

Michigan Township Focus

NOVEMBER 2019

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

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SB 431 digs away at local say over gravel mining

Michigan is one of the top aggregate producers in the country, and sand and gravel mines dot the entire state. Townships already have limited input over sand and gravel mines in their borders, and Senate Bill 431 would all but mute locals' say over mining operations.

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Back home: Vintage fire truck returns to its township department

A vintage 1945 Chevrolet fire truck once used by the **Roscommon Township** (Roscommon Co.) Fire Department is now back in the fold, thanks to a social media-savvy firefighter and some quick action on the part of Chief **Joe Williams**.

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Advocating for townships with the MTA Legal Defense Fund

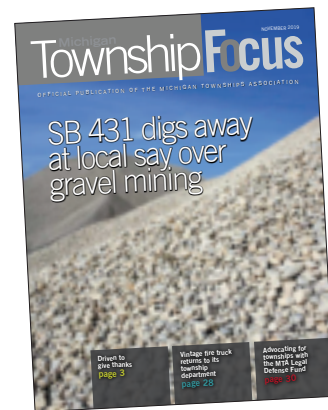
When MTA advocates for townships, members likely envision MTA staff delivering testimony to a legislative committee or talking with lawmakers in a Capitol "lobby." But the MTA Legal Defense Fund also advocates on behalf of local government court cases that have a statewide impact.



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mission statement

The Michigan Townships Association advances local democracy by fostering township leadership and public policy essential for a strong and vibrant Michigan.

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Michigan Township Focus, Issue 10 November 2019 (ISSN 2330-9652), is published monthly, except for one combined spring issue. MTA membership provides a subscription to township board members, the manager/superintendent, planning commission chairperson and township attorney. Member counties also receive subscriptions for elected officials, the equalization director and road commission chairperson. Annual membership dues include \$33 for a one-year subscription to *Michigan Township Focus*. Additional member subscriptions are available for \$33 per year. Subscription rate for residents and firms in member townships is \$44 per year (schools and libraries may subscribe for \$33 a year).

Michigan Township Focus is a publication of the Michigan Townships Association, 512 Westshire Dr., Lansing, MI 48917-9757. Phone: (517) 321-6467; fax: (517) 321-8908; Web: www.michigantownships.org. Periodicals postage paid at Lansing, MI. POSTMASTER: Send address changes to: *Michigan Township Focus*, P.O. Box 80078, Lansing, MI 48908-0078.

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Driven to give thanks

Publisher's note: While MTA President Jeff Sorensen and I were visiting our great state's regions during MTA's On the Road regional meetings tour, we naturally spent many hours talking about serving townships and about our Association. It seemed fitting to ask Jeff to co-write this month's column of thanksgiving together with me. Here is our shared message to you for the start of our holiday season.

It is impossible to travel through **Michigan during autumn** without being struck by the magnificent beauty of our state. The many homes decorated lovingly for the season, the shorelines of our countless lakes, the rolling farmlands being harvested, and the wildlife in flight and on hoof all remind us of the bounty and beauty offered for us to enjoy.

The vivid change in colors followed us southward from our start in **Acme Township** (Grand Traverse Co.) for a site visit for our 2020 Annual Conference in April. Beyond dressing up the miles of highways traveled, the change was also symbolic of this year of renewal and growth for MTA. With the transition to our fifth executive director, MTA begins a new period in our history. We were touched and are very grateful for the warm reception we enjoyed as your new president and new executive director.

At every stop on the *On the Road* tour, in each session and over all of our meals with you, we were struck by the respect and dignity we share with each other. We understand each other so well because we live with and serve our neighbors in a way that higher levels of office cannot easily do. We see our neighbors and residents daily—they know they are welcome to stop in at any time, or simply to stop you at the

supermarket, sports game or community event to discuss their concerns.

We have had the opportunity to speak with hundreds of you. We listened and learned about your priorities for the future—to advance what makes MTA excel and how to continually improve our services and increase our impact.

Road funding and defending local control are top priorities across the state. In this issue, we cover the issues regarding the aggregate industry's attempts, now under multiple investigations, to **hijack Michigan's road problems** as an excuse to effectively erase local control over the operation and siting of sand and gravel pits anywhere in state. Regardless of whether your township has had good working relations with operators in the past, the bill as written permits extreme noise levels, unreasonably long operating hours and eliminates rational zoning control on siting, among other problems for pending and new permits. Residents, schools, businesses, hospitals, parks, historic neighborhoods, downtowns, resorts—none would be protected from the noise, hours of operation, dust, traffic routes and other negative impacts, as local governments would have no authority. This bill draft, and the questionable study the industry has been alleged to have unduly influenced, should be rejected as bad government that is bad for Michigan's citizens and environment.

When we ask you what your most valued member benefit is, many of you point to our government relations work, which largely works on legislative and executive branch matters both at the state and federal levels. Just as

importantly, the judicial branch has great power to change our townships' situations, often quite literally overnight. So, MTA carefully monitors important court cases that can favorably or negatively impact us. In this issue, we describe the work of our **MTA Legal Defense Fund** committee, our General Counsel and our frequent allies in speaking up on your behalf so that courts may fully understand the impacts on townships and relevant principles as they deliberate. We also set out the cases that we have been working on since June, so that you can see the types of issues currently making their way through the courts.

After the excitement of adding a new major fire department truck, have you ever wondered where the old equipment ultimately ends up? We were both delighted to read how one fire chief had the same thought. With help from his fellow firefighters, he successfully tracked down, restored and donated a historic **Roscommon Township** rig back to the department. Restoring a complex piece of equipment consumes time, energy and patience—this was one heartfelt and generous act!

We completed our tour by accompanying **MTA Life Member Denny Olson, Immediate Past President Ken Gauthier** and **Second Vice President Bill Deater** in the Upper Peninsula as they harvested and safely delivered our


2019 State Christmas Tree to the Capitol. We are proud of the many Michiganders who help nurture, select, decorate and celebrate these breath-taking symbols of holiday joy and togetherness each year. While some do come from cities, the majority are nominated from our townships and are another positive contribution we make to Michigan pride.

As we enter the holiday season, there is indeed a common culture we all share. That is that we have been bestowed a great responsibility to govern in the grassroots—closest to the people and with a firsthand view what they need and want. We share the most accurate of perspectives that a government leader can have—that of our neighbors.


With Michigan's great outdoors growing colder and our days so much shorter, we have more time indoors to reflect on what really matters. To plan for the future, to plan for growth, to work toward renewal so that our townships, our Association and Michigan may prosper.

We are deeply grateful to you as a partner in this work. We wish you, your families and colleagues a very Happy Thanksgiving!

 Neil Sheridan



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COMPLETE COUNT

Survey shows local officials concerned about 2020 Census preparations and count

Few Michigan local officials feel “very confident” in the accuracy of the upcoming 2020 U.S. Census—for either their own jurisdiction or the state as a whole, according to the latest survey results from the Spring 2019 wave of the Michigan Public Policy Survey (MPPS), from the University of Michigan’s Center for Local, State and Urban Policy.

According to the survey, in which MTA is a partner, only 15 percent of local officials are “very confident” the 2020 U.S. Census will produce an accurate count in their own jurisdiction, although another 64 percent are “somewhat confident.” Township responses, specifically, echo those sentiments as well. The survey also showed:

- Confidence in the upcoming census count is lower in rural jurisdictions than in more urbanized places, and is lower in jurisdictions with larger minority populations compared to those with less racially diverse communities.
- Local officials’ confidence in the statewide accuracy of the pending census is even lower, with just 5 percent “very confident” it will be accurate for Michigan overall (56 percent are “somewhat confident”). Township-specific numbers mirror those responses.
- Thinking about specific types of residents in their own jurisdiction, more than one-third of officials are concerned about counting non-homeowners (43 percent), residents with a second home (39 percent), and residents with little or no internet access (34 percent). About a quarter are concerned about counting elderly residents (29 percent) and residents living in poverty (24 percent).
- As of spring 2019, just over one-third (35 percent) of Michigan local governments reported they were planning actions to encourage their residents to complete their census forms in 2020. This relatively low number may be due in part to the timing of the survey, which was fielded a year before the 2020 Census is set to launch; previous reports from the MPPS during and after the 2010 Census were substantially higher.
- As of spring 2019, the most commonly planned actions among local governments for 2020 were direct communications to residents and collaboration with other organizations to boost resident participation (17 percent overall; 12 percent for townships specifically). (See article at right for a toolkit from the U.S. Census Bureau with resources and tips to help local officials encourage census participation.)

TOOLS AND TIPS

U.S. Census Bureau releases toolkit to help local officials support census

The U.S. Census Bureau has released a new toolkit to help state and local officials educate residents, and build awareness and support for the 2020 U.S. Census in their community. For the first time, the census will be available online and over the phone—a change that

brings with it a lot of possible questions. The census toolkit is filled with information and resources that townships can use to prepare their citizens for the census, answer inquiries and emphasize the importance of them completing it.

As noted in the September *Township Focus* cover story, “The importance of the 2020 Census for townships,” one thing recommended by many experts to prepare an area for the census is forming a “complete count committee,” which is focused on building awareness and supporting the completion of the census. The new toolkit includes information on complete count committees, as well as a prospective timeline that such a committee could follow toward having a successful 2020 Census collection.

Access the toolkit and get additional resources and information on MTA’s “Census” webpage on the members-only side of www.michigantownships.org (access via the “Index of Topics” under the “Answer Center” tab after logging in), and check out our recent “Township Talk” podcast, featuring an association spearheading efforts to garner a complete count statewide.



UPU UPDATE

U.S. stays in the Universal Postal Union

The October issue of *Township Focus* included notice of the United States’s intention to withdraw from the Universal Postal Union (UPU), which could have compromised the delivery of military and overseas voter ballots. Following publication of the October issue, it was announced that a compromise was reached and the U.S. will remain in the UPU. Postal service internationally will continue as usual and voters may use the mail as normal.



NEW FORM

IRS prepares for changes to W-4

The federal Form W-4 provides information to allow employers—including townships—to calculate federal withholding from employee's pay. The IRS recently announced that, starting in 2020, there will be noticeable changes to the Form W-4. Now entitled the "Employee's Withholding Certificate," there will be a five-step process for entering an individual's information. The hope is that this will add more accuracy and make the process easier for employees.

Another change is the removal of the exemption line, which will require the individual to itemize their deductions (on a separate worksheet) and then enter the results.

Forms W-4 are NOT filed with the IRS; rather they should be retained on file by the township. Townships should consider offering employees annual opportunities to calculate the appropriate number of withholding allowances.

The finalized version of this new W-4 will be released in late 2019.

LOCAL UPDATES FROM ACROSS MICHIGAN

Township happenings

Thirty years of use by walkers, runners and skiers took their toll on a bridge on the **Chassell Township** (Houghton Co.) trails. A new bridge—stronger and wider than the original—was built this fall by students from Chassell High School, and will accommodate the township's groomer in the winter months. Students learned how to work together as a team and gained real-world experience while giving back to the community. The project also benefits the students as township residents—some of them are cross-country runners who use the trails.

Buena Vista Charter Township (Saginaw Co.) received a \$40,000 grant from the Michigan Department of Environment, Great Lakes and Energy that will be used to evaluate a former motel located next to two gas stations for potential environmental contamination. An asbestos and lead survey will also ensure the building can be demolished safely to make the property more appealing for redevelopment.

Email YOUR Township Happenings to jenn@michigantownships.org. Add MTA to your newsletter mailing list! Mail to MTA, Attn. Jenn Fiedler, PO Box 80078, Lansing, MI 48908-0078, or email to jenn@michigantownships.org.



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ATTENTION TREASURERS

Reminder for tax collection office hours

The township treasurer must be in his or her office from 9 a.m. to 5 p.m. to receive tax payments on the last day taxes are due and payable before being returned as delinquent under MCL 211.55. (MCL 211.44(2)(b)) MCL 211.55 refers to the last day of February as the last day that taxes are due and payable before being returned as delinquent to the county treasurer, and provides for the unpaid taxes to be returned as delinquent to the county treasurer the next day.

In addition, the treasurer must be in his or her office from 9 a.m. to 5 p.m. one day between Dec. 25 and Jan. 1. However, the requirement to hold hours in December is waived if the township has an agreement with a local financial institution to collect taxes on behalf of the township, and the township provides timely notification to the taxpayers of their ability to pay their taxes at this financial institution.

For 2019, the available days for required December office hours are **Thursday, Dec. 26 through Tuesday, Dec. 31**. Treasurers **must** choose at least one day (unless a bank assists in collection). (MCL 211.44(2))

The last day to pay 2019 property taxes without incurring any interest or penalty is **Friday, Feb. 14, 2020**. Treasurers **may** choose to hold office hours.

The last day to pay 2019 property taxes before they are returned as delinquent is **Monday, March 2, 2020** (the last day of February in 2020 is Saturday, Feb. 29). (MCL 211.45) Treasurers **must** hold office hours.

The treasurer also **must** be in his or her office from 9 a.m. to 5 p.m. to receive tax payments for the collection of a summer tax levy, on **Monday Sept. 14, 2020** (the last day taxes are due and payable before interest is added under MCL 211.44a(5)).



NEW RULE

U.S. Department of Labor releases final federal overtime rule

Townships will be required to pay certain employees overtime, under a new federal rule finalized by the U.S. Department of Labor. On Sept. 24, the department issued the final rule, which can impact township budgets and pay for township workers.

Beginning Jan. 1, 2020, employees making less than \$35,568 will be eligible to receive overtime per the new rule, which could impact as many as 1.2 million American workers. The salary level amount is lower than the original pay proposed in 2016, which was blocked by a federal judge in 2017.

The new rule:

- raises the "standard salary level" from the currently enforced level of \$455 per week to \$684 per week (equivalent to \$35,568 per year for a full-year worker)
- changes how salaries are calculated, allowing incentive payments and nondiscretionary bonuses to be added up to 10 percent of a salary
- changes the requirement for highly compensated employees from \$100,000 to \$107,432 a year

Qualifying for an exemption of this rule requires an employee be paid weekly at a rate that is equal to or exceeds the annual threshold of \$35,568, performs executive (which included administrative or professional) duties, and has a fixed salary that is not impacted by the amount or level of work.

The final rule takes effect Jan. 1, 2020.

Learn more on MTA's "Employee Wage and Hour Information" and "Employment Issues" Web pages on the members-only section of www.michigantownships.org (look under the "Index of Topics" on the "Answer Center" page after logging in). You can also visit www.dol.gov/whd/overtime2019.



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Remembering 2006 MTA President Arlene Hill

MTA Life Member and 2006 Association President **Arlene Hill** passed away this fall at the age of 84.

After moving to the Upper Peninsula with her husband Ken in 1956, both became active in their local government, while raising two children. In her “President’s Profile” featured in the 2006 issue of *Michigan Township News*, Hill told MTA that her husband’s career as a banker resulted in their family moving to various communities, and “it was natural for us to think about the government arm of the community.”

One of her first jobs was as a deputy city clerk. When Hill and her family moved to **Forsyth Township** (Marquette Co.), she was appointed deputy clerk. She was later elected clerk for the township and served for six years. The family moved to **Chocolay Charter Township** (Marquette Co.), where Hill was first elected clerk in 1986. She was elected to the MTA Board of Directors in 1993.

“Arlene served MTA little more than 10 years ago, offering her leadership and passion for improving townships to the benefit of all of our members,” said MTA Executive Director Neil Sheridan. “We wish Arlene’s family and community our deep condolences in this time of sadness and reflection.”

While Hill always said that her family—which eventually expanded to include a grandson—was the primary object of her energy, she was just as passionate about her township government family. She firmly believed that township officials have a great responsibility to listen and respond to the needs of their constituents.

“Township government used to be the kids out in the country who didn’t have all the conveniences and weren’t up on how to get things done,” Hill told *Michigan Township News*. “Now, we are the preferred way of life, with a government run by the people and for the people. When we step up to the plate and take our place in the batter’s box, we are in the game for the good of the people.”

In addition to her involvement in her township, Hill managed a senior citizen housing complex for 20 years, and was very involved in her church, Christian women’s clubs, and camps for women and children. “I am very interested in libraries, elections and committees that form these types of causes,” she noted. “I do believe the squeaky wheel gets the oil—and I don’t mind doing the squeaking!”



Hill

Thanking MTA staff for years of service

The Michigan Townships Association is fortunate to have a committed staff who strive for excellence each day in serving Michigan’s 1,240 townships and tens of thousands elected and appointed township officials, employees and volunteers.

Each and every member of our staff contributes to the overall success of the Association, and the programs and services that we offer. Many of our staff have dedicated the majority of their professional careers to MTA and township government, and we would like to pay special tribute to those who have spent more than a decade with MTA:

Catherine Mullhaupt, staff attorney—28 years

Penny Haney, director of operations—28 years

Angie Merryfield, records assistant—20 years

Jenn Fiedler, communications director—19 years

Tom Frazier, legislative liaison—18 years

Shelley Gardenas, education director—17 years

Sue Bechler, Knowledge Center aide—13 years

Cindy Dodge, Member Information Services liaison—13 years

Kristin Kratky, events manager—13 years

Rebecca Popoff, finance assistant—13 years

Thank you to these and all MTA staff for their hard work and dedication!



Photo by Trumple Photography

At the September meeting of the MTA Board of Directors in Lansing, 2019 MTA President Jeff Sorensen (*far left*) administered the Board Oath of Office to new district directors Mary Segalin, Ironwood Charter Township (Gogebic Co.) clerk, and Tom Paige, Williams Charter Township (Bay Co.) trustee. Segalin was appointed in June to represent MTA District 1, which encompasses Gogebic, Houghton, Keweenaw and Ontonagon Counties, while Paige was appointed to represent MTA District 13, which includes Bay, Gladwin and Midland Counties.

Member input sought on 2020 MTA Policy Platform



MTA members play an important role in shaping the Association's legislative policy—both by voting on the MTA Legislative Policy Platform at the MTA Annual Meeting each year and also by providing suggestions and input for consideration by our legislative policy committees.

MTA is seeking your input for the 2020 Policy Platform. The deadline for submissions for consideration for MTA's 2020 Legislative Policy Platform by the MTA Legislative Policy and Resolutions Committee is **Monday, Dec. 2**. Proposed policies are reviewed by MTA committees for word selection and legality, and to ensure they conform with the Association's overall goals and objectives.

The proposed policy platform for 2020 will be presented

for membership approval at the 2020 MTA Annual Meeting, to be held Thursday, April 30 in conjunction with the 67th MTA Annual Educational Conference & Expo at the Grand Traverse Resort in **Acme Township** (Grand Traverse Co.).

View MTA's 2019 Policy Platform on MTA's website, www.michigantownships.org, under the "Advocacy" tab.

Contact the MTA Government Relations Department at (517) 321-6467 or email legislation@michigantownships.org with suggestions or questions.

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UNITED STATES POSTAL SERVICE® (All Periodicals Publications Except Requester Publications)

1. Publication Title Michigan Townships Focus	2. Publication Number 2 3 3 0 - 9 6 5 2	3. Filing Date 9/27/19
4. Issue Frequency Monthly (except for combined March/April issue)	5. Number of Issues Published Annually 11	6. Annual Subscription Price \$44/\$33 (schools/libraries)
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4®) Michigan Townships Association, 512 Westshire Drive Lansing, MI 48917		
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) Michigan Townships Association, 512 Westshire Drive Lansing, MI 48917		

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)
Publisher (Name and complete mailing address)
Neil Sheridan, Michigan Townships Association 512 Westshire Drive Lansing, MI 48917
Editor (Name and complete mailing address)
Jennifer Fiedler, Michigan Townships Association 512 Westshire Drive Lansing, MI 48917
Managing Editor (Name and complete mailing address)

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
Michigan Townships Association	512 Westshire Drive, Lansing, MI 48917

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box ☒ None

Full Name	Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)
The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:
☐ Has Not Changed During Preceding 12 Months
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PS Form 3526, July 2014 (Page 1 of 4) (see instructions page 4) PSN: 7530-01-000-9931 PRIVACY NOTICE: See our privacy policy on www.usps.com

13. Publication Title Michigan Township Focus		14. Issue Date for Circulation Data Below September 2019	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		9,171	9,230
b. Paid Circulation (By Mail and Outside the Mail)	(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	9,072	9,145
	(2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)		
	(3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®		
	(4) Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-Class Mail®)		
c. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))		9,072	9,145
d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)	(1) Free or Nominal Rate Outside-County Copies Included on PS Form 3541		
	(2) Free or Nominal Rate In-County Copies Included on PS Form 3541		
	(3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS (e.g., First-Class Mail)	40	40
	(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)	20	20
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3), and (4))		60	60
f. Total Distribution (Sum of 15c and 15e)		9,132	9,205
g. Copies not Distributed (See Instructions to Publishers #4 (page #3))		39	25
h. Total (Sum of 15f and g)		9,171	9,230
i. Percent Paid (15c divided by 15f times 100)		99.3	99.3

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NOVEMBER

1 Deadline for filing for *Principal Residence Exemption Affidavit* (Form 2368) for exemption from the 18-mill school operating tax to qualify for a PRE for the winter tax levy. (MCL 211.7cc(2))

Deadline for filing the initial request of a *Conditional Rescission of Principal Residence Exemption* (Form 4640) for the winter tax levy. (MCL 211.7cc(5))

Deadline for filing a *Foreclosure Entity Conditional Rescission of a Principal Residence Exemption* (Form 4983) to qualify for the winter tax levy. (MCL 211.7cc(5))

Electors may obtain an absentee voter ballot for Nov. 5 election via first-class mail until 5 p.m. (MCL 168.759)

4 Electors may obtain an absentee voter ballot for Nov. 5 election in person in the clerk's office until 4 p.m. (MCL 168.761)

5 On or before Nov. 5, the supervisor shall notify the treasurer of the amount of county, state and school taxes apportioned in township to enable treasurer to obtain necessary bond* for collection of taxes. (MCL 211.43(1))

Election.

Emergency absentee voting until 4 p.m. (MCL 168.761)

Election Day registrants may obtain and vote an absentee voter ballot in person in the clerk's office or vote in person in the proper precinct. (MCL 168.761)

6 Clerk delivers results of Nov. 5 election to county clerk by 11 a.m. (MCL 168.809)

7 Boards of county canvassers meet to canvass Nov. 5 election by 9 a.m. (MCL 168.821)

15 Form 600 (L-4016) *Supplemental Special Assessment Report* due to the State Tax Commission (STC).

27 On or before Nov. 28. Nov. 28 is a holiday. Treasurer gives county treasurer a bond* running to the county in the actual amount of county, state and school taxes. (MCL 211.43(2))

*May be handled by the county treasurer. See MCL 211.43(2) or call MTA at (517) 321-6467 for further guidance.

DECEMBER

By 1 On or before Dec. 1, county treasurer delivers to the township supervisor a signed statement of approval of the bond and the township supervisor delivers the tax roll to the township treasurer.

On or before Dec. 1, deadline for foreclosing governmental units to transfer list of unsold 2019 tax foreclosure parcels to the clerk in the municipality in which the parcels are located. (MCL 211.78m(6))

2019 taxes due and payable to the local treasurer are a lien on real property. (MCL 211.40)

Results of the equalization studies should be reported to assessors of each township.

2 Deadline for payments to municipalities from the Local Community Stabilization Authority. Local Community Stabilization Share revenue to municipalities with state facilities under PA 289 of 1977, MCLs 141.951 to 141.956. (MCL 123.1357(8)(e))

By 3 Petitions to place proposals on March 10 presidential primary ballot filed with county and local clerks. (MCL 168.646a)

10 Tuesday after the second Monday in December. Special board of review meeting may be convened by assessing officer to correct qualified errors. (MCL 211.53b) The township may authorize, by adoption of an ordinance or resolution, an alternative meeting date during the week of the second Monday in December. (MCL 211.53b(7))

For taxes levied after Dec. 31, 2011, an owner who owned and occupied a principal residence on June 1 or Nov. 1 for which the exemption was not on the tax roll may file an appeal with the December board of review in the year for which the exemption was claimed or the immediately succeeding three years. (MCL 211.7cc(19))

An owner of a property that is qualified agricultural property on May 1 may appeal to the December board of review for the current year and the immediately preceding year if the exemption was not on the tax roll. (MCL 211.7ee(6))

December board of review to hear appeals for current-year poverty exemptions only, but not poverty exemptions denied by the March board of review. (MCL 211.7u, STC Bulletin 6 of 2017)

17 Ballot wording of proposals to be presented at March 10 presidential primary certified to clerk by 4 p.m. Local clerk forwards ballot wording to county clerk within two days. (MCL 168.646a)

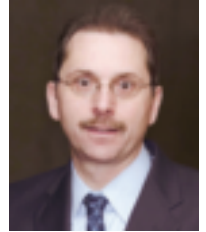
31 Tax day for 2020 property taxes. (MCL 211.2(2))

All taxes due and liens are cancelled for otherwise unsold 2018 foreclosure parcels purchased by the state or transferred to the local unit or the Michigan Land Bank Fast Track Authority. (MCL 211.78m(12) and (13))

Deadline for an owner who had claimed a conditional rescission of a principal residence exemption (PRE) to verify to the assessor that the property still meets the requirements for the conditional rescission through a second and third year annual verification of a *Conditional Rescission of Principal Residence Exemption* (Form 4640). (MCL 211.7cc(5))

Deadline for a land contract vendor, bank, credit union or other lending institution that had claimed a foreclosure entity conditional rescission of a PRE to verify to the assessor that the property still meets the requirements for the conditional rescission through the filing of an annual verification of a foreclosure entity. (MCL 211.7cc(5))

A rescission affidavit (Form 5277) shall be filed with the assessor of the township in which the personal property is located, no later than Dec. 31 of the year in which the exempted property is no longer eligible for the eligible manufacturing personal property tax exemption.



Can you give an update on the state's revision of the Michigan Uniform Chart of Accounts?

The Michigan Department of Treasury, Local Audit and Finance Division issued a new Uniform Chart of Accounts (COA) in late 2017, and initially required implementation for local units with a June 30, 2018, fiscal year-end and thereafter.

However, implementation was subsequently delayed due to concerns and to accommodate new accounting pronouncements issued by the Government Accounting Standards Board (GASB) Statement No. 84 Fiduciary Activities. According to Treasury, a "significant" revision of the COA will be released on Dec. 31, 2019.

Treasury released an updated plan and timeline for the COA in a memo sent to local units on Sept. 18. In the memo, Treasury noted, "This revision will incorporate the feedback we have received since exposing the current version. The most significant change will be to the expenditure accounts 700-999. While the new version had a more definitive approach, we found the input received to be compelling and intend to revert to the older approach of allowing the use of various numbers within certain numeric ranges."

The revised COA will be implemented for fiscal years ending Sept. 30, 2021, and thereafter, though early implementation after Dec. 31, 2019, is encouraged. Small revisions will be issued periodically as the need arises. Treasury projects that these will be biannually.

Townships should consider contacting their accounting software provider to determine the steps necessary to change over to the new uniform chart of account numbers, if any. Compliance with the new COA is required by state law, and significant departures from the COA will be reported to Treasury on the auditing procedures report after the required implementation dates.



What are the significant changes to the COA?

The COA changes were designed to make annual financial statement preparation more transparent, by providing links between the local unit's books and records and the external financials prepared under GASB pronouncements, while still providing the necessary information to measure compliance with the Uniform Budgeting and Accounting Act (Public Act 2 of 1968, MCL 141.421, *et seq.*).

The structure of the COA remains unchanged. Its nine-digit account code format—fund number, activity and account number—remains in place.

Changes made to the **fund numbering system** include:

	Old COA Number	New COA Number
Budget stabilization	257	102
Public improvement fund	245	445
Township improvement revolving fund*	246	446
*changed fund types from special revenue to capital projects		

Revisions to the **activities numbers** include:

	Old COA Number	New COA Number
General government	101-299	101-128, 171-279
Judicial	in general gov't	281-299

Several **mandatory revenue accounts** also changed:

	Old COA Number	New COA Number
Special assessments	in taxes	450
License and permits	450	475

Treasury added many "debt service" funds that are dependent on the statute/funding source used to issue the bonds/project financing methods. Seek bond counsel advice to assist you in determining the appropriate fund to use.



Will the state offer additional guidance on the changes?

In its September memo, Treasury noted two new resources that will be available to assist with the COA changes.

- 1) A "Frequently Asked Questions" document—which will be revised when common questions arise—was set to be released at the end of October
- 2) Beginning in November, and periodically afterward, Treasury will hold "Chart Chats," at a designated time when their staff will be available solely to answer chart of accounts questions. One can listen in, or call to ask a question and end the call. (Treasury also noted that officials may call the Community Engagement and Finance Division at any time with questions.)

Information provided in *Financial Forum* should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.



What township board positions have the authority to appoint a deputy?

The township clerk and treasurer are each required by law to appoint one deputy. (MCLs 41.69 and 41.77) The township supervisor may choose to appoint one deputy. (MCL 41.61)



What authority does a deputy have?

Deputies are different from other “employees.” A deputy position is not a “job”; it’s an appointment to a public office.

The number one authority of a deputy is to serve as a substitute for the official. In the case of the absence, sickness, death or other disability of the official, the deputy possesses the powers and performs the statutory duties of the office, except that a deputy does not have a vote on the township board. In addition, a deputy supervisor does not moderate a township board meeting.

This means that a deputy automatically has the authority to perform a statutory duty of the office, without further authorization, when the official is absent, sick, disabled or has died. But it also means that a deputy has no authority beyond those situations to perform a statutory duty of the office—or any additional duties or job functions—without further authorization by the board and the official.



Does a deputy continue to serve when the official resigns from board office?

No. A deputy serves at the “pleasure of the official,” which means that the deputy’s appointment depends on the official holding the office. The laws that state when a deputy has the authority of the office do not specifically state that a deputy serves in the event of the official’s resignation, even though they do specifically state a deputy’s authority to serve in the case of the absence, sickness, death or other disability of the official. When an official resigns board office, he or she gives up all authority of the office, including the authority to appoint the deputy, so the deputy’s authority also ends.



Who may serve as a deputy?

Anyone who is capable of performing the specific duties of the office may be appointed. There is no minimum age limit, but the person

must be legally able—and responsible enough—to perform the statutory duties and functions.

There is no requirement that a deputy be a resident of the township—or the state or the country! There have been some deputies who crossed state lines or even over from Canada to serve in a Michigan township. But the person must be readily available when the official is not.

There is no prohibition against a relative serving as an official’s deputy. But the most important qualification of a deputy is the ability to be available when the official is absent, ill, disabled or has died. So a relative may not be a good choice if that person is going on vacation with the official, or would be a caregiver or a grieving family member.

It is possible for one person to serve as more than one deputy, such as the same person serving as both a deputy clerk and deputy supervisor, but it is not possible for the same person to serve as both deputy clerk and deputy treasurer (or for the clerk or treasurer to serve as the other’s deputy), because of the segregation of duties required by law and Michigan Department of Treasury regarding those two offices.



How many deputies may an official have?

An official may have only one deputy at a time. It is possible for an official to appoint different deputies during the official’s term of office—as long as it is only one at a time. For example, an official who has her spouse as her deputy might want to appoint someone else to be her deputy while the official and her spouse are away on vacation.



How do I appoint a deputy?

There isn’t an official process, other than you state who you are appointing and the new deputy must take the oath of office. If you want to switch deputies, you let one deputy go by appointing a new deputy who takes the oath; then the “old” deputy is no longer the deputy. That’s all that must be done to make the appointment legal, but from a practical standpoint, you should let the board and other staff—and the bank, if your signatures are on the bank cards—know, so they know who has the deputy authority for your office.



What control does a township board have over my deputy?

The township board does not have a vote over who you appoint, but the board determines what hours the deputy may work and what the compensation

will be. (The one exception to board control over who serves as a deputy is if you want a trustee to serve as your deputy in a township under 40,000 in population. A board would have to authorize a trustee to serve as deputy supervisor, clerk or treasurer as an additional duty before that could occur because the positions are otherwise incompatible. Note that although it may be possible, it may not be appropriate for a trustee to serve as a deputy, because of the fiduciary responsibilities.)

The board's authority over the *person* who serves as a deputy is best explained in "Catherine's Theory of the Three Types of Deputies." You won't find these spelled out by name in the law, but this does explain what the law allows:

1) The Substitute Deputy

This is the original form of deputy required by law. This deputy shows up only when the official cannot perform a statutory duty of the office. It's like Superman and Clark Kent—you never see the official and their deputy together at the same time!

If the official is always available, it may be that the deputy never actually shows up or performs any of the statutory duties of the office, but as long as they were ready and available to do so, they fulfilled their responsibility.

This deputy has no authority to perform at other times. The board controls what, if anything, this deputy position is paid.

2) The Assistant Deputy

Here the deputy works along with the official. The official must have township board authorization for a deputy to work as more than just a substitute. MCLs 41.61, 41.69 and 41.77 state that, with the approval of the official, the deputy may assist the official in the performance of the statutory duties of the office at any additional times agreed upon between the board and the official, except the deputy shall not have a vote on the township board.

The board has the ability to determine the extent or limit of the hours that the deputy works, either directly by specifying hours or through the amount the board allocates to pay for deputy hours.

Neither of these first two types of deputies are subject to wage and hour restrictions. Just like the township board offices, deputies are not required to be paid a minimum wage or to work certain hours. There are no legal requirements to provide overtime, vacation, sick time or comp time. A township board may choose to treat these deputy types as if they are subject to any or all of these employment laws—and it may really be appropriate to do so—but it is not required.

Neither of these types of deputies are subject to unemployment insurance, but they are subject to worker's disability compensation.

3) The Deputy Plus

This is when a person who is a deputy also holds an employment position with the township. For example, the clerk makes a township clerical worker his deputy. Or the deputy treasurer is hired by the board to also serve as office manager. Here the township board is the employer, just as with any other township employment position. The official has no individual authority over those job duties.

The employment "part" of this dual position IS subject to unemployment insurance (but still not the deputy part). It is also subject to the Fair Labor Standards Act, and wage and hour regulations.

Sometimes this type of deputy situation can create confusion, especially if the township doesn't distinguish between the deputy duties and any employment job description. It may seem like splitting hairs when everything is going well, but when things change or go badly, it can really make a difference—especially to the person who is caught in the middle. For example, if the board discharges the person from the employment position, they are still the deputy. Or, if the official removes the deputy or the official resigns or isn't reelected, then the deputy part is gone, but the employee "part" still shows up for work!

To avoid confusion and stress for all involved, I strongly recommend that townships have a position description for deputy duties and a separate job description for the non-statutory township "job" position. If the township has a need for that "job" position, then it should have a separate job description and pay rate anyway.

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.

Got township questions? MTA has answers!

Member township officials and employees may contact MTA Member Information Services staff with questions Monday through Friday, from 8 a.m. to 5 p.m. Call (517) 321-6467, fax to (517) 321-8908, or email:

- MTA Director of Member Information Services Michael Selden: michael@michigantownships.org
- MTA Staff Attorney Catherine Mullhaupt: catherine@michigantownships.org
- MTA Member Information Services Liaison Cindy Dodge: cindy@michigantownships.org





Unprecedented pre- and post-budget process for FY 2019-2020 state budget

The state budget process for the current fiscal year that began on Oct. 1 has been unprecedented—both prior to Oct. 1 and during the first month of the new budget year. While the state’s annual budget is over \$59 billion—with slightly under \$11 billion in general fund dollars—there have been numerous deviations from the traditional process.

The normal process involves the governor’s presentation of his or her budget early in the year followed by the Legislature’s work—the Senate and House each put together their recommended appropriations—in the spring. Consensus estimating occurs in May to determine if state revenue estimates are on track or if revenues have increased or decreased from January projections.

At that point, historically, the governor along with House and Senate leaders agree to “target levels” for each budget area and specific funding items. Over the past

eight years—with the leadership in the Legislature and the governor’s office being of the same political party—the budget has been finalized prior to July 4, several months in advance of the new state fiscal year on Oct. 1.

However, due to differences of opinion as to whether the budget should be tied to road reform legislation, the process for this year’s budget cycle has been much different than past years. With discussions breaking down in early September between the legislative leadership and Gov. Whitmer, there was some question if the state would be forced to shut

down Oct. 1 or if state funding would exist to begin the new fiscal year.

In late September, the Legislature passed 16 budget bills that had not included involvement from the administration and presented them to the governor for review and action three to four days prior to the end of September.

While the governor signed all 16 budget bills, averting a state shut down, the action also included 147 separate line-item vetoes to the legislative spending proposal, totalling \$947 million. It also served notice to legislative leaders of the need to return to the negotiating table to resolve the sizable points of difference.

Additionally, the administration utilized an executive power authority that had not been used by a governor since 1991 (and upheld by the Michigan Supreme Court in 1993). The State Administrative Board approved transfers on Oct. 1 of over \$600 million within 13 legislative-approved budgets to other lines within the same budget (i.e., the transfers move appropriated funds from one line/program to another within a specific budget—but not outside of a specific budget/department).

The budget process this year has caused strong reactions from all sides as many vetoes as well as the redirection of funds by the State Administrative Board were unexpected.

In early October, numerous supplemental appropriations bills were introduced—more than 50—to restore some of the vetoed funding. However, no agreement or movement by the Legislature and the governor to work out their differences has allowed funding to be restored, as of *Township Focus* press time.

As previously shared in *Township Insights* and *Township Voice*, several budget appropriations impact townships directly or indirectly—some are funded, some vetoed items are contained in pending supplemental bills, and others have no funds pending as of press time:

- **Revenue sharing**—Constitutional payments for the current fiscal year are estimated to increase by 1.7 percent over the previous fiscal year. These dollars, distributed on a per-capita basis to all townships, are determined by the actual sales tax revenue collections and thus, could be higher or lower than the estimated level. Statutory revenue sharing (City, Village and Township, or CVT) payments will increase 2.3 percent above the prior year's level to those receiving payments in FY 2018-19.
- **Payment-in-lieu-of-taxes**—More than \$27 million in state-required payments to townships, cities, and counties in lieu of property taxes for state purchased lands, commercial forest lands, and swamp and tax reverted lands was vetoed by the governor. These payments are made in place of property taxes on state-owned property and are necessary to help offset the loss of tax revenue for local units of government. Two supplemental appropriation bills, Senate Bill 546 and House Bill 5082, are pending to restore this critical

funding. *Townships should provide the PILT bills in the same timeframe and manner as they have done in the past so that if/when a supplemental appropriation is agreed to, payments can be processed in a timely fashion.*

- **Secondary road patrol funding**—The \$13.1 million appropriations for secondary road patrol was vetoed by the governor. While townships do not receive direct funding, many benefit indirectly from the appropriations. Three supplemental bills that would restore all or a major portion of this funding—SBs 560 and 576, and HB 5074—and are pending.
- **Assessor training funding**—An additional \$1 million was added to the budget, nearly doubling the existing line, to assist with training for implementation of the assessing reform changes. The \$1 million was vetoed by the governor and as of press time, no pending supplemental bills include this funding.
- **Clean water projects**—The budget contained \$120 million in funding for water infrastructure/clean drinking water projects that included:
 - o \$30 million for Lead and Copper Rule implementation
 - o \$40 million for PFAS and emerging contaminants, of which \$15 million designated for municipal airports was vetoed by the governor; two supplemental appropriation bills are pending to restore the \$15 million
 - o \$35 million for Drinking Water Revolving Fund loan forgiveness
- **State trooper school**—Of the funds appropriated for a 156-member MSP trooper school, \$2 million was transferred by the State Administrative Board for use within the State Police budget.

MTA continues to urge the Legislature and Gov. Whitmer to restore appropriations for PILT and other important local government funding.

Discharge fees extended

Any township that operates a wastewater treatment plant discharges treated water into either a surface water body or the groundwater, and is required under statute to pay the fees to offset the oversight of the program. Some local units also pay a stormwater discharge fee as well. With statutory authority about to expire, the Legislature passed and the governor signed two recent measures to maintain these fees.

Public Act 77 of 2019 (HB 4891), sponsored by Rep. John Cherry Jr. (D-Flint), extends the authority for groundwater discharge fees and PA 84 of 2019 (SB 447), sponsored by Sen. Curtis Hertel, Jr. (D-Meridian Chtr. Twp.), extends the statutory requirement for surface water and stormwater discharge fees.

Both acts took became effective Sept. 30, 2019.

Legislative lowdown

A quick look at critical bills that MTA is following as they move through the legislative process. For a complete list, head to MTA's "Legislative Action Center" on the members portion of www.michigantownships.org, or look to our weekly and monthly e-newsletters sent to all MTA member officials.

SB 14: Drinking water standards—Provides for maximum PFAS contaminant levels allowed for drinking water standards. *MTA monitoring.*

SB 19: Public employees and officers—Modifies population thresholds for contracts of public servants serving as public safety officers. *MTA supports.*

SB 26, HBs 4025 & 4047: Property tax—Requires Michigan Tax Tribunal determinations to consider all three methods of appraisal in assessment disputes and prohibits deed restrictions on valuation of property. *MTA supports.*

SB 28: Motor fuel tax—Requires motor fuel tax to be dispersed to county where fuel is pumped. *MTA monitoring.*

SBs 31-32: Recreation passport—Expands current recreation passport program to include trails and state forest campgrounds. *MTA monitoring.*

SB 39: Property tax assessments—Excludes private deed restrictions from being considered by the Michigan Tax Tribunal if they substantially impair the highest and best use of property as compared to property subject to assessment. *MTA supports.*

SB 46: Property tax assessments—Clarifies valuation of wind energy systems. *MTA supports.*

SB 54 & HB 4100: Historic preservation tax credit—Restores the state historic preservation tax credit program. *MTA supports.*

SB 78: Elections—Requires ballot instructions to be printed on ballot. *MTA monitoring.*

SBs 79, 117 & 297: Elections—Revises procedure for returning absentee ballots for military personnel. *MTA monitoring.*

SB 104 & HB 4179: Open Meetings Act—Allows additional remedies for noncompliance to include attorney fees and allows a one-year window during which civil actions may be brought. *MTA opposes.*

SB 431: Local preemption—Prohibits local regulations of certain conditions under zoning ordinance for mining permit approval. *MTA opposes.*

SBs 518-519: Transportation—Provides for the allocation of federal aid funding to MDOT and directs non-federal aid funds to local road agencies. *MTA monitoring.*

SB 520: Transportation—Clarifies pavement warranties for construction and repair. *MTA monitoring.*

SB 521: Transportation funding—Requires local road agency to identify funding sources for new roads including maintenance when adding new infrastructure or planned developments. *MTA monitoring.*

SB 522: Transportation—Establishes a local road agency advocate to the Transportation Asset Management Council to advocate for local road agencies. *MTA supports.*

SB 546 & HB 5082: PILT supplemental appropriations—Provides supplemental appropriations to restore payments-in-lieu-of-taxes for FY 2019-20. *MTA supports.*

SB 549 & HB 5083: PFAS supplemental appropriations—Provides supplemental appropriations to restore FY 2019-20 polyfluoroalkyl substances (PFAS) funding for municipal airports. *MTA supports.*

SBs 560, 576 & HB 5074: Secondary road patrol supplemental appropriations—Provides supplemental appropriations to restore FY 2019-20 secondary road patrol. *MTA supports.*

HB 4035: Local preemption—Prohibits local regulation of dogs based upon breed or perceived breed. *MTA opposes.*

HB 4046: Land use/zoning preemption—Limits local zoning regulation of vacation rentals and short-term rentals. *MTA opposes.*

HB 4083: Sanctuary cities—Prohibits local laws that prevent local officials from cooperating with federal authorities regarding an individual's immigration status. *MTA opposes.*

HB 4091 & SB 319: Neighborhood Enterprise Zones—Modifies eligibility requirements to qualify as a rehabilitated facility. *MTA supports.*

HB 4095: Land use/zoning preemption—Preempts local zoning authority for child foster care institutions for a state licensed facility up to 10 children. *MTA opposes.*

HB 4185: Destruction of property—Adds willfully and maliciously destroying or damaging the real property of a fire, sheriff or police department to the current prohibition regarding a fire or police department's personal property. *MTA supports.*

HB 4209: Township treasurer designee—Allows the township treasurer to appoint a designee to act on their behalf for tax collection purposes under certain conditions. *MTA supports.*

HB 4268 & SB 163: Broadband personal property exemption—Creates a personal property tax exemption for new broadband equipment that resolves lack of broadband service. *MTA opposes.*

HB 4408: Recreational authority audit—Modifies the requirement for an annual audit based on whether a recreational authority levies and collects a millage. *MTA supports.*

HB 4454: Unlawful dumping—Revises criminal penalties and civil fines for unlawful dumping of garbage. *MTA supports.*

HBs 4554-4563: Short-term rental—Creates the Short-term Rental Promotion Act requiring registry of short-term rentals and retains local zoning authority. *MTA supports.*

HB 4691: Municipal stormwater utilities—Creates a new act to provide for and authorize a fee for municipal stormwater utilities. *MTA supports.*

HB 4692: Drains and sewers—Specifies rainfall levels and what constitutes a sewage system defect for liability for overflow or backups. *MTA supports.*

HB 4750 & SB 400: Lead—Requires testing and disclosure of lead in water systems. *MTA monitoring.*

HBs 4775 & 4776: Recreation Passport Fees—Modifies the distribution of recreation passport fee revenue and increases the percentage to the Local Public Recreation Facilities Fund. *MTA supports.*

HB 4800: Transportation funding—Allocates a portion of revenue from vehicle registration fees to township, city or village where registrant resides for road funding. *MTA supports.*

HBs 4963-4964: Transportation funding—Allows a county, city or township to ask voters to create a local gas tax and/or a local add-on to their driver registration fees. *MTA supports.*

HB 4966: Transportation funding—Modifies allocations for certain expenditures by county road agency for primary and local roads to provide more flexibility. *MTA supports.*

HB 4971: Transportation—Requires the Transportation Asset Management Council to evaluate roads throughout the state for “right-sizing” and to work with local road agencies to ensure infrastructure is not overbuilt. *MTA monitoring.*

HBs 5024 & 5025: Property tax/special assessment—Allows authority for townships to establish a millage or special assessment for mosquito abatement. *MTA supports.*

HB 5031: Elections—Expands polling place locations to include a privately owned building. *MTA monitoring.*

HB 5032: Elections—Increases allowable precinct size, allows for precinct consolidation at certain elections by adding primary elections and requires permanent absent voter list. *MTA monitoring.*

HB 5123: Elections—Requires absent voting counting boards in cities and townships with more than one election precinct. *MTA monitoring.*

Save the date

**Be here.
Be heard.
Be engaged.**

MTA's 2020 Capital Conference

February 26 | Lansing

Join MTA and fellow township officials for this important event where you will learn about legislative issues impacting townships, and have the opportunity to meet with state decision-makers and legislators. Look for registration details in upcoming issues of *Township Focus* and MTA e-newsletters, and on www.michigantownships.org.

Rep. Jack O'Malley (R-Almira Twp.)

For more than 34 years, Rep. Jack O'Malley (R-Almira Twp.) was called the “voice of Northern Michigan.” On his radio show on WTCM, he interviewed elected officials, local business people and residents making a difference in the community. As a first-term representative—elected in November 2018 to represent the 101st District—O'Malley sees his many years on radio as giving him a powerful skill for listening.

“My time as a broadcaster has helped me in the Legislature by giving me the ability to ask questions and listen to the answers,” he said. “Listening to what follows an answer gives crucial detail. My radio work has also helped me learn to respect opposing views.”

This skill for listening has become an important asset in his role as chair of the House Transportation Committee. At the time of this writing, O'Malley had hosted 20 statewide town halls and 12 road building committee hearings, listening and collecting information for fixing Michigan's roads. He sees the challenge of road repairs as something that will take patience, arguing for a solid plan that will reach the long-term objectives many Michiganders are hoping for.

“Working hard and making smart decisions instead of quick fixes is the key,” he said.

After graduating from Specs Howard School of Broadcasting, he was first heard on the air in Indiana and then in Adrian, Mich., before finding his way to WTCM, in Traverse City. He currently holds the unofficial record in Michigan for the longest-running morning show, starting in 1984. On the show, he was an “open book” to his listeners and they felt they knew him because of how much of himself he would share.

O'Malley was more than a voice in his community. He also contributed in many different ways, from the community corrections board to the Children's Advocacy Center, and has worked with area law enforcement and fire departments. He chaired both the July 4th and Memorial Day services in his area for the last 20 years. O'Malley is also known for his work with veteran groups, speaking across Northern Michigan on their behalf.

O'Malley recognizes the role of local government in helping to solve Michigan's road issues—as well as their importance serving Michigan residents. He also knows that each community is unique, and each challenge and opportunity may require unique answers.



Rep. Jack O'Malley (R-Almira Twp.) says that his three-plus decade career as a radio broadcaster has helped him in the Legislature by giving him the ability to ask questions, listen to all sides and respect opposing points of view.

“Communities that are creative resolve issues faster than those that aren't,” he said. “I see my job as working with the locals to be creative and be the conduit to any agencies or organizations that might be able to help.”

As a first-time elected official, O'Malley is taking on many important roles in Lansing. In addition to the House Transportation Committee, he also serves on the House Tax Policy, Education, and Energy Committees. His philosophy around service returns to the importance of listening.

“The reality is that I listen to both sides and then I have to do what I believe is correct,” he said. “Public service is not an easy job and it definitely shouldn't be. It's for that reason that I salute all who are involved. I would also encourage public servants to use their God-given talents, because that's how you will make a difference.”



Rep. Tim Sneller (D-Burton)

Rep. Tim Sneller (D-Burton) is no stranger to the workings of the Michigan Legislature.

Before being elected to represent the 50th House District, which includes **Grand Blanc** and **Mundy Charter Townships** (Genesee Co.) and other municipalities, he worked for more than 30 years as a legislative aide in both the House and the Senate. He worked in the offices of state lawmakers including former Senate Minority Leader John Cherry, former Reps. Bob Emerson and Charles Smiley, and others. While in that role, he saw state government firsthand, witnessing how decisions were made by the legislature and how they impact local units of government.

When asked what the biggest issue is facing local government today, Sneller—now serving his second term in the House of Representatives, answers simply, revenue sharing.

“Underfunding our local units of government has been an ongoing issue for decades,” he said. “We need to honor our promise and obligation to fully fund revenue sharing for local units of government.”

Before beginning his political career in Lansing, Sneller worked at the Flint General Motors Truck and Bus Assembly Plant. While there, he was an alternate committeeman for the UAW Local 598. After beginning his career working for Michigan’s auto industry, it seems almost fated that today, he is the minority vice-chair of the House Transportation Committee where his priority is finding long-term road funding for Michigan. In that role, he is striving to find new opportunities for fixing Michigan’s roads.

Sneller believes that the first step to improving infrastructure in Michigan is investment. “Over the years, we’ve neglected our responsibility and the need to invest in infrastructure, including transportation, water/sewer, and broadband,” argued Sneller, who also serves on the House Insurance, and Energy Policy Committees. “Investing is the key to building and improving our state’s infrastructure at the state and local level.”

While working at GM, Sneller earned a Bachelor’s degree in political science from the University of Michigan-Flint. He later received a secondary teaching certificate and was a substitute teacher in Genesee County’s middle schools, teaching social studies and history. He lists education as one of his top issues and sees it as vital to Michigan’s future, emphasizing the need to invest in public schools and improve Michigan’s education policies.

While he was never elected to serve a local government, Sneller sees townships as the “first line of government services that are provided to citizens,” he said. He also said



Although he did not serve in local government before being elected to represent the 50th House District, Rep. Tim Sneller said that he sees townships as the first line of government services that are provided to citizens, and recognizes the impact that state government can have on local government—both positive and negative.

that he recognizes the impact that state government can have on local government—both positive and negative.

Sneller also represents man’s best friend, as he adopts older dachshunds from rescue agencies and has had at least one his entire adult life.

“I plan to continue adopting these senior dogs to ensure their later life years are filled with unconditional love and caring,” he said.

When Sneller leaves Lansing, he will be taking with him many years of earned knowledge and experience. He sees his time in Lansing representing his community where he was born as his proudest accomplishment, noting “I want my legacy to be that I was able to leave not only the state, but the community I represented, in a better place than prior to my years of public service.”



SB 431 digs away at local say over gravel mining

Metamora Township, on the southern border of Lapeer County, looks much like many rural Michigan communities. Its downtown, with one traffic light, sits in the middle of a national historical district and includes one of the state's longest consecutively running restaurants, The White Horse Inn. Pure Michigan describes it as a “place where you can escape from the fast pace of city life to the old-town atmosphere.”

Metamora Township has also become the center of a controversy over sand and gravel mining in Michigan that has intensified with the introduction of Senate Bill 431. Local governments already have limited input over the location and operation of sand and gravel mines in their borders, and SB 431—introduced by Sen. Adam Hollier (D-Detroit)—would all but mute locals' say over mining operations in their townships.

Regardless of whether your township has had good working relations with operators in the past, the bill as written threatens to expose townships and their residents to extreme noise, extended operating hours and other problematic issues—with no local voice.

One township's experience—statewide implications

Metamora Township, which includes the Village of Metamora, has a long history of gravel mining, and is currently home to four active gravel mining operations. While the township has been embroiled for decades in a legal—and now legislative—battle over one proposed mine, it—like many other townships—is in no way “anti-mining.”

According to the township's legal counsel **Mike Nolan**, “Metamora has a long history of gravel mining. To our knowledge, all but one of the gravel mines that have existed in the township over the years have been in existence for decades. We hear very few complaints from residents about the noise at the current mining operations other than with respect to back-alarms and truck traffic. The current operators are generally respectful of the township residents.”

The American Aggregates of Michigan (AAOM) owns 154 acres of land in the township that they hope to mine, but the full mine proposed could cover 724 acres of the township (the remaining acres are owned by the Boy Scouts of America, which has a lease agreement with AAOM).

Nolan explained, “The township is not ‘fighting this new mine,’ but is rather defending a lawsuit—and subsequent appeal—by [AAOM], all before the application has been acted upon by the township. For the township, the issue has never been with ‘this new mine,’ but rather the parameters under which the township may consider an application for sand and gravel mining in general.



MTA strongly opposes SB 431 and asks all our members to reach out to their senator to urge a “no” vote on the legislation, which strips townships’ already limited say in mining operations, and would have far-reaching negative impacts across the entire state.

“[The gravel industry] is arguing that Metamora Township’s position on local control is nothing more than a ‘Not In My Backyard’ knee-jerk reaction to a bigger problem. Yet nothing could be further from the truth. Metamora already has numerous gravel mining operations within the township, so gravel is all over our backyard.”

SB 431, if passed by the Legislature and signed into law, would allow the operation of the new mine—with no local oversight, and despite concerns from elected officials and residents. Townships across the state could find themselves in similar situations.

“Metamora is a destination for those near and far,” said Nolan, an attorney with the law firm Kohl Harris Nolan & McCarthy, PC. “The residents have expressed at meetings that the [new mine] is likely to destroy the town.”

While the impact of SB 431 is well-illustrated by Metamora Township and this one mine, the bill would create sweeping, negative changes for the entire state. *(See sidebar on page 24 for additional details on SB 431.)* SB 431 would impact all new and pending mine applications statewide, essentially eliminating much of the already-limited local input and oversight that townships now have. The bill removes local control over the approval of a mining site, as well as nearly all operational aspects of the mining activity, including the haul route.

Mining and townships today

Michigan has an abundance of deposits of aggregate—sand and gravel—running underground throughout the state, left 10,000 to 14,000 years ago as melting

Inside SB 431

Senate Bill 431 is a legislative attempt to erode local control over land use within your township. MTA strongly opposes the bill, as it would remove a local government's oversight capability, further preempting your township from placing regulations on **any** sand and gravel mining operation—regardless of where they are located or the impact to nearby residents.

Under the legislation, in order for a new or pending mine application to be approved, all that must be proven is:

- The mining operation would be profitable
- That it “does not impose unnecessary risk to public health, safety or welfare that cannot be avoided or ameliorated”

If it can be shown the mine will make a profit and the extraction will not pose a risk to public health, safety or welfare that cannot be avoided, a municipality would be prohibited from denying a permit or authorization for extraction by mining of natural resources.

Under the bill, the entity proposing the mine would submit a plan to the local unit of government where the mine would be located. This plan would include specific requirements, including a demonstration that the mine can make a profit; a description of the materials, methods and techniques that will be used for mining operations; a site plan showing the location of all buildings, equipment, expected stockpiles, berms and other aspects necessary to the mining operation; a description of the truck routes; and a limited financial assurance reclamation (to be determined by the applicant) requirement of \$1,500 per acre.

The legislation includes a 30-day shot clock from the date of application for the local unit to notify the applicant if the application is not administratively complete. If no notification is given, the application will be considered complete.

Local units would be limited to regulating certain aspects of mining operations, and only if they are not more restrictive than specified parameters prescribed. For example:

- A township could expand truck loading hours outside of the required hours and days of between 5 a.m. and 7 p.m., six days a week.
- No local authority over noise would be allowed as long as the noise level did not exceed specified levels over an eight-hour time-weighted average—i.e., sound level of 75 decibels for residentially zoned property or 85 decibels for commercially zoned property. This could allow a mining operation to operate at twice those levels for four hours, as long as it was silent for four hours.

MTA believes local government must maintain its already limited authority regarding mining operations, and is best equipped to balance the needs of their residents with the impact of mining operations.

Contact your senator today and urge a “NO!” vote on SB 431.

glaciers carried away clay and silt, leaving behind the heavier gravel and sand. These glacial deposits play a large part in today's industry and form the gravel pits dotting communities in all corners of the state. In fact, according to Michigan State University's Department of Geography, Environment and Spatial Sciences, only California produces more aggregate tonnage than Michigan.

Mining has long been an important part of Michigan's history—and of its economy. For more than a century, state and local governments have worked cooperatively with the aggregate industry—while still protecting the quality of life for their residents. There are more than 1,400 mines currently in existence in Michigan, with the majority being good neighbors in their community and pit owners who comply with local regulations and work with the local government.

Mines certainly impact communities where they operate—including noise, truck traffic, blasting and dust. While limited by past court rulings and state law in their powers to regulate mining, a township board currently does have some oversight on the mining operation in the community. The township can first require a plan from the mine on how it will be run—including hours of operation, noise level, dust control, and how the work will impact traffic (for example, what direction would gravel trains—multiple carriage aggregate-hauling trucks—take in moving the sand and gravel out of the township).

Townships can also conduct an annual review of the work of the mine, making sure the mining operation is operating within the approved plan. The annual review is also an opportunity to review any concerns from the township or its residents. This limited authority of township boards to have any ability to oversee mining operations has been impacted for decades by legal cases and state statute.

Decades of court battles—and legislative changes

Townships' rights to regulate aggregate mining have been a decades-long debate greatly impacted by several key court rulings.

The current ability for townships to oversee mines in their area has its foundation in the Michigan Supreme Court's 1982 *Silva v. Ada Township* (416 Mich. 153) decision. This ruling governed townships on mining for decades and changed the power of local units being able to regulate mining via zoning ordinances. In essence, the case gave mining a “preferred use” status, allowing mining everywhere where there are “no very serious consequences.” This shifted the burden of proof from the applicant to the local governments.

The next stage in this legal battle emerged in the 2010 case, *Kyser v. Kasson Township* (486 Mich. 514), in which the state Supreme Court reversed the “no very serious consequences” rule, supporting the rights of townships to zone certain areas for gravel mining—a reversal of the *Silva* decision. The final ruling by the Michigan Supreme Court said the previous “no serious consequences rule” had no constitutional basis as it was superseded by the exclusionary zoning provision of the

Michigan Zoning Enabling Act (MCL 125.3207). *Kasson* supported a “reasonableness standard,” and said, “A zoning ordinance is not unreasonable just because a prohibited land use is more profitable than the land uses allowed by the zoning ordinance.” Michigan municipalities were only limited by due process constraints and could make decisions in regard to their zoning—including over mining operations.

The story changed once again in 2011 when House Bill 4746 (now Public Act 113 of 2011) quickly went through the Legislature and was signed into law, amending the Zoning Enabling Act, changing the power of townships over local zoning and returning in many ways back to the 1982 *Silva* decision. While MTA was able to achieve some improvements, the new law still limited a township’s ability for local zoning around mining. Under PA 113, local governments were restricted to oversight in such matters as hours of operation, noise levels, traffic, dust control and blasting.

Metamora Township’s latest legal battle began following the enactment of PA 113.

“AAOM just happens to be the first such applicant to the township following the 2011 amendment to the Zoning Enabling Act, which reestablished the court-created ‘no very serious consequences’ standard that is favorable to gravel mining,” said Nolan. “After the Zoning Enabling Act was amended, Metamora Township enacted new zoning ordinance sections in an effort to comply with the amendment. Once adopted, AAOM launched a legal challenge to the township’s ordinance.”

The legislative battle over mining regulation and oversight has been brought to the forefront over the past year. Legislation similar to SB 431 was considered last December, but did not pass and was considered “dead” at the end of the legislative session. Now before the Senate Transportation Committee, after it was re-referred from the Senate Natural Resources Committee, the MTA-opposed SB 431 further preempts a local unit from virtually any regulations over a sand and gravel mining operation.

Early hours could get earlier

Under SB 431, townships essentially have no say in truck loading hours. The bill prohibits local regulations from affecting mining operations between 5 a.m. and 7 p.m., six days a week. Practically speaking, this likely means that operations could begin hours earlier than 5 a.m.

Robert DePalma, Groveland Township (Oakland Co.) supervisor, said that while the five mines currently operating in his township aren’t scheduled to begin operations until 7 a.m., operations are happening far earlier. This is a result of independent truckers and their desire to get in multiple hauls a day. Trucks are at the mine before 7 a.m., ready to begin as soon as the scheduled hour of operation is set to start. The mine is also preparing to begin hauling at 7 a.m., which means additional work—excavating, backhoe, etc.—is being done as early as 5:30 a.m., DePalma said.

“That is catastrophic, that impact right there,” DePalma said of the new hours of operations. “If you make it 5 a.m., I’m telling you, those pits will actually be open and running by about 3:30 a.m., at least.



Investigations cast doubt on study used to support SB 431

One of the items used to support the expansion of power around mining under Senate Bill 431 is a study commissioned by the Michigan Department of Transportation (MDOT), *Procurement of Michigan Aggregates Market Study*. The study not only argued for the need for more aggregates, but the importance of having the mining near the work being done, no matter the cost for the local community.

Questions began to arise around the creation of the study and the accuracy of the information in it. It was first reported in the *Detroit Free Press* that the Michigan Aggregates Association (MAA) played a significant role in the study, including recommending the consultant, pricing the study and even setting expectations for the findings. After two audits (both internal and external), the study has been found to be highly questionable.

The first audit was completed by the State Transportation Commission (STC). This internal audit found that the study “risks being insufficiently comprehensive, unverifiable, partially irrelevant and consequently, unreliable.” The STC also found that MDOT did not monitor FMI Corp., the company conducting the study, and questioned if the study was actually completed before contracting with MDOT. The audit was not certain if the study met MDOT’s needs since the scope of the study was “inappropriately developed.” Some commission members have even publicly stated that MAA should reimburse MDOT \$50,000 to cover the cost of phase one of the study.

Just before *Township Focus* press time, the state Office of the Auditor General (OAG) released an Investigative Audit Report that called into question the findings and oversight of the *Michigan Aggregates Market Study*. The AOG’s report said that MDOT “allowed industry stateholders considerable influence in commissioning and scoping the study.”

The report found “numerous deficiencies in the study” that were caused by “poor project scoping,” and noted that the industry’s influence on the study may have “undetermined the Study’s credibility and usefulness to MDOT and policymakers.” The audit also stated that MDOT violated the agency’s guidelines for service contracts, by splitting it into two procurements.

MTA strongly opposes the preemption of local authority over gravel mining permits and operations contained in SB 431 and encourages our members to contact their state senator in opposition to the legislation.

Ask your senator to oppose SB 431

SB 431 would effectively erase local control over the operation and siting of sand and gravel mines, including noise, hours of operation, dust and traffic routes for all pending and new applications—even if a potential for an environment crisis exists from the mining and regardless of the impact to nearby residents. MTA urges members to contact their state senator and ask them to oppose SB 431 as it:

- Removes overall public interest in the mining operation—creating a one-size-fits-all approach
- Allows mining wherever natural resources exist if profitable and doesn't pose an unavoidable risk to public health or safety
- Permits extreme noise levels, unreasonably long operating hours and eliminates rational zoning control
- Prohibits local government input on proposed haul routes
- Prescribes minimum setbacks, stockpiles/elevation and berming requirements without local input
- Requires shot clocks for application completeness and approval
- Provides limited financial assurance reclamation of (maximum) \$1,500 per acre without local input

Townships must maintain their already limited authority on mining operations and are best equipped to balance the needs of their community. MTA opposes SB 431.

“And then [residents] call me at 3:30 a.m. but there is nothing I can do about it if they make it the law,” he added, noting those changes could negatively impact the positive relationship he has worked more than 20 years to maintain with his residents.

Potential health impacts

Additional concerns that would be removed from local oversight with SB 431 include health issues relating to dust control and noise levels.

Currently, townships have some control over noise levels of their mines, which can be negotiated and reviewed if needed. SB 431 would strip away that control. To put this issue in context, the U.S. Environmental Protection Agency recommends exposure to noise levels should not exceed 55 decibels (or dBAs) over an extended period of time. Hearing loss can occur if the average is 70 dBAs. Exceeding the level of 55 dBAs can also result in health concerns outside of hearing loss, including high blood pressure, obesity and stress. Levels of 45 decibels are associated with indoor residential areas, hospitals and schools, whereas 55 decibels is identified for certain outdoor areas where human activity takes place.

SB 431, however, allows for 75 A-weighted decibels for residentially zoned property, 85 decibels for commercial areas and 90 decibels for industrially zoned areas during

operating hours. In addition, the new noise levels in SB 431 are “time-weighted”—meaning they could be twice as high for up to four hours of the mines operating time, if silent for four hours. This amounts to as much as 150 decibels in a residential area, which would be considered 11 times louder than the maximum EPA-recommended noise level (every 10 dBA over 55 is considered twice the recommended level).

How loud is this? A jet takeoff is 130 dBA, which can cause hearing damage without protection. The potential 150 decibels allowed under SB 431 would be similar to standing near a gun being shot, at a continuous level over a continued period of time. Under the bill, this would be allowed for up to four hours—regardless of the location in the community.

Another concern is around dust from a mine. In a supplement from Michigan State University's Project S.E.N.S.O.R. in 2018, 213 of the 429 mines in Michigan “had at least one silica air measurement above the current allowable level of 0.05 mg/m.” While this study looked at risk to miners, with limited control over dust and other negative mine health conditions, this could logically be expanded to include people living or working near the mine, with health concerns including lung cancer, Chronic Obstructive Pulmonary Disease, chronic renal failure and asthma, to name a few.

Residents may also worry that the operations could endanger the surrounding water and land—even after the mine is inactive. Typically, before a mine commences, a reclamation plan is in place, with all parties aware of what will be done once a mine is complete. This process is overseen through annual reviews and adjusted when needed by local municipalities and engineers on-site.

It is always the aim in mining reclamation, once mining is completed, to leave the property in a useful fashion, either with a return to the previous ecosystem, a housing opportunity, or for some kind of future industrial resource, for example. Reclamation can lessen the long-term environmental impact of the mining operation.

SB 431 sets new boundaries for reclamation, capping the amount at \$1,500 per acre and allowing the owner to select financial assurances. This new cap does not include open water areas, roads and plant sites.

DePalma—whose township also includes two mines that are inactive and one that has not yet begun operating—called the proposed \$1,500 per acre amount “ridiculous.” He continued, “I can tell you, when we have had the engineers go out periodically, and adjust the mining reclamation costs ... you cannot do diddly-squat in reclaiming a mining site for \$1,500 an acre.”

DePalma also expressed concern about the impact the loss of annual reviews would have on the reclamation process.

“That is the one way the township can keep tabs,” he said. “Plus, depending on how the way they mine it, it affects the cost per acre to have it reclaimed.” But with the new cap, all of that will change, and there is a chance that many of these new and pending mines will just not be financially able to be properly reclaimed.

Traffic and trucks

Gravel pits and gravel trains go hand in hand. Railroads are no longer as strategically placed as they once were and, obviously, cannot be easily adapted based on the needs of a new mine. Thus, the conversation around moving aggregate focuses on trucking. Due to the cost to transport sand and gravel, it is more economical to have gravel pits close to the roads and construction projects where the product will be used.

While SB 431 would require that mines include in their operation plan a description of the truck routes, the township would be unable to negotiate which roads the trucks use. In Metamora Township, traffic from the proposed AAOM mine would head right down the main road in the historic downtown district.

"Traffic in the 'downtown' is busy with many, many passenger and commercial vehicles," Nolan said. "Gravel trains rumble through there now and bring all of the noise and vibration that come with them. The AAOM proposal would be to add, in their words, an additional 200 trips per day of gravel trains on top of the traffic that already exists."

Township voice on new Committee on Michigan's Mining Future

As a member of the new Committee on Michigan's Mining Future, **Deborah Pellow, Tilden Township** (Marquette Co.) trustee, hopes for a mining future in Michigan that is fair for townships, mining companies and the environment.

As a former director of the Ishpeming Area Wastewater Treatment Facility for 26 years, a township official and a resident of a township with a long history of mining, she looks at the process from all angles involved.

The advisory committee, established by Public Act 47 of 2019, will "evaluate government policies that affect the mining and minerals industry, recommend public policy strategies to enhance the growth of the mining and minerals industry, and advise on the development of partnerships between industries, institutions, environmental groups, funding groups, and state and federal resources and other entities."

Pellow, who was appointed by Gov. Whitmer to the committee in October, sees the importance of local government being involved in the mines in their community. While Pellow—who previously served on the MTA Board—also believes in the importance of the natural resources in Michigan as well as the need for mining, she emphasized the value of being responsible stewards of the environment and what will be left to future generations.

"I want to represent local government, so that it is prosperous for local government to have mining in their communities," she said. "We need to be respectful and responsible, and take care of what we've got."



Pellow

In fact, AAOM was asked at the outset if they would consider an alternative route that circumvented the downtown area, and AAOM answered that it would not.

In addition, the empty gravel trucks don't have the same road restrictions as fully loaded trucks. Unless a road is designated as a no-truck route, an empty—and louder, because it is not weighed down—truck could still use it. A line of empty trucks heading to the mine early so they can be loaded right at 5 a.m., and the continuous rumbling of the trucks, no matter the hour, could become the new norm—with no township recourse.

Make your voice heard

In talking about his controversial Senate bill, Sen. Hollier argues for the need for uniform statewide rules and for the materials for road repairs. While one could never make an argument that Michigan's roads aren't in dire need of repair, this does not supercede the need for each township—and all communities—to have a say in regulating mines, and mitigating their impacts to township residents as much as possible.

"Our residents know that the township board is doing what it can to protect its residents and to ensure that its residents are given due consideration in a local issue that has such wide-ranging effects," said Nolan. "The residents we have heard from are of the opinion that any legislation that would seek to prevent local input and local control of potentially major operations within the township is bad law. After about 100 years of local control in zoning, people are generally dumbfounded that any legislator would seek to supplant local control with government centralized decision-making and authority."

If enacted, SB 431 will remove local control and oversight from townships and other municipalities—and they won't get it back. There is also fear that this bill could create a snowball effect, impacting other industries and township oversights. MTA strongly opposes SB 431 and asks all our members to reach out to their senator to urge a "no" vote on the legislation, which would have far-reaching impacts across the state (*see page 26 for talking points when speaking with your legislator*).

"Any township or township official who would believe that the current issues concerning gravel mining and the proposed legislation that would effectively strip local control only affects Metamora Township could not be more wrong," Nolan said. "Today, the issue is gravel, tomorrow, it will be something else. Once the erosion of local control has begun, why wouldn't it spread to any other arena where large industrial/commercial operations want what they want and don't want to worry about the impact upon a local community."



Scott Southard,
MTA Staff Writer

Back home

Vintage fire truck returns to its township department

A vintage 1945 Chevrolet fire truck once used by the **Roscommon Township** (Roscommon Co.) Fire Department is now back in the fold, thanks to a social media-savvy firefighter and some quick action on the part of Chief **Joe Williams**.

Williams was able to procure the old fire truck for \$2,500, with the help of firefighter **Josh Sinischo**, who runs the department's social media posts.

This spring, the township board accepted Williams' offer to donate the truck to the township. The township's original purchase price was about \$4,300.

Truck hunting

Sinischo said fellow firefighter **Scott Gillmore** first learned of a photo of the truck from a friend. They knew it was located somewhere in the Detroit area. Williams said Sinischo had posted information on social media and "within 24 hours, I was talking to the guy who owned it in Romulus."

"He showed me this photo," Sinischo said. He then asked Gillmore, "Do you mind if I start chasing it down?"

Given the go-ahead, he posted a message on Facebook to friends and family in the Detroit area and on some antique fire truck sites. "The post just blew up," he said, with more than 400 shares and 50 to 60 comments.

He said he got a lead on it and forwarded it to Chief Williams. "We're just really excited to get it back in the family," Sinischo said, noting that the nostalgic project will encourage camaraderie among the firefighters. "We can't wait to get it restored."

"Thank goodness the guy was willing to work with us," he added, of the previous owner.

Chief Williams said the city of Romulus is probably glad to have the truck out of the previous owner's yard. When

he told the Roscommon Township Board about finding the truck, he said it was found in the owner's front yard "with several other derelict vehicles." (Williams said the truck measures 22 feet, six inches, and the zoning in Romulus allowed for 24-foot vehicles.)

"When we obtained it, it neither ran nor moved," he said. "It now does all those things."

Williams said the fire truck had been sitting in the owner's yard "deteriorating" for about 12 years. "We got there just in time," he said, because the guy was planning to cut it up and make it into a food truck.

"What a relic to make into a food truck," Sinischo said.

Original purchase

Williams was able to retrieve a copy of the township board's Nov. 10, 1945, meeting minutes, listing the purchase of the fire truck.

The board, having met "at house of Chair. Knapp," approved the purchase of the General Detroit Corporation "new fire truck" for \$4,283.35. The truck would have been a large purchase back then, Williams said, noting that a new fire truck currently runs about \$400,000.

The minutes also detail the purchase of 300 feet of 1 1/2-inch hose, a 2 1/2-inch shutoff play pipe (nozzle) and 7/8-inch tip/hydrant wrench, for a total cost of \$300.50.

"For what, I don't know," Williams said of the hydrant wrench. "We don't have hydrants."

Williams said the truck would have been an improvement for the department because the first piece of equipment was a 1930s vintage truck with a tank that was probably “home built” at Delano’s Garage. **Morton Delano** was a Roscommon Township firefighter, Williams said.

At the time, **Wilbert Hines III** was the driver of the 1945 Chevrolet fire truck.

“I remember driving the Chevy,” said Hines, who has served the Roscommon Township Fire Department for 47 years. “I’m glad Joe got it.”

Hines, whose dad, **Wilbert Hines Jr.**, served as fire chief, said he did not want the township to get rid of the truck. He enjoyed driving it in the Michigan Firemen’s Memorial Festival parade, he said.

He recalled a time when his dad drove the truck onto the ice of Houghton Lake to get water for a fire. After the fire was put out, the truck fell through the ice and had to be pulled out with a wrecker, he said.

“That truck is a tough old truck,” he said.

Williams, who started on the township fire department 19 years ago, said the old trucks purchased by the township from 1945 to about 1980 used John Bean pumps that sprayed high-pressure fog. Used aboard Navy ships, high-pressure fog generates steam, he said, but “it went out of fashion.”

The 1945 Chevrolet could pump 500 gallons at 150 psi.

“It was a decent-sized tank for the era—400 gallons,” he said of the Chevrolet, comparing it to a contemporary primary structure pumper that can hold 1,500 gallons of water.

Williams said the 1945 fire truck will again be used for parades, once it is restored.

The brakes—which he described as “very simple” non-power hydraulic brakes—need to be repaired, he said. He also plans to give it a red oak hose bed for the old cotton hoses.

Hines said he is willing to help restore the truck and will drive it in future parades “if they want!”

This article, written by reporter Cheryl Holladay, is reprinted with permission from the Houghton Lake Resorter. It was shared with MTA by Roscommon Township Supervisor Diane Randall.

Tell us your story

The Michigan Townships Association knows that every township has a story—and we want to help tell yours.

We want to know what’s happening in your township—no project, service, collaboration or experience is too small. Your insights, suggestions and ideas could be featured in *Township Focus* magazine, as part of our “Township Happenings” column (see page 6). They could inspire a longer article or a feature on your township, or be included in cover stories. Or we may share with our followers on social media. You could even be asked to share your insights and experiences as part of an MTA workshop or Conference session.

You’re proud of your township, and we are, too. Let us help you tell your story. Email your story ideas, happenings in your townships, pictures, etc. to *Township Focus* editor Jenn Fiedler at jenn@michigantownships.org.

We’re waiting to hear from you!



Legal Defense

Advocating for townships with the MTA Legal Defense Fund

When the Michigan Townships Association advocates for township government, members likely envision MTA staff delivering testimony to a legislative committee or talking with lawmakers in a Capitol “lobby.”

But the third branch of government—the judiciary—decides how statutes will be interpreted. Court rulings frequently impact the ability of township boards to serve their communities, so ensuring that the courts understand the broader implications of the issues and grasp arcane, technical nuances of laws impacting townships is extremely important.

Courts often allow a third party—the Latin term is *amicus curiae*, meaning “friend of the court”—to file a brief with additional information to help the court understand all implications of their decision. Court cases involving townships can create a precedent that other courts will look at to guide decisions in other cases that involve the same points of law. Because MTA intervenes in 10 to 20 court cases every year, every Michigan Townships Association dues statement includes a request for a voluntary contribution from the township to the MTA Legal Defense Fund.

MTA’s Legal Defense Fund started in 1972 with MTA intervening in a tax tribunal case involving **Cooper Charter Township** (Kalamazoo Co.). As more townships requested MTA to assist them in other litigation, the MTA Board

of Directors quickly recognized that MTA’s dues revenues were insufficient to support the Association as well as fund a continuing stream of legal assistance requests.

The MTA Board authorized MTA to create an additional revenue stream dedicated exclusively to the costs of helping townships win court battles having statewide impact. These revenues would be derived from an additional and voluntary assessment on each member township’s dues equal to 10 percent of its dues. In a matter of a few years, almost all townships included the additional Legal Defense Fund assessment with their annual dues, allowing the MTA Board to reduce the amount of the voluntary assessment to 3 percent of each township’s dues while generating enough funds to take care of all cases deserving support. Last year, 97 percent of all member townships contributed to the MTA Legal Defense Fund.

Credible and insightful

MTA’s intervention helps the court understand how other townships and governmental entities would be impacted, and MTA’s legal insights and arguments also buttress the legal

position of the township directly involved. MTA and other interest groups generally must seek permission from the court to submit an *amicus* brief, but because of MTA's reputation for credible and insightful briefs, our briefs are almost always welcomed. In fact, MTA has a standing invitation to file *amicus* briefs in the Michigan Supreme Court.

Townships involved in litigation impacting other townships can request assistance on an application form that requests detailed information about the case. (*The application form, and additional information, are available on the member side of www.michigantownships.org.*) Townships also can request financial assistance to help defray their legal bills, but MTA generally only provides financial assistance when the township demonstrates that the lawsuit would have a significant impact on the township's financial position and without additional financial support could not adequately present its position to the court.

MTA Legal Counsel and the executive director review the application to ascertain that there is, indeed, a statewide impact and that the township's position is legally defensible. If funding is requested, the township's financial position is also scrutinized. Consequently, absent a compelling financial need, these requests are declined. The decision to intervene, however, is made by the Legal Defense Fund Committee comprised of members of the MTA Board.

MTA's Legal Defense Fund also intervenes in cases involving cities, villages and counties where the matter litigated would impact townships as well. Usually other associations that have the litigant entity as a member take the lead in developing the brief and MTA helps defray a portion of the brief's cost. MTA has also intervened in cases involving state agencies, such as the Michigan Department of Transportation.

Many Legal Defense Fund cases involve zoning decisions, governmental immunity, and more recently, property taxation cases involving interpretation of state law rather than simple valuation disputes. Additional common examples of Legal Defense Fund cases include, but are not limited to, issues such as:

- assessing
- annexation
- Freedom of Information Act
- "Dark Stores"
- local control
- water and sewer services
- taxation
- Headlee amendment

Stay informed on cases that receive Legal Defense Fund support, as well as the outcome of Legal Defense Fund cases, through articles and court ruling synopses right here in *Township Focus* (see sidebar at right for an update of recent action by the Legal Defense Fund Committee).

Cases receive Legal Defense Fund support

When your township makes a voluntary contribution to MTA's Legal Defense Fund, you assist townships in legal battles that have significant statewide impact. This critical fund has enabled MTA to lend financial support to a number of legal cases, including the following that recently received approval by the MTA Legal Defense Fund Committee.

New Covert Generating Co. LLC v. Covert Township—This decade-long case, involving the valuation of the New Covert power plant, continues in the state Court of Appeals. At issue in this case is whether statute requires the personal property statement to be filed before commencement of the board of review in all cases to enable the personal property taxpayer to file an appeal with the Michigan Tax Tribunal, as well as the definition of "turbine" for industrial personal property purposes.

Livingston County Hockey Association v. Township of Genoa—This case before the Michigan Tax Tribunal (MTT) involves a hockey rink tax exemption for charitable purposes. With recent unfavorable court decisions involving charitable tax exemptions, the fear is that the exemption could be expanded to all recreational uses unless a favorable decision is received from the MTT and any subsequent appeals to the Court of Appeals.

Jamila Youmans v. Charter Township of Bloomfield—This case, in the state Court of Appeals, is a class-action complaint alleging that the township's water and sewer rates violate several provisions of law and result in overcharging. The fundamental issue involves the burden of proof in these types of utility rate challenges.

Oakland County v. MDEQ—Additional support was approved in this case, in which the plaintiffs argue that the revised lead and copper rules enacted by the state Department of Environmental Quality (now Department of Environment, Great Lakes and Energy) compromise their ability to remove lead lines in a manner that protects the public from contaminants in drinking water, and also constitute an unfunded mandate.

Susan Reaume v. Spring Lake Township—Following a favorable decision for the township in the state Court of Appeals, leave for appeal was filed in the Supreme Court by the plaintiff in this case challenging the township's ability to regulate of short-term rentals in residential zones.

Taxpayers for Michigan Constitutional Government v. State of Michigan—This case, on appeal to the state Supreme Court, involves whether the state violated the Michigan Constitution by reducing state spending paid to local governments. This summer, a favorable Court of Appeals ruling held the state "breached (its) duty" on reporting funded and unfunded mandates in its revenue sharing with local governments, and ordered the state to begin producing a report identifying the required amount be disbursed to a local government for state requirements and the total amount required for local government.

upcoming MTA workshops

REGISTRATION INFORMATION

November workshops examine meetings, land use and strategic planning

MTA can help your board understand the elements of strategic planning, structure more effective meetings and learn techniques for making sound land use decisions. Join us at the **Bavarian Inn Lodge** in **Frankenmuth** this **November** for one (or all!) of the courses described below:

Nov. 19 from 9 a.m. to 4 p.m.
Defining Your Township's Land Use Future (F-102; 6 credits)

Includes continental breakfast and lunch

Steve Langworthy, land use expert and author of MTA's planning and zoning guidebooks, goes in-depth exploring issues that must be confronted if your township planning efforts are to be successful. Learn the purpose, process and legal requirements of your master plan, and gain insights into a broad range of day-to-day and emerging land use issues.

Nov. 20 from 8:30 a.m. to 12:30 p.m.
Strategic Planning for Townships (B-104; 4 credits)

Includes continental breakfast

Strategic planning is critical to achieving real results in your township. Discover what strategic exploration entails, as well as the voices that must be heard, in order to develop a solid plan that aligns the township's resources and creates favorable outcomes.

Nov. 20 from 1:30 to 5 p.m.
Making Meetings Work (B-105; 4 credits)

Includes lunch served at 12:30 p.m.

We can help you structure your meetings to achieve more in less time, with fewer headaches! Uncover strategies to deal with differences around the board table while staying focused on results. Identify ways your board can define its "rules of engagement" so your meetings will be orderly and productive.



These courses are part of MTA's Township Governance Academy (TGA). They are designed to enhance your leadership skills and motivate you to take on the challenges (and opportunities!) unique to those serving as an elected official. Regardless of your position on the board or amount of experience, TGA will move you to a higher level of performance and make your service more rewarding. Uncertain whether TGA is for you? Try it! You do NOT have to be enrolled in TGA to attend. Credit will be assigned retroactively if you enroll within six months of attending.



Cancellations & substitutions: Written cancellation requests received at the MTA office by Nov. 5 will receive a full refund. No refunds will be issued thereafter. You may substitute another individual from your township for your registration at any time without incurring a charge; please notify MTA of the change. Substitutions are not allowed for registrations made using TGA scholarship funds.

TGA Registration Form

Township _____ County _____

Telephone _____ Email Address _____

Name & Title _____ ☐ Land Use ☐ Strategic ☐ Meetings ☐ All

Name & Title _____ ☐ Land Use ☐ Strategic ☐ Meetings ☐ All

Name & Title _____ ☐ Land Use ☐ Strategic ☐ Meetings ☐ All

Name & Title _____ ☐ Land Use ☐ Strategic ☐ Meetings ☐ All

	Early-Bird Rate* By Nov. 5	Regular Rate* Nov. 6-13	On-site Rate* After Nov. 13
Land Use (F-102)	\$ 125/attendee	\$145/attendee	\$165/attendee
Strategic (B-104)	\$ 89/attendee	\$109/attendee	\$129/attendee
Meetings (B-105)	\$ 89/attendee	\$109/attendee	\$129/attendee
ALL SESSIONS	\$303/attendee	\$323/attendee	\$343/attendee

of Sessions _____ Registration Fee _____ Total _____

_____ x _____ = _____

*Rates apply to MTA members. Non-members, call for rates.

NOTE: Payment must accompany form in order to be processed.

- ☐ Check enclosed (payable to MTA)
☐ Charge to: (circle one) MasterCard VISA

Card # _____

Expires _____

Print Card Holder's Name _____

Signature _____



Send your completed registration form with payment to MTA, P.O. Box 80078, Lansing, MI 48908-0078; fax: (517) 321-8908. Or register online at www.michigantownships.org. Questions? Call (517) 321-6467.

FALL

into savings

At MTA, we are honored for the opportunity to educate Michigan's township officials and decision-makers year-round. But we know that your busy schedule might not allow you to attend the workshops that you want and need. **Our webcasts are a convenient way to get the education you want—and now is the perfect time to check them out.** All webcasts are half-off for the entire month of November! It is our way of thanking you for turning to MTA for your professional development.

MTA webcasts deliver online training straight to your township hall, office or home. You could even stream webcasts to provide education for your entire board, planning commission or other committee. **Eliminate travel costs and schedule conflicts with this convenient, affordable option and get quality education—geared exclusively to townships.** Webcasts may be viewed any time within one year of purchase.

**Get 50% off ALL
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November!**

Discount code: thanks

Popular webcasts include:

Assessment & Taxation

- Assessing Oversight: The Process
- Guide to Tax Collecting

Board Essentials

- Building a Better Budget
- Cemetery Management
- Effectively Exercising Board Authority
- Governing an Accountable Fire Department
- Meeting Misconceptions

Financial

- Accounting & Payroll
- Exploring Revenue Sources
- Special Assessment Procedures
- Spending Public Money

Planning & Zoning

- Introduction to Planning & Zoning
- Roles & Functions of the ZBA
- Writing, Adopting & Enforcing Ordinances

New Officials Training

- Getting Started Right
- Sessions for each office

Township Governance Academy

- At Your Service: Meeting Township Needs
- Board Roles & Relations **NEW!**
- Fundamentals of Assessment & Taxation
- How Boards Make Decisions
- Managing Your Township Team

Detailed descriptions of each webcast are available online; visit MTA's eLearning Library at www.michigantownships.org (under the "Training" drop-down menu).



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