



MICHIGAN TOWNSHIPS ASSOCIATION

2009
Policy Platform
(as adopted on January 30, 2009)

Michigan Townships Association

MISSION STATEMENT

The Michigan Townships Association promotes the interests of 1,242 townships by fostering strong, vibrant communities; advocating legislation to meet 21st century challenges; developing knowledgeable township officials and enthusiastic supporters of township government; and encouraging ethical practices of elected officials who uphold the traditions and unique characteristics of township government and the values of the people of Michigan.

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PAST PRESIDENTS:

Lary Rutledge, supervisor, LaSalle Township, Monroe Co

Arlene Hill, clerk, Charter Township of Chocolay, Marquette Co.

Don Hilton Sr., supervisor, Charter Township of Gaines, Kent Co.

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RESOLUTIONS SET POLICY

MICHIGAN TOWNSHIPS ASSOCIATION BYLAWS GOVERNING RESOLUTIONS AT ANNUAL MEETING ARTICLE IV – MEETINGS

Resolutions at Annual Meeting

1. Advance Resolutions. Resolutions submitted for consideration at the Annual Meeting shall be approved by the Legislative Policy and Resolutions Committee and the Board of Directors. The deadline for submission of resolutions shall be 150 days prior to the Annual Meeting. These resolutions shall be published in the *Michigan Township News* and shall be provided in the convention packet.

2. Resolutions from the Floor.

- A. Resolutions from the floor shall be submitted to the MTA Headquarters Room not later than 12:00 noon the day prior to the Annual Meeting. The Resolutions Committee shall review the wording and legality of such resolutions.
- B. No resolution shall be accepted from the floor unless a petition signed by at least one hundred (100) registered delegates to the convention accompanies the resolution.
- C. The resolution sponsor shall furnish sufficient copies of the resolution to be distributed to all delegates at the beginning of the Annual Meeting.

3. Amendments to Resolutions. Amendments are permitted to any resolution submitted at the Annual Meeting provided the purpose of the original resolution remains unaltered.

4. Non-conforming Resolutions. Resolutions failing to comply with the above provisions shall be considered by the Board of Directors at its next regular meeting.

1.0 GENERAL ASSESSMENT AND TAX ADMINISTRATION STATEMENT

Property taxes are the foundation of local government financing. Townships are not only concerned about the revenue that is generated for their own functions but also from the standpoint of administering the property tax system itself. Townships look for a property tax system that is equitable, reasonable to administer and user-friendly for the taxpayer. While the Legislature has the power to exempt property from the property tax system, it should only be done for specific purposes and under limited circumstances, with the understanding that relieving one person from the burden of taxation usually means an increased burden on all other taxpayers.

1.1 MANUFACTURED HOME TAXATION

Since the post World War II era, manufactured homes located inside mobile home parks have not paid property taxes. Instead, they have been assessed a monthly tax amounting to \$36 per year. Despite this diminutive contribution to local government, park residents demand and receive the same public services as those residents living outside parks who are paying ad valorem property taxes. MTA supports:

- legislation that places manufactured homes in parks on the ad valorem property tax roll.

1.2 ASSESSING AND TREASURER AUTHORITY

Township operations are an integrate system of supervisors, clerks, treasurers, building officials and assessors working together on a daily basis in order for each to properly perform their statutory duties. Citizens have better access to and greater understanding of the assessing process if it is performed at the township level. The ability for taxpayers to pay their property taxes locally and have questions answered in an open and friendly atmosphere helps people appreciate the value of local government. A recent academic study has shown that the assessing function is also more cost-effective under township authority. MTA opposes:

- moving the function of assessing out of the township and into any other level of government; and
- moving the function of property tax collection out of the township and into any other level of government.

1.3 TAXABLE VALUE “POP-UP” PROVISIONS

Many legislators are beginning to focus on the disparity between the taxable value of property and its state equalized value as a deterrent to the sale of existing property. Some would like to freeze the taxable value of the property at the time of the sale. Article IX Sec. 3 of the Michigan Constitution states in part: “When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the appropriate proportion of the current true cash value.” The framers of Proposal A placed the cap to protect the property owners from excessive increases in property tax levies on individual properties and removed the cap upon sale to maintain a competitive market between existing homes and new home sales. MTA opposes:

- legislation that attempts to circumvent the plain meaning of our constitution related to the cap on taxable value.

1.4 ECONOMIC DEVELOPMENT

Townships are a vital component in economic development. Economic development is key to the growth of our state. This development occurs in townships as well as cities and villages. In many situations, economic development laws are enacted in this state that are only available to city and village governments. MTA supports:

- making all economic development tools available to townships so long as the townships meet all other prescribed qualifications.

1.5 TAX EXEMPTIONS WITHOUT REIMBURSEMENT

The Legislature continues to introduce legislation that exempts specific items from taxation. In almost all instances, no replacement revenue is provided. Examples include exempting items from sales tax or types of property from property taxes. Therefore, MTA opposes:

- all legislation that grants a tax exemption without reimbursement for the revenue loss or a corresponding savings to the township in administrative costs.

1.6 PERSONAL PROPERTY TAX EXEMPTION

Businesses have argued that the personal property tax (PPT) is an onerous tax, which makes them uncompetitive and should be eliminated. Townships find the tax very difficult and costly to administer, especially when dealing with very small businesses. Elimination of small miscellaneous bills would save more than enough money to offset lost revenues. Uncollectible bills languish for six years on the roll before they are written off. MTA recommends:

- establishing a threshold for total personal property subject to assessment of \$5,000 taxable value; and
- allowing uncollectible personal property tax to be stricken from the tax roll after two years.

1.7 DEFENDING PERSONAL PROPERTY MULTIPLIER TABLES

Over the past few years, assessing governmental units have spent a great deal of time and resources defending personal property multiplier tables as established by the State Tax Commission. In each case, the state has offered no resources to local governments that have been forced to defend the work product of the state, this despite the fact that the state school aid fund is the primary beneficiary of the tax revenue that is generated. MTA supports:

- legislation that would require the State Tax Commission to defend their work products when challenged by property owners.

1.8 ELIMINATION OF THE PERSONAL PROPERTY TAX

The Michigan Legislature recently reduced personal property taxes for certain segments of our economy without impacting local government operations except for school operations. However, local governments remain concerned that there may be attempts to further reduce personal property taxes at the expense of local government operations. In some communities, as much as 50 percent of the tax base is personal property. MTA supports:

- if the Michigan Legislature elects to reduce or eliminate the personal property tax, it does so by offering businesses a credit on state business tax obligations for personal property payments.

1.9 COURT CASES IMPACTING PROPERTY TAX COLLECTIONS

Recent court cases have had major impacts on the operation of the property tax system, in each case opening large loopholes within the system. In *WPW Acquisition Company v. City of Troy* and *Toll Brothers v Northville Twp.* the courts ruled that the definition of additions as found in the property tax act could not be modified from its pre-Proposal A version. In *Wexford Medical v. City of Cadillac*, the court seriously minimized the threshold for being considered charitable for the purposes of exempting nonprofit charitable property from taxation. In *Moshier v. Whitewater Twp.*, the courts recognized a loophole that allows the taxable value cap to remain in place when property transfers. MTA supports:

- legislation that returns the language of additions and losses within the property tax act to its pre-Proposal A state;
- legislation that creates a specific and meaningful definition of “charitable” when exempting nonprofit charitable property from taxation; and
- legislation to correct the loophole identified in the *Moshier* case in the definition of transfer of property.

1.10 SUMMER TAX COLLECTION

In order to balance the state budget, the state has moved the collection of the state education tax to a summer tax bill and is moving the county taxes to the summer as well. School districts, including ISDs, already have authority to collect on the summer property tax bill. This leaves very little millage left on the winter bill. Currently, schools must pay the cost of collecting the summer property tax bills in all townships. MTA supports:

- moving all property taxes to a single summer tax bill; and
- finding a new method to pay for the cost of collecting summer taxes until all taxes are collected on a once-per-year summer tax bill.

1.11 PROTECTING POTENTIAL NEW HOMEOWNERS FROM MISLEADING PROPERTY TAX ESTIMATES

Township officials must regularly respond to individuals who have recently purchased property and are upset that their new property tax bill is substantially larger than anticipated. This generally occurs because the impact of the uncapping property value under Proposal A was not explained to them during the time that the sale was

negotiated and documents were often used that listed current or prior year property tax liability. In order to protect the interests of individuals who are purchasing property, MTA supports:

- legislation that would require that any advertisement or document that is used to sell property, which contains a reference to the property tax liability for the property, use an estimate of the last state equalized value times the last year total property tax rate as the estimated new property taxes for the property in question.

1.12 USE VALUE ASSESSMENT

The constitutional requirement of uniformity prevented the Legislature from requiring agricultural land to be assessed at its current use. MTA supports:

- assessing farmland property at its current use rather than highest and best use; and
- legislation that would enable local governments to voluntarily identify and establish agricultural production areas where landowners could voluntarily enroll and receive tax benefits in the program.

1.13 CHARTER TOWNSHIP TAX LIMITATION

Due to the growth in many charter townships, there is a demand for additional services. Providing these services is often difficult because of constitutional and statutory tax limitations. Exempting specific purpose millage from the limit calculation would address this problem. Therefore, MTA supports:

- raising the millage limitation from 10 to 12 mills; and
- permitting the levy of up to two mills for emergency services that is not counted against the millage limitation.

1.14 MICHIGAN TAX TRIBUNAL

The current tax appeal process for tribunal decisions fails to provide the resolution of appeals in a timely manner. The Tax Tribunal has shown tendencies to use decisions to protect segments of the economy at the expense of other taxpayers. When rendering a decision, the tribunal is not required to use the same value standards required of assessors and the board of review. MTA encourages:

- the state of Michigan to provide the Michigan Tax Tribunal with adequate tools, resources and trained personnel to assure timely resolutions of appeals; and
- Tax Tribunal decisions that are based upon facts and the value standards contained in the *Assessor's Manual*.

1.15 STATE-OWNED PROPERTY TAXATION

Providing adequate local services is a concern to every local government. State-owned land and buildings require as many local services as any piece of private property. The state is considering limiting or withdrawing its payments on land or buildings as a budget-saving measure. This would hurt local taxpayers who must pay more to provide the needed services. The state is compounding the problem by acquiring additional land when it is not able to maintain the land it currently owns. MTA supports:

- legislation that assesses taxes on state-owned property in the same manner as all other property;
- a moratorium on the state acquisition of land until it can fully fund the payment-in-lieu-of-taxes (PILT) program; and
- fully funding the fire grant program so that public buildings can be fully protected, especially now that these buildings are a target of our nation's enemies.

1.16 SWAMP TAX

All tax-reverted recreation land or forestland that was under the control and supervision of the state before 1933 is exempt from the ad valorem property tax roll and pays instead a \$2 per acre specific tax. The tax is divided equally between counties and townships. This specific tax has not been increased since the early 1900s. Approximately 3.5 million acres are subject to this program or approximately 10 percent of the landmass of Michigan. MTA supports:

- legislation to increase the swamp tax; and
- legislation that provides an annual inflationary adjustment to the tax.

1.17 GOVERNMENT AND OTHER TAX-EXEMPT ACQUISITION OF TAXABLE LAND

The shrinking tax base is a great concern to townships throughout the state but especially those in rural northern areas. Many townships have government-held land that far exceeds 50 percent of their total land base and cannot afford to lose more tax base to such nontaxable ownership. Therefore, the following is recommended:

- that governmental and other tax-exempt entities consult with affected township boards when acquiring additional land; and
- that some consideration be given to taxes continuing to be paid to the township when private property is acquired by governmental entities.

1.18 STATE OVERSIGHT OF ASSESSORS

Over the past four years, the number of certified level 4 assessors in the state has declined by 10 percent. Also a major flaw was exposed in the State Assessors Board method of establishing certification levels for assessors, as assessors who are qualified at the beginning of the tax year become unqualified to sign the roll by the end of the year, due to simple property value growth. MTA supports:

- the state provide extra resources to educating and certifying level 4 assessors; and
- revising the state equalized value limitation for level 1 through 3 assessors in such a manner that the limitation is based on the values that exist at the beginning of the assessing year, rather than the value at the time the roll is signed.

ELECTIONS

2.0 ELECTION PHILOSOPHY STATEMENT

Our democratic system of government demands that we have an election process that is run fairly, openly and efficiently. Every effort should be made to allow voters equal access to the polls while maintaining the integrity of our elections. We feel that the government that is closest to the people can best accomplish this and that local clerks should be the backbone of our election system. We further feel that the “one-size-fits-all” mentality is often not good public policy and that the state needs to be cautious when enacting or amending election law so that it does not require inordinate resources of our valued part-time clerks. Therefore, we generally support efforts to give local clerks more authority to run elections and oppose any efforts that would diminish their authority.

2.1 ELECTION OF TOWNSHIP OFFICIALS

As it is already difficult to get individuals to run for local office, imposing term limits on local offices and staggering terms could result in internal conflict and exacerbate the difficulties. If township officials are elected on a nonpartisan basis, they risk losing their political clout with a party affiliation. Because state statute has been amended to lower the number of signatures required to be filed, permitting the filing of a fee in lieu of petition signatures is not necessary. MTA recommends:

- opposing term limits and staggered terms of township officials; and
- opposing the filing of a fee in lieu of petition signatures for township office.

2.2 STATE TERM LIMITS

In 1992, Michigan voters changed the state Constitution by supporting term limits for state elected officials. This pertained to all members of the state Legislature, the governor, lt. governor, attorney general and secretary of state. Many have argued that the result of term limits has been, and will continue to be, a drain on state elected officials who have the experience and knowledge to effectively run the state. Many have indicated that the term limits implemented in Michigan are too short. MTA recommends:

- support for legislation and a constitutional amendment that would increase term limits to 12 years for all state offices.

2.3 RECALL

The holding of a recall election is not a judicial or governmental determination that the official or officials who are the target of the recall engaged in any illegal conduct. Recall elections are a political, rather than a judicial, process. While MTA’s preference would be to require that recall petition language be truthful, and that recalls be limited to malfeasance, misfeasance and nonfeasance, questions of constitutionality are substantial barriers to legislative adoption. However, legislation should be enacted to amend the recall process to make it fairer to the individual or individuals being recalled. The recall law should be amended to:

- extend the length of time that an elected official cannot be recalled from the first and last six months of their term to the first and last 12 months of their term for those officials whose term of office is greater than two years;
- require that recall petitions must be filed with the filing officer within 60 days of the filing of a recall committee; and
- reform Michigan’s recall process to provide that candidates, including the incumbent, be eligible to run in the recall election.

2.4 ELECTION JURISDICTION

Following the general election of 2000, there has been a great deal of discussion of election reforms at all levels of government, and several election reform recommendations have been offered by various national organizations and the Michigan Legislature, with some having been passed into law. MTA maintains that any election reforms initiated by either the federal or state government should be cost efficient and appropriate to local circumstances. Furthermore, in recognition of election integrity, we strongly believe that the administration of elections can best be accomplished by the government that is closest to the people. MTA recommends:

- opposition to state legislation that takes away or transfers the townships’ authority to administer elections; and
- opposition to federal or state legislation that places an undue financial or procedural burden on townships or township clerks.

2.5 ACCREDITATION AND TRAINING OF CLERKS AND ELECTION INSPECTORS

The Michigan Election Law mandates that election administrators be trained and accredited. The office of the secretary of state should be responsible for such training unless other qualified trainers are provided. In addition, current election law only allows those clerks with a jurisdiction population of over 10,000 to train their own election inspectors. MTA supports:

- allowing all local clerks who have been accredited to train their own election inspectors.

2.6 DIRECT ACCESS OF QUALIFIED VOTER FILE (QVF) BY SMALL GOVERNMENTAL UNITS

Continuous software updates are needed to maintain the integrity of the Qualified Voter File (QVF), which must also be available to smaller governmental units. Without state funding of a system for direct access, the accuracy of voter records cannot be ensured. MTA recommends:

- state funding for QVF software and equipment upgrades at all levels of access to the QVF for all governmental units;
- the state to develop the QVF to allow direct access by all governmental units; and
- adequate state funding of equipment to ensure the maintenance of accurate voter registrations and street index changes.

2.7 ABSENTEE VOTER (AV) BALLOTS

The fast-paced lifestyle of today’s society has presented circumstances, which prevent individuals from going to the polls to vote. Yet these reasons are not included under provisions of the Michigan Election Law, which permit obtaining an absentee voter (AV) ballot. Additionally, AV ballots are often not delivered by vendors in a timely manner to meet statutory timelines, thus preventing clerks from getting the ballots to voters on a timely basis. Many clerks have also experienced difficulties with non-standardized AV application forms used by political organizations or candidates. Furthermore, recent court decisions have left confusion about which clerks, if any, have the legal authority to mail AV ballot applications to certain AV voters. The following is recommended:

- no reasons required to obtain an AV ballot;
- permit applications to be requested and filed electronically with the availability of digitized signatures;
- state standardized AV ballot application form for use by organizations sending out AV ballot applications;
- city, township and village clerks maintaining a permanent AV ballot application list for those voters 60 years and over, including those unable to get to the polls without assistance of another person, and who request to be on such a list as long as voters on pre-existing lists may also be incorporated into any new permanent AV ballot application list;
- that clerks have the ability to purge permanent AV ballot application lists of those voters who have not utilized an AV ballot in the last two federal elections; and

- that state election law be clarified to indicate that it is the city, township and village clerks who have the authority to maintain AV ballot lists and to mail AV ballot applications, rather than the county clerk.

2.8 BALLOT PETITIONS AND ELECTION SCHEDULE TIMEFRAMES

It is incumbent on the state to more thoroughly examine statewide ballot petitions for fraud, particularly duplicate and unqualified signatures. Failure to uncover petition fraud undermines the validity of the initiative and referendum processes and rewards unscrupulous conduct in collecting petition signatures. Unfortunately, township election officials already often fail to receive their ballots from printers by the statutory deadline due to the current unrealistic timeline for determining the validity of statewide ballot proposal petition signatures and court challenges. Consequently, overseas voters, including men and women serving our country in the armed services, are routinely disenfranchised when their completed ballots are not returned until after the election. MTA recommends:

- the Legislature revising the timetable to submit statewide ballot proposals to allow sufficient time for the secretary of state's Bureau of Elections to thoroughly screen all signatures for fraudulent ballot petitions, particularly resulting from inclusion of unqualified and duplicate names; and
- the Legislature revising the election schedule to give local election officials more time to prepare the ballot and to mail out and receive overseas absentee ballots.

2.9 PRIMARY ELECTIONS

Political parties have primary elections to select their candidates for federal, state and local offices. As voters mark their primary ballots, numerous ballots are spoiled due to split-party voting. MTA recommends:

- color-coding the August primary ballot to prevent split voting.

2.10 VOTER REGISTRATION PROCESS

The registration process is critical to the integrity of elections. While Michigan has vastly improved the voter registration process, some aspects still need improvement. Also, additional ideas have been put forth to expand how citizens can register to vote. Changes also need to be made to clean up the voter list, which would allow clerks to print fewer ballots, and potentially allow for the reduction of voter machines and precincts with a more accurate count of qualified voters. Of utmost importance is preserving the integrity of elections. MTA recommends:

- supporting a requirement that voter registrations submitted at secretary of state branch offices must be signed to be valid;
- opposition to any legislation that would permit registration on Election Day or same-day registration;
- supporting a requirement that a person taking voter registrations within a local jurisdiction or county be registered with the local or county clerk to take registrations and that the registrations taken by such a person be turned in within 10 days of the registration form being signed or by the close of registration;
- supporting the concept of an inactive voter file within the QVF; and
- supporting the requirement that the residential address be the same as on the QVF.

2.11 INCREASE IN VOTER PARTICIPATION

Voter participation in elections is crucial to the credibility of elections. Voter participation has decreased significantly over the past several years. While the decreases in voter participation numbers can partially be attributed to the fact that voter records are inflated with names of people who are no longer eligible to vote within that community, there are steps that can be taken to increase voter interest and participation. MTA recommends:

- opposing any efforts to eliminate straight party ticket voting; and
- supporting the concept of early voting if modified to accommodate communities with clerks who do not maintain full-time business hours.

3.0 GENERAL ENVIRONMENTAL PHILOSOPHY STATEMENT

The Michigan Townships Association's primary environmental focus will be on those environmental issues that have a direct impact on the operation of township government. However, MTA also strives to be a good environmental steward and supports sound pro-environmental policy and legislation that will enhance Michigan's overall environmental condition so long as it does not adversely infringe in any way upon local control.

3.1 WATER REGULATIONS

The state Legislature, and now the federal government, have recently enacted legislation to address Great Lakes water diversion issues and oversight of new and increased large quantity water withdrawals. However, issues of restoration of the Great Lakes remain a serious concern. Also, there have been some legislative efforts to improve water quality and address invasive/aquatic nuisance species in the Great Lakes and inland lakes in recent years. The following is recommended:

- support for increased federal and state funding to protect and restore our Great Lakes waters; and
- support for additional legislation and funding that would enable state and local officials to address the causes of aquatic nuisance species contamination and to be able to enforce regulations in combating the growing aquatic nuisance species threat to Michigan's water bodies.

3.2 NATURAL RIVERS ACT

Once a river has been designated a natural river under the Natural Rivers Act, the state has control over much of the activities in the water and on the shoreline. The act requires that a local advisory committee be named to work with the Michigan Department of Natural Resources (MDNR) to establish river policy. Even though local input is sought, the committee is only advisory and state rules prevail. Rules cover shore activity, building setbacks, swimming, boating, fishing, etc., and often ignore individual property rights. The following is recommended:

- strengthen the voice of local units of government and enhance the authority of local committees in setting natural rivers policy.

3.3 ROLE OF AGRICULTURE

Historically, agriculture has played an important role in Michigan's economy and culture. It is often stated that agriculture is the second largest industry in the state. At a time when farmers face growing competition from foreign producers, it is important to remember that our nation needs to maintain its ability to provide a safe and quality food supply to its citizens. In addition, farmers continuously face pressure to sell their land for development, reducing open space and sometimes creating development controversies for townships. It is important for the state and local units of government to support efforts to encourage and strengthen agriculture in our state, while applying reasonable regulations to protect the environment. Therefore, MTA supports:

- policies that promote agriculture in our state while affirming a local unit of government's ability to establish zoning regulations;
- requiring concentrated animal feeding operations (CAFOs) to obtain a state permit and submit to other appropriate regulatory oversight at the state and local levels; and
- overall agricultural practices that protect the environment.

3.4 SOLID WASTE PLANNING (AND DISPOSAL)

New landfills are not being sited; however, many existing landfills have sought expansions as the flow of out-of-state waste coming into Michigan increases. Landfill boundaries are outlined in the county plan. Provisions for operations, expansion and fees are negotiated subject to the solid waste plan. Landfills have traditionally been permitted to expand, over objections from the community hosting the facility. Neighboring communities are also impacted by traffic, odors, noise and other nuisances. Surplus landfill capacity and unreasonably low tipping fees in Michigan are attracting out-of-state and out-of-country waste to state landfills. While MTA is opposed to the importation of out-of-state and out-of-country waste, state and local governments are prohibited from regulating such waste by the Interstate Commerce Clause of the U.S. Constitution. The following is recommended:

- relevant parties, including all local units of government, must be involved together in the decision-making process with respect to the siting of landfills and expansions;

- additional fees used for impacts on neighboring communities should be imposed; and
- support for additional tipping fees at Michigan landfills that will be returned to all local units of government on a per-capita basis.

3.5 TOWNSHIP DUMPS

Many townships once lawfully owned and operated dumps that have been closed for years. When leaching is detected, expensive action plans and clean-up costs fall on the townships, as former dump owners/operators. The following is recommended:

- township clean-up cost exposure should be limited to and mitigated by the date the dump closed and rules in place at the time of operation; and
- support funding to assist local governments with grants or low-interest loans.

3.6 SEPTAGE/BIOSOLIDS

There is an ever-increasing effort by counties, other local units of government and the Michigan Department of Environmental Quality (MDEQ) to regulate on-site disposal systems (septic tanks) through regular inspections and to move towards a ban of land application of septage. At the same time, wastewater treatment plants often rely on land application of biosolids, the end result of the treatment process. In order to protect the environment and to enhance city-township cooperation, the following is recommended:

- support the eventual ban of the land application of untreated septage after significant alternatives become available;
- support for additional state funding through the state revolving fund for septage acceptance stations;
- support for the continued land application of class A biosolids; and
- support for a statewide sanitary code that distributes regulation and enforcement duties between the Michigan Department of Environmental Quality and local health departments, and that does not infringe upon the township board's ability to make land use decisions at the local level.

3.7 COMMUNITY SEWER SYSTEMS

Due to a 2003 court decision and a more recent attorney general opinion, the relationship between the Michigan Department of Environmental Quality (MDEQ) and local units of government has become somewhat blurred when approving proposals for community sewer systems. While MDEQ has sole authority over the issuance of construction permits, local units of government have discretion over zoning. These responsibilities often conflict when developers apply for a community sewer construction permit from the MDEQ before ensuring the project conforms to local zoning. Oftentimes, the MDEQ will issue a construction permit based on the environmental, social and economic development impacts of the project without knowing whether it conforms to local zoning classifications or if it could financially undermine existing public sewer systems. Therefore, the following is recommended:

- support for legislation that would require the Michigan Department of Environmental Quality to ensure that a community sewer system application meets all local zoning requirements for the location of the system and the development it is proposed to serve before issuing a permit.

3.8 STORM WATER RULES/EPA AIR QUALITY

Federal storm water and air quality rules are placing enormous financial burdens on state and local governments. West Michigan is being affected by air and water pollution generated from neighboring states. In addition, many communities throughout the state are facing enormous needs to improve their water and sewer infrastructure. Therefore, the following is recommended:

- oppose unfunded state and federal mandates;
- support state, regional and local efforts to minimize the economic impact of federal air quality standards;
- adequately fund a revolving loan fund or provide state grants to assist in upgrading sewer systems through the separation of combined sewer overflows (CSOs) and the reduction/elimination of sanitary sewer overflows (SSOs); and
- support increased funding from the federal government for sewer projects.

3.9 ENERGY CONSUMPTION AND GLOBAL WARMING

Our state and nation continue to face high energy costs and increasing dependence on foreign energy sources. While increased domestic fossil fuel production may help address the short-term problem, other efforts must be implemented to meet long-term energy needs. It is also important to engage in the increasing policy debate over global warming. Although many states, including Michigan, are discussing implementing cap and trade measures for carbon emissions at the regional level, this could lead to an economic competitive disadvantage for those areas. The following is recommended:

- support federal, state and local efforts to expand the use of renewable energy sources, such as wind, solar and biomass while preserving local zoning authority;
- support the expansion of the brownfields program to promote alternative energy production;
- support the use of Leadership in Energy and Environmental Design (LEED) standards in local government, industrial, commercial and residential structures; and
- support discussion leading to a national “cap and trade” policy to reduce carbon dioxide emissions.

3.10 MICHIGAN RECYCLING EFFORTS AND THE EXPANSION OF THE STATE BOTTLE DEPOSIT LAW

With a 20 percent municipal solid waste recycling rate, Michigan has lagged behind the rest of the Great Lakes states in our recycling efforts and has missed out on important recycling opportunities. In the meantime, Michigan’s bottle deposit bill, passed in 1976, has become outdated as non-carbonated beverage sales are expected to outpace carbonated sales by 2010. With the change in consumer consumption, Michigan roadways and parks are encountering an increase in litter resulting in higher cleanup costs for portable beverages. Efforts to improve Michigan’s recycling rate need to be promoted to preserve our natural resources and keep our landscape and water bodies clean. The following is recommended:

- support for state and local funding to promote and expand recycling operations at the local level; and
- support the expansion of Michigan’s bottle deposit law to include non-carbonated beverages.

LAND USE

4.0 GENERAL LAND USE STATEMENT

Townships respect the rights of all property owners. Zoning and planning regulations exist to ensure balanced protection of the rights of all property, including developed, developing and undeveloped property. MTA supports state laws that allow townships to match development with the necessary infrastructure to support the development and the tools to allow townships to maintain the important characteristics of their community.

4.1 ENHANCING THE PLANNING PROCESS

The planning process for development in this state depends on not only township officials and professional planners, but also thousands of dedicated citizens who serve on local planning commissions. All of Michigan benefits from knowledgeable local planning officials. MTA supports:

- ongoing training of township officials and planning commission members engaged in planning and zoning processes to learn current approaches to land use; and
- state financial assistance for townships that practice enhanced planning such as joint planning efforts.

4.2 LOCAL CONTROL

Consistent with MTA’s premise that land use decisions should be made by local governments that are closest to the issue, MTA opposes:

- legislation that denies any township the authority to pursue its desired mix of land uses and its chosen community character.

4.3 SITING CONTROVERSIAL LAND USES

Currently, local units have very little, if any, control over the siting of cellular towers, prisons and adult foster care facilities. While discouraging “not in my backyard” attitudes and recognizing that zoning cannot exclude lawful land uses, local communities should have the authority to decide where to site a particular land use in their community. MTA supports:

- reinstating local authority to regulate all land uses; and

- maintaining local zoning authority over wind turbines and associated infrastructure.

4.4 MOBILE HOME PARKS

State law should never favor one form of private housing over another. Mobile home parks are protected under state law from having to pay local taxes and are exempted from local control. As a result, these developments are being placed in areas that are unable to accommodate the development. State laws have disrupted local communities to the point where local officials have been recalled for just trying to follow existing law. MTA supports:

- treating mobile home parks in the same manner as every other housing development in the state;
- returning all site control back to local authority; and
- eliminating any law that does not explicitly give local units of government control over all building inspections.

4.5 AGRICULTURAL AND OPEN SPACE PRESERVATION

Purchase of development rights (PDR) programs and transfer of development rights (TDR) programs can be effective ways to voluntarily preserve farmland and open space. Because of the concern that a landowner seeking a PDR or TDR contract subjects the land to deed restrictions in perpetuity, local communities must have input into the process. MTA supports:

- state funding for purchase of development rights (PDR) programs;
- legislation requiring local input into the granting of PDR and transfer of development rights (TDR) contracts; and
- incentives to preserve farmland and open space.

4.6 DRAIN CODE

The Drain Code of 1956 has been amended little since its inception and is in dire need of updating. MTA supports rewriting the drain code such that:

- unassociated township officials be represented on the board of determination;
- if a project scope is significantly changed after the final determination, another public hearing must be held; and
- if a township is to be assessed at-large or by description, the township board must be advised up-front of any costs or assessments the township will incur.

4.7 ROAD ENDS AT WATER'S EDGE

The courts have ruled on the public's use of road ends at the water's edge. These decisions specified that the public use of road ends is only going in and out of the water and does not include sunbathing, picnicking or boat mooring. There is a move legislatively to expand the court's ruling to include other uses of land at road ends. MTA supports:

- maintaining the courts' narrow interpretation of road end use.

4.8 MINING OPERATIONS

When sand or gravel mining operations cease, local communities have the authority to require that the land be reclaimed and restored to a useable state. However, local governments have no such authority over metallic or nonmetallic mining. MTA supports:

- legislation that authorizes local units of government to regulate all mining operations and requires that the land be restored to a useable state within a reasonable period of time when operations cease; and
- requiring a performance bond or letter of credit to ensure land is restored to a useable state.

4.9 COORDINATION/STATE PLANNING

Legislation has been enacted which establishes procedures that should create better coordination among neighboring governmental units. The basic concept of the act would be to encourage cooperation among governmental units in the planning process. MTA supports:

- maintaining local authority of planning and zoning by townships;
- legislation that requires the state to coordinate with local units of government on planning issues;
- state planning should promote locally determined land use goals;
- state financial assistance for multijurisdictional planning; and

- state incentives, but not mandates, for multijurisdictional collaboration on land uses and infrastructure development where there are issues that impact on multiple jurisdictions.

4.10 GROWTH MANAGEMENT

When growth occurs, township residents are often assessed for the cost of additional infrastructure required to accommodate the development. If concurrency were required, infrastructure would be in place before development occurs and developers could share in those costs. MTA supports:

- legislation that provides sufficient tools to manage growth based on local discretion;
- legislation permitting the assessment of impact fees;
- legislation that allows townships to deny development if adequate infrastructure is not in place; and
- legislation that will provide the tools and incentives to protect scenic vistas, vital agricultural resources and environmentally sensitive areas.

4.11 MASTER PLAN IMPLEMENTATION

The state has placed a greater emphasis on the planning process and cooperative planning. However, this achieves nothing if local communities do not have the ability to implement the plan that has been adopted. MTA supports:

- further explicit and exclusive authority for township master plans and zoning ordinances to determine the township's character and design.

4.12 ZONING APPROVAL & SITE PLAN REVIEW OF SCHOOL, COUNTY AND OTHER GOVERNMENT BUILDINGS AND INFRASTRUCTURE

Planning and zoning officials must be given the authority to approve zoning and review site plans for all buildings including schools, county buildings and other government facilities to ensure that the necessary infrastructure is in place and that the buildings complement the neighborhood. MTA supports:

- legislation requiring local planning and zoning review of school site plans; and
- legislation that requires county-owned and other government buildings, infrastructure and uses to conform to local zoning and site plan requirements.

LOCAL AUTHORITY

5.0 GENERAL LOCAL AUTHORITY STATEMENT

Township government in Michigan is the closest level of government to the people. Township officials derive their authority from the Michigan Constitution and laws created by the state. Townships are charged with protecting the health, safety and welfare of their citizens. Townships are also the most efficient form of local government in Michigan, often delivering services equal to cities for far less costs while continuing to meet the demands of growing populations. It is therefore essential that townships maintain their current realm of authorities and responsibilities, and gain new authority, financing and changes to laws in response to local needs.

5.1 COMPULSORY ARBITRATION – PA 312

Michigan law requires local governments to engage in collective bargaining negotiations with their employees on mandatory subjects. Under Public Act 312 of 1969, parties submit an impasse to compulsory arbitration. Unfortunately, the local unit of government's relevant financial information is prohibited from being submitted for consideration. Local officials in many cases feel that if arbitrators were aware of all obligations the local unit of government is under that it could help arbitrators arrive at a more fair and just decision. A full understanding by all parties of financial obligations may assist in providing full-faith negotiations toward an agreement. MTA supports:

- changes to the compulsory arbitration selection process for arbitrators to make them more neutral and independent;
- legislation to amend PA 312 that would allow local governments to submit additional financial data demonstrating financial conditions and obligations beyond those directly related to the dispute; and

- legislation that would remove minimum retirement age and service time as mandatory topics of collective bargaining.

5.2 FIREFIGHTERS TRAINING FUND

The state of Michigan Fire Fighters Training Council (FFTC) housed in the Bureau of Fire Services, within the Department of Labor and Economic Growth, provides a sound structure and process for township firefighters to maintain appropriate training levels. Further, the FFTC also provides grants to help offset some of the costs incurred by townships or individual firefighters to take training classes. In recent years, however, state funding for FFTC has been reduced and failed to maintain pace with the volume of local firefighter training needs. MTA supports:

- adequate funding levels for the state Fire Fighters Training Council to maintain pace with the training demands of local firefighters.

5.3 REVENUE SHARING

Revenue sharing payments made to local units of government by the state began in 1933, when local governments forfeited significant portions of their taxing authority. Attempts were being made at that time at the state level to spread out the burden of taxation in a more uniform process. The state took over more taxing authority with the idea of sharing their collections with local governments. Back in the 1930s, as today, local governments rely heavily on revenue sharing payments. The statutory revenue sharing formula expired in 2007. However, due to difficult economic conditions, state shared revenues are a constant target for significant budget cuts. In recent years, revenue sharing cuts have treated townships unfairly under the “across-the-board cuts” on combined statutory and constitutional payment amounts. Using this method of cuts places a larger burden on townships. As revenue sharing cuts continue, local units are being forced to cut essential local services, including emergency services. The cuts are also causing local governments to rely more on property taxes and other local taxes, resulting in higher millages. Residents of a township should be treated the same as those residing in a city for revenue sharing purposes. Population should be designated as the highest criteria for revenue sharing distributions and weighted as such in the revenue sharing formula. MTA supports:

- criteria for distributing statutory revenue sharing to be the same for cities, villages and townships;
- basing more of the revenue sharing disbursements on population;
- full funding of statutory revenue sharing;
- new revenue sources to fund local governments at appropriate levels;
- that if revenue sharing incentives are provided by the state for local government cooperation that such programs treat townships and cities equally and recognize communities that have been doing cooperative service in previous years; and
- restoring a statutory revenue sharing formula that is fair to townships.

5.4 FRANCHISING – RIGHTS-OF-WAY AUTHORITY

Local governmental units are guaranteed under the 1963 Constitution of Michigan, Art. VII, Sec. 29, that a franchise must be obtained before a public utility is permitted to do business therein or use the public rights-of-way. Public Act 48 of 2002 creates a new uniform fee and process for telecommunications providers to adhere to when using public rights-of-way. Further, the intent of PA 480 of 2006 is to weaken local authority related to cable franchising. MTA recommends:

- that townships maintain franchise authority guaranteed under the constitution;
- all attempts to reduce local authority over public rights-of-way and business activities within township boundaries be opposed; and
- opposing attempts to weaken the constitutional and statutory authority of townships related to cable franchising.

5.5 STATUTORY DIVISION OF DUTIES

Statutorily assigned duties to individual elective offices remove the flexibility of township boards to function efficiently. Delineating duties by state statute is too stringent. MTA recommends:

- leaving the assignment of duties not currently delegated by statute to a particular office at the discretion of the township board.

5.6 ANNEXATION/DETACHMENT

Current annexation laws are archaic and favor cities and villages when attempts are made to annex property from townships. The annexation process fails to recognize the ability of townships to provide sewer, water and other services necessary for economic development. These annexation laws unfairly prohibit a right-of-referendum when less than 100 people reside within the area proposed to be annexed. Further, PA 425 of 1984, the “Conditional Land Transfer Act,” permits two or more local units to enter into an agreement to conditionally transfer property for a period of years for the purpose of economic development projects. Yet, in recent years, the State Boundary Commission has been involved in determining the validity of Act 425 agreements, contiguity and contract participants. MTA supports:

- legislation that encourages better long-term relations among local governments by making cities and townships equal in all matters related to boundary adjustments;
- legislation that prohibits a city from denying sewer or water services as leverage for annexation or an Act 425 agreement;
- legislation that would prohibit annexation petitions filed against charter townships on areas where services as described in MCL 42.34 of the Charter Township Act are provided by the township;
- a right-of-referendum of all electors in townships affected by a proposed annexation; and
- legislation to clarify that the State Boundary Commission has no authority to determine validity of Act 425 agreements.

5.7 DEFINITION OF A FARM

Recent court cases involving commercial hunt clubs (pay-to-hunt operations) have clouded the definition of a farming operation under Michigan law. In one case, it was determined that a pheasant hunting operation was a farming operation and was granted protections under the Right to Farm Act. These operations have come into conflict with local zoning authority and have often challenged local regulations. MTA supports:

- legislation that amends the definition of a farm under Michigan law to clarify that commercial hunt clubs and other commercial recreation businesses are not included under the definition of farming; and
- clarifying the Right to Farm Act such that local governments are not liable for a property owner’s attorney costs when enforcing their zoning ordinances on uses that a court deems to be agricultural activities.

5.8 HAZMAT RECOVERY

Numerous local governments across Michigan have enacted hazardous material cost recovery ordinances designed to place the burden of providing local emergency services involving hazardous materials upon responsible parties rather than the local unit of government. In 2003, a Michigan Court of Appeals case (*Howell Twp. v. Rooto Corp.*) seriously impacted the effect of these ordinances by determining that Part 201 of the Natural Resources and Environmental Protection Act (NREPA) pre-empted such ordinances. MTA supports:

- legislation that amends Natural Resources and Environmental Protection Act (NREPA) to allow local governments to adopt and enforce hazardous material cost recovery ordinances.

5.9 STATE-IMPOSED CONSOLIDATIONS

Township officials across Michigan constantly seek the most efficient manner to deliver services to township residents and businesses. In fact, 57 percent of townships offer fire services under a joint operation with another government unit. In 2007, legislation was introduced to require townships to transfer all functions that are required of townships under statute—tax collections, elections and assessing duties—to counties. Legislation proponents claim that transferring these functions to the county would streamline government and provide costs savings to state and local governments. However, township and county officials across Michigan immediately realized such attempts by the state to shift services to counties would not provide efficiencies and would treat township residents as second-class citizens. A report released by Michigan State University in September of 2007 demonstrated that transferring assessing duties alone from the townships to counties would raise costs by millions of dollars. MTA supports:

- township government maintaining the flexibility to work collaboratively with other local governments to offer services jointly without the state mandating that services be consolidated; and
- the state Legislature and governor respecting the wisdom of inhabitants to freely determine their right to remain self-governed as an efficient, effective and accountable Michigan township.

6.0 GENERAL TRANSPORTATION STATEMENT

Townships in Michigan have a strong interest in the condition of public roads and bridges. Township officials are advocates on behalf of citizens of their township. Townships contribute approximately \$100 million per year for road maintenance and construction despite declining state shared revenues in recent years and having no jurisdiction over road repair and construction, or requirements to provide funding for roads under state law. It is in the interest of townships in Michigan to have input into road and bridge maintenance and repair projects.

6.1 MANAGING ROAD PROJECTS

Today, townships are locked into the decisions of road commissions regarding which projects will be undertaken. Road commissions administer these projects. If competitive bidding were allowed, project costs could be lower and more efficiently performed. When townships contribute 50 percent or more to a project, the following is recommended:

- legislation that allows the township to decide how the project is done and by whom if it contributes 50 percent or more of the cost of the project.

6.2 STUMPAGE

The state of Michigan currently allows the cutting of trees on state forestland. The state sells the wood and retains the revenue. Many roads and bridges incur severe damage and stress during tree harvesting operations. MTA supports:

- legislation requiring the state to share funds to be used for the purpose of road and bridge repairs from the sale of logs, pulpwood and stumps in townships where forests are harvested; and
- encouraging the state of Michigan to offer by bid process sales of timber located on property managed by the Michigan Department of Transportation (MDOT) or located in MDOT rights-of-way with the purpose of raising funds for road and bridge maintenance.

6.3 PUBLIC TRANSPORTATION

The Constitution allows up to 10 percent of the Michigan Transportation Fund to be used for public transportation, such as buses, railroads and people movers. Although public transit does not receive a full 10 percent, efforts are being made to direct more funding to mass transit. As mass transit is used in both urban and rural areas, the following is recommended:

- encourage accountability of public transit expenditures to ensure efficient operations; and
- maintain the current state priority funding on road projects.

6.4 BILLBOARDS

Billboards can negatively impact local communities due to their size, location and condition. Electronic billboards are also now being installed in many areas of Michigan and can also have an impact. Townships should have appropriate authority over traditional billboards and electronic billboards to protect their communities. MTA supports:

- legislation to give townships more authority to regulate billboards.

6.5 TOWNSHIP INPUT ON ROADS

Some townships are allowed input by their county road commission when projects are selected. The Michigan Department of Transportation (MDOT) requires county road commissions to present three-year plans to MDOT on all capital projects. However, road commissions are not required to seek input or approval of their plans by township officials within their county. The following is recommended:

- county road commissions be required to review three-year plans (annually) with township officials within their county.

6.6 LOCAL TRANSPORTATION FUNDING

An analysis recently conducted by the U.S. Department of Transportation and confirmed by Overdrive Magazine's 2007 survey of the nation's truckers shows that Michigan roads are the third worst in the nation. Further, U.S. Census Bureau data demonstrates that Michigan ranks 44th in per capita state and local expenditures on roads.

And rankings from the 2007 annual report on the performance of state highway systems, published by the Reason Foundation, demonstrate that Michigan has the 8th worst road system based on overall performance. Funding of the Act 51 distribution formula, Michigan Transportation Fund (MTF), has not maintained pace with growing townships. Funding levels of MTF sources, which include gas taxes, diesel taxes and vehicle registration fees, have not maintained a pace equal to the rate of inflation. Currently, the formula does not provide townships with any road funding, yet road commissions often require funds from townships before a project will be initiated. MTA supports:

- adequate state funding for local transportation needs;
- reducing diversions of gas and weight funds from the Michigan Transportation Fund, Comprehensive Transportation Fund and the Motor Vehicle Transportation Fund; and
- if new revenue sources are identified as a funding source, legislation to create a set-aside fund that could be used only with township direction.

6.7 LOCAL/CRITICAL BRIDGES

Many bridges on local and county primary roads are in desperate need of repair. In increasing numbers, due to age and deterioration, local bridges are closing and/or weight limits are being placed on local bridges prohibiting fire trucks and some ambulances from crossing, causing dramatic increases in response times and jeopardizing the safety of residents. Local communities continue to struggle to find ways to keep up with increasing financial demands for local bridge repairs and maintenance. Under the current system, it can take years to secure funding for local bridge repair projects or replacements due to the competition and demand for scarce bridge funds. The following is recommended:

- encourage flexibility in bridge repair standards and construction to make it affordable, while maintaining safe bridges; and
- the state recognize outside funding sources, including local matches, for critical bridge fund projects and raise specific projects on the priority list when outside or local funding contributions exceed more than 50 percent of the total costs.

6.8 STATE TRANSPORTATION PLANNING AND PROJECTS

Township officials should have a voice and input in initial stages of state transportation project planning. Often, decisions are made by state transportation officials without consideration of local zoning and land use plans. In 2003, an executive order required Michigan Department of Transportation (MDOT) to adopt a context-sensitive design process that involves input from local officials and other interested parties on state road projects. MTA supports:

- Michigan Department of Transportation practices that townships be notified and their input solicited as part of the planning on state road projects.

6.9 TRUCK WEIGHT LIMITS

Because libraries receive most of the fees derived from violations of weight limitations, local weigh masters have little financial incentive to enforce weight limitations. However, the purpose of the weight limitations is not to generate revenues, but to protect roads from undue wear. Therefore, MTA supports:

- enforcement of current weight restrictions; and
- adequate state funding for state Motor Carrier Division.

6.10 WETLAND ROADS

Current enforcement of sections of Part 303 of the Natural Resources and Environmental Protection Act by the Michigan Department of Environmental Quality (MDEQ) is prohibiting local road agencies from performing maintenance on existing roads located in wetland areas. In some cases, road work to maintain an existing road is only allowed if the local road agency creates a new wetland related to the wetland mitigation process, causing severe cost escalations on a project. MTA supports:

- legislation that would narrowly amend Part 303 of the Natural Resources and Environmental Protection Act to specify that the Michigan Department of Environmental Quality could not impose conditions on a permit regarding the mitigation of the impact of fill materials related to maintenance work on existing roads within the right-of-way of the road. Such legislation should not apply to the construction of a new road.

6.11 FEDERAL TRANSPORTATION FUNDING

For many years, the state of Michigan has received a poor return on federal gas tax dollars collected at the gas pump that are sent to the federal government. In recent years, strong efforts have been made by many associations, including MTA, and interest groups in Michigan to gain a greater rate of return. In 2005, after 10 temporary extensions to the act over a period of several years, a new federal transportation funding formula, now titled SAFETEA-LU, was approved by Congress and the president. Michigan made marginal gains related to a more favorable rate of return. The minimum guaranteed return of gas taxes sent to Washington will increase from 90.5 cents on the dollar to 92 cents by 2012. MTA supports:

- eliminating Michigan's status as a donor state for federal transportation funding; and
- adequate federal funding for local transportation needs in Michigan.

6.12 TOWNSHIP INPUT ON SPEED LIMITS

In 2003, PA 65 allowed township officials input on speed limits on county and local roads when a traffic investigation study is conducted by the state police. The law sets up a three-way review of speed limits by the county road commission, state police and the township. Some of this speed limit review authority has been diluted by the passage of PA 85 of 2006. This law now sets up another possible way that speed limits can be changed. Under this new *prima facie* process there is no review by anyone. The state police simply use a formula that is in law to determine what a speed limit should be. The formula measures how many vehicular access points (driveways, entrances to stores, etc.) there are and sets a speed accordingly. MTA supports:

- legislation and procedures by the state police that allow townships input related to speed limits on local and county roads.

6.13 SALES TAX ON GASOLINE

Many road agencies and the road-building industry in Michigan are claiming that the state needs at least \$3 billion annually in new road funding to keep up with needed repairs on Michigan roads. Their recent efforts in 2007-08 to gain more road funding through increasing the state gas tax has not generated enough support to secure a vote. An alternative idea has emerged to eliminate the sales tax (6 cents) on fuel and instead impose a 1-cent sales tax dedicated for transportation that would raise our overall sales tax to 7 percent. Further, removing the sales tax on fuel will not guarantee a savings to motorists and could easily lead to more oil company profits as gas prices at the pump will be raised by oil companies by the amount of the tax once it is removed. Today, sales tax revenues generated from fuel purchases provide significant funding annually for schools and revenue sharing for local governments. MTA opposes:

- legislation that would eliminate the sales tax on fuel without an annual dollar-for-dollar replacement in revenue sharing funds that would be lost in revenue sharing to local governments.