

In This Issue:

- 2 DEQ looks to eliminate exemption for open burning
- 3 Pre-registration of 16-year-olds
Legislative fix for commercial rental property?
- 4 Flexibility for road commissions
Part-time law enforcement officer legislation introduced



capitol currents

Official Publication of the Michigan Townships Association

june 2009



A Legislative Update for Township Officials

Revenue sharing cuts continue



As state revenues continue to decline more rapidly than anticipated, the State of Michigan continues to squeeze revenue sharing payments to local governments. In early May, negative reports about declining state revenues in the current fiscal year caused Gov. Jennifer Granholm to cut

\$41.4 million from revenue sharing through an executive order (EO). In mid-May, a revenue estimating conference was held to determine revenue projections for the state for next fiscal year (2010), beginning Oct. 1, 2009. The news did not improve, as it was determined by the state's three top economists that state leaders are facing a \$1.7 billion deficit for next fiscal year.

The EO, which was swiftly approved by both the House and Senate Appropriations Committees, went into effect almost immediately after being announced. The EO was created to address a \$1.3 billion deficit in the current 2009 fiscal year for the state. It includes total state general fund cuts of just over \$300 million, including the \$41.4 million in revenue sharing cuts. The EO also includes directives to use roughly \$1 billion of federal stimulus funding coming from Washington, D.C. to help back-fill the remaining balance of the current-year deficit.

The EO essentially takes current revenue sharing allocations back to the FY 2007-08 amounts by removing a hold-harmless clause, eliminating a 2 percent statutory increase and applying constitutional cuts caused by reductions in sales tax collections. According to Department of Treasury officials, revenue sharing cuts will be applied in the final two payments of current state fiscal year (June and August). Most townships, cities and villages will experience a 15 percent cut in their final two payments compared to what was expected. The cuts to individual communities will vary slightly for the year, although most townships can expect about 4.8 percent cut to their current fiscal year total revenue sharing allocations. Of the \$41.4 million revenue sharing cut, roughly \$15.5 million is lost to townships while cities and villages will lose close to \$26 million. Please use the following link to the Michigan Department of Treasury document

to see how your township is impacted by the revenue sharing cut: www.michigan.gov/documents/treasury/FY09RevSharPA261_262475_7.pdf.

Legislative activity has essentially ground to a halt on the state budget for next fiscal year since the mid-May revenue estimating conference concluded the state is facing a \$1.7 billion deficit. Following the news, the governor stated a need to cut an additional 8 percent from her proposed 2010 fiscal year budget. Senate Republicans also huddled after the news and believe that cuts in the 10 to 15 percent range should be considered. Senate Republicans have virtually closed the door on most revenue enhancement ideas, with the closing of some "tax loopholes" contained within the state tax code remaining a remote possibility. Meanwhile, April revenue figures have also been released and continue to be discouraging, with the monthly revenue amounts down an overall 13 percent from last year. Sales tax revenue was down 7.6 percent last month, which is the same percentage it is down for the fiscal year.

To demonstrate the rapid rate of decline in state revenues, the total for general fund revenues in 2002 was \$10 billion. Today, general fund revenues are being estimated at \$7 billion total. For townships, it is likely that revenue sharing payments for next fiscal year (beginning in October) will experience another 5 percent reduction on top of the 5 percent reductions being made this year. Estimates on sales tax collections, which fund the constitutional portion of revenue sharing, have been difficult for state economists to predict in recent months but are expected to be off by roughly 5 percent once the entire fiscal year is calculated. ■

Special assessments on vacant land causing huge problems

It has been a fairly common practice across the state that when developers are looking to establish a new development, townships be approached to establish a special assessment to construct and finance the new sewer and water lines necessary for the development. Reports are coming in from across the state that many of these special assessments that were created just before the economic downturn have turned into disasters.

In one community, the developer of a large-scale subdivision approached the township to build the sewer and water lines for the development

Special assessments on vacant land continued on page 2

using the special assessment process. Just as the construction was complete on the infrastructure, the developer walked away from the project. In this case, the developer acquired the property through a land contract from a longtime farmer who was ready to retire. The property in question is currently nearing tax sale, the farmer will lose his land and the township has payments to make on bonds and no revenue. The developer had no significant loss.

When the special assessment was created, the proposed subdivision was in an area of the state where building sites were selling for \$50,000 to \$100,000. Today, no one believes that the vacant sites with existing infrastructure will generate bids at the tax sale. If the sites are not purchased at auction, the township will be required to repay the county delinquent tax revolving fund for two years' worth of unpaid special assessments. In this case, this single payment is approximately the same amount as the yearly operational budget of the township. If the property reverts to the ownership of the state, future special assessments will not be paid by the state. This would mean that the township would be required to make annual payments on the bond that are roughly equal to half of the yearly operational budget of the township.

Upon further investigation by MTA, this same type of scenario is popping up across the state to varying degrees. In each case, the problem is most prominent where vacant lots are involved. Two years ago, no one would have thought twice that the cost of the special assessment could not have been recouped by simply selling the lot in the open market. Today, many townships and cities are learning the hard way that developers can't afford to sit on property that will not be developed in the foreseeable future, but where special assessment payments must be made.

MTA is working with legislators to identify at least some stop-gap funding mechanisms for the most severe of these situations. However, the longer term solution may be townships refusing to accept the liability and forcing developers to finance the infrastructure privately. What was fairly common a few years ago may become very unusual in the future. ■

DEQ looks to eliminate exemption for open burning



The Department of Environmental Quality (DEQ) has recently begun a new process with stakeholders to amend current administrative rules to eliminate the exemption for open burning of household waste from and at one- or two-family dwellings.

Presently under both the Michigan Air Pollution Control Rules and the Michigan Solid Waste Management Act Rules, open burning of refuse, garbage or other waste materials is prohibited unless it is at one- or two-family dwellings. The proposed new rules would eliminate that current exemption.

Currently, other exemptions under the Michigan Air Pollution Control Rules include open burning for fire prevention training; trees, logs and brush; beekeeping equipment; and materials that are used in preparing food for recreation. The proposed new rules would continue those exemptions. Under the Michigan Solid Waste Management Act Rules, other exemptions include the burning of waste for energy recovery; trees, logs, brush and stumps; and grass clippings and/or leaves in a municipality that has a population less than 7,500. However, municipalities over 7,500 in population can authorize the open burning of leaves and grass clippings by local ordinance. The proposed new rules would maintain these current exemptions even though some on the stakeholder's work-group would like to see the exemption for leaves and grass clippings eliminated too.

The real issue being discussed is that of no longer allowing the open burning of household waste. The rationale for moving forward is due to concerns the department and others have over toxic air contaminants emitted from open burning and other risks such as open fires getting out of control and setting structures or land on fire.

In the first meeting held on the proposed rule changes, several issues were discussed, including possible conflicts between the proposed new rules and the Forest Fire Protection Statute administered by the Department of Natural Resources. Issues that MTA has raised include whether citizens throughout the state have affordable access to waste disposal services, such as pick-up services or transfer stations, and the timeline for implementing any change. Another issue that has received initial discussion revolves around developing an education program to reach out to residents affected by any change in the current rules. While not yet discussed, a concern that will likely be raised is whether the proposed changes would result in increased illegal dumping of household waste should the new rules be implemented.

While discussions over the new rules have only just begun, DEQ and others are interested in moving forward quickly. Any thoughts you might have on this issue should be conveyed to Tom Frazier at tom@michigantownships.org. ■



capitol currents

Official Publication of the Michigan Townships Association

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

House approves pre-registration of 16-year-olds



In mid-May, the House approved two bills to allow most 16-year-olds the ability to pre-register to vote. HBs 4261, introduced by Rep. Lesia Liss (D-Warren), and 4337, introduced by Rep. Robert Jones (D-Kalamazoo), were approved by overwhelming margins.

Under the bills, a 16-year-old could pre-register at a secretary of state office if he or she were at least 16 years of age but less than 17½ years of age, and had been issued either a graduated license or an

official state personal identification card. A person who pre-registers to vote would become an elector at age 17½ and would be eligible to vote at the first election after their 18th birthday.

Under the bills, the secretary of state would immediately transmit upon receipt the pre-registration to the appropriate local clerk and would also transmit the data to the Qualified Voter File (QVF). The pre-registration application would be held in a separate QVF file and could not be moved to the QVF master file until the person reaches 17½ years of age. Names of individuals who pre-registered to vote could not be included on any printed precinct voter lists before they became 18 years old and, therefore, would be protected from campaign solicitations prior to their 18th birthday. In addition, if a person changes his or her driver's license address, or personal identification card address, his or her pre-registration to vote address would be automatically changed.

Once the pre-registered person became 17½ years of age, the secretary of state would send a notice to the appropriate local clerk through the QVF. The local clerk would then send a voter registration card to the person who had pre-registered and then add that person to the master file if the card is not returned.

The majority of states, including Michigan, allow citizens to register at 17½ years of age. To date, Florida and Hawaii have taken it one step further by enacting legislation to pre-register 16-year-olds. Several other states are considering the idea. Statistics show that when young people (18-24-year-olds) are registered, they vote in high numbers. The issue tends to be getting them registered in the first place. In the 2004 election, 81 percent of registered 18-24-year-olds voted. However, only 58 percent of those aged 18-24 are registered nationally compared to an overall registration rate of 72 percent.

The bills have been assigned to the Senate Campaign and Election Oversight Committee for consideration. ■

Legislative fix for commercial rental property?

When the state Supreme Court decided the case of *WPW Acquisitions v. City of Troy*, they created a huge hole in the property tax system for our state. The House Tax Policy Committee reported HB 4456, offered by Rep. Vincent Gregory (D-Southfield), to hopefully patch that hole.

The issue revolves around commercial rental property like apartments and strip malls. These properties are often assessed on an income approach. The more money that a person can receive in rent from these types of properties, the more valuable the property. Just after Proposal A was adopted by voters, the Legislature modified the laws that described what constituted an addition and a loss for assessment purposes. These were important definitions because if a property had an addition in any given year, the assessment on that property could increase at a rate greater than the rate of inflation.

The definition of additions was changed to state that if commercial rental properties saw an increase in occupancy, this would be considered an addition and conversely a decrease of occupancy would be considered a loss. In the *WPW* case, the Supreme Court ruled that the Legislature did not have the authority to modify the law because it was so intertwined with constitutional protections. They ruled that even though occupancy increased, the inflationary cap of Proposal A must still be honored. The court did not speak to the issue of when occupancy goes down and thus the problem was created.

The problem is best illustrated in the following manner: A commercial rental building has a State Equalized Value (SEV) of \$1 million and a Taxable Value (TV) of \$500,000. If the property then loses half of its value based on occupancy losses, the SEV would be reduced to \$500,000 and the TV would be reduced to \$0. Since future increases in TV can't exceed the rate of inflation, the TV would be calculated each year by multiplying the rate of inflation by zero. The TV would remain at \$0 until the property is sold or remodeled, even if occupancy returned to 100 percent.

HB 4456 states that, beginning next year, a decrease in occupancy will no longer be considered a loss for calculating TV. As a result, the equation for assessing purposes will be brought back into balance. Interests representing commercial property owners are opposed to the change in legislation, which resulted in some "no" votes on the legislation in committee. ■

Resolution Reminder

MTA is accepting resolutions from member townships for the 2010 Proposed Policy Platform. Advance resolutions involving legislative policy must be submitted to MTA 150 days prior to MTA's Annual Meeting. The deadline for submissions is Wednesday, Sept. 2, 2009. Resolutions adopted at the Annual Meeting in January 2010 will be the basis for MTA's 2010 Policy Platform.



capitol currents

Official Publication of the Michigan Townships Association

Michigan Townships Association
512 Westshire Drive
Lansing, MI 48917

PRSR STD
U.S. POSTAGE
PAID
PERMIT NO. 765
LANSING, MI

 printed on recycled paper

More flexibility for road commissions



Legislation approved unanimously by the House of Representatives (108-0) in late May would increase the amount of Michigan Transportation Fund (MTF) revenue county road commissions could use on county local roads, as opposed to county primary roads. HB 4848, introduced by Rep. Joel Sheltrown (D-Ogemaw Twp.), would increase from 30 percent to 50 percent the percentage of money that county road commissions could expend on local roads. The bill amends Public Act 51 of 1951, in a manner that will grant county road commissions the same ability that cities and villages have today: the flexibility to transfer MTF revenue from major street funds to local streets. The bill now moves to the Senate. ■

Part-time law enforcement officer legislation introduced



The Michigan Council on Law Enforcement Standards (MCOLES) adopted a rule in April 2008, stating that police officers in Michigan must work at least 520 hours annually in order to maintain their certification as a law enforcement officer. The new requirement, which would be one of the most stringent in the country, is scheduled to take effect in 2012 as current law has no minimum-hours-worked provision for law enforcement officers. The new definition is drawing significant opposition from MTA and a group of small department police chiefs as the change would declassify an estimated 400 law enforcement officers in the state. Concerns center on losing qualified law enforcement personnel who are often working in part-time or temporary positions. The new definition could have profound cost increases for small police departments found in many townships.

The chairman of the Senate Homeland Security and Emerging Technologies Committee, Sen. Cameron Brown (R-Fawn River Twp.), held a hearing on the issue in early March at the state Capitol to study the impacts of the new rule. In late April, Sen. Brown introduced SB 449 to address concerns about the new MCOLES definition. His bill would require police officers to work 120 hours annually and allow for police departments to file a waiver if this provision proves to be burdensome. MTA would like to hear directly from townships that would be impacted by the new MCOLES definition. Please contact David Bertram at david@michigantownships.org or call (517) 321-6467. ■

MTA Summer Legislative Conference
August 12-14, 2009
Bavarian Inn Lodge in Frankenmuth
Register early and save!

Topics to be discussed:
government efficiency, federal report, Michigan's
Constitution, recall & ethics, wind energy, road funding
& transportation, and property tax structure.

Brochures were mailed the first part of May.
Information is also available on the MTA Web site:
www.michigantownships.org/summerforum.asp