

# Michigan Township voice

A LEGISLATIVE UPDATE FOR TOWNSHIP OFFICIALS | AUGUST 2016

## MTA working to prevent changes that effectively unzone public school property

A fast food restaurant, cellular tower and virtually any commercial business could move onto school property under two pending bills that would preempt local zoning ordinances.



**Senate Bills 953 and 955** await action in the Senate Transportation Committee. Together, they would effectively unzone public school property, allowing any public and commercial use on the premises. The bills are intended to allow schools to place billboards on their properties along expressways for a financial benefit. While introduced

for a limited purpose, the bills' broad language would significantly impact local zoning, leaving the door open for strip malls, gas stations and any number of commercial businesses to be located on school property—even in neighborhoods. Additionally, school districts could buy or lease land that's highly valued for commercial development—all outside of the local master plan and local zoning.

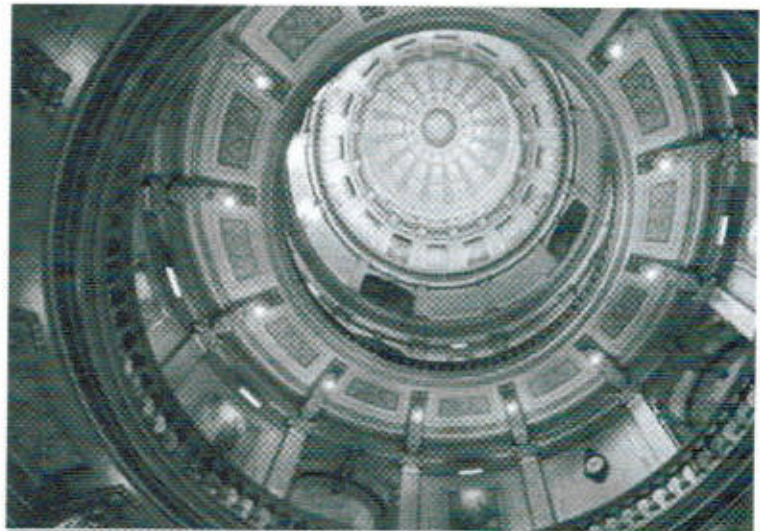
The bills' sponsor, Sen. Tom Casperson (R-Wells Twp.), has committed to working with MTA to resolve local government concerns. We expect new language that will eliminate the local zoning preemption when the Legislature resumes regular session next month.

Currently, the law requires the submission of plans by school districts to comply with local zoning. As introduced, SB 953 would amend the Highway Advertising Act to exempt public school property from local zoning ordinances. It would also unzone public school property, as long as the public school planned to use that property for a purpose that would provide a financial or commercial benefit. The benefit would not necessarily need to be for the school itself but could be for its governing board or foundation. The bill does not specify which commercial uses would be permitted—leaving it open to any kind of commercial activity.

Additionally, SB 953 would prohibit the Department of Transportation from requiring a signed written statement from any municipality to give an annual sign permit.

SB 955 would make similar changes to the Michigan Zoning Enabling Act. While it does not mention billboards, SB 955 uses similar language.

MTA continues to work with Sen. Casperson on changes to prevent the preemption of local zoning in any form.



## We're seeking your input on township advocacy efforts

MTA is conducting a short, 10-question survey to ascertain our members' interest and activity in advocacy on behalf of township government. If you have not already done so, please take a few moments to complete this brief, online survey.

We're seeking your thoughts on advocacy at the grassroots level. Do you reach out to lawmakers? In what ways? What can MTA do to make it easier for you to connect with legislators on issues impacting townships? Your input will help us to better serve you and your fellow township officials.

MTA works every day to keep the township perspective in the forefront for Lansing lawmakers—but we can't do this alone. Our voice is strongest when we have the full power of 1,240 townships behind us.

**Please complete the survey as soon as possible, but no later than Sept. 12.** Thank you in advance for your time and consideration.

## in this issue

- 2 Townships would be protected from more flooding liability costs  
Bill helps townships monitor water quality

## Townships would be protected from more flooding liability costs

Townships would have greater immunity from liability after a flooding event if [House Bill 5282](#) becomes law.

The bill, sponsored by Rep. Michael Webber (R-Rochester Hills), was reported by the House Local Government Committee earlier this year and awaits action by the House. The legislation is intended to address the issue of extreme flooding, which has left local units of government with excessive liability costs, by amending a “sewage disposal system event” and clarifying design and construction defects. If enacted, HB 5282 would curb these costs by specifying a point at which rainfall is so extensive that a municipality could not be held responsible for a sewer system failure. It would also define a “construction defect” with respect to governmental liability.



MTA supports the bill, which could reduce costs for townships that experience flooding and also lower their risk of being sued as a result of that flooding.

Current law—Public Act 222 of 2001—provides limited immunity for local units of government.

This law was passed after the extreme flooding experienced by Dearborn Heights in September 2000 as local insurers capped liability at \$500,000—leaving the city responsible for paying claims above that amount.

HB 5282 was introduced in response to the extensive flooding in southeast Michigan in August 2014. When seven inches of rain fell in 24 hours, the sewer systems were overloaded, and Oakland County suffered more than \$330 million in flooding damage, while the city of Warren experienced an estimated \$1.2 billion in property losses.

HB 5282 was written to ensure that municipalities are protected only in the event that sewage system failures are caused by extreme rainfall, not when the failure is caused by an actual problem with the system. The bill retains the current definition of a “sewage disposal system event,” in which the overflow or backup was caused by one of three issues: an obstruction in a service lead that was not caused by a governmental agency, a connection to the sewage disposal system on the affected property, or an act of war or terrorism. HB 5282 adds an exception that such an event does not exist if the rainfall at or near the affected area or within the sewage disposal system service area is at least 1.7 inches in an hour or 3.3 inches in 24 hours.

If enacted, townships and other municipalities would continue to be liable for overflows or backups that are a sewage disposal system event as defined, and the governmental agency was the appropriate agency. The bill would maintain provisions that in order for someone to be compensated for damage, he or she must show the following: the governmental agency was the appropriate agency, the sewage disposal system had a defect, the governmental agency knew or should have known about it and did not correct it, the defect was a substantial cause of the event and damage, and proof of property ownership. A part of a sewage system would also not be considered to have a design or construction defect if it was designed and built according to state standards in place when it was made or improved.

HB 5282 would not impact cases that are already pending against municipalities. However it would limit liability for future floods. The House could consider this bill as early as September, when it resumes regular session.

## Bill helps townships monitor water quality

Townships would have another tool to help monitor water quality if [House Bill 5403](#) becomes law.

The House Natural Resources Committee has listened to testimony and could act on the bill, sponsored by Rep. Kurt Heise (R-Plymouth Chtr. Twp.), when the Legislature resumes regular session next month. If enacted, HB 5403 would allow two or more municipalities to create a water quality alliance to monitor water quality. MTA supports this bill, which does not require townships to take action but provides another way for them to address water quality issues.

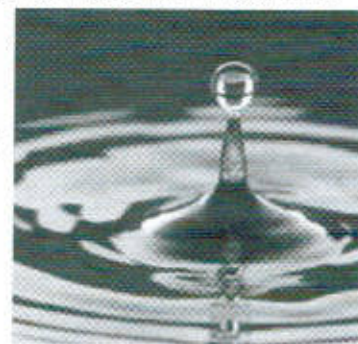
A similar bill introduced about five years ago did not receive final passage. However, the issue has resurfaced in response to the Flint water crisis. While local governments could conduct some water monitoring actions through an intergovernmental agreement, HB 5403 provides a roadmap for what this should look like.

An alliance’s primary job would be to monitor water quality within its jurisdiction and conduct related activities. HB 5403 would also allow the alliance to take samples from water bodies and analyze their water quality to identify contamination and contamination sources; inform the public about the monitoring program and water sample data; and provide water quality data to other governmental agencies, colleges and universities, schools, and other people for scientific, environmental compliance and educational purposes.

A water quality alliance could assess and collect fees from member municipalities, counties, county agencies, public school districts or other public agencies. However, the alliance could not independently seek fees from individuals. It could also pursue grant funding. Grants and fees could be used to pay alliance employees. The alliance could also enter into contracts and agreements, and obtain permits or authorizations from governmental agencies.

Each year, the alliance would have to provide an annual report to its members, detailing its revenue and expenses. It would also be required to have an audit of its financial records, accounts and procedures at least every other year and submit the results to the state treasurer and its member governing bodies.

MTA will continue to update members on HB 5403 when further action occurs.



### Michigan Townships Association

PO Box 80078

Lansing, MI 48908-0078

(517) 321-6467 Fax (517) 321-8908

legislation@michigantownships.org

### MTA’s Government Relations Department

Judy Allen, Director of Government Relations

Justin Dickman, Legislative Counsel

Tom Frazier, Legislative Liaison

Michelle Hart, Government Relations Coordinator

Bethany Mauger, Staff Writer