

The

“yeas”

and

“nays”



extra-voted millage proposals

Population growth, demand for new or improved infrastructure, state and federal mandates, the need for new technology, and the increasing costs of providing services can all put a financial strain on local governments. Often, the diverse range of community needs cannot be met by a township's current revenue sources.

One way that townships have provided revenue to finance services and improvements is through extra-voted millages. Several laws authorize township boards to levy millages for special purposes, and each authorization is subject to voter approval. It's estimated that more than half of all Michigan townships levy extra-voted millages each year, meaning that many townships will have new extra-voted millage or millage renewal questions on the ballot in August or November 1998.

The following articles examine the statutory requirements for placing an extra-voted millage proposal on the ballot and ways a township can increase the millage's chance for success. Sample ballot language and a timeline for preparing the proposal are also provided.



Complex statutory requirements govern extra-voted millage procedures

The Michigan Constitution and the Charter Townships Act give townships the option to ask voters to approve a millage increase over a township's current millage limit to fund general or specific township operating costs, such as financing a fire department or making road, cemetery or park improvements.

Constitution sets limits on millage rates for general law townships

The property tax rate for townships is expressed in mills. A mill is one-tenth of a cent and generates one dollar per \$1,000 of taxable value. Article IX, Section 6 of the 1963 Michigan Constitution limits the millage rate for a county, its general law townships and intermediate school districts to 15 mills. Each county with a 15-mill limit has an allocation board that divides the mills among the units. The board convenes on the third Monday in April each year (MCL 211.210).

It is important to note that although special assessments are based upon a millage rate, they are not classified as a tax, and therefore, are not subject to the constitutional limits and procedures that apply to extra-voted millages (Attorney General Opinion 5562 of 1979).

General law townships must submit budgets to the county allocation board to receive allocated millage. A general law township is entitled to a minimum of 1 mill, if its budget supports 1 mill (MCL 211.211).

Charter Townships Act authorizes millage rates for charter townships

A charter township does not receive allocated millage and is accordingly not required to furnish a budget to the county allocation board. The Charter Townships Act authorizes charter townships to levy up to 5 mills for township purposes (MCL 42.27). Since the adoption of the constitutional Headlee amendment on December 23, 1978, the method by which a township converts to a charter township affects its millage limits.

According to MTA legal counsel, a charter township established by township board resolution after December 23, 1978, may not levy a greater number of mills than it had previously levied as a general law township, without voters approving additional millage. However, a charter township established by a vote of electors after December 23, 1978, or a charter township established before December 23, 1978, is

subject to the provisions of the Charter Townships Act and may levy up to 5 mills for township operating purposes without holding a millage election.

There are exceptions to millage rate limits

A county and its municipal units can increase the 15-mill limit to as much as 18 mills by a vote of county electors, which is referred to as a "fixed" or "pegged" millage. There are two methods by which a fixed millage process can begin:

1. The county tax allocation board can pass a resolution to propose raising the millage rate up to 18 mills (MCL 211.205c).
2. Citizens can petition to place a proposal to raise the millage limit on the ballot.

A petition for referendum initiated by citizens must be signed by at least 4 percent of the county's registered electors. The petition must set forth the number of mills to be levied and a proposed division of those mills between the county, its general law townships and intermediate school districts. The petition must be filed with the county clerk at least 30 days before the regular meeting of the allocation board or any special meeting called to consider the petition (MCL 211.205a).

Before the county board of commissioners adopts a resolution to place the petition on the ballot at the next general election, the commissioners must ask the allocation board to recommend its own division of mills. If the allocation board proposes a different division than what is recommended on the petition, both proposals must be presented to the county electorate (MCL 211.205e). The millage rate division that receives the highest number of "yes" votes wins (MCL 211.205h).

If a fixed millage is adopted, the allocation board is abolished and is only reinstated if the fixed millage expires and is not renewed. As of 1991, 13 of the 83 counties had fixed millages.

Townships can levy extra-voted millages

Article IX, Section 6 of the Michigan Constitution permits general law townships to ask voters to approve a millage increase over the 15/18-mill limit to a maximum of 50 mills for not more than 20 years. The Charter Townships Act allows charter townships to ask voters to raise the 5-mill limit to a 10-mill limit for up to 20 years (MCL 42.27). ➔

3-6 months before millage election

- The township board adopts a resolution stating the ballot question language.
- The township clerk requests an election date from the county election scheduling commission. It is appropriate to file the ballot language with the county clerk at the same time.

12 weeks

- Petitions to place local questions on the ballot for a primary, general or other election at which state officials are to be elected must be filed with the township clerk at least 84 days before the election (MCL 168.646a).
- The campaign committee must file a campaign statement with the county clerk (MCL 169.225).

10 weeks

- Ballot language must be certified by the county clerk 70 days prior to the election (MCL 168.646a).



Millage Proposal Planning Countdown



Extra-voted Millage Proposals

Statutes dictate extra-voted millage procedures

The General Property Tax Act (MCL 211.1-211.157) and the Michigan Election Law (MCL 168.1-168.992) govern the procedure for placing an extra-voted millage question before the voters. It's a good idea to begin preparing for an extra-voted millage election two to three months in advance to meet statutory scheduling, noticing and ballot language requirements. To comply, townships must follow these seven steps.

1. Develop the extra-voted millage ballot language.

If a township board decides an extra-voted millage is the best way to fund an improvement or service, the board should proceed to develop the ballot language. The millage question must be presented in a way that its intentions are clear and accurate.

MCL 211.203 describes the manner in which a millage increase must be requested. The ballot language must contain:

- in a general law township, a request to increase the 15-mill limitation on general ad valorem taxes up to a maximum of 50 mills for a period of not to exceed 20 years as provided by Article IX, Section 6 of the Michigan Constitution;

- in a charter township, a request to increase the current mill limitation on general ad valorem taxes up to 5 mills with no time limit or up to a maximum of 10 mills for a period not to exceed 20 years, as provided by the Charter Townships Act;

- the number of mills requested (stated in dollars per thousand of taxable value; for example, \$1 per \$1,000 of taxable value);

- the number of years the millage will be levied (for example: 1998 through 2002, inclusive);

- the intended purpose of the millage;

- the estimated revenue the township will collect in the first calendar year if the millage is approved by the voters, and

- a statement as to whether it is an initial tax and therefore stated as a tax "increase," or if it is a "renewal" or "continuation" of a previously voted millage within the township.

Public Act 145 of 1993, also known as Proposal A, further requires two separate questions where a renewal tax also is designed to pick up the millage reduction required under MCL 211.34(d) if the amount of reduction exceeds .5 mills. Where the rollback reduction is .5 mills or less and is desired to be recovered, only one ballot question is necessary.

If a township considers placing a millage renewal question on the ballot and the original ballot language was written prior to the passage of PA 145, the board should not rely on the same ballot language. Instead, consult with the township attorney to ensure the renewal ballot question conforms to the standards listed above. See Page 16 for sample extra-voted millage ballot language.

2. Adopt a resolution to place the extra-voted millage proposal on the ballot.

When the ballot language is complete, the township board must adopt a resolution by roll call vote stating the millage question ballot language and indicating the board's intention to place the question on the ballot.

3. Set an election date for the millage proposal.

After adopting a resolution, the township should contact the county election scheduling commission to set an election date. Ideally, the township board should submit the extra-voted millage ballot language when they contact the county to set the election date. MCL 168.646a requires the ballot language to be submitted to the county clerk at least 70 days prior to the election, if state officers are to be voted for in the election. The MTA and the Bureau of Elections recommends that townships comply with the 70-day limit for all elections. This will help avoid last-minute problems that may surface before the election.

4. Post voter registration notices.

The township clerk must give public notice of the days and hours that he or she will be at the clerk's office or other designated place to receive registrations before an election. The notice must be published at least twice in a newspaper of general circulation in the township, and if deemed advisable, by posting in two of the most conspicuous places in each election precinct. The first notice must be published not less than 10 days prior to the last day to receive registrations. The second notice can be published anytime between the first notice and the last day for receiving registrations (MCL 168.498). If it is a special election, the notice must also contain the ballot language as it will appear on the ballot.

Registrations may be accepted up to 30 days prior to an election. If the 30th day falls on a Saturday, Sunday or legal holiday, registrations may be accepted on the following business day.

5. Publish election notices.

The township clerk must also give public notice of the time and place the election will be held. If it is a special election, the notice must also contain the ballot language as it will appear on the ballot. The notice must also include information about which polling place locations are handicapper accessible. The notice must be published at least twice in a newspaper published in or of general circulation in the township. The first publication cannot be less than 10 days before the election. The second notice can be published at any time within 10 days of the election (MCL 168.653a).

5 weeks

- Township clerk must post first notice of voter registration at least 10 days prior to the last day of voter registration (MCL 168.498).
- If it is a special election, the voter registration notice must also contain the ballot language as it will appear on the ballot (MCL 168.653a).

4 weeks

- Second notice of voter registration must be posted within 10 days before the last day to register to vote (MCL 168.498).
- Voter registration closes 30 days before election (MCL 168.498).

2 weeks

- The township clerk must publish in a newspaper of general circulation the first notice of election at least 10 days prior to the election (MCL 168.653a).
- If it is a special election, the election notice must also contain the ballot language as it will appear on the ballot (MCL 168.653a).

1 week

- Second notice of election must be published within 10 days of election (MCL 168.653a).

Millage Proposal Planning Countdown, *continued*

6. **File a certified copy of the election results.**

The vote at the election must be taken by ballot, and the ballots must be cast and counted in the manner provided by the general election laws of the state of Michigan (MCL 211.203). Whichever question receives the greatest number of "yes" votes is the question that will be adopted (MCL 211.205h).

Within five days after every election held in any local unit to increase the tax rate limitation, a certified copy of the official declaration of the result of the election must be filed with the treasurer of the county in which the local unit is located. The voted tax increase will take effect in the local unit only when the certified copy is filed (MCL 211.203).

7. **Deliver tax certificates prior to September 30.**

On or before September 30 of each year, the township clerk must make and deliver to the township supervisor and the county clerk a certified copy of all statements and certificates on file and all records of any vote or resolution authorizing or directing money to be raised in the township by taxation for township, school, highway, drain and any other purposes, together with a statement of the aggregate amount to be raised (MCL 211.36(1)).

PA 343 of 1994 amended the General Property Tax Act to allow townships to levy taxes approved by voters in elections held on or before the first Tuesday after the first Monday in November—the November general election date—in the current year (MCL 211.36(4)). Prior to this amendment, taxes approved in an election held after September 30 could not be levied until the following year.

As a result, if voters approve additional millage at a November general election, the township clerk must deliver to the county clerk the records of any vote authorizing or directing money to be raised in the township by taxation. The county board of commissioners must then meet again to confirm the millage and, if necessary, amend its directions for the spread of millages (MCL 211.36(5)).

Place the proposal on the ballot again, if it fails the first time.

MCL 211.24f states that a taxing unit can hold two elections involving millage questions during a calendar year. During each of those elections, the township may place as many different millage questions as it wants on the ballot. Therefore, if a millage fails and the township has not already held two millage elections that year, the question may be placed on the ballot again. ❖

—compiled by MTA Education Department Staff and reviewed by MTA legal counsel

Post-election

- Within five days after an election to increase the tax rate limitation, the township clerk files a certified copy of the official election results with the county treasurer (MCL 211.203).
- On or before September 30 of each year, the township clerk must deliver to the township supervisor and county clerk a certified copy of all statements and certificates on file and all records of any vote or resolution authorizing or directing money to be raised in the township by taxation for township, school or other purposes, together with a statement of the aggregate amount to be raised (MCL 211.36). ❖



How to get more

**“yeas”
than
“nays”**

at the polls

Sometimes simply putting a millage request on the ballot is all it takes for it to pass, something that Marquette Charter Township (Marquette County) discovered several years ago. The township does not have a library. Instead, township residents use the 100-year old library in the City of Marquette. Until recently, the township and township residents paid nothing to use the library. Following a budget crunch, library administrators contacted local leaders from the city and five nearby towns to let them know that the library needed additional funding. Marquette Township voters subsequently approved a 1-mill tax increase for five years to maintain library services.

Marquette Township's millage increase was successful because the public valued the library and wanted to make sure it was properly maintained. Having citizens involved in a millage issue is critical to securing favorable support. Some millages are relatively easy to pass because the voters understand the issues and believe it is necessary to raise additional funds. However, getting public support is not always simple. Townships may have to work hard to get a millage need message to the voters. Often, the most effective way to get people to support a millage is for a township board to appoint a citizen committee to manage a millage campaign.

What are the elements of a successful campaign? What are the time constraints? Who should and should not be involved? How can the campaign be funded? This article addresses these common questions, highlighting effective strategies and noting pitfalls to avoid for a successful millage campaign.

Campaigns are closely regulated by statute

The way township funds can be spent in a millage election is statutorily regulated. MCL 41.110c authorizes townships to appropriate money or expend funds to maintain and circulate a publication to distribute information regarding township improvements, activities and functions. There is a valid public purpose in giving voters relevant facts enabling them to



to reach an informed judgment on extra-voted millage and other local election issues. However, the township board must take extreme caution that the information presented does not recommend or encourage voters to approve a millage or other proposal.

The Michigan Campaign Finance Act (MCL 169.201, *et seq*) regulates using public monies for millage questions. Under the act, using public money to influence elections is strictly prohibited. Any committees that the township organizes to run a campaign must be funded with private donations. Michigan courts and Attorney General opinions conclude that governmental units cannot use public monies or resources to advocate a position on a proposed millage. Township stationary cannot be used for letters, memos or other communication expressing the board's opinion or influencing the outcome of an election; campaign materials may not be posted on township property.

With the adoption of Public Act 264 of 1995, actions that could be construed as a campaign contribution or expenditure became a felony offense, subject to a fine of up to \$20,000. Effective March 28, 1996, PA 264 added Section 57 to Michigan's Campaign Finance Act to specifically prohibit a public body or anyone acting for a public body from making contributions or expenditures as defined in the act.

When a township board develops an informational brochure to explain a ballot question to levy extra-voted millage, the contents of the printed material should not raise a question as to whether the intent is to influence the election's outcome. The language must be fair and impartial. Publishing the ballot wording to be voted on at an election would most likely be permissible; however, township officials must closely scrutinize other statements to determine that they cannot be construed to support or oppose the ballot question.

Using a committee is a good way to manage a millage campaign

A safe way for a township board to handle a millage campaign is to form a campaign or steering committee to finance, develop and distribute materials related to the millage proposal. The township board should monitor, but not direct the actions of the committee. Board members should avoid getting directly involved unless the committee is floundering or contemplating inappropriate activities. Appropriate committee members may include interested citizens, community educators, local business people and representatives from special interest groups such as senior citizens, parent/teacher organizations or service clubs.

Campaign committees should only use money or resources donated by businesses, residents or community groups that are specifically designated for the millage proposal campaign. If



"Encourage volunteers to register voters if a large turnout will help."



residents have questions about how a campaign is funded, they may also doubt the ethics of the township. A billboard, placard, poster, pamphlet or other printed material that refers to an election or a ballot question must include the name and address of the person paying for the material (MCL 169.247).

Since using public funds to manage a millage campaign is prohibited, soliciting private funds is essential. Early in the campaign, the campaign committee needs to look for potential donors, and may send letters to request donations. Fundraisers such as raffles and bake sales are also ways of acquiring the funds needed for the campaign.

Several years ago, Van Buren Charter Township (Wayne County) asked voters to approve a public safety millage. Citizens interested in public safety formed a campaign committee. To raise money, committee members organized a spaghetti dinner as well as a night golf outing, complete

with glow-in-the-dark golf balls. The committee procured the funds needed to launch a successful campaign, and voters approved a 3-mill increase for five years.

MCL 169.225 requires any committee supporting or opposing a ballot question to file a campaign statement with the county clerk. The statement must include the following five elements:

1. Committee information, such as the name, address, telephone number and the individual designated to keep the committee's records.
2. A "receipts" section, which includes the total amount of contributions received during the campaign period, and an "expenditures" section, which shows the total amount of expenditures made. In-kind contributions should be reported at fair market value.
3. The balance of cash on hand at the beginning and end of the campaign period.
4. The total amount of contributions received during the campaign from persons who contributed less than \$20 and a separate list of those who contributed more than \$20.
5. Fundraising information, such as the type of event, date held, location, approximate number of people in attendance, gross receipts of event and expenditures incident to the event.

A millage needs a clear message to generate success

Structuring the millage need message is critical. This is the information that will sell the millage to the voters. The message should be clear and understandable. If citizens are confused by the proposed millage, they may decide to vote against it just to be safe. The best way to avoid this error is to clearly present all the facts—and just the facts!

The committee should clearly state:

- how much millage is being requested and for how long;
- the benefits to the township and its residents derived from the proposed improvements;
- the benefits to support groups such as local businesses and community groups, and
- any difficulties that may develop if the millage does not pass.

It's important that the message not threaten voters by proclaiming disaster if the millage fails. The information should be factual, not exaggerated or trumped up. Voters are perceptive and know when they are being unfairly persuaded.

A millage need message is only effective if it is heard

Getting the message out will get people involved. Public presentations are ideal ways to present the facts to the voters and community organizations. Using visual aids such as charts and graphs makes it easy for the voter to see the differences that the millage increase may offer.

For instance, Hillman Township in Montmorency County had a proposal on the ballot a few years ago to renew and increase an extra-voted millage for fire and ambulance services and equipment. To help voters understand why new equipment was needed, the ambulance service held an open house. On several tables, they set out fire and ambulance equipment with a sign next to each item showing how much it cost. This way, residents learned why additional funds were required and exactly how the money would be used.

If adequate funding from donations can be obtained, purchasing advertising in the form of yard signs, radio spots and newspaper ads is advisable. Tools such as posters, displays, letters to the editor and informational brochures on the millage increase give the voters something to refer to if they have questions.

Going door-to-door is also an effective way to get the message out. When Marquette Charter Township needed funds to purchase new fire department equipment, the fire fighters went door-to-door to tell voters why they needed a new fire truck and other items. Community residents were given a chance to ask questions, and fire department personnel had time to adequately address their concerns. The campaign was successful, and voters passed a 1-mill increase for six years.

Local television stations and newspapers can play a significant role in relaying information to voters. After the campaign committee has completed early planning and analysis, they should meet with the media and tell them the whole story. Show them the township board is open and honest, and can be reached at any time to provide information. Officials may ask to do guest appearances on local news shows or write editorials or articles for the newspapers to present information on the proposal.

Register voters if a large turnout will help

Will a large voter turnout be more likely to secure passage of the millage? If so, committee members should make registering non-registered residents a major part of their campaign. Voter turnout can be influenced by the intensity of the millage campaign. By informing these residents of the importance of registering and voting, they could make the difference in obtaining a "yes" vote.

Township officials may play a role in the campaign

Although the township board is limited in the actions it can take during a millage campaign, it does not mean that township officials should not be involved. Officials are an important aspect of getting the citizens involved by being sources of information, recruiting volunteers, and supporting the campaign committee and other volunteers.

The township board may hold a public meeting to ensure that the public is aware of the proposed millage increase and its effect on the township. A meeting is not required by law, but should be used to generate citizen comments, questions or to discuss "hot" issues. To have a successful meeting, officials should anticipate opposition and be prepared to provide clear and concise answers with well-documented information.

No public or governmental employee may promote an opinion about a proposed millage during working hours (MCL 15.404). However, township officials and employees may use their personal time to advocate the proposed benefits of the millage. By donating their time, officials show voters that they are willing to work hard to get the millage passed.

Remember to say "thank-you!"

After the election, whether the proposal passed or failed, the board should publicly thank the voters, the committee members and anyone who donated time or money to the campaign. Recognizing volunteers keeps them motivated and may help attract new volunteers for future proposals.



"Involving citizens is critical to securing favorable support."



Keep citizens informed on post-election progress

The millage proposal entailed citizen involvement in the pre-election stages and should also have citizen involvement in the post-election phase. If the proposal is passed, information on the progress of the project that the millage was raised for should be given to the citizens. If the proposal is defeated, the citizen committee may want to meet with the township board to find possible reasons for the defeat.

—compiled by
MTA Education Department Staff