

Michigan Township voice

A LEGISLATIVE UPDATE FOR TOWNSHIP OFFICIALS | SEPTEMBER 2016



Bills give townships authority over medical marijuana facilities

Townships will soon have clear authority to allow or ban medical marijuana facilities within their boundaries.

This month, the Michigan Legislature gave final approval—and the governor signed—a three-bill package designed to provide the state's medical marijuana system with a new regulatory framework. The primary bill in the package—**House Bill 4209** (now PA 281 of 2016), sponsored by Rep. Mike Callton (R-Nashville)—provides this framework while giving local governments final authority to determine whether to allow such facilities in their community. The bill also permits the local unit to control which of the five types of licensed facilities they would allow—and how many.

While MTA did not take a position on the bill, we worked hard to ensure local control was maintained for approval within townships, notification was provided, and local ordinances could provide regulation.

If townships do not want medical marijuana facilities within their community, no action is required and no facilities can be licensed by the state and located there. A facility can only locate in a jurisdiction if that local government adopts an ordinance permitting them to do so. Townships can also adopt zoning and other regulatory ordinances.

PA 281 is tie-barred to **HB 4827** (PA 283), sponsored by Rep. Klint Kesto (R-Commerce Chtr. Twp.), which establishes a seed-to-sale tracking system, as well as **HB 4210** (PA 282), sponsored by Rep. Lisa Posthumus Lyons (R-Boyne Twp.) which would allow medical marijuana to be used in edible and topical form.

The legislation comes years after voters approved medical marijuana in 2008. However, there was little regulatory guidance, resulting in what one lawmaker called a “wild west” scenario. The bills do not impact the current caregiver-to-patient model but are meant to stop

unregulated growers from selling marijuana to provisioning centers.

PA 281 creates the regulatory framework of a state licensing system with five defined types of licenses—grower, processor, secure transporter, provisioning center and safety compliance facility. Once enacted, the bill will provide criminal and civil immunity to license-holders operating within the scope of the law, as well as to registered caregivers and patients.

The bill creates a three-part process for a medical marijuana facility to become licensed. First, the local unit must adopt an ordinance authorizing the type of facility as well as the number of each type of facility allowed. Without this ordinance, the state cannot issue a license for any medical marijuana facility in that local unit. This means that if a local unit does not want medical marijuana facilities within their jurisdiction, they don't need to take any action.

The applicant must notify the local unit by registered mail within 10 days of applying for the license. MTA advocated for this step

Continued on page 2

in this issue

- 2 TIF authority laws up for major changes
- 3 Bills limit township authority over urban livestock
Townships could not ban certain dog breed under bi
- 4 Autonomous vehicle bills zoom through Senate, await final passage in House
Bill prohibits public body lawsuits against FOIA filer

as it provides a written record of exactly when the local unit was notified. Finally, the local unit has 90 days to provide the following information to the state licensing board: a copy of its authorizing ordinance, a copy of any applicable zoning regulations or ordinances, and any ordinance or zoning regulation violations by the applicant (in the case of a license renewal).

Local units have the option to adopt other ordinances that place more regulations on the medical marijuana facilities permitted in their jurisdiction. These include zoning, nuisance, lighting, noise, and setbacks from schools and other areas. The local ordinances cannot regulate the purity or pricing of marijuana, or interfere or conflict with statutory regulations for licensing the facilities.

All provisioning centers will be charged a 3 percent tax of their gross retail receipts, and townships with state licensed medical marijuana facilities will receive 25 percent of that tax revenue, in proportion to the number of facilities there. Local units may also charge up to a \$5,000 annual, nonrefundable fee to help cover administrative and enforcement costs. Thirty days after the end of each state fiscal year, the licensee must submit a report to the state and local unit where it's located that includes financial statements of its total operations.

The state Department of Licensing and Regulatory Affairs (LARA) will create rules to administer the act and ensure the safety, security and integrity of operating marijuana facilities. A five-member



Medical Marijuana Licensing Board would also be appointed by the governor, with two members coming from three nominees each from the Senate majority leader and the speaker of the House. Board members are prohibited from holding any other public office for which he or she receives compensation other than travel and incidental expenses. LARA and the board are required to hire a full-time executive director and other personnel as necessary to help the board carry out its duties.

The bill stipulates that a state operating license is a revocable privilege, not a property right. In a renewal, the board may consider any written input on a licensee from an individual or entity within the local unit, including the local unit itself. HB 4209 also creates a 17-member marijuana advisory panel, which includes one township representative.

The new laws take effect on Dec. 20, 2016 but no application may be filed with the state until 360 days after that date (Dec. 15, 2017) as the Medical Marijuana Licensing Board must be created, members appointed, and rules promulgated to effectively implement and administer the acts.

TIF authority laws up for major changes

Tax increment finance (TIF) authorities would face a major overhaul under different legislative bills moving through both the House and Senate.

Legislation has been introduced in both chambers that has some similar, though not identical, reform measures—[Senate Bill 1026](#), sponsored by Sen. Ken Horn (R-Frankenmuth), and [House Bills 5851-5856](#), under lead sponsor Rep. Lee Chatfield (R-Levering). Both would establish reporting requirements for TIF authorities in an effort to increase transparency and accountability, while also creating penalties for those that fail to comply.

A key difference between the two packages, however, is in the capture of millages. While SB 1026 would not impact the capture of revenue, the House package would eliminate the ability for TIF authorities to capture special voted mills approved after Dec. 31, 2016. This would impact TIF revenue that is crucial to economic development and attracting businesses, and would impact any existing millage that is amended in any way. If an existing millage is renewed, there would be no change. However, if an existing millage is decreased, combined with another existing millage, increased or separated into two or more millages, it would not be subject to capture.

Some of the concerns raised by MTA have been addressed; however, other issues remain. MTA opposed the House bills and took a neutral position on SB 1026. We are working with legislators and staff to clarify all bills and seek amendments.

Inside the bills

SB 1026 would combine seven of Michigan's TIF acts into one statute—Downtown Development Authority, Tax Increment Finance Authority, Local Development Financing Act, Nonprofit Street Railway, Corridor Improvement Authority, Water Resource Improvement TIF Authority and Neighborhood Improvement Authority. Two unused TIF acts would be eliminated—the Historic Neighborhood TIF and the Private Investment Infrastructure Fundin Act. The House bills would amend six separate TIF statutes and also eliminate the two unused TIFs.

Brownfields are not impacted by SB 1026, but are impacted under the House package's tax capture prohibition.

Both packages would add or amend reporting requirements to make TIF authorities more transparent, including maintaining a website with certain information available each fiscal year. All authorities would also be required to hold publicly noticed informational meetings—two under the Senate bill, one under the House package—which could be held in conjunction with other public meetings. See the [Senate bill](#) and [House bills](#) summaries for a full description of new reporting requirements.

Another major piece of the legislation is penalties. Under the bills, an authority that is notified it is not in compliance with reporting requirements would face a series of consequences. It would be prohibited from capturing any TIF revenues beyond what is needed to pay its bonded indebtedness or other obligations while not in compliance. All excess funds would have to be returned to the taxing jurisdictions. No TIF plan could be amended or approved while it's in noncompliance. SB 1026 would require that if the authority failed to report for two consecutive years, it would be indefinitely barred from capturing further TIF revenue other than what is needed to pay bond and obligations.

Both chambers will likely vote on the bills before the end of the year—possibly as soon as when they resume regular session in October and November. Should you have any questions, please contact legislation@michigantownships.org. MTA will continue to update members as the bills move through the legislative process.



Bills limit township authority over urban livestock

Township authority to regulate chickens, goats and other livestock in urban areas would be strictly limited under two newly introduced bills.

Senate Bill 1031, sponsored by Sen. Joe Hune (R-Hamburg Twp.), and **SB 1032**, sponsored by Sen. Rebekah Warren (D-Ann Arbor), would create the "Urban Agriculture Act" outlining a system for establishing new guidelines for livestock raised in urban and suburban areas. They would also amend zoning laws to explicitly prohibit townships and other local units from adopting regulations for urban farms that are stricter than state rules and practices.

While the bills have not yet come before the Senate Agriculture Committee, MTA has a number of questions and concerns on the recently introduced legislation and is working to clarify issues.

Urban livestock has come into the spotlight in recent years as it's become popular for urban homeowners to raise their own chickens. Townships are already limited in how they can regulate agriculture of any kind. Since 2000, the Michigan Right to Farm Act has banned any local ordinance, regulation or resolution that extends or revises any provisions of the law or the Generally Accepted Agricultural and Management Practices (GAAMPs), which are developed and reviewed by the Michigan Department of Agriculture (MDA).

In addition to the Right to Farm Act and GAAMPs, SB 1031 would lead to an additional set of guidelines to specifically address the urban livestock issue. Under the bill, the Commission of Agriculture and Rural Development would appoint an Urban Livestock Advisory Committee with representatives from the state, local government, academia, and urban and suburban agricultural producers, as well as experts on specified subjects. This committee would be charged with developing and recommending guidelines for raising livestock in urban and suburban areas. These recommendations could include livestock housing, waste and manure management, pest control and a variety of other topics. The committee would also evaluate possible conflicts that could arise from raising livestock in urban residential areas, and suggest possible resolutions to those conflicts.

Once the commission received the committee's recommendations, it would establish guidelines for raising livestock in urban and suburban areas. Then, five years later, and on a biennial basis afterward, the commission would review and modify the guidelines.

SB 1032 would ban local governments from regulating urban livestock unless the zoning ordinance provisions are consistent with ALL of the following: the commission's guidelines, the Right to Farm Act and GAAMPs.

MTA will provide updates to members as new information is available.

Townships could not ban certain dog breed under bill

A proposal making its way through the Michigan Legislature would stop townships from regulating or banning pit bulls and other dogs based solely on their breed.

Senate Bill 239, sponsored by Sen. Dave Robertson (R-Grand Blanc Twp.), was discussed by the House Local Government Committee this month. MTA opposes the bill as it removes the ability of local officials to address issues in their community—preempting local control. Municipalities that have adopted such restrictions have done so to address local public health and safety concerns of their residents.

Local units of government began passing what's known as breed-specific legislation (BSL) in the 1980s, in response to deaths and serious injuries from certain breeds of dog. Breed-specific legislation is an ordinance or statute that regulates or bans a breed or breeds of dog based on its perceived aggression or danger. At least 27 local units in Michigan have adopted BSL in an attempt to prevent more people from being seriously injured. Most BSL generally targets pit bulls, but other breeds have also been the subject of ordinances, including rottweilers, German shepherds and cane corsos. Some ordinances are outright bans, while others are restrictions or requirements for the breed and its owner, such as certain liability insurance, neutering, stricter registration requirements, specific signage, or muzzle and leash requirements.

At least 20 states prohibit BSL, but some of those states have allowed local ordinances in effect at the time to be grandfathered in as a result of legal challenges.

Under SB 239, local units could not enact or enforce an ordinance or rule that constituted a BSL and regulated a dog based solely on the breed, perceived breed, or type of dog. Restrictions and additional requirements on dogs or dog owners in general would be allowed, but these could not be impacted by the breed.

MTA will continue to update members on the status of this legislation.

You can make townships a more powerful force in Lansing.



MTA's Political Action Committee (MTA-PAC) works to elect legislators who support local government and who will fight for townships in Lansing.

Your dollars assist candidates who will work to protect and preserve local control.

Make a difference.
Get involved.

Send your contribution to:
MTA-PAC, PO Box 80078
Lansing, MI 48908-0078
(Make checks payable to MTA-PAC)



Autonomous vehicle bills zoom through Senate, await final passage in House

Michigan roads could soon be used to test driverless vehicles under a package of bills on track to receive final passage this year.

Senate Bills 995, 996, 997 and 998, under lead sponsor Sen. Mike Kowall (R-White Lake Chtr. Twp.), were recently approved by the Senate and reported by the House Communications and Technology Committee. Together, they would update guidelines for autonomous vehicle research in an effort to secure Michigan's spot as a leader in the industry.

The Michigan Vehicle Code would be amended and have new sections that define new terms relevant to the use of autonomous vehicles. They would also set parameters for the use of such vehicles, allowing them on certain roads.

Under the bills, an on-demand automated motor vehicle network could be operated on a Michigan highway, road or street. Local units of government could not impose a local fee, registration, franchise or regulation on such a network until after Dec. 31, 2022. The bills were amended, adding language to indicate that this preemption does not limit local or state authority over roads and rights-of-way with respect to communication networks or facilities. A person riding in a driverless car would be exempt from the law against texting while

driving. The bills would also allow the Willow Run manufacturing complex in **Ypsilanti Charter Township** (Washtenaw Co.) to be used as a test facility.

MTA is working to add to the bills a requirement that local units be notified when an on-demand automated motor vehicle network will be deployed in their jurisdiction. Under the legislation, local units would be represented on the Michigan Council on Future Mobility, which would be created under the legislation in the Michigan Department of Transportation. The governor would appoint 11 voting members who represent the interests of local government, business, policy, research and technological leaders in future mobility.

MTA did not take a position on these bills, but has worked behind the scenes to make adjustments and will continue to update members as the package moves through the legislative process.

Bill prohibits public body lawsuits against FOIA filers

Townships could not sue anyone filing a Freedom of Information Act (FOIA) request—even in cases of harassment or unpaid fees—under a new House bill opposed by MTA.

House Bill 5826, sponsored by Rep. Klint Kesto, was passed by the House last week. MTA opposes the bill due to its broad language, and is working with lawmakers to narrow the scope or tie-bar the bill to legislation that would allow civil action in limited situations.

The bill is in response to a lawsuit initiated after a county received a FOIA request for sensitive records from a local newspaper. Due to a conflict between the FOIA and the Employee Right to Know Act, as well as the time-sensitive nature of the request, the county filed a lawsuit against the newspaper.

HB 5826 would stop similar, future lawsuits by adding language to the FOIA banning a public body that receives a request for information from bringing a civil action under the act against the requesting person. This would apply to townships as well as a wide variety of public entities and would make no exceptions, even if the requestor had unpaid fees or was filing requests for the purpose of harassing the local unit.

The bill now moves to the Senate for consideration.

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

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.