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Q. The township has covered all elected officials under an “employee dishonesty coverage form” from our insurer, in the amounts of \$99,000 for the treasurer and deputy treasurer, and \$10,000 for all others. Is this sufficient compliance with the statutes?

The complete answer will depend on what that insurance coverage actually includes, so be sure to check with your insurance provider for an explanation of what your policy covers. And this subject can be confusing, so a little explanation is in order.

When we talk about bonds required for township officials, we are actually talking about two different bonds: 1) the bond required when certain officers take the oath of office and 2) the bond required of the treasurer when collecting taxes.

To comply with the statutory requirements, both types of bonds must meet the definition of a “surety bond.” A surety bond is a performance bond that guarantees that the bonded officials will act in compliance with certain laws. If an official fails to do so, the bond covers resulting damages or losses.

1) Surety bond upon taking office. Michigan law requires a township clerk, treasurer, deputy treasurer and constable, if the township has one, to file a bond upon taking the oath of office.

MCL 41.69 requires that, “Each township clerk, within the time limited for filing the oath of office and before entering upon the duties of the office, shall give a bond to the township in the sum and with sureties that the township board requires and approves, conditioned for the faithful discharge of the duties of the office according to law, including the safekeeping of the records, books, and papers of the township in the manner required by law, and for their delivery on demand to the township clerk’s successor in office. The bond shall be filed in the office of the supervisor.”

MCL 41.77 requires that, “A township treasurer, within the time limited for filing the oath of office and before entering upon the duties of the office, shall give a bond to the township in the sum and with the sureties as the township board shall require and approve, conditioned on the faithful discharge of the duties of the office and that the treasurer will account for and pay over according to law, all money that comes into the treasurer’s hands as treasurer, and the supervisor shall indorse approval on the bond. The treasurer shall file, within the time above mentioned, the bond with the township clerk of the township, who shall record the bond in a book to be provided for that

purpose. The township clerk, after recording the bond, shall deliver it to the supervisor, who shall file it in the supervisor’s office.”

MCL 41.77(5) also requires the deputy to “give a bond to the township as required by the township board.”

Under MCL 41.80, a constable, “before taking office and within the time prescribed by law for filing the official oath, shall execute, with sufficient sureties to be approved by the township board, an instrument in writing by which the constable and his or her sureties jointly and severally agree to pay to each person who may be entitled money that the constable becomes liable to pay on account of the neglect or default of the constable in the service or return of process that may be delivered to him or her for service or collection or on account of misfeasance of the constable in the discharge of, or failure of the constable to faithfully perform, the duties of his or her office.”

It is not required by law, but general practice is to also have the supervisor and deputy clerk bonded. This bond is to cover the township funds these officers may deal with on a day-to-day basis. The township should consult with its auditor to determine an appropriate amount for the bond for each of the offices that are required to be bonded.

Note that a “blanket bond” would not meet the requirement for a surety bond. A blanket bond is a form of fidelity bond, which, according to Black’s Law Dictionary, is a bond to indemnify the township for losses “due to embezzlement, larceny, or gross negligence by an employee or other person holding a position of trust.” Typically, a blanket bond would cover all other employees or officers of the township and may also provide additional coverage for the above named offices.

In the case of a treasurer, the surety bond provided upon taking office is to cover the township funds the treasurer deals with on a day-to-day basis, as well as the township portion of the taxes collected. There is not a specified amount because the coverage depends on how much money that a particular treasurer will be handling. Some property and liability insurance providers provide bonds automatically every four years (for a new term). For example, one we are aware of provides a \$25,000 bond for the treasurer. It’s our understanding that the \$25,000 is an aggregate amount for the four-year term. That is probably low for many townships. The township could discuss the appropriate amount with its auditor. Additional coverage can be purchased.

However, this first type of bond does not eliminate the need for a tax collection surety bond.

2) Tax collection surety bond. The treasurer is required by MCL 211.43 to also provide a tax collection bond to the county treasurer to cover the amount of taxes the township treasurer will collect for the other tax jurisdictions (not the township), including the county, schools, intermediate school district, and a transportation authority, if there is one in the township.

MCL 211.43 provides three options for obtaining this bond:

Option 1: The treasurer provides a bond to the county treasurer for the actual amount of state, county and school taxes. The bond may be issued by anyone (not a surety bond). The township pays the cost of the bond.

Option 2: If the treasurer provides a corporate surety bond issued by a surety company authorized to do business in Michigan, and the bond is for 40 percent of the total of the state, county and school taxes, then the county pays the cost of the bond. The county may bill the school districts a prorated portion of the premium.

Option 3: If the county treasurer and township supervisor determine that the surety bond the treasurer filed with the township clerk upon taking office is sufficient enough to also cover the tax collections of the other jurisdictions, then no additional bond is necessary.

The second option probably makes the most sense for townships. It requires bonding up to 40 percent of the collections, and it also requires the county to pay the cost. The county can in turn bill each school district for its proportionate share.

Whether or not to use option one or two is the choice of the township treasurer.

In many counties, the county treasurer obtains the bond on behalf of all the units in the county. Likely they do this anticipating that most treasurers would choose option two, which would require the county to pay the cost anyway. When the county treasurer obtains the bond, it ensures that all the units have a bond in place.

Hello, MTA ... ? provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.

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