

Michigan Township voice



A LEGISLATIVE UPDATE FOR TOWNSHIP OFFICIALS | MARCH 2018



Permits could be required for small cell wireless facilities in right-of-way under bill

Townships could not ban small cell wireless facilities from its public rights-of-way, but could require a permit under a bill making its way through the Legislature.

Senate Bill 637, sponsored by Sen. Joe Hune (R-Hamburg Twp.), was recently passed by the Senate and awaits consideration by the House Energy Policy Committee. As introduced, MTA opposed the bill, which had broad bipartisan support and would have provided nearly free and unfettered access for the installation and deployment of small cell facilities. Through extensive negotiations led by committee chair Sen. Mike Nofs (R-Battle Creek), MTA was able to address many township concerns in multiple amendments, allowing us to adjust our position to neutral.

The bill was introduced as wireless companies are preparing to launch fifth generation mobile wireless systems, known as 5G. Wireless companies have stated that they plan to rely on small cell wireless technology for this launch—which are lower-powered antennas and nodes typically installed on existing infrastructure, such as street lights and power and traffic light poles, but also on new poles. These facilities not only help wireless companies increase speed but also improve access in highly congested areas and help wireless users reach emergency services when a high number of callers clog up the airways. Sometimes these facilities are installed without a township's knowledge, leaving the township with no knowledge of an owner to contact in case of an emergency.

Under the latest version of SB 637, an authority—including townships, other local units and the state—could require a permit application and approval before small cell facilities could be installed on an existing or new pole. The application process must meet

certain requirements, and an application for a permit could be denied if the proposed activity would interfere with traffic and pedestrian safety, compliance with the Americans with Disabilities Act, or the maintenance or unobstructed use of public utility infrastructure, including drainage.

Townships could not institute a moratorium on applications or issuing permits for small cell wireless facilities. If a township already has a small cell wireless facility agreement, it would be grandfathered in until it expired. SB 637 would permit wireless providers to install facilities and work on poles in, along, across, upon and under a public right-of-way with a hard height of 40 feet for poles. The facilities would be considered a permitted use not subject to zoning approval if they're located in the public right-of-way. However, any activity outside of the public right-of-way would be subject to zoning.

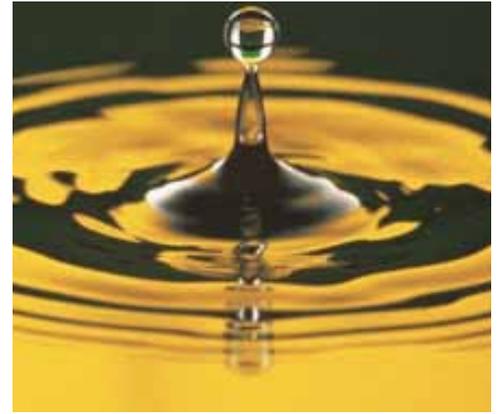
Townships could charge a permit application fee of up to \$200 for each small cell wireless facility. The allowable fee amount would increase to \$300 if the permit included a new pole—prioritizing collocation onto existing poles rather than building new ones. If a township believes there is a better location other than what is proposed in the permit application, it could suggest an alternative location.

The bill includes amendments to require communication to all authorities when a public right-of-way has multiple owners, such as a township, city, and county or state. All small cell wireless facilities would need to be labeled with contact information, so that local units know who to call in case of an emergency. Amendments were also included to protect historic districts and concealment measures in residential districts, downtown districts and historic districts.

A companion bill, **SB 894**, sponsored by Sen. Mike Nofs (R-Battle Creek), was also passed by the Senate to subject existing zoning ordinances to the language of SB 637. MTA will continue working closely with lawmakers to ensure that the concerns of local government are addressed.

in this issue

- 2 Bills bring asset management approach to infrastructure
- 3 Online voter registration would be possible under changes
Greater township input included in substitute land cap bills
- 4 Township office candidates could pay a filing fee instead of turning in petition



Bills bring asset management approach to infrastructure

With crumbling roads and bridges, a lack of access to broadband and aging water systems, Michigan's infrastructure is in desperate need of an overhaul. A package of bills recently passed by the House is meant to be a first step toward bringing Michigan's infrastructure into the 21st century with an asset management approach.

This approach would become law in [House Bills 5335](#), sponsored by Rep. Rob VerHeulen (R-Walker), [5406](#), sponsored by Rep. Roger Victory (R-Georgetown Chtr. Twp.), and [5408](#), sponsored by Rep. Triston Cole (R-Kearney Twp.). Together, the bills create interrelated councils to coordinate planning for water, transportation and communications infrastructure at the local, regional and state level. MTA initially opposed HB 5408 as it removed an MTA representative from the Transportation Asset Management Council (TAMC), but was able to negotiate a number of amendments including the restoration of an MTA representative on the council. However, concerns remain that local units that also function as drinking water, wastewater and stormwater agencies, asset owners, and local road agencies may incur increased costs due to the asset management requirements in the bills.

In 2016, Gov. Rick Snyder created the 21st Century Infrastructure Commission to study the state of Michigan's infrastructure and submit a report calling for goals for the next 30 to 50 years. The report pointed out that Michigan's infrastructure was divided into silos that weren't coordinated in their planning and management—a critical foundation for our future success. The commission recommended that Michigan implement an integrated asset management database system and create a council to oversee long-term coordination and strategy, while also making proper investments into infrastructure and embracing emerging technologies.

Under HB 5335, a new Michigan Infrastructure Council would be created, with nine voting members who are experts in regional asset management planning and knowledge in all aspects of transportation, energy, drinking water, wastewater, stormwater and communications. Another nine non-voting members would also sit on the council. Together, the members would develop a multi-year program, work plan, budget and funding recommendation for asset management. They would also prepare an annual report on the current statewide asset management assessment to track progress on established performance goals. Additionally, they would research and advise on related issues, such as financing models, best practices, obstacles, emerging technology, information technology advancements, and opportunities for greater coordination and collaboration.

Within six months after its first meeting, the council would have to evaluate the Regional Infrastructure Asset Management

Pilot Programs and the 21st Century Infrastructure Commission's findings and publish a three-year strategy for creating a statewide integrated asset management system. However, the council could not propose, recommend or fund any government-owned broadband or telecommunications network to provide service for residents or businesses. If they proposed government funding to subsidize non-government-owned broadband to expand service, it would have to be limited to areas unserved by broadband, while also being technology neutral and including a competitive bidding process.

HBs 5406 and 5408 would create the Water Asset Management Council (WAMC) and the Transportation Asset Management Council (TAMC), respectively. Both would advise the Michigan Infrastructure Council on strategies for managing their respective assets and tools needed. They must also develop an asset management plan template local agencies can use to submit required plans.

Under HB 5406, each drinking water, wastewater, and stormwater agency and asset owner would be required to submit an asset management plan to the WAMC beginning Oct 1, 2020. (An asset owner would be a person or agency that owns or operates drinking water assets, stormwater assets, or wastewater assets that serve 1,000 or more individuals.) The plan would include an asset inventory, level of service analysis, risk of failure analysis, anticipated revenues and expenses, performance outcomes analysis, and plans to coordinate with other asset owners. If the plan did not meet minimal standards, the submitting agency would be required to submit a revised plan within six months. Additionally, each agency and asset owner would be required to report annually on how its capital improvement plans are meeting investment goals.

Local units of government that function as drinking water, wastewater and stormwater agencies and asset owners may incur increased costs as a result of the asset management plan requirements. While HB 5406 includes a provision that state funding could be provided to implement the bill, it is unclear what the net fiscal impact would be for townships and other local units government.

Under HB 5408, MDOT, county road commissions, cities and villages would be required to annually submit to TAMC a report on infrastructure conditions and investment that includes a multiyear program developed through the asset management process. The asset management plan would include provisions for asset inventory, performance goals, risk of failure analysis, anticipated revenues and expenses, performance outcomes, and coordination with other infrastructure owners. If the local road agency's asset management plan does not satisfy the requirements, it would potentially reduce their receipt of PA 51 funds.

The bills could be considered by the Senate when the Legislature returns from spring recess. MTA will continue to update members on the package.

Online voter registration would be possible under changes

Registering to vote could be a few clicks away for anyone with a valid Michigan driver's license or ID card under a measure recently passed by the Senate.

Senate Bill 425, sponsored by Sen. Judy Emmons (R-Bushnell Twp.), was introduced to make voting more accessible and increase the number of registered voters. Already, at least 38 states and Washington, D.C. provide their residents with this option. Most Michigan citizens choose to register to vote when they obtain their driver's license or state identification card, and more than 90 percent of eligible residents are registered to vote. However, there are some who have a license or ID card but are not registered to vote.

SB 425 would require the Michigan secretary of state to develop an electronic voter registration interface to make online registration possible. This interface would include security measures to authenticate the applicant's identity. A person submitting an electronic voter registration application would be required to vote in person and show photo ID if he or she had not previously voted in person within the state.

Registering online would only be an option to those who qualify as an elector under the Election Law and possess a valid driver's license or ID card. Online registration would not be possible if someone had an expired license or state ID card, ordered a duplicate license or ID card on the same day he or she submitted an electronic voter application, or submitted a change of address within the previous 10 days.

Companion bills, SBs 426-429, were also passed by the Senate to amend the Michigan Election Law to reflect the changes proposed in SB 425.

Identical legislation—House Bills 5548 and 5549 sponsored by Rep. Julie Calley (R-Portland) and Rep. Michael Webber (R-Rochester Hills)—were previously reported by the House Elections and Ethics Committee and are currently pending before the House. Both packages are expected to see further action when the House Legislation returns in April.

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Greater township input included in substitute land cap bills

Northern Lower Michigan and the Upper Peninsula boast some of our state's most scenic views and lush forests. But these areas also have a higher percentage of state- and federally owned land—meaning they have fewer property taxpayers in their tax base. A package of bills in the House Natural Resources Committee would give townships with large amounts of state-owned land a greater say in future state land purchases within their jurisdictions.

Senate Bills 302, sponsored by Sen. Tom Casperson (R-Wells Twp.), and **303**, sponsored by Sen. Darwin Booher (R-Osceola Twp.), and **House Bill 4475**, sponsored by Rep. Gary Howell (R-North Branch), are all supported by MTA. Together, the bills would eliminate the existing cap on state land that may be purchased north of the Mason-Arenac county lines. They also ensure that full payments in lieu of taxes (PILT) are made as replacement revenue for the property taxes that townships would otherwise have received on that land.

Currently, Michigan has about 4.6 million acres of state-owned land, 3.9 million of which is north of the Mason-Arenac county lines. Because local units lose property tax revenue on those acres, the state makes PILT payments to help make up for those losses. However, the state put a freeze on assessments of all state land between the years 2004 and 2008, meaning township revenue from the state did not increase during that period. Even after the freeze was lifted, PILT was cut by 12 percent in Fiscal Year (FY) 2010, 12 percent in FY 2011 and 15 percent in FY 2012.

Under current law, the state Department of Natural Resources (DNR) cannot acquire land in northern Michigan if it owns, or will own as a result of the purchase, more than 3.91 million acres of land north of the Mason-Arenac county lines. The cap does not apply once the Legislature approves the DNR's strategic plan; however, while a plan was submitted, it has not been adopted, leaving the cap in place.

SBs 302-303 would essentially enact the DNR's strategic plan, eliminating the cap on state-owned land. The elimination of the cap would apply only if the state had made full and on-time PILT payments during the fiscal year. If full PILT payments were not made, the DNR could not buy land in that area unless one or both of the following conditions were met: full payments were made later that fiscal year, and/or the county and township or townships where the land is located approved the purchase by resolution. Originally, these bills only allowed for county approval. MTA worked extensively with lawmakers to ensure that townships had the same ability to approve. Townships with a large percentage of property state- or federally owned now have a critical voice in the process.

The state would face further restrictions in counties where at least 40 percent of the land is under state, federal or commercial forest use. Under HB 4475, the DNR must send a notice of its planned acquisition to the local board of commissioners and township board(s). The DNR then could not acquire the land if, within 60 days of sending notice, it received a resolution rejecting the acquisition from the county or township(s).

The bills also emphasize the use of public land to benefit the community, including a clause urging the DNR to promote public enjoyment of wildlife and other natural resources by providing public access to its land. Townships and other local units would be able to ask the DNR to allow state land to be used for outdoor recreation as a way to benefit the community and expand access to natural resources.



The DNR could charge the local unit a reasonable fee for the use, as long as it isn't higher than the DNR's costs.

If the state decided to sell land, it could give preference to a local unit but would not be required to do so. The bills encourage the state to consider selling or leasing land if the prospective buyer is an expanding business, and the sale or lease would provide an economic benefit for the local unit or region. Before the land was sold, the DNR would first have to consider any comments on the issue from local units of government.

HB 4475 further specifies what constitutes as land acquired by the DNR and requires the DNR's strategic plan to identify critical trail connectors to enhance motorized and nonmotorized activities. It would also mandate that the Legislature approve the DNR's strategic plan. When the DNR posts strategic plan updates, it must include progress on its engagement and collaboration with local units of government, as well as several other pieces of information.

MTA appreciates the positive changes that were made to these bills and will continue working to ensure that townships continue to have a voice in the process.

Township office candidates could pay a filing fee instead of turning in petition

When individuals run for state, city or county offices, state law allows candidates to either pay a filing fee, or collect signatures and submit a nominating petition. Township candidates, however, only have one option: collect signatures and submit a nominating petition. Two bills pending in the House would change this standard and provide the same choices to those seeking township office.

House Bills 4747, sponsored by Rep. Kim LaSata (R-Bainbridge Twp.), and **4748**, sponsored by Rep. Julie Calley (R-Portland), are supported by MTA and were the subject of two recent hearings before the House Elections and Ethics Committee.

If enacted, the bills would still allow candidates for township supervisor, treasurer, clerk and trustee to submit a nominating petition, but also give them the choice of paying a filing fee. MTA has advocated for this change in our policy platform, as it would give candidates more options and ease the filing process for some.

The bills will be considered for a committee vote when the Legislature returns from spring recess in April.

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MTA's Political Action Committee (MTA-PAC) works to elect legislators who support local government and who will fight for townships in Lansing.

Your dollars assist candidates who will work to protect and preserve local control.

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Lansing, MI 48908-0078
(Make checks payable to MTA-PAC)

Michigan Townships Association

PO Box 80078
Lansing, MI 48908-0078
(517) 321-6467 Fax (517) 321-8908
legislation@michigantownships.org

MTA's Government Relations Department

Judy Allen, Director of Government Relations

Tom Frazier, Legislative Liaison

Michelle Hart, Government Relations Coordinator

Bethany Mauger, Staff Writer