

In This Issue:

- 2 BOR Exemption Addressed Personal Property Classifications
- 3 MTA-PAC Primary Success State Revenues Up in July
- 4 FCC Attempts to Limit Zoning Two Proposals on November Ballot



capitol currents

Official Publication of the Michigan Townships Association

september 2008



A Legislative Update for Township Officials

Action on Energy Bills Possible in September

There has been no further action since the end of July on legislation that could pre-empt local zoning related to wind energy and transmission lines, however, that could change as early as Sept. 9, when the Legislature is scheduled to return for session.



Serving as point people for the respective majority parties in each house, Sen. Patty Birkholz (R-Saugatuck Twp.) and Rep. Jeff Mayes (D-Bangor Chtr. Twp.) have been charged with negotiating a compromise on Senate Bill 213. The legislation was originally designed to create a renewable portfolio standard in Michigan to require utility companies to either generate or purchase a certain percentage of green energy. The two members have met several times to bring an agreement back to a six-person conference committee on SB 213 that was created in late July. MTA has had several conversations with legislators and staff about the content and status of SB 213 but much was undetermined as of our print deadline.

A pre-emption related to wind turbines and the utility lines that connect them to the power grid was developed on June 27, when the Senate adopted a 66-page substitute (S-5) to SB 213. The substitute was loaded with new concepts, including sections on wind energy resource zones that require the Michigan Public Service Commission (MPSC) to issue "expedited siting certificates to electric utilities, affiliated transmission companies or independent transmission companies."

The Senate approved version also states, "A wind energy conversion facility that is issued an expedited siting certificate is exempt from any local zoning ordinance except for provisions regulating setbacks and noise." The bill outlines circumstances under which the MPSC is required to grant an expedited siting certificate and says that "If the commission grants an expedited siting certificate, the certificate shall take precedence over a conflicting local ordinance, law, rule,

regulation, policy, or practice that prohibits or regulates the location or construction of a transmission line for which the commission has issued a certificate."

Although the Michigan House of Representatives rejected changes made by the Senate to SB 213 on July 23, including the local zoning authority pre-emption language related to wind generation, the topic remains an item of difference for the conference committee to settle. In other words, there is still the possibility of zoning pre-emption language being included in SB 213.

MTA is asking township officials to contact their state senator and state representative to ask that no language be included in the energy package (SB 213) that would pre-empt local zoning authority. Township officials are elected to handle local matters such as zoning decisions. Zoning is not and should not be determined by state officials. Please use the following links to find contact information for your legislators:

Senate: <http://senate.michigan.gov/senators/senfull2007.htm>

House: <http://house.michigan.gov/replist.asp> ■

Court of Appeals Rules Against Reform Michigan Government Now Proposal

On Wednesday, Aug. 20, the Michigan Court of Appeals ruled unanimously that the Reform Michigan Government Now (RMGN) proposal does not meet standards outlined in the state constitution for voting on constitutional amendments and therefore can't be placed on the November ballot.

The Court stated that the proposal was more than an "amendment" but actually a "revision" of the state constitution, because it proposes massive changes to the constitution. The Court further stated that the intent of the framers of our constitution was that revisions to the constitution need to be handled through a constitutional convention.

The decision directs the Michigan Department of State to discontinue processing the proposal and not allow it to be placed on the

RMGN continued on page 2

RMGN continued from page 1

November ballot. The Court action came the day before the Board of State Canvassers was scheduled to consider a 100-word ballot proposal description to appear on the November ballot. Earlier, the Bureau of Elections had reported that RMGN supporters had gathered sufficient signatures for the proposal to appear on the ballot.

The RMGN proposal is broad in its scope as it would do everything from making changes to state election law and the composition of the state Legislature to eliminating the Mackinac Bridge Authority. Some of the major components of the proposal include: mandate "no reason" absentee voting (which MTA supports); reduce the size and salary of both the state House and Senate; cut the size and salary of the state Supreme Court and Michigan Appeals Court, while expanding the number of circuit court justices across the state; alter the legislative redistricting process; and establish an autonomous Office of Elections and restrict political involvement of state and local election officials.

Previous to the Court decision, the MTA Board of Directors voted unanimously on Friday, Aug. 15 to oppose the Reform Michigan Government Now (RMGN) proposal should it reach the ballot. The action was taken primarily due to a clause in the proposal under Article II, Section 4, that states in part: "No state or local government official having responsibility for administering or supervising an election shall endorse or give political support to any candidate or ballot question in that election."

MTA is concerned that the ballot language would prohibit local clerks, and possibly those that serve on election commissions, from endorsing any candidate or ballot proposal in any election that they administer. MTA Board members also raised concerns about proposed changes to the legislative redistricting process and that the proposal made too many revisions to the state constitution.

Even though the RMGN proposal would appear to be all but dead, proponents of the proposal have promised an emergency appeal to the Michigan Supreme Court. ■

Board of Review Handles Second Exemption

In April, Public Act 96 was signed into law, which allowed certain property owners to claim two principal residence exemptions when they found themselves unable to sell their old home once they had moved into a new dwelling. The problem with PA 96 was that the necessary form that was required to be filed under the law had to be filed with the assessor only days after the legislation was signed into law. As a result, most individuals who qualified for the program were not even aware of its existence.

In July, PA 198 was signed into law allowing property owners who qualify for the second exemption to file the appropriate form at this year's July and December boards of review (BOR). Unfortunately, once again the law was enacted just five days prior to the July BOR. It is again likely that most people who were eligible to participate in the program, once again missed the deadline. However, the necessary paperwork can be processed at the December BOR, but it will then require refund checks for the 18 mills school taxes to be issued. One silver lining: this exemption may be renewed for up to two additional years. The renewal form must be filed by the end of December, so individuals who are filing the form at the December BOR can file the form for the following year at the same time. The law is specific that the ability to accept these forms at the BOR is only allowed in 2008. ■

Personal Property Classifications

When the Michigan Legislature created the new Michigan Business Tax, they also offered personal property tax breaks to businesses that operate in our state. Industrial personal property receives the largest break, commercial personal property receives a smaller break and no benefits are offered for utility property. Agricultural and residential personal property was exempt from taxation based on prior law.

Due to the change in law, businesses are much more focused on how their personal property is classified. A change in classification can now mean a big difference in their property tax bills. In order to assist local governments in how to classify this personal property, the state tax commission has issues an 11-page draft memo on the principals for classifying personal property. The tax commission is looking for feedback on the memo before taking its final position. The State Tax Commission is seeking comment on draft memorandum. The document can be viewed at http://www.michigan.gov/treasury/0,1607,7-121-1751_2228---,00.html.

Comments must be provided to statetaxcommission@michigan.gov by Oct. 1. ■



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

MTA-PAC Successful in August 5th Primary Election

The results are in and MTA-PAC scored well in the August primary election. Out of the 101 House seats where the PAC made a primary endorsement, 93 of those seats have MTA endorsed candidates moving on to the November General Election for a 92 percent success rate!!! That's one of the better success rates since the inception of the MTA-PAC. A special thanks goes out to those township officials who provided sound input when returning their PAC questionnaire.

In the 45 House races where no incumbent was running for re-election, MTA-PAC made endorsements in 36 of those races, with 29 of those moving on to the November election. Of the 65 incumbents endorsed by MTA-PAC, 64 move on to November. However, Rep. Ted Hammon (D-Burton) lost his bid for re-election in the primary. It's the first time in six years that an incumbent legislator has lost in the primary election.

Of special note, was a win by Cindy Denby in the 47th District (Livingston County). She serves as the current Handy Township supervisor and chief of staff for current state Rep. Joe Hune. Her experience will allow her to hit the ground running after an expected easy win in the November election. The 82nd District (Lapeer County), featured MTA endorsed candidate and current Arcadia Township Supervisor Kevin Daley winning by 450 votes over his nearest competitor. Kevin should have the upper hand in the Republican leaning district in November.

Jim Stamas, a former Midland Township trustee and brother of current state Sen. Tony Stamas, won an easy primary victory in the 98th District (Midland/Saginaw Counties), and should move on to victory in November. In the 78th District (Berrien/Cass Counties), Sharon Tyler, another former township official, won by 371 votes over her nearest Republican primary opponent. She likely will face a competitive race in November against Democrat Judy Truesdell.

Other interesting races included a win by MTA-PAC endorsed candidate Mary Treder Lang over five primary opponents in the 1st District (Wayne County). She moves on to the November election where she will face stiff opposition from Democratic primary winner Tim Bledsoe. In the 23rd District (Wayne County), MTA endorsed candidate Deb Kennedy won the Democratic primary with a margin of more than 500 votes over the second place finisher in a crowded field. She should easily win her November General Election. In the 58th District (Branch & Hillsdale Counties) Kenneth Kurtz, endorsed by MTA, won a very close Republican primary in another crowded race over his nearest opponent by a mere 56 votes. He should win easily in November.

In the very competitive 39th District (Oakland County), MTA endorsed winning candidates in both the Republican and Democratic primaries. Amy Peterman was the victor on the Republican side, with former candidate Lisa Brown picking up the win for the Democrats. Their general election race is expected to be one of the most hotly contested races in the state. MTA endorsed candidates also won both primaries in the 51st District (Genesee County). On the Republican side, Paul

Scott outpolled his closest primary opponent by less than 300 votes, while Democrat Michael J. Thorp had a solid victory over his two primary opponents. The 51st District will also be very hotly contested in November. In addition, the 106th District (NE Lower Peninsula) again saw both MTA endorsed candidates winning their primaries. Current Presque Isle Township Supervisor Peter Pettalia easily bested two Republican primary opponents, while former state Rep. Andy Neumann beat off his lone challenger on the Democratic side. The two will face off in yet another hotly contested race in November.

These highlighted districts represent only some of the many more interesting races in the state. Shortly after you are reading this article, the MTA-PAC Committee will be meeting to make endorsements for the November General Election. Among the chief challenges for the PAC Committee will be deciding which candidate to endorse for the November General Election in those cases where MTA endorsed candidates won in both the Republican and Democratic primaries. Once decisions are made, November General Election endorsements will be listed in the October issue of the *MTN* magazine, as well as, the October issue of *Capitol Currents*.

MTA asks township officials to please continue to assist those candidates endorsed by the MTA-PAC in your area. ***Remember, all political activities must take place outside of public office and may not involve public funds in any manner.*** ■

State Revenues Increase in July

Revenues collected by the State of Michigan rose by 5.4 percent in July 2008 compared to the same month in 2007. According to a Senate Fiscal Agency (SFA) report, even though the state collected less tax monies in most of the revenue categories, July 2008 revenues increased overall. The report also demonstrated that for the 2007-08 fiscal year, revenues were up by 8.7 percent compared to the prior year.

Michigan collected \$1.95 billion in taxes in July and for the fiscal year has collected a total of \$15.4 billion. The SFA report contends state revenue has increased for the fifth consecutive month. The increases in large part are attributed to an increase this year in the income tax rate and a change in business tax due dates arising from the transition from the Single Business Tax to the Michigan Business Tax.

Sales tax revenues showed a decline of 6.9 percent in July 2008, while motor vehicle sales were the only segment of sales tax revenue to show an increase in the month by being up 4.4 percent. For the year, total sales tax revenues have increased 2.8 percent when compared year-to-year and is ahead by roughly \$50 million of the estimate set at the May Revenue Estimating Conference. Other tax areas of note include serious increases in monthly state revenue collections from the oil and gas severance tax (up 70 percent or \$11.7 million) due to higher energy prices and a 13.4 percent decline in real estate transfer tax receipts. This represents the 26th consecutive month in which the real estate transfer tax receipts have fallen below the year previous amounts. ■



capitol currents

Official Publication of the Michigan Townships Association

Michigan Townships Association
512 Westshire Drive
Lansing, MI 48917

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

 *printed on recycled paper*

FCC Attempting to Limit Local Zoning for Cell Towers

In what appears to be a fast track attempt to make a significant policy change before a change in administrations takes place, the Federal Communications Commission (FCC) recently started a proceeding to effectively limit local zoning related to cell towers. The document is known as WT Docket 08-165. In it, the FCC proposes, among other things, 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 proposed action directly violates provisions of the Telecommunications Act Congress passed in 1996 which preserves local zoning of cell towers (and directed the FCC to dismiss proceedings that would have restricted 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.

The FCC's action would do the following:

- A fixed deadline of 75 days from filing for "final action" by municipalities on applications for zoning approval for new cellular towers and antennas. If the 75-day deadline is not met, the zoning approval is automatically deemed granted!
- A similar deadline of 45 days for applications for zoning approvals to add cellular antennas to existing towers. Again, with zoning approval automatically deemed granted if the deadline is not met.
- Pre-empt zoning ordinances where variances are required

for cell towers. In other words, if a municipality requires a variance for a cell tower, the FCC would pre-empt and cell companies will likely argue that no local zoning approval is needed!

- Pre-empt municipalities' ability to consider whether other cell companies provide service in the area when determining whether there is a "gap" in coverage warranting a new tower.

FCC proceeding: The FCC has set a date of Sept. 15 for comments and Sept. 30 for reply comments on a petition by the cellular industry to pre-empt local zoning with "shot clocks". The petition and other related information, including sample letters to send to your member of Congress can be found at www.varnumlaw.com/serviceGroups/cableTV/cellularwireless. ■

Board of State Canvassers Certifies Petition Language

The Board of State Canvassers met on Thursday to certify ballot language for two additional ballot proposals that will definitely appear on the November ballot. The 100-word ballot proposal description language was approved for both the "stem cell research" proposal and the "medical marijuana" proposal. The stem cell proposal is "a proposal to amend the state constitution to address human embryo and human embryonic stem cell research in Michigan" and the medical marijuana proposal is "a legislative initiative to permit the use and cultivation of marijuana for specified medical conditions." The Board of State Canvassers took no further action on the Reform Michigan Government Now proposal. ■