

Michigan Township voice



A LEGISLATIVE UPDATE FOR TOWNSHIP OFFICIALS | JULY 2016



More sites eligible for brownfield redevelopment

More contaminated sites could be eligible for tax increment financing (TIF) and grant funding to help redevelop the property under a package of bills in the Senate.

Senate Bills [908](#), [909](#), [910](#), [911](#), [912](#) and [913](#) were reported by the Senate Commerce Committee earlier this year and could be considered by the full Senate when session resumes in September. Together, the bills would update Michigan's brownfield redevelopment program, making it easier for developers and local units to follow and broadening the types of sites eligible for redevelopment.

Under the bills, the brownfield redevelopment program would be expanded to include sites with leaking underground storage tanks. Because of this change, sites with leaking underground storage tanks would likely be eligible for redevelopment grants. The amount of grant funding available would not change, but the scope of eligible projects would increase. Additionally, the Michigan Strategic Fund (MSF) chair would be able to approve plans for addressing eligible

activities up to \$1 million, rather than the current level of \$500,000. The MSF would also have to approve grants within 60 days, shortening the timeline and speeding up the redevelopment process. A number of other technical changes were also made to the program, further clarifying activities that can be undertaken under either the grant or loan program.

SB 908—the main bill in the package—would require additional local tax and school operating tax increment revenue captured to be deposited into a local brownfield revolving fund retroactively for lead and asbestos surveys, if approved by a local unit of government. It modifies the Brownfield Redevelopment Financing Act's provisions regarding a brownfield development plan's content, as well as the recovery and use of TIF dollars. It also sets up a procedure for ending a brownfield plan and allows termination in two years rather than five years under current law.

The legislative package would also repeal current sections of state law prohibiting a brownfield redevelopment authority from capturing tax increment revenue from taxes levied before Dec. 31, 1996. The package would further require the Michigan Department of Environmental Quality to apply current Clean Michigan Initiative (CMI) Bond Fund criteria for grant projects under the Environmental Protection Bond Fund. The CMI was passed by voters in 1998. Currently, it is estimated that there is \$3.5 million in loans and \$5 million in grant funding that remains uncommitted.

Finally, the bills would allow for local units of government to receive loan funds with a 50 percent match when the local unit is responsible for the release of contaminants. While local units would still be responsible to reimburse the loan, this would allow locals to move faster to clean up contaminated sites.

MTA is monitoring the bills and will continue to provide updates on any potential impacts to townships.

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Bill clarifies liability for underground storage tanks

A bill being considered in the House would clarify the liability of state and local governments when contamination from underground storage tanks is located under public highways. **SB 717**, introduced by Sen. Tom Caspersen (R-Wells Twp.), awaits further consideration in the House Natural Resources Committee, having passed the Senate earlier this year. The bill aims to address the issue of leaking underground storage tanks while balancing the needs of owner/operators with the liability concerns of state and local governments. MTA has been heavily involved in



negotiations on SB 717 to ensure townships do not assume the liability that's currently the responsibility of the owner/operator.

Currently, an owner/operator of a contaminated property is required by law to take specific actions to minimize the contamination and prevent exposure. Townships and other local units, as

well as the state, are exempt from these requirements if they take control of these properties due to bankruptcy, tax delinquency or other circumstances. The exception is in cases where a local unit offers access to a contaminated property and invites the public to use the site for a public purpose, such as building a soccer complex on a closed landfill site. In these cases, local units are subject to the same requirements as owner/operators.

An anticipated change in the House would allow townships and local road agencies to notify the Michigan Department of Environmental Quality (DEQ) rather than the owner/operator when conducting road work on sites containing contamination. In addition, townships that enact local ordinances addressing the use and regulation of contaminated sites—after the effective date of the legislation—would be required to notify the DEQ 30 days before any ordinance change.

The bill also clarifies current language that allows alternative mechanisms rather than a total cleanup in certain cases, as long as measures are taken to avoid health and safety risks. "Alternative mechanisms" could include leaving contaminants underground if they are under roads or in public rights of way and disturbing the infrastructure would lead to an extremely high cleanup cost. If public highways are considered a "public purpose," as proposed in the bill, closures of those contaminated sites could proceed without requiring a signed Alternative Institution Control form. Currently, the DEQ requires a local unit of government to sign the form in order for an owner/operator to utilize a highway for an alternative mechanism—something many local units avoid due to future liability concerns.

SB 717 would require an owner/operator to remain liable to take corrective action if a closure relied on an alternative mechanism, and the conditions changed. The owner/operator, not the local unit, would be responsible for due care to minimize exposure to the contamination. He or she must also notify the governmental entity if any contamination enters or could enter a storm sewer.

The House Natural Resources Committee could take up the bill when it returns in September. MTA will continue to work with legislators to ensure that there is no increased liability for townships.

Seeking member input for 2017 MTA legislative platform

MTA member officials play an important role in shaping the Association's legislative policy—both by voting on the MTA Legislative Policy Platform at the MTA Annual Meeting each year, and also by offering suggestions and input for consideration by MTA legislative policy committees.

MTA is seeking your input for the 2017 Policy Platform.

For many years, the deadline for member officials, township boards and MTA County Chapters to submit input has been in the late summer, due to our January Annual Conference. However, as MTA transitions to a spring conference, beginning in 2017, the deadline for submissions has also shifted.

The deadline for submissions for consideration for MTA's 2017 Legislative Policy Platform by the MTA Legislative Policy and Resolutions Committee is Nov. 14. The policy platform will be presented for approval by the membership at the 2017 MTA Annual Meeting, which will be held Thursday, April 13, in conjunction with the 64th Annual MTA Educational Conference & Expo in Lansing.

You can view MTA's **2016 Policy Platform** on MTA's website, www.michigantownships.org, under the "Advocacy" tab.

Under the rules adopted by MTA's Board of Directors, **proposed policies must be submitted to MTA 150 days prior to the Annual Meeting—by Monday, Nov. 14, 2016.** Proposed policies are reviewed by the committee for word selection and legality, and to ensure they conform with the Association's overall goals and objectives. The proposed policies will be printed in the March/April 2017 issue of *Township Focus* and will also be available at Conference.

Amendments at the Annual Meeting are permitted, provided the purpose and substance of the original resolution remain unaltered.

Proposed policies may also be submitted from the floor at the Conference if they are first submitted to MTA Conference Headquarters by noon on Wednesday, April 12, 2017, the day before the Annual Meeting.

For additional information, contact the MTA Government Relations Department at (517) 321-6467 or email legislation@michigantownships.org.

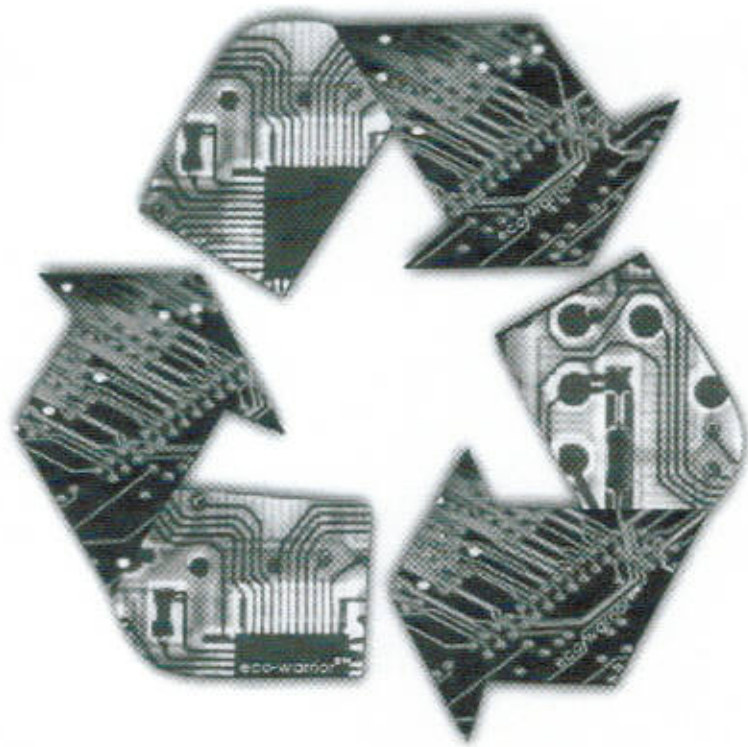


Are you receiving your legislators' newsletters?

Many members of the Michigan House and Senate provide legislative newsletters for their constituents. These newsletters are a great way to receive the latest information on issues that legislators are sponsoring or working to change or enact, as well as events they may be holding in their district.

Stay connected with the latest information from your legislators and sign up today! (Most are e-newsletters, though you may also be able to receive a print newsletter in the mail.)

Simply find your [state representative's](#) or [senator's](#) Web page, and follow the instructions to subscribe. Contact the lawmaker's office should you have any questions.



Bill could help townships recover cost of e-waste

Townships that sponsor take-back programs for old televisions, computers and other unwanted e-waste would be allowed to charge fees and possibly apply for grants to help cover their costs under a bill being discussed by legislators.

SB 922, sponsored by Sen. Judy Emmons (R-Bushnell Twp.), is meant to ensure that Michigan residents have a place to dispose of their old electronic items. MTA is actively involved in discussions on this bill and was part of a workgroup that led to the bill's introduction. The concepts contained in the current bill are consistent with MTA's policy platform position of expanding solid waste recycling programs.

Current statute requires manufacturers that produce e-waste to have a take-back program for obsolete items. SB 922 was introduced to strengthen this program.

Under the bill, manufacturers would not be allowed to sell new electronic devices in the state unless they have a take-back program to prevent future e-waste disposal in landfills. Many manufacturers contract with recyclers or community drop-off programs in order to meet this requirement. Some communities are facing rising costs as a result of the take-back programs in their communities—as the program costs exceed the amount they receive from selling the recyclables.

Township Insights, MTA's weekly e-newsletter, offers timely information and updates about legislative happenings, as well as news, programs and resources that can help you better serve your community. Look for the latest on what's happening in Lansing, grant opportunities—and more! Not receiving *Township Insights* in your email? Contact legislation@michigantownships.org.

MTA Legislative Policy Platform—Environment and Land Use

The activities of township governments impact Michigan's environmental quality, and state laws and regulations regarding environmental protection impact township government programs, services and policies. The Michigan Townships Association advocates for environmental laws and practices that appropriately support the responsibility of townships to efficiently and effectively perform their duties to protect the public health, safety and general welfare. As lawmakers and regulatory agencies enact changes to current environment laws and local government requirements, the Michigan Townships Association supports ... :

- Expansion of solid and liquid waste recycling programs

In order to combat this problem, SB 922 would allow local units to charge fees for collecting the e-waste. This would allow townships that conduct such programs to recoup their costs. One concern, however, is that allowing local governments to charge for drop-off sites may result in less participation by residents.

The legislation also stipulates that the Michigan Department of Environmental Quality (DEQ) may establish a program to provide short-term grants to townships, other local governments and non-profit entities to collect covered electronic devices, which is currently limited under the bill to computers, computer monitors, printers and televisions. The grant program was strongly supported by MTA as the bill was being drafted.

SB 922 would also create an electronic waste advisory council, which would include representation for local units of government. Specific issues the council would be charged to consider include whether to include smartphones and similar devices under the bill, and whether to expand the grant program to address illegal dumping of e-waste as well as to address any potential illegal dumping resulting from the legislation. Other charges include a possible e-waste ban from landfill disposal and potential funding mechanisms to assist with the recycling of electronic wastes.

The council would also be required to submit an advisory report—within two years after the effective date of the legislation—to the DEQ director for further consideration.

MTA will continue to work with the sponsor and other legislators on this bill, which could be the subject of a committee hearing this fall.

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