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A Legislative Update for Township Officials

would allow for a vote of all the residents in the township only, but it requires 25 percent of residents to sign a petition within a 30-day period. The bills would also force an automatic three-way vote on any future detachments or annexations.

Highlights of the package include:

- A standardized process for all annexations. The process for annexations in current law depends upon whether it is a general law township or charter township in which property is being annexed and whether it is a home rule city or village or a general law village that is doing the annexation.
- A required 45-day notice of intent before an annexation petition is filed with the State Boundary Commission (SBC). This gives the communities a chance to begin discussions and encourages negotiations for a potential Public Act 425 agreement or revenue sharing agreement and protects unsuspecting townships from surprise annexations.
- A provision that forces cities/villages and townships to negotiate in good faith during the 45-day notice period by allowing either party to file a claim in Circuit Court that the other side was not participating in good faith negotiations.

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Annexation Reform Package Approved by Senate Committee

The Senate Natural Resources & Environmental Affairs Committee approved a six bill annexation/detachment reform package on Feb. 13, that is supported by MTA. Senate Bills 1078-1083 are



reintroductions of a compromise package of bills that reflected an earlier agreement between the Michigan Municipal League (MML) and MTA. In 2003, that package gained Senate approval by a 37-1 vote but was never addressed in the House.

This legislative package is critical in order to address Michigan's outdated annexation and detachment laws that undermine land use planning and zoning by townships, and to support cooperative economic development projects. In an era when everyone is working to increase cooperation and to cut down expenses, ugly annexation battles only hinder that process. Unfortunately, MML is now opposing the bills and is claiming the package "would prevent community growth, stifle new jobs, and hurt economic development opportunities."

During a Feb. 6 committee hearing, township officials from Milford Charter Township, Meridian Charter Township and Northville Charter Township testified that the current annexation laws are (or have recently) causing serious problems in their townships. Representatives from MTA and township officials appealed to committee members that annexation laws are in dire need of reform. Presently, a real annexation threat exists in Northville Charter Township in Wayne County related to the former state psychiatric hospital property, involving more than 400 acres.

SBs 1078-1083 specifically would force two local units of government to discuss an annexation proposal before it is officially filed to see if an agreement can be reached. The bills grant a reasonable time frame for the city and township to discuss the matter in good faith. If no agreement is reached between the two communities, a provision

Governor's Revenue Sharing Proposal for FY 2008-09

State Budget Director Bob Emerson outlined highlights of the governor's proposed 2008-09 fiscal year budget before a joint Appropriations Committee on Feb. 7. The 2008-09 fiscal year begins on Oct. 1, 2008.

Overall, the budget recommendations are much less controversial than recent budgets that contained significant cuts. The governor's plan also includes a different approach regarding revenue sharing for local units of government.



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The court can penalize a township by stripping away the right to challenge the annexation via referendum or penalize the city by dissolving the annexation proposal for a two-year period.

- The possibility for a vote by township residents before the State Boundary Commission makes a decision if 25 percent of registered voters sign a petition within a 30-day period.
- A clause stating that if the city/village and township board at any point reach an agreement, the annexation petition is sent to the State Boundary Commission for final approval.
- If no agreement was reached, a three-way vote would be held separately in the city, township and the area being annexed. The annexation would be approved if all three areas voted in favor.
- Language allowing city/village owned property within the township that is adjacent to the city/village, to be annexed without State Boundary Commission approval; however, it would have to be used for a public purpose (exempt from property taxes) for at least eight years.
- Creates an automatic three-way vote in detachments (townships taking land back from city/village). The city, township and area being detached would vote. All three are required to vote in favor of the detachment in order for it to take effect.

MTA thanks the leadership of the Senate Natural Resources & Environmental Affairs Committee for approving SBs 1078-1083. The package will now go before the full Senate for consideration. Please contact your senator and ask that they support these bills and reform outdated annexation laws. Use the following link for senator contact information <http://senate.michigan.gov/senators/senfull2007.htm>.

In addition to our work with the Senate, MTA has also initiated conversations with state representatives to encourage action on similar annexation reform legislation in the House. ■

New Planning and Zoning Laws Near Completion

The Legislature is nearing completion following months of work on two major pieces of legislation impacting the laws that control planning and zoning activities across the state. The first piece of legislation is House Bill 5032, offered by Rep. Barb Byrum (D-Onondaga Twp.), which amends the Michigan Zoning Enabling Act. When the Legislature combined the three zoning laws into a single act in 2006, there were areas where the law was not clear on how local units were to transition from the old zoning laws to the new law. HB 5032 is designed to give further instruction and in some cases provide differences between township and city procedures.

HB 5032 gives greater detail on how notice is to be provided in situations where a piece of property includes a building with multiple dwelling units or special areas. The new law should make it easier for clerks to provide notices in areas that include apartment buildings or strip mall type buildings. For those townships that continue to operate zoning boards, not to be confused with zoning boards of appeals (ZBAs), the law continues to push those communities into creating a planning commission. However, the new law will allow township employees to serve on zoning boards until they are phased out in 2011.

The legislation also modifies some of the procedures involving ZBAs. The new law would specify that all appointments to the ZBA must be made by a majority of those serving on the township board. The legislation also specifies that a member of the ZBA may not participate in a case where the individual had voted on the same issue on another board. This would include a situation where a planning commission had rejected a plan because a proposed lot did not conform to the ordinance and the person appealed that decision to the ZBA on the grounds that they believed that the lot was in conformance. In this case, a person who served on the planning commission would need to excuse themselves from any consideration on the ZBA; however, an alternate member could serve in their stead on this case. If the planning commission rejected a plan because it did not conform to the ordinance and the owner then went to the ZBA to ask for a variance, the person from the planning commission would continue to hear the case at the ZBA because two different issues were being decided. This change in law conforms to recent court decisions on the matter.

The second bill that is working through the Legislature at the same time is Senate Bill 206, offered by Sen. Patty Birkholz (R-Saugatuck Twp.). SB 206 creates the Michigan Planning Enabling Act and would replace three current laws on planning, including the Township Planning Act. The main focus of the legislation is to combine the three existing acts into a single statute, but in the process it also looks to minimize differences between city, county and township procedures. One of the first changes that occurs is that the legislation assists communities that have zoning boards that need to be converted to

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House Committee Reports Election Bills Addressing Registration Procedures

The House Ethics and Elections Committee recently approved two bills, one addressing the process for individuals to register to vote and the other to remove the “must vote in person” red flag for those registering by mail.

House Bill 4774, introduced by Rep. Tim Melton (D-Auburn Hills), would allow individuals to register to vote at any county, city or township clerk’s office in the state. The bill would require the county, city or township clerk receiving the voter registration application to forward it within seven days to the county, city or township clerk where the applicant resides. If the application were made within seven days of the close of registration for a federal election, then the application would need to be forwarded within one business day to the appropriate clerk.

House Bill 5739, introduced by Rep. Tom Pearce (R-Cannon Twp.), would permit those who register by mail to visit any clerk’s office to satisfy the identification requirement and the requirement to vote in person by presenting a valid form of identification to the clerk. The clerk receiving the identification would then transmit to the city or township clerk where the person is registered to vote, a notice that the elector has satisfied the identification and the vote in person requirements. This information would be transmitted on a form yet to be developed by the secretary of state. The clerk of jurisdiction where the elector is registered would then update the Qualified Voter File (QVF) to reflect the verified information.

Under the original version of HB 5739, a person who registers by mail would have had until eight days before an election to satisfy the identification requirement and the requirement to vote in person. MTA testified that this could potentially disenfranchise those voters who wanted to vote by absentee voter (AV) ballot as they would have a very short time frame to complete the process. In addition, MTA was concerned that those clerks representing smaller jurisdictions who must travel to the county clerk’s office to update their QVF records would only have a very short time frame to schedule time on the county’s computer to complete the process. To solve the concerns, Rep. Pearce offered an amendment to remove the eight day requirement which passed unanimously and Bureau of Elections Director Chris Thomas suggested that a form could accompany the elector’s application for a AV ballot to the clerk of jurisdiction thereby notifying the clerk that the red flag had been removed and the elector was now eligible to apply for an AV ballot. This would also reduce the time pressure on the local clerk not having direct access to the QVF.

HB 5739 is intended to make it easier for people to satisfy the identification and vote in person requirements without having to travel to their own clerk’s office. The new legislation, should it become law, would likely be the most beneficial to college students who are away from home and want to vote by absentee ballot. The bills, which are tie-barred, now move to the House floor for further consideration. ■

Revenue Sharing continued from page 1

The proposed budget includes a 4 percent increase in statutory revenue sharing amounts. While this proposal directs all revenue sharing increases to those communities receiving statutory revenue sharing funds, and would tend to generally favor cities, it does *at least* protect all communities from revenue sharing cuts. Revenue projections for the 2008-09 budget indicate a reduction of roughly 1 percent in constitutional revenue (sales tax revenues). This is based on expectations that actual purchase of taxable items will decline next year by that same percentage.

It is estimated that roughly 300 townships (or only one in four) currently receive any statutory revenue sharing funds. In fact, the amount of statutory revenue sharing directed to townships in the current fiscal year is less than \$16 million. For most of these townships, the percentage of their revenue sharing payment that is made up of statutory revenue is very minimal. More than 900 townships receive constitutional revenue sharing only, and that makes up their entire revenue sharing payments.

Under the governor’s proposal every township, city or village would receive an amount of statutory revenue sharing to assure that they will not experience a cut next year (due to reductions in constitutional revenue sharing) in their overall payment compared to their current level of revenue sharing payments. This means that for the first time in years all townships in the state will receive at least some amount of statutory revenue sharing. Communities currently receiving some statutory revenue sharing will see an increase of roughly 4 percent on that portion of their revenue sharing payment.

The governor’s budget now goes through the appropriations process in both the House and Senate. The following link will take you to revenue sharing payment projections compiled by the Michigan Department of Treasury. Please understand these are simply projections based on the governor’s plan, which could be amended by the Legislature.

http://www.michigan.gov/documents/treasury/FY2009RevShareExecBudgetRec_224033_7.pdf. ■

MPSC Cable Survey Shared With Legislature

Under Michigan’s new cable law, P.A. 480 of 2006, officially known as the Uniform Video Services Local Franchise Act, the Michigan Public Service Commission (MPSC) is required to report annually to the Legislature regarding the status of cable competition in Michigan.

On Feb. 1, 2008, the MPSC released its report which is available on the MPSC website at <http://www.michigan.gov/mpsc>. The 19-page report includes responses from franchise entities and cable/video service providers.

MTA thanks those township officials who took time to provide feedback to the MPSC regarding P.A. 480 of 2006. The PSC indicates that 51 franchising entities (townships, cities or villages) responded to their online survey. There are more than 1,800 franchising entities in Michigan. ■



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planning commissions. Under current law, this change could be subject to a citizen referendum. Under SB 206, the citizens would no longer have the right to vote on the change. In essence, the citizens retain their ability to decide if the community will be zoned, but they will not have the right to referendum on whether they should do planning.

Language was added to the bill related to membership on planning commissions. The legislation urges townships to take into account geography as well as economic segments of the community. One member of the township planning commission may reside outside of the township, but this is not a requirement. The legislation also would prohibit employees of the governing unit from serving on the planning commission. While planning commission terms would continue to last for three years, the legislation specifies that township board members serve for the duration of their board term.

Supervisors would continue to nominate individuals to the planning commission and the boards would continue to vote on approving those appointments. Proposed changes to this procedure were dropped from the legislation for townships.

The legislation puts greater emphasis on developing capital improvement plans. This plan is to be prepared annually by the planning commission unless the township board uses an alternative procedure. The capital improvement plans are not required in communities that do not have public sewers or water, but those communities may still create a plan if they so desire.

SB 206 would have an effective date of Sept. 1, 2008. HB 5032 would go into effect immediately. Both bills are expected to pass the Legislature in late February, and are expected to be signed into law shortly thereafter. ■

Law Imposes Penalty for Late Payment of Mobile Home Tax

Public Act 5 of 2008 was signed into law last month. The new law creates a financial penalty for any mobile home park owner that does not pay the \$3 trailer park fee in a timely manner. The legislation was introduced by Sen. Ron Jelinek (R-Three Oaks Twp.) after he was contacted by the Three Rivers Township (Berrien Co.) Treasurer, Kathy Osburn, who has been having problems collecting the tax from a park owner. The law, which has existed for decades, had no penalty provision for late payment. Her calls to the Mobile Home Commission offered no encouragement at all.

Sen. Jelinek's legislation began by imposing penalty and interest patterned after the Property Tax Act. A late payment includes a 3 percent penalty and interest of 1 percent per month. However, the legislation goes much further. A civil fine of \$10 per unit per month is also imposed for the late payment of the mobile home tax. This is the section of the new law that will likely catch the attention of any mobile home park owner that is not making timely payments.

This legislation once again points out that most laws are the result of a simple conversation between a citizen and their elected representative. In this case, the conversation between a township treasurer and her state senator results in a useful new law. ■

See You at Capitol Conference!!

MTA's legislative staff is looking forward to seeing you at the Capitol Conference on March 11, at the Radisson Hotel in downtown Lansing. We are pleased to have House Speaker Andy Dillon as one of our featured guests. Don't miss this exciting day to discuss issues and network with colleagues. See you in Lansing!