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# capitol currents

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## A Legislative Update for Township Officials

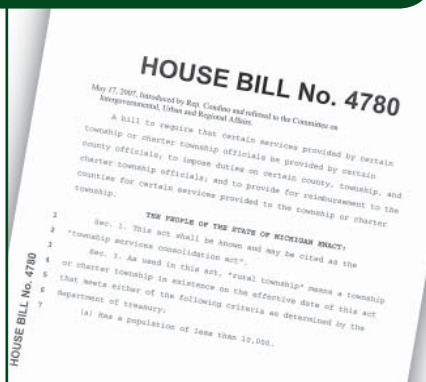
### Update on Legislation to Move Township Duties to County

MTA greatly appreciates the strong efforts that have been made by township officials across Michigan to communicate with legislators about the negative impact of House Bill 4780, legislation that would strip townships of tax collections, elections and assessing duties and move them over to the county.

Communications from hundreds of township officials have effectively kept the bills bottled up in the House Intergovernmental, Urban and Regional Affairs Committee. At least for now, no action is pending as the bill had not been addressed by the committee as of June 25. Continued efforts to communicate with legislators and to enroll others in opposition to HB 4780 over the summer, however, are greatly needed by township officials.

The opportunities for township officials to see legislators back in their districts to discuss HB 4780 will increase slightly over the summer even though lawmakers will continue their work on the 2008 fiscal year budget. Legislators will be on break during the first two weeks of July, but will return to Lansing periodically throughout the summer for session days.

Many statewide organizations are demonstrating support for townships and MTA by opposing HB 4780. The Southeast Michigan Council of Governments, Grand Valley Metro Council and the Michigan Farm Bureau have voiced strong opposition to the legislation. The Michigan Association of Counties has also come out opposed to the bill, along with numerous individual county boards of commissioners that have passed resolutions condemning the measure. MTA offers its deep appreciation to all these organizations. In addition, MTA also asks that township officials continue to talk to county officials about the negative impact of HB 4780. Ask your county officials to write letters opposed to HB 4780 and that they share them with legislators.



### Michigan Business Tax Nears Completion: Personal Property Revenue Not Impacted

As the newspapers and other forms of media have been reporting across the state, the Legislature is nearing the adoption of a new business tax to replace the Single Business Tax (SBT). Once the governor and the House and Senate leadership forged an agreement on the description of the plan, the activity shifted back to staff to develop the actual wording to implement the agreement. As of press time it had taken nearly two weeks to draft language for the Legislature. Of course, this requires the meticulous review of more than 160 pages of very precise new wording.

The single largest concern, from a local government standpoint, remains the issue of personal property. Under the agreement, all industrial personal property will be exempt from the payment of the 18-mill local education tax as well as the 6-mill State Education Tax. Owners of industrial personal property will also be eligible to receive a tax credit against their Michigan Business Tax liability for part of the remaining personal property taxes that are paid.

Owners of commercial personal property taxes will see a less generous reduction in their personal property tax bills. Under the agreement, commercial personal property would see a 12-mill exemption from the 18-mill local school tax. This proposal, which has raised some concerns from an administrative standpoint, would exempt the owner from paying part of the tax. Whenever this has been done in the past, it required a process where the property was completely exempt from taxation under the Property Tax Act and instead subject to a different specific tax. An example would be tax abatements under PA 198, otherwise known as the Industrial Facilities Act. At the time of this writing, it is unclear if an alternative tax will be proposed for commercial personal property or if the legislation will have part of a tax imposed on certain property. This, of course, would require a thoughtful discussion on calculating millage reduction fractions as well as the impact of past and future millage questions.

Overall, the proposed new Michigan Business Tax seems to have a very limited fiscal impact on local government operations. At worst, local units will lose a small portion of their property tax administration fee associated with the 24-mill exemption and 12-mill exemption on segments of personal property.

## Senate Committee Action Would Implement Storm Water Phase II Court Decision Statewide

The Senate Natural Resources and Environmental Affairs Committee recently gave final approval to Senate Bill 545. The bill, introduced by Sen. Mark Jansen (R-Gaines Charter Twp.), would stipulate that a municipality that is determined not to be an "owner/operator" of a municipal separate storm sewer system (MS4) would no longer be required to obtain a permit or pay an annual storm water discharge permit fee to the Michigan Department of Environmental Quality (DEQ) under the Storm Water Phase II program.

The bill would implement statewide the "Charter Township of Kalamazoo and Comstock Charter Township court decision" rendered in January. In the court decision, Kalamazoo Circuit Court Judge J. Richardson Johnson ruled that the two townships are not subject to rules promulgated by the DEQ relating to MS4s and, therefore, are not required to comply with the Phase II permit requirements or to pay annual permit fees to the DEQ.

The key issue in the case revolved around whether or not the townships "owned or operated" an MS4. The townships argued that they didn't own or operate an MS4 as either the county drain commissioner or the county road commission handled these functions. The DEQ argued that, because townships have "jurisdiction" and thus "power and authority" over disposal of sewage, industrial wastes, storm water, or other wastes, they were subject to the rules of the DEQ. However, the judge found that the townships were not "owners or operators" of the storm sewer system because even though they had the power and authority to create such a system, these two townships had not done so.

Rather than appeal the court decision, the DEQ decided it would implement the decision statewide for those communities that were determined not to be an "owner/operator." Earlier this year, a process was created for communities that felt they were not owner/operators to appeal their annual fee and permit requirements to DEQ. The department is in the process of reviewing those appeals.

To date, 135 communities (nearly all townships) have appealed and DEQ staff has conducted 111 site visits to confirm the information that was

provided by the local units of government. So far, the department has processed 72 terminations (meaning permits or permit fees will no longer be required) and has two more in process. Thirty-one additional appeals will likely result in annual fee reductions and the department has requested additional information for six of the requests. As of press time, the DEQ has 24 site visits yet to make. SB 545, which is supported by the DEQ, would implement these actions in state statute and bring clarity and certainty to this issue.

The bill now moves to the full Senate for consideration.

## House Committee Considers Bills Addressing Absentee Voting

The House Ethics and Elections Committee recently heard testimony on two bills addressing absentee voter (AV) ballots. House Bill 4048, introduced by Rep. Marty Griffin (D-Jackson), eliminates the restrictions for voting absentee and allows voters to obtain an AV ballot upon request. This concept is known as no-reason AV balloting. Currently, in order to receive a AV ballot, an individual may apply under one of the following requirements: physical disability; religion; being an election inspector in a precinct that is different from where the election inspector resides; 60 years of age or older; absent from the community during the entire period the polls are open; or is confined in jail awaiting arraignment or trial.

Many clerks in particular have argued that the fast-paced lifestyle of today's society has presented circumstances that prevent individuals from going to the polls to vote. Yet these reasons are not included under the provisions mentioned above. MTA's policy platform has long supported no-reason AV balloting and we expressed support for the legislation before the committee.

The committee also heard testimony on HB 4553, introduced by Rep. Marc Corriveau (D-Northville). The bill would allow city, township and village clerks to mail absentee voter ballot application forms to qualified and registered electors 60 years of age or older. MTA also supports this legislation.

The bill would solve a problem created in the Detroit primary election in 2005 when the former Detroit city clerk mailed out 130,000 absentee ballot applications to those 60 years and over. The former clerk was found in contempt of court and fined \$250, because the Chief Circuit Court Judge of Wayne County believed that an absentee ballot application could only be sent out at the request of a voter. HB 4553 would permit, but not require, clerks to mail applications to those 60 years and over even if not requested to do so by the voter.

Other bills have been introduced in the past treating this matter as an equity issue in that all communities should be handling absentee ballots in the same manner. This concept was discussed during the hearing. It is possible that HB 4553, in a substituted version, could move forward mandating clerks to provide this service rather than simply allowing for it to occur.

By the time you read this article, it is likely that the committee will have favorably reported these two bills to the full House for consideration.



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## Cable Company Letter About Bonds is Incorrect

There is no doubt that when the new Michigan cable law (Public Act 480 of 2006) was being debated in the Legislature there was significant confusion about how the legislation would impact local governments and residents. At the time, it seemed like some of the confusion was intentional. It now appears that at least one cable company providing service in Michigan is stretching their interpretation of the impact of the new law on local governments.



Apparently, Charter Communications issued a letter, dated June 11, 2007, to more than 850 communities in Michigan where it provides cable services. In this letter, Charter Communications claims that the company is no longer obligated to pay construction or performance bonds under the PA 480. In fact, under the subject matter on the letter, Charter Communications uses the title: "Termination Notice of Franchise-Related Bonds." The letter, signed by Tim Ransberger, vice president of government relations, appears to justify this claim because the new act is silent on the provision of construction and performance bonds and "therefore a franchise obligation to provide bonds is deemed unreasonable and unenforceable." The letter continues, "Therefore, Charter Communications is providing notice that we are not renewing the bonds, and you should soon receive notice from the bonding company that the bond has been terminated."

MTA legal counsel reviewed this letter and disagrees with the impact on bonding being made by Charter. The authority for local governments to provide bonding (performance or construction) related to cable companies or otherwise is not derived from PA 480, but rather from other statutes that provide for broad general powers. The fact that the new cable law is silent related to local government bonding authority in no way terminates such township authority.

This letter adds an extra layer of confusion to an act that provides few answers.

If you have a franchise agreement with Charter Communications and wish to contact them, you may call Tim Ransberger at (616) 464-1839 or e-mail him at [tim.ransberger@chartercom.com](mailto:tim.ransberger@chartercom.com).

MTA will remain engaged on this issue and will report any new developments.

## DNR PILT Checks Are In The Mail

MTA received word from the Department of Natural Resources that payments-in-lieu-of-taxes (PILT) are now being processed and townships should begin receiving them just after press time.

## Senate Committee Hears Testimony on Sewer Grant Program

The Senate Natural Resources and Environmental Affairs Committee recently took testimony on Senate Bill 495, introduced by Sen. Jud Gilbert (R-Clay Twp.). The bill extends a program which began two years ago to provide state grant funds for start-up costs of sewer repair projects. The intent is to offer communities an incentive to begin much-needed sewer infrastructure programs to help clean up the state's waterways.

SB 495 would provide grant funding for 90 percent of the costs incurred by a municipality to complete an application, including project development, engineering and consulting costs for loan assistance from the State Revolving Fund (SRF) or the Strategic Water Quality Initiatives Fund (SWQIF). The SRF and SWQIF funds provide low-interest loans for sewer and other related projects.

Under SB 495, the grant funds would come solely from SWQIF.

Two years ago, MTA raised concerns about grant funding coming solely from SWQIF under the original grant program. The Legislature in 2002 created SWQIF for failing septic tank replacement and disconnecting down-spouts/footing drains from sanitary sewers. The original grant program has already utilized \$40 million of SWQIF funds to help with sewer infrastructure start-up expenses.

All of these funds were part of the \$1 billion water quality bond proposal that was overwhelmingly supported by the voters in the November 2002 election. Legislation that put the issue before the voters was carefully crafted so that there would be something in it for every community across the state. In other words, the legislation was meant to help both urban and rural communities.

Specifically, 90 percent of the bond funds were to go into the SRF for major sewer projects, which amounted to \$900 million, and 10 percent, or \$100 million of the bond funds, were to be set aside into the then-new SWQIF loan program to be used solely for disconnecting downspouts/footing drains from sanitary sewers and upgrades or replacements of failing on-site septic systems affecting public health or the environment, or both.

The concern for many rural communities is failing on-site septic systems. There are anywhere from 1.2 to 1.4 million on-site systems in the state and it is estimated that 20 percent of those systems are failing. If, and when, the Legislature enacts a statewide sanitary code, which has been discussed over the past two to three years, it is likely that there will be a great need to use the SWQIF bond funds to solve failing on-site systems.

However, in an effort to work with the bill sponsor, MTA is seeking input on this issue from our members to see if there is still an unmet need out there for the start-up grants. Therefore, if you are a community that was not included in the initial grant program and would take advantage of an extended grant program under the legislation, we need to hear from you. Please contact Tom Frazier at (517) 321-6467 or e-mail him at [tom@michigantownships.org](mailto:tom@michigantownships.org) if this bill would assist your particular township. Thanks in advance for your input.



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## Pension Fund Seeks Exemption From Property Taxes

Local units of government have come into conflict with the Michigan Municipal Employees' Retirement System (MERS) over the issue of paying property taxes on property held by the pension system for investment purposes.

When Delta Charter Township (Ingham Co.) attempted to collect property taxes on this vacant land, MERS went to court and convinced the court that this land should be tax exempt, eventually receiving a Supreme Court decision in their favor. This was achieved by convincing the court that investing for public employee pensions was a public purpose. This is the same section of law that exempts fire stations operated by fire authorities from property taxes.

At the request of Delta Charter Township, Rep. Rick Jones (R-Oneida Charter Twp.) introduced House Bill 4487, which would specify that holding property for investment purposes by a pension company is not a public purpose. The bill has received a hearing in the House Tax Policy Committee. MERS has been contacting local governments to oppose the legislation. MTA, along with the organizations that represent cities and counties, all support this legislation. All felt that it was inappropriate to create a tax exemption that has a negative impact in one township, county, or school district in order to bolster the investment rate of return for a pension plan that may not even be covering the employees of the impacted communities.

## Summer Legislative Forum: Aug. 8 - 10 at Shanty Creek Resort in Bellaire

### Wednesday, August 8, 2007

**Golf Tournament** (not included in regular registration)  
Summit Course, Shanty Creek Resort

**Register now!**

### Thursday, August 9, 2007

**Welcoming Remarks**

*Larry Rutledge, MTA president*

**Go to MTA's Web site:**

[www.michigantownships.org](http://www.michigantownships.org)

### Is There a Future for Townships in Michigan?

*Larry Merrill, MTA executive director*

### Is HB 4780 the First Salvo in an Effort to Eliminate Townships?

A panel of legislators talk about efforts to restructure township government.

### Luncheon: "Insiders View of Lansing"

*Patrick Harrington, Muchmore Harrington Smalley & Associates, Inc.*

### Regionalism: The Future of Local Government

A panel discussion that includes advocates of consolidation and regional government.

### Friday, August 10, 2007

#### Michigan Legislative Leadership

Hear from leaders at the Capitol what their legislative agenda includes.

#### Concurrent Sessions

- **Solid Waste Issues**  
A panel will discuss changes to the solid waste planning process.
- **Planning/Zoning Consolidation**  
A panel addresses proposals to state planning and zoning laws.
- **Transportation Funding and Structure**  
Experts discuss transportation funding levels and structural issues.