensome and expensive FICA withholding and reporting requirements. Individuals that receive payment for their public service would still be required to report this income for federal income tax purposes.

Similar legislation is expected to be introduced soon in the U.S. House by Congressman Earl Pomeroy of North Dakota. MTA and the National Association of Towns and Townships have made this legislation one of our top priorities in Washington. Both organizations are hopeful that further progress can be made on this issue of importance to many smaller communities throughout Michigan and the United States. ■



## Multiple Bills Address Voting Pre-Registration for 16-Year-Olds

In May, the House of Representatives passed HB 5792 that would allow those at least 16 years of age, but less than 17½ years old to pre-register to vote. The bill, introduced by Rep. Steve Bieda (D-Warren), would allow these teenagers to pre-register to vote at a secretary of state office if they had been issued a graduated driver's license or had received an official state personal identification card.

Other requirements would apply as they would also need to be a U.S. citizen and a resident of Michigan for not less than 30 days. A person who pre-registers to vote would become a registered elector at 17½ years of age and then become eligible to vote on their 18th birthday.

Under the legislation, the pre-registration process would proceed as follows. The secretary of state would be required to enter the voter registration information into the Qualified Voter File for each person who pre-registered to vote. Once a pre-registered person became 17½ years of age, the secretary of state would transmit their voter registration information to the local clerk. The local clerk would then send a voter identification card to the pre-registered elector. If the voter identification card is returned as undeliverable, the local clerk would reject the voter registration. If the card was not returned, then the person would be eligible to vote in the next election upon reaching 18.

The legislation was introduced to help ensure that more Michigan residents, in particular younger residents, acquire the habit of voting. A majority of states already allow 17½-year-olds, or those who are just shy of their 18th birthday, to register to vote. Two states (Florida and Hawaii) have enacted legislation to allow 16-year-olds the ability to pre-register. The issue is pending in a couple of other state legislatures—Wisconsin and Rhode Island—and several other states allow for advance registration at age 17.

Michigan's legislation passed the House 88-18 with strong bi-partisan support. Secretary of State Terri Lynn Land has also championed this concept and included it in her 2006 report: *Michigan Elections: A Plan for the 21<sup>st</sup> Century*. The legislation now moves to the Senate for consideration where it has been assigned to the Senate Campaign and Election Oversight Committee.

Meanwhile, Sen. Michael Switalski (D-Roseville) has introduced a constitutional amendment (SJR N) that would allow individuals as young as 16 to vote in school board elections. His rationale is that students have a vested interest in good schools and education and therefore have an interest in who is on the school board. Unlike the previous legislation, no other state has enacted such a measure.

Sen. Switalski has admitted that the chances of getting the constitutional amendment on the ballot (it would require a 2/3rds vote in both the House and Senate) are "slim and none" currently and that it would likely take several years for his proposal to garner support. ■

## Senate Creates Utility Property Tax Appeal Defense Fund

The Senate Appropriations Subcommittee on General Government added a new \$1 million line-item within the Department of Treasury budget for the purpose of the state Department of Treasury to establish a fund that would involve the state in lawsuits related to challenges on large tax appeals.

The action comes after the Senate Finance Committee took testimony several weeks ago on Sen. Jud Gilbert's (R-Clay Twp.) legislation, SB 635, which would require that the State Tax Commission (STC) take over the assessing of all real and personal property for utility property classified as industrial personal property greater than \$50 million.

While the defense fund details are still being ironed-out, it would likely to be used in situations where utility power plant property assessments or pipeline assessments appeals are being made. These cases in particular are difficult for the local community to defend, because they are not questioning the work of the local assessor, they are questioning the validity of the work done by the state STC in establishing uniform procedures and valuation tables.

The \$1 million fund was added to the 2008-09 state budget by the Senate Appropriations Subcommittee on General Government during their May 20 meeting. On May 21, the full Senate Appropriations Committee concurred in the action by approving the general government budget. The new fund may be used for major appeals such as the one recently in St. Clair County involving DTE that could reduce property tax collections by millions of dollars per year. Legal costs alone for two townships in that appeal cost almost \$800,000.

Townships are on the front line when tax assessments for utility power plants and pipelines are challenged. Townships have the responsibility of doing assessing, yet, those assessment levels determine the revenue amounts for all local governments (school districts, community colleges, county government and township government) that collect taxes in that township.

Local governments across the board are forced to fight these tax appeals in many cases to simply hold the line on current revenues. Legal costs alone often strain local governments financially as lengthy, complicated appeals drag on for months and years.

The state has not always been willing to step into these appeals, yet has been quite quick to criticize local governments when settlements involve lower revenue collections. MTA appreciates the efforts of Sens. Gilbert, Jelinek, Pappageorge, Cassis and Bishop on including the new line-item for these utility property tax appeals. ■





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## Legislature Needs to Address Cable Problem

It is hard to believe, but Michigan's controversial new cable law (PA 480 of 2006) was approved a year-and-half ago. Upon its adoption, legislators acknowledged that corrections were needed. Despite that recognition, these changes have not been made.

One necessary and immediate correction revolves around the financial support for Public, Education and Government (PEG) channels across Michigan. There was an agreement with legislators at the time PA 480 was approved that local governments with PEG systems could charge up to 2 percent specifically for PEG channels. However, the language in PA 480 was not clear and cable companies have taken, and will continue to take advantage, of the situation.

Legislation has been introduced in both chambers—House Bill 5047, sponsored by Rep. Bert Johnson (D-Detroit) and Senate Bill 636, sponsored by Sen. Samuel "Buzz" Thomas III (D-Detroit)—to implement details of the original intent of the cable agreement. As expected, the Michigan Cable Telecommunications Association is strongly opposing the legislation.

MTA asks that township officials contact their state senator and state representative and ask that they support SB 636 and HB 5047, and that they request that these bills to be brought up for a vote. These bills relate directly to PEG operations across Michigan. Please use the following links for contact information about your legislators—for the Senate: <http://senate.michigan.gov/> and for the House: <http://house.michigan.gov/replist.asp>. ■

## Resolution Reminder

Under the rules adopted by the MTA's Board of Directors, advance resolutions involving legislative policy must be submitted to MTA 150 days prior to the Annual Meeting. *The deadline for submissions is Wednesday, Sept. 3, 2008.* Resolutions adopted at the Annual Meeting in January 2009 will be the basis for MTA's 2009 Policy Platform.

## House Acts on Water Withdrawal Package

On May 21, the House took additional steps towards moving its version of the water withdrawal package by passing HBs 5065, 5066, 5070 and 5073 on close votes. Of the four bills, HB 5065 was the most controversial because it sets a 1 percent reduction in the fish population as causing an "adverse resource impact" verses the Senate version (SB 860) allowing for a 3 percent reduction. A floor amendment removed the previous tie-bar of this bill to other bills in the package.

HB 5070 is another important bill to local government because it outlines local government involvement in local water user committees. HB 5070 also allows the governing body of a local unit of government to recommend that the DEQ review a proposed water withdrawal that it believes has a significant risk of causing a conflict with other water users within its jurisdiction.

Additional pieces of the House package haven't been addressed on the House floor. Items of interest include the level of new or increased withdrawals requiring permits and whether water should be part of the public trust. ■