

Michigan Township Focus

JULY 2017

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION



broadband in my township

Lack of broadband access harms Michigan communities, economies

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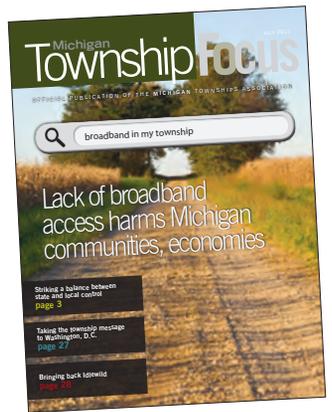


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MTA Official Publication of the Michigan Townships Association

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mission statement

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



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Disconnected: Lack of broadband access harms Michigan communities, economies

Internet access is no longer a luxury—it's a necessity. Those without internet cannot fully participate in today's workforce, education system, economy and even their local government. Learn how townships across the state are impacted—and how they are working to meet this critical community need.

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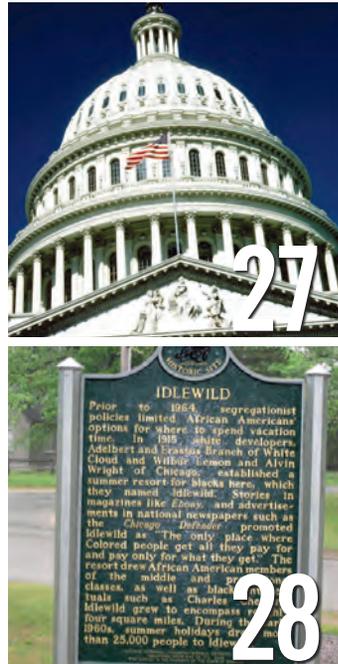
Taking the township message to Washington, D.C.

MTA took the local message to Washington, D.C., meeting with members of the Michigan congressional delegation to discuss issues critical to townships.

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Bringing back Idlewild

The resort Idlewild, in **Yates Township** (Lake Co.), once referred to as "Black Eden," offered an oasis for African Americans during the era of segregation. Hear how local officials and residents are looking to honor and revitalize this rich cultural and historic landmark.



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Striking a balance between state and local control

Seven out of 10 township officials agree with their counterparts in other Michigan jurisdictions that the state is taking away too much discretion from local governments, according to the Fall 2016 Michigan Public Policy Survey of local officials conducted by the Center for Local, State and Urban Policy (CLOSUP) at the University of Michigan. Only 7 percent disagree.



However, the survey also revealed many local leaders think state government should have most or complete authority over some policy areas, such as ending discrimination, regulating businesses and social issues. A smaller majority of

local government officials also want the state to handle environmental, natural resource and agricultural issues, although this view was less representative of township leaders than of other local officials. However, most township officials want retained at the local level land use authority as well as broad governance discretion.

Striking the right balance between state and local government control has long been a source of contention in every state when lawmakers are persuaded by special interests to preempt local authority on issues that are mostly local in nature. Sometimes lawmakers, in response to even a single disgruntled person, conclude the state should direct how all local governments must conduct their business. MTA opposes legislation or regulations preempting discretion township leaders need to protect the public interest and to govern consistent with their best judgements. Ill-advised local control preemptions can be often be derailed or its impact lessened by MTA messaging a bill's undesirable consequences, and especially by MTA members directly letting lawmakers know how their townships will be adversely affected.

To effectively preserve local discretion, MTA's position and strategies on bills impacting township authority must be backed up with strong policy arguments. But also, as the CLOSUP survey demonstrated, in some circumstances MTA's defense of local authority might be tempered when the MTA membership concedes that state control is needed, perhaps for the sake of uniformity or for efficiency. But even in policy areas where MTA members concede

a need for state leadership, a particular preemption bill might nonetheless need to be opposed due to inclusion of unacceptable elements or over-reaching.

More problematic for MTA is legislation preempting nontraditional policy areas that Michigan townships have not yet seen fit to regulate, as bills are frequently introduced because somewhere in the country a local government adopted an ordinance that is contrary to the policy preferences of Michigan lawmakers. In these situations, it is a judgement call as to the extent to which MTA, on principle, pushes back on yet another state preemption. While it is hard to envision MTA ever supporting any diminution of local control, neutrality or inaction might be an appropriate course of action in policy matters in which MTA members express little interest.

Effectively defending local control necessitates that both policy and politics guide MTA's lobbying, including decisions whether to seek a "kill" or negotiate for improvements. Appropriate MTA legislative strategies hinge on language in our member-adopted Legislative Policy Platform language, whether a bill impacts a core township function, the input we get from members, and the guidance of the MTA Board of Directors in rare circumstances when MTA's policy position is not well-established or a strong member consensus is not easily discernable. But other political considerations are also usually at play, such as a bill's likelihood of moving beyond introduction, a willingness of large numbers of MTA members to engage and the receptiveness of key lawmakers to hearing local government perspectives. MTA's legislative strategy is also impacted by other local governments associations or interest groups that share with us a common cause on the issue.

Appropriate and effective responses to local government preemption bills are always MTA's objectives. Critical to accomplishing both are members sharing with us information and perspectives and actively engaging their lawmakers. State preemption can also be minimized by local officials taking note that their actions and decisions are always under a microscope.

A handwritten signature in black ink that reads "G. Lawrence Merrill". The signature is written in a cursive, flowing style.

SURVEY SAYS

Survey: Local leaders want better relationship with state government

Many local government leaders across Michigan aren't content with their jurisdiction's relationship with state government, according to the latest Michigan Public Policy Survey (MPPS).

The latest survey results explored factors that affect state-local relations and how those relations could be improved. Officials from more than 1,300 townships, cities, counties and villages participated in the study, conducted by the Center for Local, State, and Urban Policy at U-M's Gerald R. Ford School of Public Policy. MTA is a partner in the MPPS.

A recent National League of Cities report lists Michigan as one of seven states with the most frequently imposed state preemption of local authority, and the MPPS results are a testament to this.

Slightly more local leaders—49 percent vs. 46 percent—describe their jurisdiction's overall relationship with the state as either fair (36 percent) or poor (13 percent) than classify it as good (40 percent) or excellent (6 percent).

The survey identified issues that concern a majority of local leaders. They are:

- 70 percent of local leaders (and 70 percent of township officials specifically) feel the state is taking away too much authority from local governments.
- 67 percent (and 64 percent for townships) say the state holds local jurisdictions to a higher standard than it holds itself.
- 56 percent (47 percent for townships) feel the system of funding Michigan's local governments negatively impacts state-local relations.
- 50 percent (45 percent for townships) say the state government's decision-making is not transparent.

In recent years, the state has preempted local authority in areas of taxation and revenue, local minimum wages laws, ballot issues and the emergency manager law.

Statewide, 22 percent of local leaders (and 22 percent for townships) trust the state government, while less than half (43 percent) believe that Michigan's state government officials value input from local officials. Among township officials, 47 percent believe state officials value local input.

When asked what both local and state officials could do to improve relationships, mentions of communication far outpaced other topics. The greatest number of responses urge the state to more actively seek input from local governments before changing laws, listen to local jurisdictions' perspectives and work to improve communications.



MAKE IT COUNT

Help the U.S. Census Bureau accurately count your township

The U.S. Census Bureau is requesting help from local, state and tribal governments in the 2020 Census Local Update of Census Addresses (LUCA) program. This program is the only opportunity for governments to verify residential addresses, ensuring a complete and accurate 2020 Census.

The Census Bureau mailed advance notifications about participating in the program to local, state and tribal governments in January 2017. If you did not receive the notification, you can find information about the program on the LUCA website at www.census.gov/geo/partnerships/luca.html.

Invitation letters will be mailed in July 2017 and the final participation materials will be mailed in February 2018.

Townships can take the following steps now to prepare:

- Participate in the 2017 Boundary and Annexation Survey, which is the annual update for the legal boundaries and names of all governmental units.
- Start preparing your address list—make sure your list identifies multi-unit structures and distinguishes between residential and nonresidential addresses.
- Identify local address sources, such as building permits, local utility records and other files.
- Attend a Census workshop to learn about the program.

Why participate? Participation in the Local Update of Census Addresses program can help ensure a complete and accurate 2020 Census in your community. An accurate count helps the federal government annually allocate more than \$400 billion across 26 federal agencies for local, state and tribal government programs and services. It can also help your community plan for future needs.

For more information, visit the program website.

PROPER PLANNING

New resources tackle resiliency, water trails

Two new handbooks from the Land Information Access Association (LIAA) aim to help communities improve their resiliency and quality of life for current and future residents.



According to the Rockefeller Foundation, community resiliency is defined as “the capacity of (communities) to function, so that the people living and working in (communities)—particularly the poor and vulnerable—survive and thrive no matter

what stresses or shocks they encounter.” Land use planners and policy-makers throughout Michigan are committed to thinking long term about how change, trends and unanticipated shocks will impact their community. LIAA has published a *Planning for Resilience in Michigan Handbook* as a reference tool for a diverse array of land use policy and planning practitioners to use in local efforts to bring about greater resiliency in their community.

The handbook is the culmination of LIAA’s work under its Planning for Resilient Communities Program, in which MTA is a project partner. Township officials can download this “how-to” guide at www.resilientmichigan.org/handbook.asp

The second document, the *Michigan Water Trails Manual*, is a “how-to” guide and resource for communities looking to develop a water trail in their community. This



project was funded through a Coastal Zone Management grant and developed under the guidance of a wide spectrum of state experts and water trail practitioners.

Given the rich diversity of paddling experiences in Michigan, each water trail planning effort will be unique. This manual can help township officials develop a water trail that is tailored to their community’s capacity, resources and needs. Download the guide at www.michiganwatertrails.org/manual.asp. Look to the August issue of *Township Focus* for additional insights and local examples on developing water trails around the state.

LOCAL UPDATES FROM ACROSS MICHIGAN

Township happenings

Clinton Charter Township (Macomb Co.) is setting a new standard in public safety and fighting crime. The township is the first municipality in Michigan to require certain businesses, such as party stores, hotels, banks and gas stations, to have security cameras and surveillance systems. Local officials say the goal of the ordinance is safety for its business community, their customers and for first responders.

Hamburg Township (Livingston Co.) began installation of a new outdoor workout area at the Manly Bennett West Park. Fifteen pieces of permanent outdoor exercise equipment, including workout benches and pull-up bars, will be available for residents and visitors’ use.

Orion Charter Township (Oakland Co.) added a new 5K run/walk to its Memorial Day festivities, which already included an annual parade and ceremonies honoring veterans. Nearly 200 participants took part in the race, the proceeds of which benefitted the Orion Veterans Memorial and Lake Orion Downtown Development Authority. Planners are hoping that number of runners doubles for next year’s race. A 24-year-old Army member won the race, while an 82-year-old retired Marine—the oldest veteran to finish the race—was also presented with an award.

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



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Maturen named MTA 'Legislator of the Year'

MTA recognized Rep. David Maturen (R-Brady Twp.) for his support of township government by presenting him with the MTA "Legislator of the Year" Award. Maturen received the prestigious award, which honors lawmakers who are instrumental in legislation impacting local government and who work diligently on townships' behalf, at the June MTA Board of Directors meeting.



"Rep. Maturen consistently puts good public policy before partisan politics," MTA Executive Director Larry Merrill said. "As a former township official with expertise in both appraisals and property taxes, his vast knowledge is invaluable in helping to shape common-sense

bills that would help to create a more fair and equitable property tax system to Michigan."

Maturen (pictured above with 2017 MTA President Diane Randall, left, and MTA Director of Government Affairs Judy Allen) came to Lansing with an extensive background in local government, first as **Brady Township** (Kalamazoo Co.) trustee and later as a member of the Kalamazoo County Board of Commissioners. The owner of real estate appraisal firm Maturen & Associates Inc. and a former employee of the Michigan Department of Treasury Property Tax Division, Maturen is an expert in property assessment and appraisal.

"My father, Clarence, was the mayor of Essexville and longtime member of the Bay County Board of Supervisors," Maturen said. "I grew up at the dinner table listening to the issues surrounding local government. When I saw an opportunity to run for the Brady Township Board of Trustees, I took it. That experience and my 12 years on the Kalamazoo County Commission have given me a deep appreciation for the role of grassroots government in our lives."

Now in his second term, Maturen represents the 63rd House District, which includes portions of Calhoun and Kalamazoo counties. The only certified appraiser in the state Legislature, Maturen has been instrumental in a number of local government tax issues. He used his knowledge and expertise to craft legislation designed to end the unfair practice of valuing big box retailers solely based on the comparable sales approach to property tax assessment, known as the "dark store" method. His 2016 legislation passed the House, and a new bill—House Bill 4397—was introduced this year. Maturen has continually worked alongside MTA to strive for fairness and equality in Michigan's property tax system.

profile



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Advertisorial



Support given by MTA Legal Defense Fund to numerous cases

When your township makes a voluntary contribution to MTA's Legal Defense Fund (LDF), you assist townships in legal battles that have significant statewide impact. The MTA Legal Defense Fund Committee recently approved support in the following cases:

Menard, Inc. v. City of Escanaba—Continued support was approved in the form of a joint *amicus curiae* brief as the Michigan Supreme Court has scheduled oral arguments on whether to grant the application for leave in this case involving the “dark store” assessing theory. The Michigan Tax Tribunal (MTT) allowed the petitioner big box store to use sales comparables presented by Menards that consisted of sales of out-of-business big box stores with deed restrictions sold for second-generation uses. A state Court of Appeals ruling reversed the MTT decision and remanded it back to the tribunal with specific instructions for a new determination. The court concluded that the tribunal “committed an error of law” and “its decision was not supported by competent, material and substantial evidence” in the matter.

NL Ventures VI Farmington, LLC. v. City of Livonia—The plaintiff has filed leave to appeal in the state Supreme Court in this case, which stems from the city's policy allowing individuals and businesses with delinquent water bills to set up a payment arrangement with the water and sewer board in order to avoid having the unpaid bills placed on the property tax roll. This case presents issues of statewide interest as many municipalities allow delinquent sewer and water users to enter into an agreement for repayment rather than immediately putting the delinquency directly on the tax bill. The case raises issues regarding the application of the water lien statutory provisions, governmental immunity and limitations on equitable claims.

Shelby Township v. Command Officers Association of Michigan—The state Supreme Court has granted leave to appeal in this case, in which the Michigan Employment Relations Commission—and later the state Court of Appeals—ruled that the township's ability to control the allocation of employee health benefit costs pursuant to the

Publicly Funded Health Insurance Contribution Act, Public Act 152 of 2011, was subject to union bargaining through the Michigan Employment Relations Commission.

Grandview Beach Association v. Cheboygan County and Cheboygan County Planning Commission—The relevant *amicus* question presented in this case is whether an appeal of a planning commission's action on a special land use permit and subsequent appeal by right to the circuit court is then appealable to the state Court of Appeals as a matter of right or does it have to be on a request for leave to appeal. This issue has statewide implications due to the increased costs to municipalities if special land use appeals to the Court of Appeals are by right and not by leave.

FCC notice of proposed rulemakings—This is a continuation of an assault at the federal level by the communications industry in an attempt to preempt local authority over utility use of the public rights-of-way. The FCC has issued two new notices of proposed rule-making that may address the role of local government control over wireless and wire line use of public rights-of-way. Utility use of the public rights-of-way provides an important source of income to townships, and township regulation is also important to maintain control over local concerns. In addition, federal preemption is of great concern, and it is very important for local government issues to be expressed to the FCC.

In the matter of the petition of the Kalamazoo County treasurer for foreclosure of certain parcels of property due to unpaid 2014 and prior years' taxes, interest and penalty—In this case, a senior community housing project, which is exempt from taxation under the State Housing Development Authority Act, objected to foreclosure against its property in **Oshtemo Charter Township** (Kalamazoo Co.), contesting the validity of the forfeited taxes related to non-payment of township special assessment for emergency management and fire protection services. This case has statewide importance impacting townships that have PILOT projects or other non-General Property Tax Act exempt properties. If the Legislature intends to exempt a property from Public Act 33 of 1951 special assessments, then the exemption must be contained in the General Property Tax Act.

mta events | July

19-20

Clerks' Professional Development Retreat,
Frankenmuth

25-26

Treasurers' Professional Development Retreat,
Frankenmuth

27-28

Supervisors' Professional Development Retreat,
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JULY

By 3 Notice of close of registration for Aug. 8 election published. (MCL 168.498)

3 Taxes due and payable in those jurisdictions authorized to levy a summer tax. (MCL 211.44a(3) and (4))

5 Deadline for governmental agencies to exercise the right of refusal for 2016 tax foreclosure proposals. (MCL 211.78m(1))

10 Last day to register for Aug. 8 election. (MCL 168.497)

18 *Tuesday after the third Monday in July.* The July board of review may be convened to correct a qualified error. (MCL 211.53b) The township board may authorize, by adoption of an ordinance or resolution, an alternative meeting date during the week of the third Monday in July. (MCL 211.53b(9)(b))

An owner who owned and occupied a principal residence on May 1 for taxes levied before Jan. 1, 2013, for which the exemption was not on the tax roll may file an appeal with the July board of review in the year for which the exemption was claimed or the immediately succeeding three years. For taxes levied after Dec. 31, 2012, an owner who owned and occupied a principal residence on June 1 or Nov. 1 for which the exemption was not on the tax roll may file an appeal with the July board of review in the year for which the exemption was claimed or the immediately succeeding three

years. (MCL 211.7cc(19)) An owner of property that is qualified agricultural property on May 1 may appeal to the July board of review for the current year and the immediately preceding year if the exemption was not on the tax roll. (MCL 211.7ee(6))

July board of review may hear appeals for current year only for poverty exemptions, but not poverty exemptions denied by the March board of review. (MCL 211.7u, State Tax Commission Bulletin No. 5 of 2012)

20 District library board candidates who wish to seek office at the Nov. 7 election must file an affidavit of identity and a nominating petition by 4 p.m. (A \$100 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4 p.m. on July 25. (If filing official is a township clerk, filing official notifies county clerk of candidates' names and addresses within three days after withdrawal deadline.) (MCL 397.181)

25 Partisan and nonpartisan candidates file nominating petitions and affidavits of identity by 4 p.m. (MCL 168.644e) Withdrawal deadline elapses at 4 p.m. on July 28.

Minor parties that wish to participate in partisan general elections nominate candidates. Parties must notify clerk by 4 p.m. of nominated candidates within one business day after caucus (party must have state recognized ballot status). (MCL 168.644e)

By 28 Pre-election campaign statements filed. (Books closed July 23.)

By 31

Township clerk forwards names and addresses of partisan and nonpartisan candidates for Nov. 7 election to county clerk. (MCL 168.321)

Industrial Facilities Exemption Treasurer's Report (Form 170) must be filed with the state Department of Treasury Property Services Division on or before July 31 of the tax year involved.

Appeals of property classified as residential real, agricultural real, timber-cutover real or agricultural personal must be made by filing a written petition with the Michigan Tax Tribunal (MTT) on or before July 31 of the tax year involved. (MCL 205.735a(6))

A protest of assessed valuation or taxable valuation or the percentage of Qualified Agricultural Property exemption subsequent to board of review action must be filed with the MTT in writing on or before July 31.

AUGUST

1 Notice of Aug. 8 election published. One notice required. (MCL 168.653a)

Petitions to place proposals on Nov. 7 ballot filed with county

and township clerks. (MCL 168.646a)

By 3 Public accuracy test must be conducted for Aug. 8 election by local election commission. (R 168.778) Notice of test must be published at least 48 hours before test. (MCL 168.798)

5 Electors who wish to receive an absentee voter ballot for Aug. 8 election by mail must submit applications by 2 p.m. (MCL 168.759)

7 Electors qualified to obtain an absentee voter ballot for Aug. 8 election may vote in person in the clerk's office until 4 p.m. (MCL 168.761)

8 Emergency absentee voting until 4 p.m. (MCL 168.759b)

Election.

9 Clerk delivers results of Aug. 8 election to county clerk before 11 a.m. (MCL 168.809)

Candidates without political party affiliation who seek a partisan office on the Nov. 7

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ballot file qualifying petitions and affidavits of identity by 5 p.m. (MCL 168.590c) Withdrawal deadline elapses at 4 p.m. on Aug. 14.

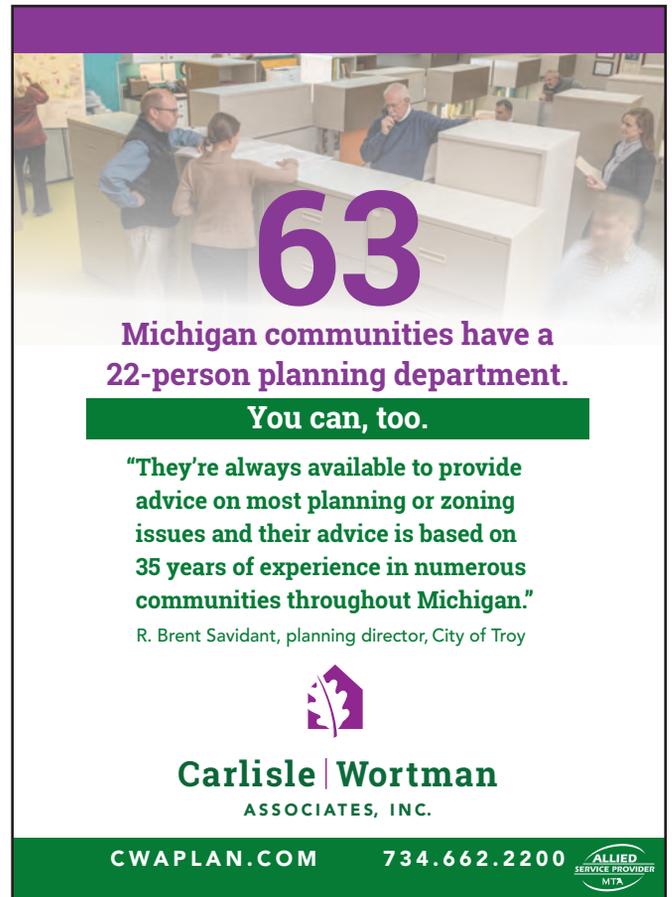
By 14 Boards of county canvassers meet to canvass Aug. 8 election. (MCL 168.821)

15 Deadline for electronically paying and filing the essential services assessment with the Michigan Department of Treasury without interest and penalty. (MCL 211.1057)

Ballot wording of proposals qualified to appear on Nov. 7 ballot certified to county and local clerks by 4 p.m. (MCL 168.646a)

17 Local clerk forwards names and addresses of candidates without political party affiliation who seek a partisan office on Nov. 7 ballot to county clerk. (MCL 168.321)

21 *By the third Monday in August.* Deadline for taxpayer to file appeal directly with the MTT if final equalization multiplier exceeds tentative multiplier and a taxpayer's assessment as equalized is in excess of 50 percent of true cash value. (MCL 205.737(7))



63

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Our board is facing a difficult and controversial decision. Can we put the question on a ballot for the voters to decide instead?

No, a township board has no general authority to put questions on the ballot for the voters to decide unless a law specifically gives that authority. If a township board puts a question on a ballot, and no statute authorizes a township board to put such a question on the ballot, then it is an unlawful “advisory ballot.”

According to Attorney General Opinion 6143 of 1983, “Statutory powers specifically delegated by the Legislature to a municipal corporation or a board of education may not be redelegated by that body to the electors.”

The issue in that opinion was whether a township board could place on a ballot the question of when school taxes could be collected in the township. The Revised School Code Act, Public Act 451 of 1976, MCL 380.1, *et seq.*, gives a school district board of education the exclusive authority to decide to impose a school summer tax levy. Therefore, a township board cannot exercise authority it does not have, and any such ballot question would be advisory only. Any expenditure to put advisory questions on a ballot is an unlawful use of public money for a non-public purpose.

Also, even assuming that a township board had such authority, neither the board of education nor the township could redelegate that decision-making authority to the electors by placing the question on a ballot. Any ballot questions delegating a township board’s authority to the electors would be advisory only, and any expenditure to put advisory questions on a ballot is an unlawful use of public money for a non-public purpose.

The Legislature can grant the public the right of referendum on local government actions by including that right in specific statutes. Although there are many statutes granting the right of referendum, they are limited in scope (*see box on page 11*).

It is a lawful expenditure of public money, however, for a township board to survey its residents, conduct public hearings or forums, or otherwise seek the input of residents, property owners, taxpayers and other stakeholders to assist the board in exercising its legislative authority and administering township programs and services.



Do residents have the right to petition for a referendum on remodeling the township hall?

Where there is no statutory authority to conduct a referendum, a ballot question held for that purpose would be an unlawful advisory ballot. And no statute provides the right of referendum on the issue of whether a board can remodel a township facility.

The public does have a right of referendum on a variety of questions regarding township government, but only where a statute expressly grants that right (*see box on page 11*). The applicable statute will specify the conditions that must be met for a particular type of referendum.

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

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Common actions subject to right of referendum in townships

(not an exhaustive list)

MCL	Action To:	MCL	Action To:	MCL	Action To:
35.864	Purchase lands for veterans memorials	121.3	Join a charter water authority	125.3402	Adopt a zoning ordinance
38.451	Establish a civil service system	123.41	Establish a community center in a township of up to 10,000 inhabitants	125.3813	Establish a planning commission
38.517a	Establish a fire or police civil service system	123.461	Levy taxes and appropriate funds for a center open exclusively to youth under 21 years of age and aimed at curbing juvenile delinquency within the community	141.133	Issue bonds under the Revenue Bond Act
38.561	Establish a firefighters and police officers retirement board	123.861	Authorize a township of up to 50,000 inhabitants to levy a tax to maintain and employ a township band	141.2517	Issue a municipal security to pay for capital improvement items
41.8	Reestablish the annual meeting	123.958b	Lease a building from a building authority	168.656	Divide a township into more than one election precinct
41.95	Approve elected officials' salary resolutions where no annual meeting is held	123.1010	Incorporate a city or village on order of the State Boundary Commission	168.951	Recall elected officials
41.95	Establish a salary compensation commission	124.25	Approve a 425 Agreement for conditional transfer of property	211.205a	Adopt separate property tax limitations with a county
41.350s	Provide water supply and sewage system services	124.288	Contract with a municipal water, sewage or waste management authority	285.202	Promote the township's agricultural interests through MSU Extension
41.416	Borrow money under the Township and Village Public Improvement and Public Service Act	124.416	Contract with a metropolitan transportation authority	324.4703	Forming a joint municipal sewage disposal and water supply district
41.424	Acquire and fund by millage a free public park, resort, bathing beach or other place of recreation	124.458	Withdraw from a public transportation authority	324.4709	Contract with sewage disposal and water supply district
41.804	Establish a special assessment district for police or fire protection	124.505a	Share property tax revenue under the Urban Cooperation Act	397.173a	Joint a district library
42.2	Incorporate as a charter township	124.508a	Impose a surcharge on households for recycling or composting programs	397.322	Bonds for a free township public library
42.3a	Incorporate as a charter township by resolution	124.604	Join an emergency services authority	397.352	Consolidate two townships' libraries
42.6a	Establish a charter township salary compensation commission	124.663	Join a metropolitan area council	436.2101	Permit sale of spirits and mixed drinks
42.34	Annex a portion of a charter township to a contiguous city or village	125.139	Adopt a joint municipal planning ordinance	436.2105	Permit sale of spirits and mixed drinks in unincorporated portions of township
54.221	Authorize the cost of establishing section corners and quarter posts in a township	125.653	Create a municipal housing commission	436.2111	Prohibit beer and wine sales between 2 a.m. and 12 midnight on Sunday
78.5	Annex territory to a home rule village	125.1262	Issue bonds under the Industrial Development Revenue Bond Act	460.842	Issue bonds through a joint municipal electric power and energy agency
117.9	Annex territory to a city			486.504	Purchase water for a water system
119.2	Transfer authorities to a metropolitan district				



Retirement benefit forfeiture to be expanded

Public employees who commit a felony breaking the public trust will lose their rights to their employer retirement contributions effective Sept. 5, 2017.

This new penalty was enacted into law under Public Act 43 of 2017, sponsored by Jim Runestad (R-White Lake Chtr. Twp.), with MTA's support. The law already gave the courts the option to take away a public employee's or retiree's rights to an otherwise vested retirement benefit—as well as all accumulated contributions—if they're convicted or plead no contest to a felony arising from their public service. Felonies could include misuse of public funds or accepting a bribe. PA 43 strengthened this by requiring that, after Sept. 5, 2017, the courts must order forfeiture.

Additionally, convicted public employees would lose the employer's contributions to their retirement plan, including those made on or after the felony was committed. The prosecutor would also have the option to seek an order freezing the employee's retirement benefits until the case is resolved. This would prevent the employee from emptying the account before conviction and protect public dollars.

Bill could lower costs for pooled insurance plans

If your township has a public employer pooled insurance plan, a new law could potentially lower your costs.

Senate Bill 43, sponsored by Sen. Goeff Hansen (R-Hart Twp.), provides an alternative option for a pooled plan's cash reserves. The bill, now Public Act 55 of 2017, takes effect Sept. 13.

Currently, pooled plans must maintain minimum cash reserves of 25 percent of the aggregate contributions in the current fiscal year, 25 percent of the aggregate contributions projected to be collected in its first 12 months of operation,

or at least 35 percent of the claims paid in the preceding fiscal year, whichever is greater. This requirement can be satisfied by using a letter of credit. However, some have suggested that the cash reserve is excessive, and the letter of credit unnecessary.

SB 43 would instead allow pooled plans that had operated for at least five years to keep cash reserves equal to 2.5 percent of the preceding year's claims. Plus, it would be required to keep its most recent designated reserve for incurred but not yet reported claims. If a plan chose this alternative, it could not use a letter of credit to satisfy any of the reserve requirement. The goal is to lower costs by decreasing the required amount and eliminating the letter of credit.

Process clarified for removing land from drainage district

Removing land from an intercounty drainage district now has a clear procedure under a bill awaiting enactment by Gov. Rick Snyder.

House Bill 4286, sponsored by Rep. Roger Victory (R-Georgetown Chtr. Twp.), addresses the problem arising as many drainage district boundary lines are reconsidered. Many boundaries were drawn decades ago and don't account for more recent developments. While there's a clear process in state law for adding lands in a county to an intercounty drain, there is no guideline for the removal process.

HB 4286 adds language allowing the existing method for adding land to be used for removing land from a drainage district. Your township would also have the option to sign a petition to add or remove counties from an intercounty drainage district if your township would be liable for assessments at large for a percentage of the cost of a drain. Cities and villages would also have this option.

Additionally, a drain commissioner or drain board could add or remove land after an inspection showed that a change was necessary, with proper meetings and notification of each township, city or village in the proposed or original district.



EMPP deadline extension enacted

Owners of eligible manufacturing personal property (EMPP) had extra time to file their exemption paperwork this year under Public Act 42 of 2017.

The law, sponsored by Sen. Dave Hildenbrand (R-Lowell Chtr. Twp.), was quickly passed by the Legislature in May due to time constraints and took effect May 25. Under the law, EMPP owners were given an extension from the original Feb. 21 deadline to May 31. Then, assessors had until June 9 to submit the appropriate affidavits to the state Department of Treasury.

Similar extensions were also given last year, as some businesses missed the filing deadline for the personal property tax (PPT) exemption changes enacted in 2014. While MTA did not take an official position on PA 42, we worked with the sponsor and Department of Treasury staff to limit the filing extension from the originally proposed date of June 15. We are also participating in a workgroup to reach a long-term solution to prevent annual deadline extensions. New legislation could move as soon as the fall if a consensus is reached.

Fewer assessor reporting requirements for neighborhood enterprise zones

Assessors will have fewer notification requirements if their township has a neighborhood enterprise zone. This change was made under Public Act 44 of 2017, sponsored by Rep. Eric Leutheuser (R-Hillsdale) and was effective June 7.

Neighborhood enterprise zones were formed in 1992 in an effort to improve distressed urban communities. Residential property owners in these areas are given reduced property taxes, and property owners who obtain a neighborhood enterprise zone certificate are exempt from standard property taxes, paying a neighborhood enterprise zone tax instead.

PA 44 maintains the spirit of the law but removes a requirement that an assessor must annually forward assessment and tax information to the Michigan Enterprise Zone Authority. It also removes a section requiring the Michigan Enterprise Zone Authority to publish an annual list of local units of government that meet the criteria to participate.

Legislative lowdown

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

SB 45: Property tax exemption—Expands disabled veterans' property tax exemption to include residential real property or agricultural real property owned by a disabled veteran, decreasing local revenue. *MTA opposes.*

SBs 94-95: Sales and use taxes—Accelerates phase-in of sales and use tax on the difference to increase amount excluded from taxation for traded-in motor or recreational vehicle; decreases constitutional revenue sharing. *MTA opposes.*

SB 157: Water works projects—Preempts local ordinances restricting or prohibiting the evaluation, comparison or use of certain pipe and piping materials. *MTA opposes.*

SB 258: Disaster & Emergency Contingency Fund—Increases statutorily required fund balance and increases cap on disaster assistance grants to local units. *MTA supports.*

SBs 264-265: Firefighters Training Council Act—Recodifies firefighter training requirements; requires fees for testing and training be deposited in the Fireworks Safety Fund. *MTA monitoring.*

SB 290: Election recounts—Increases recount fee when differential separating winning candidate and petitioner is more than 5 percent of total votes cast. *MTA supports.*

SBs 302-303: State land cap—Amends requirements for acquisition/disposition of state land; requires state to make full PILT before acquiring additional land; allows county resolution approval for purchase if full PILT payments not made. *MTA monitoring.*

SBs 305-310: Tax increment financing—Modifies capture of library mills to allow libraries to opt out of tax capture and redefines "obligation" to exempt library millages automatically. *MTA opposes.*

SB 329 & HB 4503: Land use/zoning preemption—Limits local zoning regulation of vacation rentals and short-term rentals. *MTA opposes.*

HB 4077: FOIA—Prohibits public bodies from commencing civil actions against entities making FOIA requests. *MTA opposes.*

HB 4160: Charitable solicitations—Allows solicitation in public roadways during daylight hours that comply with

all local regulations and maintain at least \$500,000 in liability insurance. *MTA monitoring.*

HB 4184: Open Meetings Act—Clarifies physical presence required for vote, excluding emergency meetings and elected members called for military duty; allows board to waive one meeting for each member for good cause. *MTA monitoring.*

HBs 4359, 4370, 4371: Special assessments—Allows townships to create special assessment district for private utility services. *MTA supports.*

HB 4397: Dark stores—Requires Michigan Tax Tribunal determinations to consider all three methods of appraisal in assessment disputes and prohibits deed restrictions on valuation of property. *MTA supports.*

HBs 4431-4432: Legislative subpoena—Expands legislative subpoena authority to include local public bodies. *MTA opposes.*

HBs 4539 & 4543: Ambulance quality assurance assessments—Eliminates quality assurance assessment on ambulance providers. *MTA supports.*

HBs 4609 & 4610: Disaster & Emergency Contingency Fund—Increases statutorily required fund balance and increases cap on disaster assistance grants to local units. *MTA supports.*

Rep. Aaron Miller (R-Sherman Twp.)

Crunching numbers is Aaron Miller's idea of a good time.

Whether it's balancing the state's budget, scrutinizing line items for the Michigan State Police budget or digging deep into the dollars and cents of a bill, the **Sherman Township** (St. Joseph Co.) Republican enjoys every second of it. A former math teacher, numbers are still his favorite part of being a state representative—and they speak louder than words.

So when he took a hard look at the “dark stores” assessing issue, he knew the numbers didn't add up. Today, he describes it as the biggest issue facing local governments, and he's determined to see the problem be fixed before it's too late.

“I'm a very conservative representative, but this issue is about fairness to me, and fairness is always the right thing to rest on,” said Miller, who chairs the House Elections and Ethics Committee.

Now in his second term, Miller can still hardly believe he's had the opportunities he's experienced in his life. The lifelong Sherman Township resident grew up with the woman who became his wife, Alexandria, and lives in the same neighborhood with many of their relatives. After teaching for four years, Miller ran for state representative in 2014 and was re-elected two years later.

Family comes first for Miller. On the days he's in Lansing, he drives home every evening to spend time with his wife and two daughters, Jael and Leah.

In the midst of his hectic schedule, he finds time to attend two meetings a year for all 27 townships, eight villages, three cities and two counties in his district—that's 80 meetings a year.

“The best way legislators can work with township officials is by always keeping an open line of communication,” Miller said. “Communication in my position is of the ultimate importance.”

Communication with township officials will help lawmakers better understand the questions facing them as they work to continue Michigan's economic rebound. While some areas, such as Miller's home in southwest Michigan, have jobs, many potential hires don't have the training they need. Miller wants to examine whether children are being educated properly, if Michigan is attracting the right businesses, and whether our state has the infrastructure and quality of life offerings to support businesses and new residents.

As this rebound continues, Miller believes townships will continue to play an important role in residents' everyday lives.



Rep. Aaron Miller (R-Sherman Twp.) believes that the detrimental “dark store” assessing theory is the biggest issue facing local governments.

Even small, rural townships are often providing services that weren't even thought of just 30 years ago.

“I like township government because it is the closest government to the people,” Miller said. “My least populous township is **Volinia Township** (Cass Co.), and I love attending their meetings because of the intimate conversations we are able to have with the public, because everybody generally knows each other. That's what is special about township government to me.”

Miller works for his residents without a specific agenda. All along, his goal was to come to Lansing and contribute to a good process. He doesn't want to be remembered for one bill or initiative when he's gone. He'd rather leave a legacy of being a positive force for good.

“As one who reads all of his bills and does his homework, I feel that my goals get accomplished no matter what,” Miller said.



Rep. Vanessa Guerra (D-Bridgeport Chtr. Twp.)

Vanessa Guerra knows from experience that in local government, it all comes down to funding.

Throughout her term as **Bridgeport Charter Township** (Saginaw Co.) trustee, she was regularly confronted by residents demanding to know why their neighbor wasn't cited for blight, or why the police response time was so long. Over and over again, she had to explain that the township just didn't have the money to follow up on every violation or fund a 24-hour police department.

"I hated feeling as though I was simply making excuses, but the reality was, funding was the main issue," Guerra said. "We spent our money wisely at the local level and still were not able to provide everything our residents needed."

Guerra was so fed up with the state of local government funding that she decided to tackle the issue at the source and run for state representative. Now, serving in her second term, she's committed to boosting municipal funding and reminding her colleagues that the only way Michigan can compete for businesses and residents is if its local governments are strong.

Seeing her community and state succeed is deeply important to Guerra, a Democrat. Born and raised in Bridgeport Charter Township, her family impressed upon her the value of manufacturing, skilled trades, education and social equality. She continued her family's legacy by working with the American GI Forum, where she helped raise money and distribute scholarships for Latino youth, and later, as an academic advisor at Delta College. Eventually, Guerra realized she could impact even more people by improving the community as a whole, so she ran for Bridgeport Charter Township trustee.

Since day one as a state legislator, Guerra has sounded the alarm of how a lack of revenue sharing dollars has impacted local units of government—something she says is the biggest issue facing local government today. She's pointed out to her colleagues that almost all legislation costs money that comes from the same pot, and when the well runs dry, townships and other local units suffer. She's also emphasized that while tax incentives are helpful tools for attracting and retaining employers, the state must be mindful of how they impact the available money funding Michigan communities.

"Jobs alone will not attract people to our cities and townships," said Guerra, who is minority vice chair of the House Elections and Ethics Committee. "They may come to work, but then they'll drive 30 minutes or an hour to the communities where they live. People naturally want to live in communities that are safe through strong police and fire departments, and that have parks, clean water and safe infrastructure. Communities cannot provide those services without adequate funding."

Guerra is committed to the same goals that drove her to Lansing—providing safe communities, a strong public



Rep. Vanessa Guerra (D-Bridgeport Chtr. Twp.) saw first-hand the impact of revenue sharing and other funding cuts to local government during her time as a township trustee.

education and fixing Michigan's infrastructure. She's also working hard to make sure her constituents are as informed as possible about what's happening in their state's capital. She provides residents in her district with regular legislative updates so that she can hear from them early in the process, instead of after the bill has already passed.

Those frequent contacts between lawmakers and state residents are crucial to ensuring that state legislators fully understand how the bills they're voting for or against will impact their communities, Guerra said.

"Whether it's a phone call, letter or email, those communications from local government officials allow me as a legislator to speak in detail about the realities our local communities will face if legislation is signed into law," Guerra said. "Unfortunately, it's easy to overlook seemingly small changes to state law that can greatly impact local governments. The best way to address this concern is by staying involved with organizations like the Michigan Townships Association, and regularly contacting your state representative and senator when you have questions or concerns about proposed legislation."



Disconnected

Lack of broadband access harms Michigan communities, economies

Ask any **Sharon Township** (Washtenaw Co.) resident about the biggest issue in their community and you'll likely hear a common complaint: no broadband internet.

Nestled between Ann Arbor and Jackson, the rural township is hardly on the outskirts of civilization. But try to connect your home to the internet and you might as well be in a third world country. No major companies provide service, and the township's few fixed wireless towers provide internet just to the homes within sight range—and only if it isn't raining, or if there aren't too many leaves on the trees.

The lack of internet access doesn't just mean residents can't binge-watch Netflix or scroll through their Facebook feed. It means parents are forced to drive 15 minutes to Chelsea so their children can do homework using the internet from a library or fast food restaurant. It means working from home isn't an option, and online classes aren't available to residents hoping to further their education. It means real estate agents are hard pressed to sell houses with no internet connection to families. And it means businesses don't want to locate there.

Township officials have tried to fix the problem. Township Supervisor **Peter Psarouthakis** contacted every internet service provider he could think of, asking them to expand into the township. All of them said no. There weren't enough houses to warrant making the hefty investment needed to install a broadband network.

"We were left to our own devices," township Trustee **Trudi Cooper** said. "We're in a lurch. There's nothing anyone can do to help us."

Sharon Township's situation is not unusual in Michigan. Even as broadband becomes inextricably intertwined in our everyday lives, many are left behind. In 2015, 12 percent of households did not have access to an advanced broadband connection, and 11 percent couldn't connect to even the recommended minimum speed. For many homes, it's an issue of access. Other residents just can't afford to pay for





broadband in my township

“If you don’t have the internet, you’re left out of society. We’re beyond the entertainment conversation about the internet. It’s a necessity. I think it’s something everybody should have access to.”

**—Eric Frederick,
vice president,
community affairs,
Connect Michigan**

internet service, and others aren’t interested in using it. Whatever the reason, anyone without the internet cannot fully participate in today’s workforce, education system, economy and even their local government.

Recently, Gov. Rick Snyder’s 21st Century Infrastructure Commission identified broadband access as one of the top infrastructure priorities. The commission found that broadband access is severely lacking, and the only way to fix it is by making a major investment—\$50 million each year, to be exact. Even that amount is merely a start, not a total solution, said Eric Frederick, vice president, community affairs, of nonprofit Connect Michigan.

The commission’s recommendation is simply that—there’s no requirement for the state to take any kind of action. In the meantime, townships are looking for other solutions. Some, including Sharon Township, are asking residents to approve a millage to provide high-quality internet through a fiber network. Others are anxiously watching a push in the state Legislature to allow local units to pay for broadband through a special assessment. And some have successfully formed public-private partnerships with multiple local units and businesses to ensure internet is available to their residents.

The goal is that eventually, every Michigan resident would have access to broadband.

“If you don’t have the internet, you’re left out of society,” Frederick said. “We’re beyond the entertainment conversation about the internet. It’s a necessity. I think it’s something everybody should have access to.”



Michigan is known for its beautiful rural communities and scenic landscapes. But these very communities, from the Upper Peninsula to the Lake Michigan coast to southeast Michigan, are often the ones without internet access.

What is broadband?

In the early days of the internet, households used a dial-up connection to hop on the web. Going online meant tying up your phone line, and speeds were extremely slow for tasks even as simple as sending an email.

The creation of broadband in the early 2000s meant you could make a phone call and browse websites all at the same time. Connections grew faster and faster, and today, they're exploding.

Essentially, broadband is any internet speed faster than dial-up, Frederick said, but speed matters. The Federal Communications Commission (FCC) measures speed based on the megabits that can be downloaded each second, referred to as megabits per second (mbps). In 2010, the FCC set a broadband standard speed of 4 mbps, with a 1 mbps upload speed. That's about the speed you'd need to surf the web, check your email and maybe even download a video. Then, in 2014, the minimum speed was bumped up to 10 mbps in order for a service provider to consider its internet as broadband—a speed that provides a user with an excellent web browsing experience and allows them to easily stream high-definition videos.

Now, as most households have multiple people using the internet at once, even 10 mbps might not be fast enough. The FCC changed its recommendation for advanced broadband to 25 mbps, enough to accommodate multiple devices on the internet without reverting to sluggish speeds.

Internet carriers offer service packages with lightning-fast speeds, and their capabilities are constantly increasing. The problem is those increases are generally limited to areas where household density is high. While users in cities such as Lansing, Grand Rapids and Detroit have internet speeds as high as 1,000 mbps, other communities are struggling just to send an email. And while federal subsidy programs are being used to expand broadband access, they're only required to provide 10 mbps. By 2020, when the new infrastructure is set to be completed, Frederick predicts 10 mbps could be the new equivalent of dial-up speeds.

A rural problem

Michigan is known for its beautiful rural communities and scenic landscapes. But these very communities, from the Upper Peninsula to the Lake Michigan coast to southeast Michigan, are often the ones without internet access. They're too sparsely populated, or their terrain is too rocky and tree-covered for major providers to extend service there.

That's the problem Supervisor **John Cox** ran into in **Wakefield Township** (Gogebic Co.). His 179-square-mile township has a population of roughly 300—meaning houses are few and far between. Cox liked the idea of running cable or fiber underground to the many residents without broadband access. But after a conversation with a major provider, he knows that's not an option. Running fiber even just two miles was too cost-prohibitive for them, let alone the entire township.

"Broadband overall is a density game, and most of the time, it's a private sector industry," Frederick said.

Because internet is still treated as a private industry, it is not regulated as a utility. While there are certain requirements for universal telephone coverage, there are none for the internet. That means when broadband companies decide to expand their service, they're looking for areas with the most possible subscribers where they can get the biggest return on their investment. And in rural areas, where household density drops off, their possible return on investment plummets.

"There's no way to impact that problem apart from building more houses," Frederick said "That's why it's such a rural problem. There's nothing forcing carriers to expand, and no regulation forcing them to build out to their entire service areas."

Some **Norway Township** (Dickinson Co.) residents can get fixed wireless internet through a dish connected to their homes—but only if they can afford it. At more than \$120 a month for 50 gigabytes of data, it isn't cheap, Clerk **Joyce Giuliani** said. And that 50 gb doesn't last long. Once, Giuliani's granddaughter stayed overnight and used

up a month's worth of data. Like Wakefield Township, Norway Township has considered running cable internet to their residents. But it would cost anywhere from \$250,000 to \$850,000 just for 30 to 40 residents.

"It's just nuts," Giuliani said. "We're wondering what we can do."

The education factor

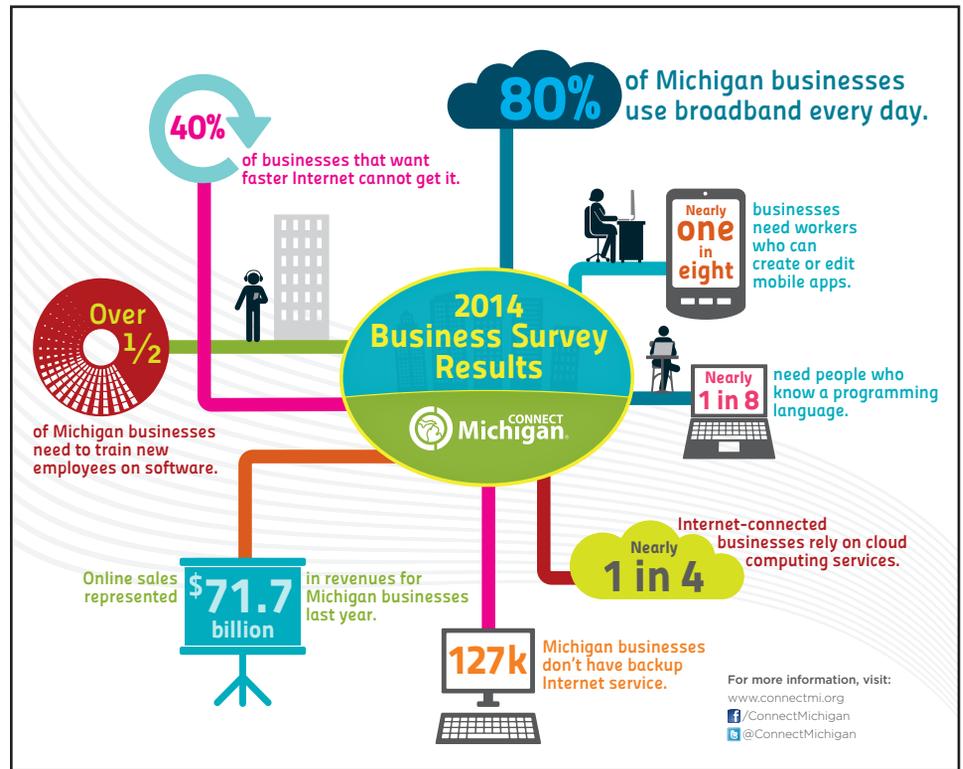
Decades ago, the internet was considered a luxury. Today, most consider it a basic need, or even the equivalent of a utility. Beyond the bare necessities, internet access is integrated into our day-to-day lives. Everyone needs it to fully participate in the economy and society. The problem goes beyond an inconvenience—it's a quality of life problem with a tangible economic impact.

Need an example? Look no further than your local school. In the last several years, schools have worked to provide iPads, laptops and other devices on a one-to-one ratio. Technology is not only integrated into the classroom, it's also part of their homework assignments. Students need the internet to research information, watch educational videos, and even turn in assignments or participate in group work.

As long as these devices are connected to the internet, they provide students with a cutting-edge educational experience. But students in townships without broadband quickly find that once they get home, their iPad is useless. Likewise, students who live in areas with internet access suddenly have an unfair advantage over their classmates.

"Technology is often billed as the great equalizer in education," Frederick said. "Everyone should have access to it. But when kids live in the rural part of that school district and they don't have the internet, that device becomes a brick. Or, their parents have to drive them to McDonald's or the library to use the internet. That's not convenient for anybody."

The education gap doesn't end when students graduate from high school. Many college students and working adults opt to earn their degrees online instead of attending a traditional four-year institution. In 2014, the National Center for Education Statistics found that 5.8 million students enrolled in distance education courses through some type of degree-granting institution. But that isn't an option for anyone living in an area with no broadband.



Trickle-down effect

When students can't access the internet, schools aren't the only ones impacted. **Albert Meshkin**, manager of **Laketown Township** (Allegan Co.), has been told by local realtors that families with children won't even consider buying a house when high-speed internet isn't an option. Time and time again, families look at houses in the township, intrigued by the idea of moving to a more rural area, but when the conversation turned to the internet, that was all they needed to know.

"It was ALWAYS a deal breaker," one realtor told Meshkin in an email. "No young family ever said, 'Well, that's OK; we can live without high-speed internet in our home.' They just left shaking their heads."

In Norway Township, Giuliani can't even convince her children to move back to the township—and she's offering to give them land for free. The result is a stagnant population and declining property values—leaving townships with less property tax revenue to fund their budgets.

And businesses are paying attention. Not only will they avoid areas without a ready and able workforce, but they also aren't interested in moving to a community where they can't operate a website, send emails or read up-to-date data on the internet. Shovel-ready spaces sit vacant in industrial parks unless a business is willing to pay for the broadband infrastructure itself.

Even residents who work out of town expect to take their work home with them from time to time, or at least check their work email. A 2016 Gallup poll found that



A less expensive alternative to fiber broadband is fixed wireless internet. Much like mobile broadband, fixed wireless broadband relies on towers to send wireless signals to receivers attached to subscribing homes and businesses.

43 percent of American workers spent at least some amount of time working from home. That's up from 39 percent just four years earlier. And in today's economy, more workers are self-employed and starting home businesses. None of those are options in townships without broadband. Even agriculture now depends heavily on technology. Farmers without broadband can't track commodity prices, use GPS information or manage crops with online tools.

As more government support services move online, citizens who don't have the internet can't view board meeting minutes, renew their driver's license or download building applications. Cox is reminded of this any time a resident calls asking for a building permit. When he tells them to download the form from the township website, they indignantly respond, "I can't get it!"

Townships with no internet in their offices can't electronically submit required reporting documents to state departments. And their efforts to increase transparency by putting more information online are rendered useless if their residents can't see it.

Subsidies offer an incentive

Because broadband is provided by private-sector companies, there is a good amount of pressure on state and federal governments to keep regulation out of the industry. They can, however, offer financial subsidies to sweeten the deal.

Recently, Michigan internet carriers received a total of \$391 million to build out broadband connections to 215,000 households, primarily in rural areas. By the year 2020, they're required to have connected those households with a speed of 10 mbps—but by then, as Frederick has stated, that speed could be the equivalent of a dial-up connection.

Frederick expects to see more federal investment in broadband subsidies. And in its recent report, the 21st Century Infrastructure Commission recommended that Michigan invest \$50 million a year in broadband infrastructure. However, no legislation has moved forward to turn that suggestion into a reality.

Infrastructure options

In an ideal world, all homes would have access to a fiber broadband connection. That's unlikely for multiple reasons. Not only does the infrastructure cost millions to run to just a few homes, but in some areas, it's not a feasible option due to rocky, hilly or tree-covered terrain.

A less expensive alternative is fixed wireless internet. Much like mobile broadband, fixed wireless broadband relies on towers to send wireless signals to receivers attached to subscribing homes and businesses. Typically, customers must be within sight range of the tower, and tree cover and weather can sometimes cause service interruptions. It's also generally not as fast as fiber internet. But to Michigan residents who otherwise wouldn't have internet at all, it's certainly better than nothing.

Footing the bill

Without private companies willing to invest in broadband infrastructure, or state money to pay for it, townships are exploring other options. One option already permitted by law is using a millage to pay for broadband installation. In 2018, Sharon Township will put a broadband millage question on its ballot in hopes that voters will say yes to running fiber to all 712 homes. If the millage is successful, residents can expect to pay just \$23 a month in their property tax bill for 5 mbps service, with a chance to upgrade to lightning-fast speed for another \$30 or \$40.

"Some people are opposed, but most are excited," Cooper said.

Laketown Township asked voters to approve an \$8.6 million millage in 2016 that would pay for a fiber network for the entire township. Their plan was to spread the cost evenly throughout the township on a per-parcel basis, providing service to every home, and treat it like a utility. But while geographically two-thirds of the township enthusiastically voted yes, the millage failed by 110 votes. About a third of the township gets broadband and wasn't interested in paying for internet that they didn't think they needed.

A better solution for Laketown Township could be in the recent legislative push to allow townships to pay for broadband internet with special assessment districts. House Bill 4162, sponsored by Donna Lasinski (D-Scio Twp.), was introduced this year and awaits a committee hearing. If townships could use this option, they could ask voters within a certain area for approval to install the infrastructure and spread the cost among the residents who would use the service. The people with the problem pay for the solution, then the equipment would be leased to a private provider to operate it. Meshkin believes a special assessment ballot question would have a much better chance of success since it would be limited to the people who would use it.

MTA is also working with Rep. Michele Hoytenga (R-Manton) on other possible legislative solutions to the lack of broadband access. Because broadband has been identified as a priority, more bills could be introduced in the coming months.

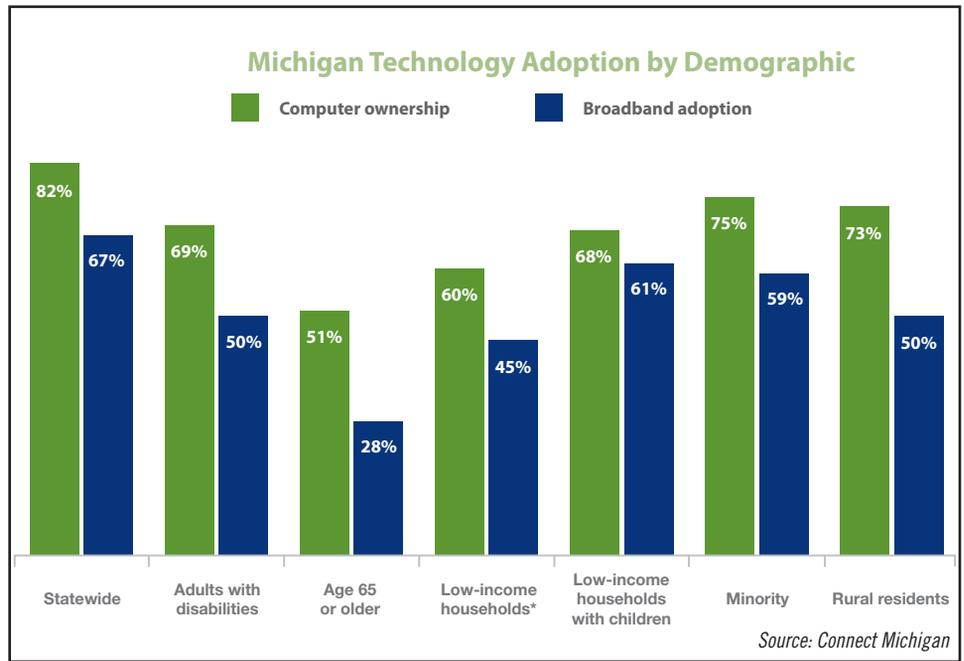
Public-private partnerships

Other communities are turning to public-private partnerships to bring broadband to their residents. In Clare County, a multi-phase partnership brought broadband internet to 15 local units of government and libraries, including six townships.

The county already had a fiber network laid among a community college and local school districts, but residents of many local units, including **Sheridan Township** (Clare Co.), were too far away to use it. Then, in 2008, what started as casual conversations among community leaders led to a formal partnership known as the Clare County Broadband Network Group. **Surrey Township** (Clare Co.) and other local units were connected to the fiber network, and wireless communication towers were installed in five townships.

Sheridan Township paid about \$20,000 to install the tower, and private company ISP Management operates it. Now, 50 to 60 homes in the township are connected to the service that ranges from \$39 to \$79 a month for a variety of service packages. Township Supervisor **Bill Strouse** personally uses the internet connection at his business.

“Is it perfect? No,” he said. “Some days, because of the terrain and the trees, the connection isn’t great. But compared to what we had, it’s terrific. It’s working for our township.”



Removing barriers

Even if your township is considering a broadband millage, or you’re waiting for a legislative solution, you can take steps today to remove barriers to possibilities for future broadband connections. Your first step is to know who provides broadband in your county, Frederick said. Check with Connect Michigan if you aren’t sure who your providers are—and there may be more than you think—to get a clear picture of what your residents can access. Then, Frederick suggests inviting representatives from your providers to community meetings. Ask them about the barriers to providing service in your township, be blunt about what you need, but also be open to suggestions.

Your township may also have zoning ordinances with restrictions that could prevent fixed wireless providers from operating in your township and may need to be adjusted. Meanwhile, consider your township’s vertical assets that could be used in place of a tower, such as a water tower, tall buildings or even large agricultural structures.

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cover story

Another option is to open a dialogue with your county road commission, drain commissioner and local utilities. Find out if they have policies requiring fiber conduit to be installed any time road work is done on rights-of-way, and if not, discuss the possibility with them.

While obstacles may stand in the way of bringing broadband access to townships without it, leaders like Meshkin in Laketown Township aren't giving up. He sees the potential for what internet access can do for his residents—whether that's an online doctor's visit via video conference, monitoring systems allowing the elderly to stay in their homes longer or launching a successful home business.

"Broadband is the 21st century utility that we must have," Meshkin said. "Everybody should have the right to access it. It's as important as electricity."



Bethany Mauger,
MTA Staff Writer

For additional resources and information, visit MTA's "Broadband Internet Resources" page on the members-only portion of www.michigantownships.org. After logging in, access via the "Index of Topics" under the "Answer Center" tab.

BroadbandUSA Top Five Considerations for Communities

Considering implementing a broadband development program? BroadbandUSA recommends considering the following:

Have you identified a need? Conducting a community assessment and developing a strong business case and plan are critical steps to launching your network.

Have you considered what type of broadband will work best for your community? Selecting the right broadband for your community is important, and can be dictated by a number of factors, including terrain, cost and regulatory barriers.

Have you reached out to other key stakeholders? Partners are essential to the success of your network. It's important to perform outreach and build buy-in from public leaders, community advocates, Internet Service Providers and consumers.

Have you thought about funding sources, financing options and sustainability? Revenue bonds, grants, avoided costs and internal loans can serve as mechanisms for funding the network until it becomes self-sustaining. An effective sales strategy will drive subscribership once the network is deployed.

Do you have expert insight? Regulatory barriers, environmental regulations and operational challenges can cause delays and roadblocks to your network. Have the right people in place to help you navigate or altogether avoid them.

■ Steven Mann
+1.313.496.7509
mann@millercanfield.com

■ Patrick McGow
+1.313.496.7684
mcgow@millercanfield.com

■ Thomas Colis
+1.313.496.7677
colis@millercanfield.com

■ Harold Bulger
+1.313.496.7507
bulger@millercanfield.com

■ Steve Frank
+1.313.496.7503
frank@millercanfield.com

■ Jeffrey Aronoff
+1.313.496.7678
aronoff@millercanfield.com

■ Dorothy Heebner
+1.313.496.7860
heebner@millercanfield.com

■ Ian Koffler
+1.517.483.4904
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Q I am an elected official and recently learned about reduced Social Security benefits because of a Government Pension Offset provision. Is this correct?

Possibly, if your township uses the public retirement system exception provided by Internal Revenue Code Section 3121 to exclude your employment from Social Security coverage. If this is the case, and upon retirement you are eligible to receive a spouse's benefit due to his or her employment covered by Social Security, your spousal benefits will be reduced by the Government Pension Offset.

This reduction was enacted by Congress to put government workers on the same level as private sector employees, whose spousal Social Security benefits are "offset" by the spouse's benefits earned from his or her employment. When the Social Security system was created, spousal benefits were designed to provide non-working spouses with Social Security coverage. As more women entered the workforce and earned their own Social Security coverage, a calculation was made by Social Security Administration (SSA) to reduce the spousal benefit by the benefits earned directly by the spouse. The Government Pension Offset provision was put in place to keep government workers whose employment is not covered by Social Security taxes from receiving full spousal benefits without such an offset.

Q How is the offset calculated?

Your spousal benefits, if any, will be reduced by two-thirds of your township pension. If you receive a monthly pension benefit, your monthly Social Security benefit will be reduced by two-thirds of your monthly pension. If you receive a lump sum, your monthly Social Security benefit will still be reduced by an equivalent annuity amount calculated by SSA (as if your lump sum had been paid monthly).

Q Does this apply to all township employees?

No. If your employment was covered by Social Security either on your last day of employment and your last date of employment was prior to July 1, 2004, or during the last five years of employment and your last date of employment was July 1, 2004 or later. (Note: Certain transitional rules may apply to retirees whose last date of employment falls between July 1, 2004, and March 2, 2009.)

Q If I work in the private sector in addition to my township employment, can my private sector Social Security benefits be reduced as well?

Possibly. Assuming that your township employment was not covered by Social Security, there may be reduced benefits caused by the Windfall Elimination Provision. This provision was enacted by Congress to eliminate the increase in calculated benefits to employees who worked both in covered and non-covered (by Social Security) employment. The Social Security Act contains provisions to pay long-term lower earning workers a higher benefit as a percentage to their earnings to provide a better monthly income to less advantaged Americans. Governmental employees were also receiving this bump in their benefits—because the non-covered employment and resulting pensions were not previously considered by the SSA.

Q How does this reduction work?

The reduction is fairly complex. For examples and tables, visit the SSA's Web site to view a fact sheet, found at <https://www.ssa.gov/pubs/EN-05-10007.pdf>, or simply contact your SSA office to review your situation. This provision generally applies to workers who reached age 62 after 1985, were disabled after 1985, or who first became eligible for a monthly pension based on work where Social Security taxes were not paid after 1985, even if the person is still working. There are several exceptions to this, which can be reviewed at your SSA office.

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

upcoming MTA events

REGISTRATION INFORMATION



2017 Professional Development Retreats

As a leader in your township, you are expected to have solutions for a wide variety of challenges. How do you ensure you're equipped to anticipate, and develop strategies to overcome, virtually any situation that arises in your community?

Join fellow officials from across the state this summer at the **Bavarian Inn Lodge in Frankenmuth** for MTA's *Professional Development Retreats*. These events offer premier educational programming and excellent networking opportunities.

Practical techniques and valuable resources

The program is packed with informative sessions featuring topics tailored to the duties specific to your position on the township board. Take advantage of this learning opportunity and connect with others who can help make your role as a township official even more fulfilling. It's an investment worth making.

All about the education

Each retreat offers a learning experience geared to your office on concepts, trends and pressing issues in township government. These informative educational sessions are designed for elected officials at every level, and will help you develop new skills while providing you with knowledge of the statutory duties and responsibilities required of elected officials. Detailed descriptions for each retreat's educational sessions appear in registration materials mailed to each office in May, and are also available online at www.michigantownships.org.

Evening activity

After a full day of education, we know you'll be ready for some fresh air! Leave the meeting room behind and hop aboard the Bavarian Belle riverboat. Relax, network and enjoy a one-hour historical narrated tour of the Frankenmuth area.



RETREATS DATES	Clerks: July 19 & 20	Supervisors: July 27 & 28
	Treasurers: July 25 & 26	Trustees: August 5 & 6

Lodging

Housing is not included in retreat registration rates. To reserve a room, call (855) 652-7200 and reference which "MTA Retreat" you wish to attend. For online reservations, visit www.michigantownships.org/members/retreats.asp.

Cancellations & Substitutions:

Written cancellation requests received at the MTA office four weeks prior to the retreat will receive a full refund; those received two weeks prior will receive half of the registration fee; no refunds will be issued thereafter. You may substitute another individual from your township for your registration without incurring a charge. Please notify MTA of the change. Changes to hotel reservations must be made directly with the Bavarian Inn Lodge; see hotel confirmation for cancellation policies.



Attendance at an MTA Professional Development Retreat is worth four (4) elective credits in the Township Governance Academy.

Registration Form

Township _____ County _____

Daytime Telephone _____ Email Address _____

Name _____ Title _____

Name _____ Title _____



2nd registrant saves \$50!

Which retreat do you wish to attend?

- Clerks Treasurers Supervisors Trustees

Bring your deputy and save \$50 off full-program rates!
(Trustees may bring a fellow trustee from the same township.)

Discount applies to second full program registrant who is attending the same retreat.

Full Program: Includes all meals, refreshments, classes, materials and evening activity. Housing is NOT included; see lodging details above to book your room.

- \$299/person \$349/person if payment is received at MTA within two weeks of event

Single-Day Session: Check the day you wish to attend. Includes that day's meals, refreshments, classes and materials. Day one includes evening activity.

- Day One ONLY \$189/person
\$219 within two weeks of event
- Day Two ONLY \$149/person
\$169 within two weeks of event

Save \$50 on second full-program registration; online, use code: MTA-50

TOTAL: \$ _____ Non-members, call MTA for rates.

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

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

Card # _____ Expires _____

Print Card Holder's Name _____ Signature _____



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

upcoming MTA workshop

REGISTRATION INFORMATION

Hot Topics in Planning & Zoning

Join MTA for a how-to guide and real-life practical experiences at the summer's hottest workshop series, *Hot Topics in Planning & Zoning*. This program identifies emerging issues in planning and zoning, and is a must for planning commissioners, township board members and zoning administrators.

Working within Your Limits: What Townships Can Do About Hot-Button Issues

- Get an update on the impact of the new Medical Marijuana Facilities Licensing Act.
- Ensure your township's zoning ordinance is prepared to address the new law regarding medical marijuana provisioning centers.
- Gain insights into short-term rental regulation to address online platforms for home-sharing (like Airbnb).
- Learn regulatory strategies for balancing property rights with preservation of your neighborhood residential character.
- Review guidelines for zoning provisions for solar farms.

Registration and dinner begin at 4 p.m. The workshop is held from 5 to 8:30 p.m. Dates and locations are:

- Aug. 9: Bavarian Inn Lodge, Frankenmuth
- Aug. 16: Evergreen Resort, Cadillac
- Aug. 23: Fetzer Center at WMU, Kalamazoo
- Aug. 30: Garland Resort, Lewiston

Discounted book package available: Participants can pre-purchase MTA's Planning & Zoning Book Package, which includes *The Township Guide to Planning & Zoning* and *Planning & Zoning Decision-making*, for \$72. The *Township Guide to Planning & Zoning* provides a detailed look at the planning process, while *Planning & Zoning Decision-making* helps you reach defensible, effective decisions and build sound planning principles and procedures. Books will be distributed at check-in. A limited number of publications will also be available to purchase on-site.

Cancellation, Substitution & Switching Policy: Written cancellation requests received at the MTA office by July 26 will receive a full refund. No refunds will be issued thereafter. You may switch workshop locations at no charge if you notify MTA of the change at least one week prior to the workshop; otherwise, a \$25/person fee will be assessed. You may substitute another individual from your township without incurring a charge; please notify MTA of the change.



This course was designated by Michigan State University for Master Citizen Planner (MCP) program credit.



Hot Topics in P&Z Registration Form

Township	County
Name & Title	Purchase P&Z book package? <input type="checkbox"/> Yes <input type="checkbox"/> No
Name & Title	Purchase P&Z book package? <input type="checkbox"/> Yes <input type="checkbox"/> No
Name & Title	Purchase P&Z book package? <input type="checkbox"/> Yes <input type="checkbox"/> No
Name & Title	Purchase P&Z book package? <input type="checkbox"/> Yes <input type="checkbox"/> No
Telephone	Email Address

Which location will you attend?

- Aug. 9: Bavarian Inn Lodge, Frankenmuth
- Aug. 16: Evergreen Resort, Cadillac
- Aug. 23: Fetzer Center, Kalamazoo
- Aug. 30: Garland Resort, Lewiston

REGULAR rate*: \$109 For paid registrations received **after** July 26.

DISCOUNTED rate*: \$89 For paid registrations received **by** July 26.

_____ (# registered) x \$ _____ (rate*) = \$ _____

_____ (# of book packages) x (\$72/package*) = \$ _____

AMOUNT ENCLOSED = \$ _____

*Rate applies to MTA members. Non-members, call for rates.

Save time, register online!
www.michigantownships.org

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

Check enclosed (payable to MTA)

Charge to: (circle one) MasterCard VISA

- - - /

Card #	Expires
Print Card Holder's Name	Signature



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



New & Improved WEBCASTS

Summer school on your terms with MTA's newest webcasts

MTA's eLearning Library—now featuring an upgraded, easy-to-use platform—offers more than 50 online learning opportunities, covering a wide variety of topics—from assessing and taxation to planning and zoning. With the arrival of summer, we're ushering in some new titles, and updating a few of our more popular webcasts:

Brand-new webcast

Building a Better Budget—Taught by MTA Executive Director Larry Merrill and MTA Director of Member Information Services Michael Selden, this course delves into the policy choices facing boards when they adopt a budget, characteristics of a great budget process and final document, estimating revenues and expenditures, scrutinizing and adopting a budget, and monitoring budget compliance.

Just updated!

Board of Review Training—2017 versions of the Basic and Advanced Sessions are available to bring both new and seasoned supervisors, assessors and board of review members up to speed on their roles and responsibilities for this important township function.

New Officials Training—This course—taught by MTA Executive Director Larry Merrill and MTA's Member Information Services staff—is specifically designed to introduce new officials to what they need to know as they attend their first board meetings and take on their administrative duties. Topics include a township overview, intergovernmental relations and permissive functions. Individual sessions are also available for each elected office.

Visit <https://mta.elevate.commpartners.com> for detailed descriptions, or visit the "eLearning Library" under "MTA Products & Training" on www.michigantownships.org. Once you set up your account, you'll be able to personalize your very own dashboard, including a record of past purchases, handouts, quizzes for TGA courses and more! You'll even get recommendations for other webcasts that may be of interest.

Eliminate travel costs and schedule conflicts with this convenient, affordable option that delivers online training directly to your desktop. What are you waiting for?!



Taking the township message to Washington, D.C.

Members of the MTA Board and staff headed to Washington, D.C. this spring to advocate for local government at the federal level. MTA Executive Director Larry Merrill and Government Relations Director Judy Allen joined MTA First Vice President **Ken Gauthier**, **Sanborn Township** (Alpena Co.) supervisor; MTA Treasurer **Peter Kleiman**, **Harris Township** (Menominee Co.) supervisor; MTA Secretary **Bill Deater**, **Grant Township** (St. Clair Co.) supervisor; and MTA Past President **Linda Preston**, **Pokagon Township** (Cass Co.) supervisor, on the advocacy trip to our nation's capital.

The MTA representatives joined town and township leaders from across the country for the National Association of Towns and Township's (NATaT) annual legislative fly-in. Following a general session that included speakers from the Federal Emergency Management Agency and the White House Office of Intergovernmental Affairs, the Michigan delegation met with U.S. Rep. Jack Bergman (R-MI, 1st District), *pictured at right, top*, U.S. Rep. Paul Mitchell (R-MI, 10th District), and staff from the offices of Sens. Gary Peters, *pictured at right, bottom*, and Debbie Stabenow. Key points of discussion included tax and broadband priorities, as well as proposed reorganization of USDA's Rural Development Division.



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Bringing back Idlewild

Township seeks to draw on rich history to create cultural destination

To **Colleen Carrington-Atkins**, Idlewild is an oasis. Each summer throughout her childhood, she and her family made the pilgrimage from their hometown of Detroit to the West Michigan escape in **Yates Township** (Lake Co.). The cabin built by her grandfather's own two hands in the 1940s was a retreat from the stresses of everyday life, a place where she and her family could reconnect and recharge their batteries.

For decades, Idlewild was known as the “Black Eden” and was a haven for African Americans in a time when segregation laws stopped them from visiting other resorts. They flocked to the tiny township in droves, not just from Michigan but from Chicago, Cleveland, St. Louis and even as far away as Texas. Most people remember Idlewild as a hot spot for black celebrities, a place where you could see performances by the likes of Etta James, B.B. King, Della Reese, Jackie Wilson, Aretha Franklin and Louis Armstrong.

‘In our blood’

Long after the resort faded from the national spotlight, Idlewild never lost its charm for Carrington-Atkins. She loved her childhood vacation spot so much that she and her husband made it their permanent residence as adults. As she gazes at the lake and breathes in the fresh air, she’s as captured as ever by its beauty.

That beauty—and the township’s history—make it special still today.



Wystan/Flickr

State of Michigan Archives

Michigan State Historic Preservation Network

www.FindingEliza.com

“Idlewild is in our blood,” Carrington-Atkins said. “It’s our heritage. We have a responsibility to make an impact and help the community thrive and grow economically.”

Today, Carrington-Atkins is Yates Township supervisor—and one of her primary goals is to put Idlewild back on the map. She’s determined to draw from Idlewild’s rich cultural heritage to cultivate a sense of place and create a destination that will build community and attract visitors of all ages.

Already, the township hosts a number of music and heritage festivals. Numerous sites around the community received state historical markers several years ago. And groups of former Idlewild vacationers often return for a homecoming celebration. Carrington-Atkins hopes to build on what the township already has.

Revitalizing Idlewild

While she’s only been in office since November, the new supervisor already has momentum. Artists and groups have contacted her wanting to do something in Idlewild.

“I don’t know what it is exactly, but people who’ve been sitting on the sidelines are coming forward with ideas and wanting to help,” Carrington-Atkins said. “What we’re trying to do is figure out a system of organization and determine what we need to do to make everything work for the benefit and greater good of the community. We’re working with others who want to revitalize Idlewild.”

Carrington-Atkins’s goal is to move Idlewild forward while honoring its past—and it certainly has an incredible past. The once sleepy township was turned into a resort community by four developers and their families at the turn of the century who saw a need to fill. Though slavery was over, and some African Americans had economic opportunities they’d never had before, they weren’t welcome at the resorts that were the favorite spots among white families.

So instead, they came to Idlewild. By 1927, developers had sold 16,895 lots to African Americans from around

the country. “In a time of racial discrimination, segregation and race riots, this was a place where people could come,” Carrington-Atkins said. “Our ancestors could own land and have a resort where they and their families could enjoy the recreation and fellowship with nature.”

‘Hold on to—and build on—the historical value’

The boom of entertainers visiting Idlewild led to a thriving night club scene, making Idlewild a national attraction. But there were other prominent residents and visitors too, including Dr. Daniel Hale Williams, the first person to successfully operate on a human heart. He built a home there and even opened a medical clinic. Poet Langston Hughes; boxing champion Joe Louis and W.E.B. Du Bois, co-founder of the NAACP, were also frequent visitors, and author Charles Waddell Chesnutt had a summer home in Idlewild.

After the Civil Rights movement, the flood of vacationers slowly stopped coming. But although the Idlewild of today bears little resemblance to the “Black Eden” of the past, it remains a beautiful vacation spot. Well-known entertainers still perform at the many music festivals. New cottages are being built, and old ones are being renovated. Young people are discovering Idlewild for the first time.

Carrington-Atkins is encouraged and believes Idlewild is poised for rebirth. She knows people still remember it—everywhere she goes in the U.S., she’s always bombarded with questions anytime someone finds out where she’s from. Now, the township board’s challenge is to build on the community’s legendary status and use it for economic development. Their efforts could help promote not only the township, but also the county and state as a whole. “One of our struggles is to keep that legacy, to hold on to the historical value and build on it, rather than devalue it,” she said.

What exactly that means, well, Carrington-Atkins isn’t sure yet. She and her fellow board members are in the beginning stages of Idlewild’s resurgence. She’s confident, though, that Idlewild has a bright future ahead of it.



MSC denies challenge to MPSC authority to preempt local control in public rights-of-way

In re Michigan Elec. Transmission Co. for Transmission Line, ___ Mich. ___, May 12, 2017—In a brief order that did not address the merits of the case, the Michigan Supreme Court affirmed the state Court of Appeals decision (published Jan. 12, 2015) holding that **Oshtemo Charter Township's** (Kalamazoo Co.) ordinance that required all new utility lines, wires, and related facilities and equipment to be constructed underground in the public road right-of-way was unreasonable.

The Electric Transmission Line Certification Act, Public Act 30 of 1995, authorizes the Michigan Public Service Commission to grant a Certificate of Public Convenience and Necessity that takes precedence over a conflicting local ordinance, law, rule, regulation, policy or practice that prohibits or regulates the location of transmission lines. (MCL 460.570)

The Court order did not address the issues raised by an MTA Legal Defense Fund *amicus* brief that Public Act 30 preempts the constitutional authority of local units under Article VII, Section 39 to require public utilities to obtain consent to use or transact business in the public rights-of-way, and that it was an unlawful delegation of authority lacking proper standards to determine when local rights-of-way regulations are preempted.

MTA's brief read, in part, "Under PA 30, the MPSC can rule that a utility line can go into any local rights-of-way without the municipality's consent and without compliance with reasonable rights-of-way regulations of the municipality. Local municipal concerns and rights protected by Article VII, Section 29 are unconstitutionally usurped."

'Vacant' land for Home Rule City annexation cannot have a constant use

Township of Lockport v. City of Three Rivers, ___ Mich. App. ___, May 9, 2017—The Michigan Court of Appeals reversed and remanded the lower court's decision that land subject to a permanent easement for a township water line was "vacant" for the purposes of annexation to the city under MCL 117.9(8).

Considering two previous opinions, the Court held that, "The term 'vacant,' as it applies to real property, can still be defined the same way that it was in 1978—as real property that is 'not put to use[.]' *Merriam-Webster's Collegiate Dictionary* (11th ed). Under the [*Charter Twp of Pittsfield v. Ann Arbor*, 86 Mich. App. 229 (1978)] decision, real property is not vacant when it is in constant use. Under the [*Charter Twp of Pittsfield v. Saline*, 103 Mich. App. 99 (1981)] decision, real property is vacant when it is only seasonally used and subject to a lease agreement that may be terminated at any time.

"In the instant matter, it is undisputed that the real property at issue is currently and constantly being used. The parties agree that there is, in fact, an underground water transmission line located on the land at issue. Like the road in the *Ann Arbor* decision, the waterline is 'in constant use[.]'



Therefore, the *Ann Arbor* decision best applies to the facts and circumstances of this case. Had the waterline been in ‘temporary, seasonal’ use or subject to a lease that might be terminated at any time, the *Saline* decision would arguably apply. But, those are simply not the facts before us in this case.”



OMA violated where quorum acted on email discussion, even without responding to emails

In an unpublished opinion, *Markel v. Mackley*, Nov. 1, 2016, the Michigan Court of Appeals held that it is possible to violate the Open Meetings Act (OMA) when a quorum of a public body is included in email exchanges, even if a quorum does not actually engage in discussion in those emails, if that quorum subsequently acts in “tacit agreement.” Note that unpublished opinions are not precedent and are binding only on the parties involved, but they often provide an explanation of well-established law not requiring a new holding.

In this case, the **Oakland Charter Township** (Oakland Co.) Parks Commission was found to have violated the OMA when commissioners and staff engaged in email deliberations of commission business.

The Court held, “Related to the requirements of a quorum as well as deliberation toward a decision is the argument advanced by defendants that where a quorum was included in the emails but all four commissioners did not necessarily engage in the discussion, a meeting did not occur. Ultimately, we disagree with defendants’ argument in that regard. ...

“Ultimately, we conclude that whether ‘a quorum is present for the purpose of deliberating toward a decision,’ when only some commissioners in the email chain respond to a message is often a question of fact. With that said, here, we conclude that the evidence clearly showed a violation of the OMA by defendants. Speaking in general terms, there was no evidence that the commissioners on the email were mere observers. ... As discussed further below, even when a defendant did not affirmatively reply to an email, their tacit

agreement was later demonstrated at the public meetings by acting consistently with decisions made in the emails. Further, none of the commissioners replied objecting to their inclusion on the emails. Additionally, there were many emails, so responding to some emails, but not others, could indicate participation on behalf of a commissioner. This is especially true where there was evidence that defendants intended to subvert the OMA, as noted by the trial court, and at least one commissioner was advised against sending emails that included a quorum of the [parks and recreation commission] actively deliberating.”

SCOTUS refuses to hear appeals of 2014 retroactive rescinding of Multistate Tax Compact

In denying a petition for writ of certiorari in *IBM Corp. v. Michigan Department of Treasury*, ___ S. Ct. ___, 2017, on May 22, 2017, the United States Supreme Court effectively denied the appeals by out-of-state corporate taxpayers in *Gillette Commercial Operations N. Am. & Subsidiaries v. Dep’t of Treasury*, 312 Mich. App. 394 (2015). The corporations, including IBM, Gillette and Sonoco, had raised constitutional challenges to the Michigan

Legislature’s 2014 rescinding, retroactive to 2008, of the 1970 Multistate Tax Compact, which allowed a corporate taxpayer with both in-state and out-of-state income to elect to apportion its income tax in the manner provided by either Michigan tax law or the compact’s more favorable apportionment provisions.

The Michigan Court of Appeals held in *Gillette* that the 2014 legislation was not unconstitutional. If the state had lost, the potential tax refunds to the corporations could have cost the state an estimated \$1 billion. The case had been an MTA Legal Defense Fund case.



aroundthestate

townships in the spotlight



Lovells Township

Lovells Township (Crawford Co.), with a population of just over 600, is serenely located in Northern Michigan. The beautiful North Branch of the AuSable River runs right through the community, which is home to both year-round and seasonal residents.



The township was named for Louis Lovell, a judge of the eighth judicial district. A petition for the division of **Maple Forest Township** was presented to the county board of supervisors on Jan. 4, 1912, because residents in the Lovells area wanted to have their own representation for that portion of the county. The petition was signed by 19 Maple Forest Township residents and 12 residents from Lovells.

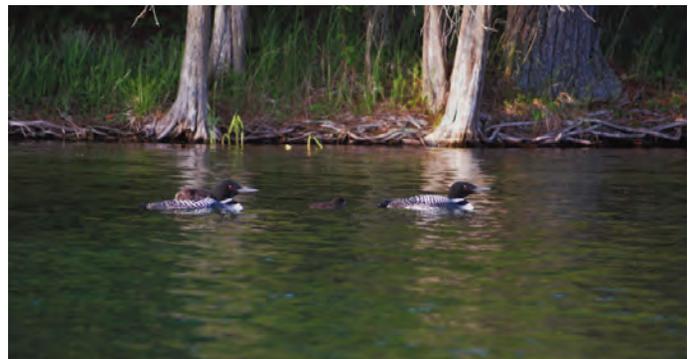
Today, the township continues to honor its history. After the success of a Heritage Days Celebration in 1990, the Lovells Township Historical Society was formed. The community wished to preserve and promote the history of the area. That desire brought together people seeking a way to showcase and protect township artifacts, documents, photos and memories.



In 1991, the society was gifted the one-room log Lone Pine Schoolhouse, constructed in 1906, which became the first big project of the historical society. The community came together to move the historic building to township property and renovations began that summer. Once completed, the building was named the Lone Pine Schoolhouse Museum and used to house and exhibit the history of Lovells Township.

In 2001, the township's second museum was constructed. The log building is the home of the Lovells Museum of Trout Fishing History—Michigan's only trout fishing history museum. The museum, operated by the historical society, focuses not only on trout fishing in the township and on the North Branch of the AuSable River, but trout fishing throughout Michigan.

Township residents look forward to the "Famous Lovells Bridge Walk" each summer. Celebrating 26 years in August, the bridge walk is a family-friendly event that includes a parade, firemen's pancake breakfast, community lunch and historical society log drive.



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