



CAPITOL CURRENTS

A Legislative Update for Township Officials

In This Issue

State Revenues	2
Voter ID Challenge.....	2
Election Results.....	3
Prop. 5 Defeated.....	3
QVF Light Pilot.....	4

House Approves Flawed Cable Legislation; Pressure on Senate

The Michigan House of Representative voted to approve HB 6456, AT&T's cable franchise legislation, on November 14. The vote came after House members spent most of the day in their respective caucuses to select leaders for next session. MTA, MML and other organizations had several amendments prepared and offered by members of the House to address a variety of local government concerns, but the amendments were not considered. Nor was any debate allowed. There are serious problems in HB 6456, as was acknowledged by Rep. Andy Dillon (D-Redford Twp.), who has served as the minority party point person on the issue. Dillon stated on the floor before the vote, "HB 6456 is in need of major repair as it goes to the senate."

As of press time, it was still unclear whether the Senate was prepared to address the bill before the end of the year. Senate Majority Leader Ken Sikkema (R-Wyoming) made brief statements to the media that included "resolving the cable franchise issue" as a lame duck session item. However, now that senators are learning that major issues were not addressed by the House, some members believe the Senate should not attempt to move the bill. The handful of states that approved cable franchising in the last two years took several months (through workgroups and negotiations) to develop workable legislation. The Senate will have only three weeks of lame duck session and have not yet engaged in the legislation.

The specific problem areas in the bill include:

- It allows incumbent cable companies, currently operating under local franchise agreements, to abrogate those agreements at any time. Franchises would be eliminated even if there were no cable competitor in the community. This is a major step backwards for service and will cause a digital divide of "haves" and "have-nots" across Michigan. This will not only harm future cable/video service in communities, but also the deployment of broadband Internet services.
- The build-out language is unworkable and applies only to AT&T. Areas in southeast Michigan are more likely to see competition (within three years, according to AT&T) but other markets in the state won't be nearly as attractive. The build-out language also doesn't apply until AT&T se-

cures a 30 percent market penetration (huge loophole for AT&T).

- Local governments are not guaranteed a five percent franchise fee as has been reported by AT&T. Under the bill, once a franchise (contract) is abrogated (which MTA strongly opposes) the terms of the new or revised franchise includes the percentage amount that is paid by the current incumbent cable operator. More than 400 Michigan communities do not charge any franchise fees. Under HB 6456 they would remain at zero. There is no increase for communities receiving less than five percent today. Further, these communities would remain at whatever levels their current franchise contains. However, due to a change in the definition of gross revenues contained in the bill some communities will be collecting less even though their percentage would not change.

- Public, Education and Government (PEG) channels are locked in at one percent under the bill, though there are many communities today that receive more than one percent for PEG operations (allowed for under federal law)—this would harm many PEG operations.

- The bill also contains a Metro Act credit loophole that would allow AT&T to gain a \$15 million property tax credit by the Public Service Commission (PSC). If the credit is not granted by the PSC (which would come from the state's general fund) then the credit may be taken in the form of non-payment of Metro Act payments distributed to local governments (paid to locals for use of public rights-of-way).

- HB 6456 also presents significant financial issues related to I-Nets (in-kind contributions) for services received by local emergency communications systems, schools, senior centers, libraries, government buildings and other non-profit organizations. These early estimates easily amount to more than \$35 million per year.


- The current federal cable law does not permit townships, cities or villages to sign exclusive franchise agreements that would prohibit new telephone companies into the

Continued on page 2

Continued from page 1

cable/video market. Local governments are supportive of cable competition and choices for our residents and businesses. We have invited AT&T into our communities but they have refused to talk in most cases or have walked away.

- Representatives of AT&T speaking at a public meeting in Southgate on November 2, 2006 stated that cable fran-

chises granted by local governments DO NOT apply to AT&T. The AT&T spokesperson further explained that this was the reason why AT&T instead attempted to secure “memorandums of understanding” with local units of government. MTA asks, why is the Michigan Legislature attempting to amend the local franchising process when AT&T claims that they are exempt from the local government franchising? 


State Revenues Continue to Show Weakness

In their latest revenue report, the Senate Fiscal Agency indicated that the state fiscal picture remains a concern. Among the disappointing revenue sources was the state’s sales tax, the source of all revenue sharing distributions.

September 30 marked the end of the state fiscal year. However, many of the revenues that are collected in October are accrued back to the prior fiscal year, based on the time period when the liability was created. Sales tax collections are a prime example of this accounting where the money remitted by merchants across the state in October was collected from their customers in September.

The preliminary findings indicate that there was no growth in sales tax revenues from Fiscal Year 05 to FY 06. This would

indicate that townships would see little difference in their constitutional revenue sharing distributions when comparing the past two years. The greatest concern may come from the fact that sales tax revenues, over the past three months, were down 3.4 percent when compared to the same time period a year ago. If this pattern does not strengthen quickly, it will cause problems for all townships in meeting revenue projections for the current year, as well as schools that rely heavily on sales tax revenue for the school aid fund.

The Senate Fiscal Agency estimates a \$120 million deficit in the School Aid fund for FY 06. This likely means that budget issues will once again be the first issue addressed by the new Legislature when it is sworn in this January. 

State Supreme Court Hears Voter Photo ID Case


On November 13, the Michigan Supreme Court heard arguments concerning a law scheduled to go into effect on January 1, 2007 that would require voters to show photo identification before voting. The law, PA 71 of 2005, is being addressed by the Supreme Court to determine whether it is constitutional under the state and federal Constitutions.

The question is whether or not the requirement to show a driver’s license, state issued ID or other form of acceptable identification creates an unnecessary burden on a person’s ability

to vote. If a voter does not have acceptable photo identification when attempting to vote, they can fill out an affidavit declaring they are who they say they are. However, Michigan election law allows for anyone signing an affidavit to be “challenged” by an elections challenger, which some argue places a burden on that voter.

Some have also argued that requiring photo ID would create a financial burden for some voters. However, under HB 6007, more recent legislation that has passed the House, a voter without photo ID would be able to obtain a state ID through the secretary of state’s office at no cost. It is estimated that there are approximately 350,000 Michigan voters currently without a driver’s license or state ID card.

The case also involves the attorney general’s ability to suspend laws via an opinion. Former Attorney General Frank Kelly rendered an opinion in 1996 that struck down a similar law-requiring photo ID. He had ruled that the 1996 law was unconstitutional because it interfered with a voter’s right to vote.

The constitutionality of requiring photo ID has arisen in other states including Indiana, Georgia and Arizona with mixed results. While no specific timeline was given by the court to render a decision, speculation is that a decision could come fairly soon as the section dealing with photo ID of PA 71 of 2005 is scheduled to take effect January 1, 2007, impacting the next scheduled election in February. 

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David Bertram
Editor

Bill Anderson
Tom Frazier
Associate Editors

Michigan Townships Association

512 Westshire Drive, P.O. Box 80078

Lansing, MI 48917

(517) 321-6467

Fax (517) 321-8908

E-mail legislation@michigantownships.org

MTA-PAC Does Well, Despite Election Surprises


Despite many surprises on election night, the MTA-PAC Committee scored well with its endorsements for the November general election. Out of a combined total of 149 Senate and house races, the PAC Committee made endorsements in 142 races. Of those races, MTA-PAC was successful in 132 races—a 93 percent success rate.

On election night, Republicans had a net loss of one Senate seat but maintained control by a 21-17 majority. In one of the western Wayne County senate seats, the Republican incumbent Laura Toy (R-Livonia) lost to incoming Senator and current Rep. Glenn Anderson (D-Westland). Despite some other very competitive races, all other incumbent senators in both parties won re-election.

Well into the early morning following the election, most eyes were on two open seats to determine control of the Senate. Those seats were the 32nd district where Rep. Roger Kahn (R-Saginaw Chtr. Twp.) nudged out Rep. Carl Williams (D-Saginaw) by 520 votes, and the 13th district where former Rep. John Pappageorge (R-Troy) defeated Democrat Andy Levin by 776 votes. A swing of less than 1,300 votes in these two districts would have resulted in Democratic wins, which would have left the Senate in a 19-19 tie. Under that scenario, Democrats would have taken control since President of the Senate Lt. Gov. Cherry would have been the tie-breaking vote.

Meanwhile in the House, a “tsunami” hit the Republican

majority as three incumbents lost re-election and Democrats came out of nowhere in two open seats, which were considered safe Republican districts. The Republican incumbent lost in the 91st district, where Rep. David Farhat (R-Fruitport Chtr. Twp.) was defeated by Mary Valentine (D-Norton Shores). In addition, Republican incumbents lost in both Jackson County seats. Rep. Rick Baxter (R-Concord Twp.) lost to Jackson Mayor Marty Griffin (D-Jackson), and Rep. Leslie Mortimer (R-Liberty Twp.) lost to her opponent of two years ago, Mike Simpson (D-Liberty Township). Democrats also picked up two unexpected seats, one in the thumb area and one in western Wayne County. In the 84th district, Democrat Terry Brown (D-Winsor Twp.) defeated expected winner John Hunt, a Huron County Road Commissioner. In the 20th district, Democrat Marc Corriveau (D-Northville) defeated Republican Mark Abbo, the Northville Township supervisor. Democrats also picked up their sixth seat in Kent County where Democrat Robert Dean (D-Grand Rapids), a former city commissioner, defeated Republican Tim Doyle.

The result is a new 58-52 majority for the Democrats who will take over control of the House of Representatives in January. Both Republicans and Democrats have elected some of their leadership positions for the 94 Legislative session that starts in January. For a list of the new leaders, see the accompanying box below. 

Please find listed below leadership positions elected to date. As of press time, Democrats have several more positions to elect in both the Senate and House:

Senate Leadership (21-17 Republican Majority):

Majority Leader: Mike Bishop (R-Rochester)

Majority Floor Leader: Alan Cropsey (R-Olive Twp.)

President Pro Tempore: Sen.-elect Randy Richardville (R-Monroe)

Assistant Majority Leader: Michelle McManus (R-Leland Twp.)

Majority Caucus Chair: Nancy Cassis (R-Novu)

Assistant Majority Floor Leader: Cameron

Brown (R-Fawn River Twp.)

Assistant Majority Whip: Sen.-elect Roger Kahn (R-Saginaw Chtr. Twp.)

Assistant Caucus Chair: Sen.-elect Mark Jansen (R-Gaines Chtr. Twp.)

Minority Leader: Mark Schauer (D-Battle Creek)

Minority Floor Leader: Buzz Thomas (D-Detroit)

Minority Caucus Chair: Gilda Jacobs (D-Huntington Woods)

House Leadership (58-52 Democrat Majority):

Speaker: Andy Dillon (D-Redford Chtr. Twp.)

Majority Floor Leader: Steve Tobocman (D-Detroit)

Speaker Pro Tempore: Michael Sak (D-Grand Rapids)

Minority Leader: Craig DeRoche (R-Novu)

Minority Floor Leader: Chris Ward (R-Brighton Chtr. Twp.)

Minority Caucus Chair: John Proos (R-St. Joseph Chtr. Twp.)

Assistant Minority Leader: Kevin Elsenheimer (R-Custer Twp.)

Assistant Minority Floor Leader: Dave Hildenbrand (R-Lowell Chtr. Twp.)

Assistant Minority Floor Leader: Tonya Schuitmaker (R-Antwerp Twp.)

Minority Whip: Kevin Green (R-Wyoming)

Caucus Vice Chair: Rep.-elect Kim Meltzer (R-Clinton Chtr. Twp.) 

Townships and Coalition Cause Prop. 5 to Collapse

MTA would like to congratulate township officials across Michigan who took personal time and energy to help defeat Proposal 5 on the November ballot. There were signs of early sup-

port for the proposal, but that support eroded in the final weeks before the election once the message got to the voters that the


Continued on page 2



Continued from page 1

plan was not about sending more money to the classroom but rather about guaranteeing funding for skyrocketing teacher pensions and benefits at the cost of local government funding.

Prop. 5 was soundly defeated by 63 percent of the voters.

Efforts by township officials, MTA and the other organizations that actively participated in the “Stop the Spending Mandate” coalition were successful in sharing the “Don’t be fooled by 5” message with voters. Thank you again for your help in defeating Prop. 5. 

QVF Light Pilot Program Gives Smaller Communities Access

One of the common complaints heard from township clerks in smaller jurisdictions is that they don’t have direct access to the Qualified Voter File (QVF). The elections section of the MTA Policy Platform has had for some time a stated goal of providing direct access to the QVF for all local clerks. While legislative efforts have never been successful in this matter, the federal Help America Vote Act (HAVA) brought hope. As part of the state plan put together to receive federal funds under HAVA, Secretary of State (SOS) Terri Lynn Land included a provision to establish direct access to the QVF for clerks in smaller jurisdictions.

This effort has come to fruition through what is known as QVF Light, a pilot program established through the SOS Bureau of Elections in September of this year to create direct access for 16 smaller communities throughout Michigan. Under the program, software and training were made available to the communities. Each participating clerk was then given a user ID and password to access the QVF system to update his or her voter registration lists.

Benefits to the local clerks using this system have been many according to former Williamstown Township clerk and new MTA Member Information Services Specialist Cindy Davis. “Clerks can process new voter registrations in a short amount of time while people wait at the counter” she said.

Within 10 minutes a person waiting at the counter can have his or her information entered into the QVF system and a voter registration card produced. Previously, that same person would

have to fill out the proper form at the counter and then leave it with the clerk to enter the information over the Internet during limited designated timeframes or by going to the county clerk’s office in person. Once entered, the local clerk would then produce a new voter registration card and mail it to the voter. Additional benefits include the ability to track absentee (AV) ballots and to check registrations of township residents. According to Davis, the new system “saves time and reduces error.”

SOS Bureau of Elections staff is evaluating the pilot program. Initial concerns with burdening the QVF server and security issues seem to have been eliminated. The evaluation will be completed by the end of December. It is then anticipated that additional jurisdictions wishing to have direct access to the QVF will be added starting with the New Year.

It is also anticipated that the roll out will take a fairly long period of time to ensure continued stability of the QVF server. Jurisdictions that currently rely on Symantec PC Anywhere® access through the county, those that have to take their master cards and other materials into the county clerk’s office to input voter registration information, and those local clerks that currently rely on county clerks to maintain voter registration lists will be eligible to utilize the new system, assuming that a proper computer system and phone Internet access is available. This new direct access system is very encouraging and welcomed by both local clerks and MTA. 