

# the review

May/June 2015

the official magazine of the  michigan municipal league

## Examining Michigan's Broken Municipal Finance System



## FROM LOCAL TO LANSING LAWMAKERS

Also inside: Big Changes to FOIA — What You Need to Know



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The official magazine of the Michigan Municipal League

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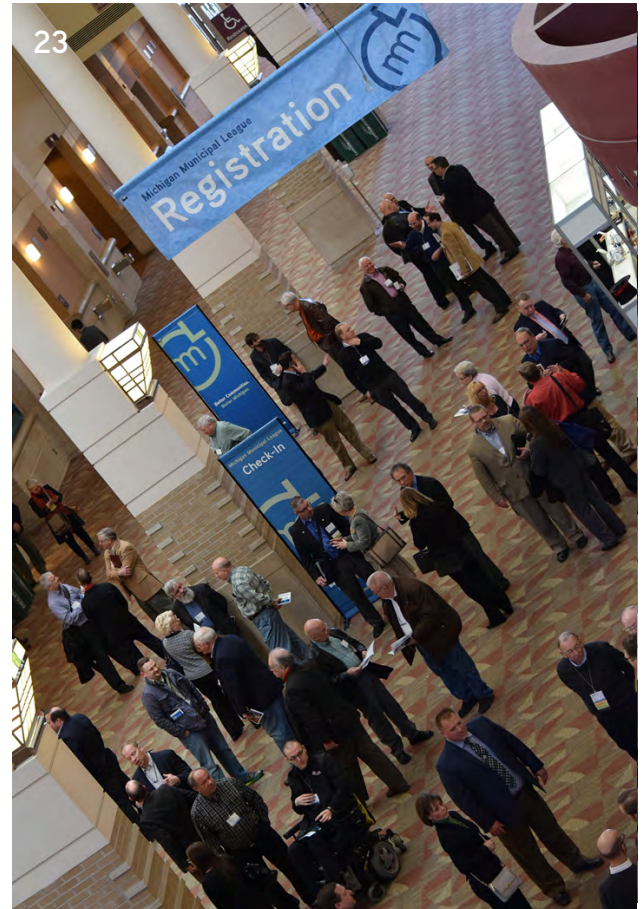
By League Staff

## On the Cover:

These legislators have the unique perspective of serving at both the local and state levels of government. With that experience, they recognized that local government officials are the closest to the people. From left to right: Senator Margaret O'Brien-R-20th district (former Portage City Councilmember); Representative John Chirkun-D-22nd district (former Mayor of Roseville); Representative Jeremy Moss-D-35th district (former Southfield City Councilmember); Representative Sheldon Neeley-D-34th (former Flint City Councilmember).



Photo taken at the League's Capital Conference on March 25, 2015. Photo by Okemos Studio of Photography.



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michigan municipal league

# the review

The official magazine of the Michigan Municipal League

Volume 88, Number 3

### Better Communities. Better Michigan.

The Michigan Municipal League is the one clear voice for Michigan communities. Our goals are to aid them in creating desirable and unique places through legislative and judicial advocacy; to provide educational opportunities for elected and appointed officials; and to assist municipal leaders in administering community services. Our mission is that of a nonprofit, but we act with the fervor of entrepreneurs to passionately push change for better communities and a better Michigan.

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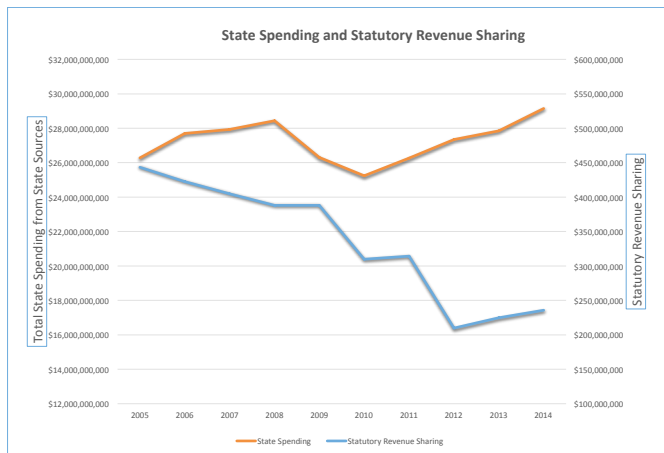


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## Municipal Finance: It Is, Was, and Always Will Be...

The backbone of any successful organization is a healthy business plan. It's true in private business, in the nonprofit sector, and in government. Simply put, we all need a healthy flow of resources that allow us to reach our goals.



For local governments in Michigan the concept of a stable, long-term flow of dollars feels as nostalgic as bell bottom pants and lava lamps. The underpinnings of our revenue sources—property tax, revenue sharing, and fees for service—haven't changed much since the first half of the 20th century. While the sources remain the same, their yields are only a paltry amount of what they once were. Property tax revenues will forever be playing catch-up because of the Headlee Amendment, Proposal A, and the housing value effects of the great recession. State Shared Revenue cumulative cuts are at \$6 billion and counting, compliments of a Legislature that talks like a penny pincher and spends like a drunken sailor. Fees (and fines) at the municipal level have been tapped and re-tapped to help fill the gaps, but today they are tapped out.


The cumulative effect on local governments and their abilities to provide service to citizens is staggering. Our largest city is only now emerging from bankruptcy. Another half dozen are ping ponging in and out of receivership. Older suburbs are cutting to the bone and the effects of unfunded liabilities are everywhere.

For its part, the League sees the reinvention of the municipal finance system as its top legislative priority. We have been a champion for increased funding, offering fixes to the system and out-of-the-box thinking on the matter. The Legislature, in most cases, didn't bite. This year we are doubling down.

The state government's budget is moving beyond the effects of the great recession and the legislative interest is piqued as a result of the Detroit situation. Initial conversations with Governor Snyder and his top aides provide hope that he is serious about tackling the matter in a thoughtful manner. While the anti-tax, anti-government caucus remains a huge obstacle to getting something done, we believe that many of the concepts that the League is developing will appeal to legislators from across the political spectrum.

Our ideas range from improving efficiency of services to redirecting state funds. We're proposing a true partnership between the state and its local partners in dealing with crippling Other Post-Employment Benefits (OPEB) costs. We're also advocating for the creation of more tools for community leaders to pay for services that their citizens demand.

A friend of mine likes to say that, "you have to turn everything upside down to get it right side up." It's what led our organization to become an unabashed champion of placemaking, a concept that helps city and village leaders and reinforces the importance of great communities in the economic future of our state.

The changes that the League and its members will advocate are in that same vision of wiping the slate clean and creating a new system for a new world that better serves Michigan and all of its communities. Your ideas, advocacy efforts, and sheer tenacity are paramount to getting traction at the state level. You can read about the subject more in depth in the pages that follow. Municipal finance is, was, and always will be, our priority on behalf of our members. 



Daniel P. Gilmartin  
League executive director and CEO  
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## Per Capita Revenue Sharing

conomic engines of this state. In spite of that fact, constitutional revenue sharing is distributed on a straight population basis. While Michigan's Constitution requires a per capita distribution, there are better ways to define that concept, which would direct revenues to meet service demands as well as population totals. The state needs to be a true partner with local communities to help support the economic strength of our regions. In order to do this, the relationship must deepen beyond an annual appropriations battle that benefits no one. The percentage of shared revenues should be increased, or service taxes included and dedicated to communities based on a combination of population and service provision. The existing per capita requirement fails to recognize the significant difference in economic activity and the corresponding service demands that activity brings among communities.

One nearly universal municipal finance problem is the growing legacy burden of unfunded retiree benefits in addition to pensions, known as “other post-employment benefits” or OPEB. For communities that had to compete for workers against the auto industry during boom times, defined benefit pensions and retiree healthcare were necessities. Now, the combination of

By Anthony Minghine

## Partnership for Place




low retirement ages, volatile investment markets, arbitration, and onerous labor contracts have created a perfect storm that will plague local government for years. The only real solution is to eliminate legacy costs. Given the limitations created by the state Constitution and ambiguous statutes that is most likely not an option outside of bankruptcy. To effectively eliminate this burden will require significant change at the state level to enable local government to move forward. We need to consider innovative ideas like the creation of an optional State OPEB Pool, which would be bonded, and even removing local governments' ability to offer these programs as ways of moving forward.

## Property Taxes

Perhaps the area in greatest need of reform is property taxes. We have one of the most restrictive property tax systems in the country due to the combined effect of the Headlee Amendment and Proposal A. The great recession has left us with artificially deflated tax revenues that will take decades to restore to the same levels they were due to this onerous system. We need a balanced system that will allow values and rates to move up and down, appropriately. The current system only has limiters and downward movement built in that are destroying our ability to offer services where they are needed most. In addition, ideas like allowing locals to implement land value taxation would be game changers. By shifting where the value is held, some communities could see major improvements in their property development, and it further encourages appropriate use of space in our communities.

Change will not come easily. It will require vision and fortitude beyond what we have seen thus far. Michigan needs to change from a "cut only" approach to balancing budgets, to one of investing in the business that is Michigan. That business is the communities where we all live. That's where all the rubber meets the road, and the economic activity happens. If we continue to operate with such a short view, Michigan is doomed. We need to focus on a strategy of investment that will be to the benefit of us all in the long term, because better communities really do mean a better Michigan.

To download a copy of the League's Partnership for Place: An Agenda for a Competitive 21st Century Michigan, visit [mml.org](http://mml.org). 

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LEFT: Governor Snyder at the League's Lansing office, addressing the Board of Trustees.  
RIGHT: Jacqueline Noonan, Mayor of Utica, League President (2013-2014) at the League's unveiling of Partnership for Place.

### PARTNERSHIP FOR PLACE: AN AGENDA FOR A COMPETITIVE 21ST CENTURY MICHIGAN

The League's Partnership for Place agenda proposes actions that will re-establish a partnership for prosperity in four key areas:

**Funding for the Future** – Making sure that appropriate funds and tools are available to operate efficiently and work regionally in order to succeed globally.

**Michigan in Motion** – Shifting from near exclusive vehicular-based investment to alternative modes of transportation that will accommodate all users, i.e. pedestrians, bikers, public transit riders, and drivers.

**Place for Talent** – Partnering with the state to attract and retain talented workers in our communities through placemaking policies.

**Strength in Structure** – Seeking out solutions to invest in infrastructure and development where it will produce the best results and target resources with maximum outcomes.





# MICHIGAN

## *The State of Our Communities*

By Chris Hackbarth

Michigan's recovery was a focal point throughout 2014. The state of Michigan's economy, and the factors that drive it, were critical issues debated within the Legislature and during the gubernatorial campaign. Detroit's emergence from bankruptcy and the attention placed on the factors that led to its financial crisis, along with the crisis faced by the eleven other communities currently operating under emergency financial management, have led the governor and other key leaders to highlight the pressures on municipal governments throughout Michigan.

Cities, villages, and metropolitan areas drive economic development and job creation in our state. Michigan's metropolitan regions, according to the Bureau of Economic Analysis, house 82 percent of the state's residents, 84 percent of our jobs, and are responsible for 88 percent of our gross domestic product.<sup>1</sup>

Cities are magnets for young, educated people that bring innovative ideas and highly sought after talent to a local economy. College graduates between the ages of 25 and 34 are more than twice as likely to live in an urban neighborhood as the rest of the population.<sup>2</sup> These individuals are highly mobile, and for the most part are moving to the core of our metropolitan regions—vibrant places such as Detroit, Grand Rapids, Ann Arbor, and Traverse City that offer exciting opportunities to work, live, and play.

Each and every day, the quality of life for Michigan residents and business owners is impacted by the choices that local governments make in providing public safety, street and sidewalk repair, public utilities, and other investments that create flourishing local economies. These choices define a community and set the stage for whether or not it will be competitive and prosperous in the coming years.

With the economic slide over the past decade, these choices have become increasingly difficult for local leaders who must

operate under a suffocating framework of shrinking funds, rising service costs, and a legacy liability of escalating retiree costs.

The current state of our communities is a clear indication that Michigan's municipal finance system needs to be put under a microscope. Structural problems that have long contributed to fiscal difficulties are now more apparent than ever. These problems need to be discussed and debated in order to provide a clear path to recovery for our communities, our economy, and our state.

### Why Communities Matter

Local governments are responsible for providing the essential and valued services that keep our residents safe and our economy moving. In a survey of Michigan citizens by the Michigan Economic Center, 64 percent of respondents said that the most important thing government can do for job creation is to provide quality public goods such as education, transportation, safety, utilities, parks, and libraries that create an environment in which people want to live, work, and run a business.<sup>3</sup> Most innovative entrepreneurs have recognized this demand and have sought to establish their businesses in communities that provide these services.

A recent report by Endeavor Insight demonstrated that America's fastest growing companies often looked for quality of life factors such as parks, schools, entertainment, and cultural amenities when deciding where to locate their business.<sup>4</sup> While cities across the country are investing in their community assets to attract new talent, Michigan's communities are falling behind. Of the 51 biggest metro areas in America, only Detroit experienced a decline in the number of college graduates from 25 to 34 from 2000 to 2012.<sup>5</sup> People want to be a part of vibrant places; local governments fund the services that make these types of communities possible.



## How We Fund Our Communities

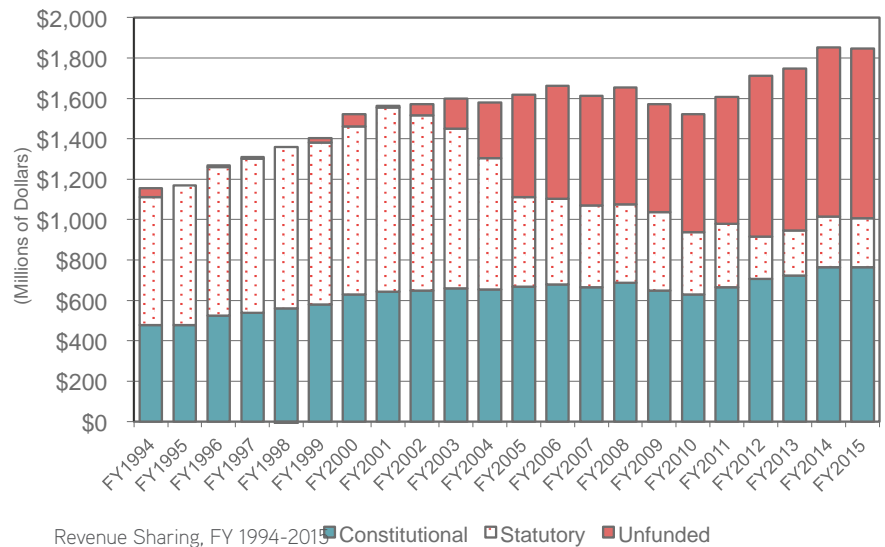
In Michigan, local government functions are provided through three primary revenue sources: property taxes, revenue sharing, and user fees. User fees are reliable and effective, yet their applicability is limited. Local income taxes offer an additional revenue option for a few cities, though not widespread—just 22 communities currently impose a local income tax. To cover most of the costs of operating and providing services, local governments rely on property taxes and revenue sharing—two sources of revenue that have declined rapidly over the past decade. Property values dropped considerably during the recent economic recession, and tax revenue recovery has been hindered by statutory and constitutional mechanisms, even as the economy begins to recover.<sup>6</sup>

During the same period of time that property values plummeted, the state chose to cut billions of dollars out of statutory revenue sharing to cover shortfalls in its budget. Even though the state and local governments have the same primary drivers of cost—labor and infrastructure—the state has been able to manage cost increases through growth in its revenue. Local governments do not have this same ability; artificial limitations and state imposed restraints on local revenues mean that while the state budget has largely recovered from the economic recession, communities are left behind and forced to make tough choices that can have serious consequences for their residents. The effect of strained budgets on public safety has been one example of this—Michigan saw a loss of 2,315 police officers and more than 1,800 firefighters from 2001 to 2010.<sup>7</sup>

## Communities Have Responded to This Financial Shortfall

Local governments have overwhelmingly responded to these challenges by reforming costs and establishing greater efficiency. The city of Eastpointe reduced its full-time employment from 162 in 2009 to 104 in 2014 and reduced active employee expenses by \$2.3 million over the same period. Lansing, East Lansing, and four surrounding townships launched a shared fire services initiative in 2012, and are realizing greater efficiency in its early phases. Sterling Heights recently privatized functions such as dog licensing and custodial services, and has utilized part-time employees to a greater extent in an effort to reduce expenditures. These efforts highlight the way that communities across the state are taking innovative approaches to ensure that they can continue to meet the demands of their residents despite financial difficulties.

State Shared Revenue, Fiscal Years 1994-2015



When attempts at efficiency fell short, many local governments were forced to turn to their taxpayers for help in funding essential services, and residents have responded favorably. Of the 1,165 local millage proposals that were put before voters from 2008 to 2012, 872 were supported.<sup>8</sup> New millages had a 56-percent success rate and millage renewals had a 90-percent success rate. While these results show that taxpayers place a high value on the continued provision of their public services and are willing to pay for these services that they believe will have a positive impact, taxpayers can only afford so much.

**"Despite efforts to increase efficiency, and continued support from taxpayers at the ballot, communities remain in financial crisis."**

## The Crisis Continues

Despite efforts to increase efficiency, and continued support from taxpayers at the ballot, communities remain in financial crisis. The recession has left a heavy impact on municipal budgets, particularly on the property tax base. Statutory and constitutional mechanisms that limit the ability to increase revenue through market growth have made it difficult for communities to recover. While property values are rising steadily, it could take decades before this tax base returns to pre-recession levels. At the same time, local governments are heavily burdened by legacy benefit commitments and aging infrastructure that demands a higher investment the longer that maintenance and repair is delayed. In the face of the mounting structural costs and limitations, communities will continue to

have great difficulty in making the investments that are so critical to attracting talent and business that will drive Michigan's growth through economic recovery.

**"Each and every day, the quality of life for Michigan residents and business owners is impacted by the choices that local governments make in providing public safety, street and sidewalk repair, public utilities, and other investments that create flourishing local economies."**

## How Do We Fix This?

A close examination of the factors that have limited the ability of municipal budgets to recover is essential to ensuring that the financial crisis that communities face today is not a permanent state. Michigan needs to have a thoughtful discussion with the goal of determining how we can lessen the burden on our local governments and allow our communities to provide the services that will continue to drive Michigan's economic recovery. This discussion should examine, but not be limited to, the following factors:

### STRUCTURE OF LOCAL GOVERNMENT:


Methods of service distribution in Michigan are fragmented, duplicative, and inefficient. Taxpayer funds that are intended to support this delivery of services are spread thin across thousands of different public units rather than being focused in the entities that have the best resources available to provide quality service to the greatest amount of people. The budgets of local governments are further hindered by regulations that reduce flexibility. Evaluating the structure of local government in Michigan can reveal innovative ways to increase efficiency in how our communities meet the demands of residents and businesses.

### LOCAL GOVERNMENT REVENUE:

Recovery for local governments following the recession has been impeded by significantly reduced revenue. Our communities face severe challenges in rebuilding their property tax base, even as the state's economy grows. While revenue sharing has decreased, the method of distribution has also failed to take into account inherent differences in the demands and resources of local units. An exploration of these primary revenue sources, as well as alternative financial tools, will allow for greater investment into our communities to attract talent and ignite economic development.

### COST OF LOCAL GOVERNMENT:

Michigan's communities are burdened by debts from pensions and other post-employment benefit obligations. At the same time, the

infrastructure that supports our transportation, water, wastewater, utilities, and public buildings is aging and crumbling due to deferred maintenance and repair. These labor and infrastructure costs have added substantial debt to our communities in the presence of revenue shortfalls. Efforts to reform municipal finance need to address these structural costs that are pushing the budgets of local governments to unsustainable levels. 

*Chris Hackbarth is the director of state affairs for the League. You may contact him at 517-908-0304 or [chackbarth@mml.org](mailto:chackbarth@mml.org).*

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# Fixing Municipal Finance

By Elizabeth Philips Foley

**S**urviving. Not thriving. Is that the best that Michigan can do for its cities and villages?

“No municipality has come out of the Great Recession unscathed. We have depleted our reserves and made deep cuts into services our citizens need. We are at a stage now where we are not thriving but simply surviving,” said Wakefield Mayor Pro Tem and League President Richard Bolen. “It is time to take control of our future! We must fight the good fight and win the battle of securing a municipal finance system that actually works for all of us. We need the governor and Legislature to fully understand how the broken system has affected every community from Ironwood to Detroit.”

## The Revenue Crisis

Throughout the decade-long economic downturn, the state has balanced its budget on the backs of its communities. From 2001 to 2014, local units of government lost a total of \$6.2 billion in revenue sharing cuts. East Lansing, for example, received roughly \$7 million in total revenue sharing payments in 2001. In 2015, the city is projected to receive only \$5.2 million.

“While constitutional revenue sharing has grown slightly over the course of the last 14 years, today we are receiving less than 40 percent of what we did in statutory revenue sharing in Fiscal Year 2001,” said East Lansing Mayor and League Vice President Nathan Triplett. “In short, the city is

now receiving \$1.8 million less per year in revenue sharing and that reduction is entirely due to discretionary cuts made by the Legislature.”

Then the unthinkable happened: taxable value collapsed in the wake of the foreclosure crisis of 2008. Even with today’s improved economy, those lost property tax revenues aren’t being recovered since the interaction between the Headlee Amendment and Proposal A keeps growth in taxable value capped at the rate of inflation or lower.

“It will take over 20 years for taxable value to recover in Hazel Park. Add to that mix the deep cuts in municipal revenue sharing over the last dozen years, and you have a recipe for disaster,” said Hazel Park City Manager Ed Klobucher.

East Lansing lost nearly \$115 million of taxable value in the recession, resulting in roughly \$670,000 less annually in property tax revenue for the city. Combined with revenue sharing losses, the city is working with \$2.5 million less in revenue annually.

“We anticipate that it will take an additional five to seven years for the city’s tax base to reach 2009 levels,” said Triplett. “Property taxes and intergovernmental revenues—primarily state revenue sharing—make up 67 percent of our city’s general fund revenue.”

Most inner-ring suburban communities are fully built-out, making it nearly impossible to grow the tax base. “The argument that municipalities can ‘grow’ their way to prosperity is a





Nathan Triplett: Mayor, City of East Lansing; Vice President, MML Board of Trustees



Ed Klobucher: Manager, City of Hazel Park; Boardmember, MML Board of Trustees



Dick Bolen: Mayor Pro Tem, City of Wakefield; President, MML Board of Trustees



Shea Charles: Manager, City of Howell; Chair, MML Finance Committee



Joe Valentine: Manager, City of Birmingham

fallacy under the current funding structure,” said Howell City Manager and League Finance Committee Chair Shea Charles.

## Legacy Costs and Alternative Funding

Meanwhile, the financial drain worsens as cities struggle to maintain services critical to every community’s health and well-being. Personnel services tend to be the largest general fund expense. Older inner-ring cities in particular often have huge legacy costs for retirees and aging infrastructure.

“Local obligations for retirement and other postemployment benefits (OPEB) commit large dollar allocations and these required contributions tend to take priority over other expenditures,” said Birmingham City Manager Joe Valentine. “Our total OPEB costs are approximately \$4.8 million. Approximately 49 percent of this is for police, dispatch, and fire operations.”

In East Lansing, 58.5 percent of the general fund budget is public safety. The city’s new health care taskforce is helping to control employee health care costs. Still, the city’s total OPEB liability as of last valuation was \$46.97 million, with police and fire approximately 47.6 percent of the total. In Hazel Park, police and fire make up 49 percent of the general fund budget. Birmingham’s public safety budget is \$12.7 million: approximately 44 percent of the General Fund budget, or 22 percent of the overall budget.

Communities large and small are forced to make up the difference by any means available. Hazel Park passed a Headlee override in 2006 and a 9.8 police and fire millage in 2011, and levied a street lighting assessment on all residential and most commercial properties in 2012. Howell has raised its general operating millage to just short of maximum capacity and has begun levying a garbage millage.

“But even with these two increases, Howell’s overall property tax revenue is still down 12 percent from its peak. Without the millage increase, property tax revenues would be down 22 percent,” said Charles. There’s only so much any community can do.

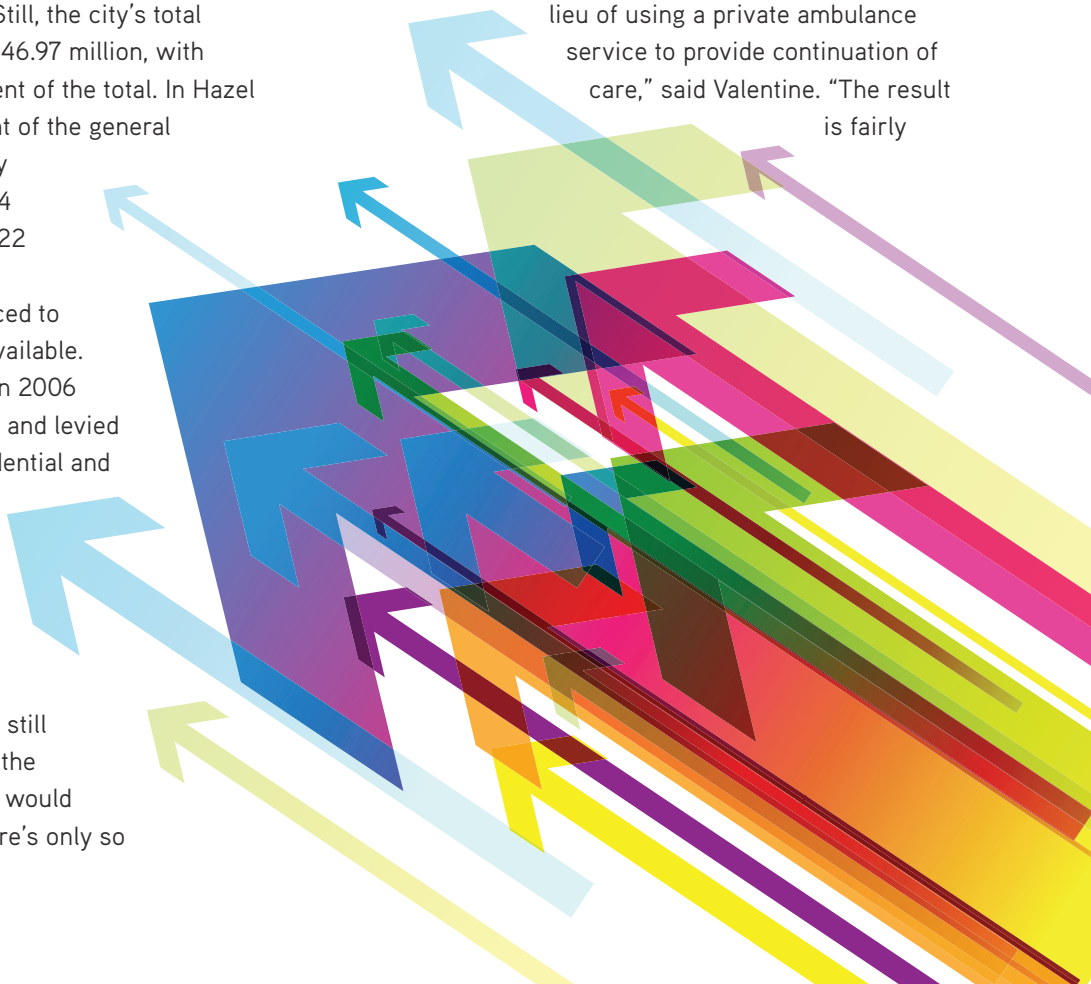
“We are fortunate to be under our Headlee maximum levy, but raising taxes hasn’t been a palatable option and has implications for maintaining our AAA bond rating,” said Valentine. “Seeking grants and increasing fees for services will only go so far, so options are somewhat limited. Encouraging development to increase property taxes is probably the best option.”

## Shared Services

Many neighboring communities have joined in a wide variety of service-sharing agreements in an effort to cut rising costs.

In fiscal year 2012-13, Birmingham approved an interlocal agreement with the village of Beverly Hills to provide for consolidated dispatch and combined public safety communication services for both communities. Each community has benefited and the arrangement has worked well operationally, said Valentine. “Additionally, in 2012 our fire department began transporting patients from medical runs to local hospitals in

lieu of using a private ambulance service to provide continuation of care,” said Valentine. “The result is fairly



seamless to the patient as billing and collection is handled by a vendor of the city and revenues of approximately \$200,000 annually are now received for this service.”

Hazel Park and Eastpointe passed the South Macomb Oakland Regional Service Authority (SMORSA) millage in 2015 to enable funding for both cities to maintain their own fire departments.

“Hazel Park also engages in many service sharing opportunities that either save money or improve services for our residents, including an automatic fire mutual aid pact with Ferndale and Madison Heights, a multi-city consortium for trash collection and hauling, several multi-jurisdictional police consortium units, and several cooperative recreation programs,” said Klobucher. “Until we came up with the SMORSA idea with Eastpointe, we were running out of options. While these programs are valuable, consolidation has been oversold and overhyped as a solution for Michigan’s municipal finance problems.”

## Cutting Down, Cutting Back

Even with all the stopgap strategies, municipalities are ultimately forced to simply do less for residents and employees.

Hazel Park has eliminated curbside leaf vacuuming and the hours at city hall have been reduced. Over 20 percent of Hazel Park’s full-time positions have been eliminated since 2002. All bargaining units have repeatedly made concessions over the last decade, including an across-the-board pay cut, reductions in healthcare benefits, elimination of positions, and the use of part-timers and volunteers in place of full-time employees.

Howell has reduced staffing levels by 25 percent over the last seven years and moved into reactive rather than proactive mode. And it’s only getting worse, said Charles.

“Each year the committee can count on a parade of legislation that looks to further restrict local revenue streams. These either take the form of special exemptions, imposing new mandates on communities or elimination of certain taxes,” he said. “The problem has become much worse with term limits as very few in the Legislature comprehend that the way Michigan funds its local governments is broken.”

## A Better Future


What would the world be like with healthy funding? Better roads and infrastructure top most wish lists. But without it, both those essentials will continue to worsen.

The time to fix it is now, says League President Bolen.

“We don’t ask for a handout or even a hand up. What we ask for is a handshake with a promise between the state and local units of government to fix this problem once and for all,” said Bolen. “We do not expect the state to do things for us that we should do for ourselves. But we should expect that the

state will be an active partner in helping communities create a better future by doing everything possible to solve problems in a timely fashion with the playing field being level and staying level.”

The solutions do exist. Among them: more local tax options. A balanced distribution of revenue sharing funds for communities with a higher tax effort or higher legacy costs. Reform the system of property tax assessment and appeal. Pass Proposal 1 for guaranteed road funding.

“We are now at a crucial crossroad in how we plan our financial futures. To move forward we need leadership: true authentic leadership at all levels of government,” said Bolen. “The challenges to change the status quo will be daunting. But if we pursue this great initiative together, we will succeed and in the end create a better version of ourselves, our communities, and this great state. Future generations should expect no less of us.” 

*Elizabeth Philips Foley is a freelance writer. You may contact her at [eshaw@mml.org](mailto:eshaw@mml.org).*

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It's just one more way the League is here to help our members serve their communities even better than before!



# Local Governments Not Sharing in Recovery

By Rick Haglund

Michigan's economy has made a steady recovery from the Great Recession over the past six years. But the state's local governments are far from fully sharing in that recovery.

Scan local newspapers and you'll see stories about communities struggling to keep their finances in the black, even as Michigan is adding jobs and state government revenues are growing.

"In a 2012 University of Michigan survey, most city leaders said they believed Michigan's system of local government finance was broken. It's a view that still echoes today."

## Prosperous Cities Are Hurting, Too

We all know about Detroit's recent bankruptcy—the largest municipal bankruptcy in U.S. history—and the 11 struggling cities in the state that have been either run by emergency managers or faced state intervention in recent years.

But even more prosperous cities, such as Kalamazoo, Grand Rapids, and Marquette, are trying to figure out how to maintain quality city services when rising costs are outrunning revenues that are in part restricted by state actions.

Kalamazoo is considering boosting a variety of fees on parks, building permits and other areas to offset a projected \$7 million budget shortfall by 2020.

"We don't have the tools available at this time to make all this work without having to look at further restructurings," Chief Financial Officer Tom Skrobola said in the *Kalamazoo Gazette*.

Grand Rapids, with voters' approval, has enacted a new tax to fund city parks and canceled a scheduled income tax cut to pay for street improvements.

Marquette, the picturesque Upper Peninsula city where the League held its annual conference last year, is like many cities wrestling with an aging infrastructure and underfunded retiree benefit plans.

Oh, and Marquette's largest taxpayer, We Energies, is challenging its \$210 million property tax assessment before the Michigan Tax Tribunal. The company is seeking to cut its assessment by nearly half.

"It wouldn't take much for some serious pain to set in," said Gary Simpson, Marquette's chief financial officer.

Vibrant cities are important in making Michigan an attractive state to newcomers and long-time residents alike. People are citizens of states, but they live, work, and educate their children in local communities.

And increasingly, young people want to live in cities that possess a strong sense of place. If our cities can't provide the services and quality of life its residents want, all of Michigan is diminished.

### The Center for Local, State, and Urban Policy

Gerald R. Ford School of Public Policy >> University of Michigan

### Michigan Public Policy Survey October 2014

#### Michigan local governments finally pass fiscal health tipping point overall, but one in four still report decline

By Thomas Ivascko, Debra Horner, and Michael G. Crawford

This report presents Michigan local government leaders' assessments of their jurisdictions' fiscal conditions and the actions they are taking in response to ongoing and widespread fiscal challenges. The findings are based on responses from six statewide survey waves of the Michigan Public Policy Survey (MPPS) conducted annually each spring from 2009 through 2014.

>> The Michigan Public Policy Survey (MPPS) is a census survey of all 1,856 general purpose local governments in Michigan conducted by the Center for Local, State, and Urban Policy (CLOSUP) at the University of Michigan in partnership with the Michigan Municipal League, Michigan Townships Association, and Michigan Association of Counties. The MPPS takes place twice each year and investigates local officials' opinions and perspectives on a variety of important public policy issues. Respondents for the Spring 2014 wave of the MPPS include county administrators and board chairs, city mayors and managers, village presidents, managers and clerks, and township supervisors, managers and clerks from 1,344 jurisdictions across the state.

For more information, please contact: [closeup-mpps@umich.edu](mailto:closeup-mpps@umich.edu) / (734) 647-4091. You can also follow us on Twitter @closeup

#### Key Findings

- For the first time in the MPPS series, more Michigan jurisdictions report that they are better able to meet their fiscal needs this year (36%) than report they are less able to do so (24%). However, an additional 40% overall report no change in their fiscal health status over the past year.
- A trend of slow overall improvement is now in its fourth straight year, and the numbers are now up significantly from the low point in 2010, when just 9% of local governments were better able and 61% were less able to meet their needs.
- Improving fiscal health is reported by jurisdictions of almost every size, though mid-size jurisdictions (with 10,001 to 30,000 residents) are somewhat less likely to report improvements this year (42%) compared to last year (48%).
- Despite continued overall improvements in local government fiscal health, hundreds of Michigan jurisdictions across the state—one in four (24%)—continue to experience declining health, and face a wide range of revenue and expenditure challenges.
- Many jurisdictions report improvements in the past year on two critical sources of revenue: state aid and property taxes.
- Larger jurisdictions are more likely than smaller ones to report improvements in these revenues. However, a deeper drill into the data reveals that Michigan's largest cities are more likely to report increases in state aid than are the largest counties and townships, but are significantly less likely to report increases in property tax revenues.
- Demands for public services (i.e., infrastructure, human services, and public safety) continue to increase, with over half (54%) of all jurisdictions across the state, and 82% of the largest jurisdictions, saying they have increased infrastructure needs this year.
- As fiscal stress continues to ease overall, more local governments report stabilization in their staffing levels and plans to increase pay, while fewer are planning to cut overall services or increase their reliance on general fund balances to plug budget gaps. The exceptions are the state's largest cities, which lag behind large counties and townships on these metrics.
- Looking to the future, more than three times as many officials predict that their communities will have good times financially in the coming year (40%) than predict bad times (12%). In addition, across jurisdictions of all sizes and types, there is now a "net" positive outlook on fiscal health for next year, with 35% feeling they will be better able to meet their needs a year from now while 22% feel they will be less able to do so.

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## Headlee and Proposal A

Cities have been fighting budget battles for years, with little sympathy from lawmakers in Lansing. In several ways, Michigan's tax structure has made things more difficult for local communities.

The 1978 Headlee Amendment to the state constitution requires communities to reduce their millage rates when annual growth in local property tax revenue exceeds the inflation rate. Millage rates can only be restored through so-called "Headlee override" votes by residents.

Another law, 1994's Proposal A property tax reform, caps annual growth in the taxable value of real property to the rate of inflation and no more than 5 percent.

Those laws were designed in part to protect homeowners from rising property tax bills that were said to be forcing some, especially senior citizens on fixed incomes, from their homes. But something unprecedented happened in the Great Recession. Property values in Michigan plunged, in some areas by more than 50 percent. Local governments are heavily dependent on property tax revenues. "In a number of cities, especially in Southeast Michigan, the tax base has fallen so far and the rebound has been restricted to such an extent that they won't recover to 2007 revenue levels for 15 years," said Eric Lupher, president of the Citizens Research Council of Michigan.

And state budget problems have resulted in Lansing shorting local cities some \$6 billion in statutory revenue sharing payments over the past 14 years.

"The economy is better, but many of our local governments are not bouncing back," he said. "The system is kind of stacked against them."

## Local Officials' Survey Response

It isn't all doom and gloom.

A University of Michigan survey last fall found that more local village, township, city, and county officials said they were better able to meet financial needs in the current fiscal year than in the previous one.

That was the first time in six years that local units reported doing better than in the previous year, according to the U-M Ford School's Center for Local, State and Urban Policy.

But local officials were evenly split on the question, reflecting more difficult economic challenges in municipal governments.

In a 2012 U-M survey, most city leaders said they believed Michigan's system of local government finance was broken. It's a view that still echoes today.

"Those local leaders who think the system is broken think nearly every segment is broken," said Tom Ivacko, administrator of Ford School's Center for Local, State, and Urban Policy.

Many reforms have been proposed. Chief among them is giving local governments relief from revenue restrictions in Proposal A and the Headlee Amendment.

But state government could provide billions more for local governments, if it chose to, by increasing its own revenues.

## State Actions

Over the past three decades, the state has tried to cut its way to prosperity, trimming \$51 billion in taxes between 1994 and 2012, according to a study by former state Treasury Department official Doug Drake.

Those tax cuts have contributed to the state falling far below its taxing limit under the Headlee Amendment, the same law that is restricting local governments' revenue growth.

The amendment caps state revenues at 9.49 percent of personal income. Michigan could raise \$8.5 billion in additional revenue this year before hitting the cap. That's just \$1 billion less than the entire general fund budget.

And the gap likely will continue growing. State revenues are expected to be \$10.7 billion below the Headlee cap by fiscal 2017, according to the House Fiscal Agency.

Michigan could invest far more to ensure its cities are safe and vibrant if it could find the political will to do so.

To download the U-M study, please visit [closup.umich.edu](http://closup.umich.edu). 

*Rick Haglund is a freelance writer. You may contact him at 248-761-4594 or [haglund.rick@gmail.com](mailto:haglund.rick@gmail.com).*

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# Ideas for Reforming Statutory State Revenue Sharing

By Eric Lupher

On February 18, Citizens Research Council of Michigan President Eric Lupher presented to the General Government subcommittee of the House Appropriations Committee a new report with ideas for reforming statutory state revenue sharing. The following are highlights of the new report.

Unrestricted state revenue sharing is a program somewhat unique to Michigan. Most other states' revenue sharing programs are for restricted purposes. In Michigan, the state provides restricted funding with local governments for education, highways, courts, liquor enforcement, mental health care, and other services. Only a few distribute state collected tax revenues to local governments for their unrestricted use.

Although grouped as a single state revenue sharing program, Michigan's revenue sharing program is really comprised of two parts:

- 1) constitutional revenue sharing that is distributed on a per capita basis, and
- 2) statutory revenue sharing that has been distributed on a need basis since the early 1970s.

## Statutory Revenue Sharing: An Indefensible Program

The statutory revenue sharing program has suffered severe reductions in funding since 2001, with over \$6 billion diverted for other state purposes. Statutory state revenue sharing funding in 2014 was down 78 percent from what it would have been had the program been funded as directed by statute.

The program today is indefensible in regards to which governments are getting funded while others are not; and the amounts distributed to those that do receive funding. Reforms were enacted in 1998 to move away from the Relative Tax Effort and send funding to the governments that lack the capacity to fund services from their own revenues. The 1998 reforms have long since been abandoned and there is little basis upon which the state could distribute new funding if it were made available.

CRC took a step back when assessing this program to reflect on the purpose of local governments and the state's interest in properly functioning local governments. On the first

**"Statutory state revenue sharing funding in 2014 was down 78 percent from what it would have been had the program been funded as directed by statute."**

question, it is CRC's assessment that local government exists to manage the interaction between people. It is on this basis that we can explain increases in the types of services provided and the intensity of those services as we find more people in close proximity to one another.

Two answers are apparent for the second question. The state relies on local governments to serve as the host for the people and businesses that make up the state. Beyond the optics of being an attractive place to live and work, state tax revenues from sales, income, and business activity taxes are more robust when the state economy prospers. The state must work in partnership with local governments for this to occur.

Additionally, the state cares about protecting the health and safety of the residents of the state. This is not done by funding the state police. The state relies on local governments to provide these services. It is in the state's interest to have well-functioning local public safety officers serving Michigan's communities.

## Path 1: Fiscal Capacity

In accordance with this reasoning, the new report provides two paths for state policymakers to consider should they opt to reform the statutory state revenue sharing program. The first path measures needs by assessing the factors that contribute to the ability to yield tax revenues and the factors that create higher demand for services. It would create a formula that measures the fiscal capacity of each city, village, and township and sends funding to those local governments with the greatest needs. Fiscal capacity can be measured in two ways:

- 1) the ability to raise funding from local tax sources, and
- 2) the ability to meet the service demands that are placed on local governments.



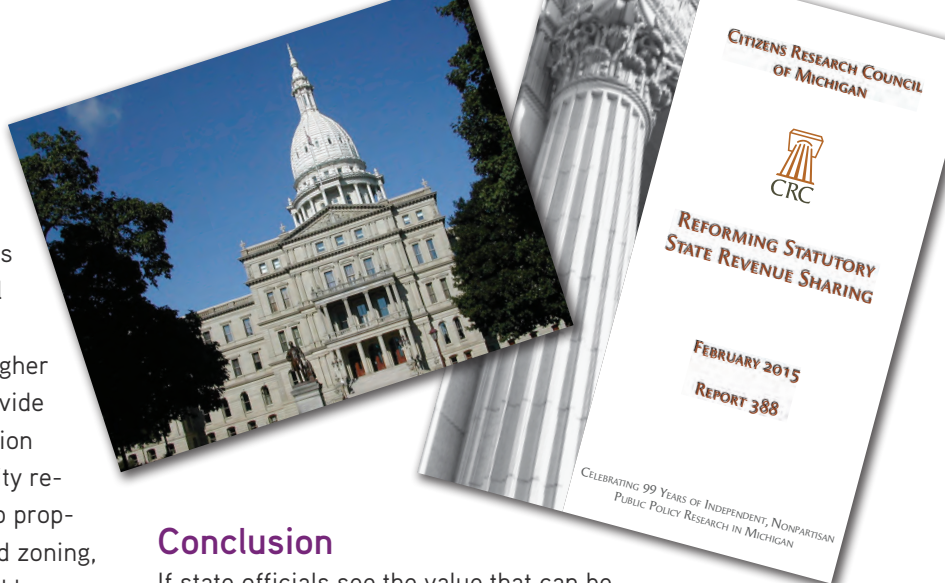
Past efforts to address the needs of local governments—the 1971 Relative Tax Effort formula and the 1998 tax base equalizing reforms—focused solely on the first measure: helping local governments with tax bases insufficient for funding services solely from local taxation. The fiscal capacity of local governments also varies because governments with higher density levels must provide more services. Higher population density requires local governments to provide more services to people—policing, parks and recreation programs, library services, etc. Higher building density requires local governments to provide more services to properties—fire protection, refuse collection, planning and zoning, etc. An ideal revenue sharing program designed to address fiscal capacity would help communities with relatively small tax bases and would help communities with relatively high density levels, but would provide the most help to communities with relatively small tax bases and relatively high density levels.

## Path 2: Economic Activity Requiring Strong Local Presence

The second path may be approached in two ways. An approach that focuses on the state's interest in local governments as the host for the people and businesses that contribute to the state's tax bases would focus on the types of economic activities that require a strong local government presence. While agriculture and forestry are vital to the state's economy, they require very little local government services. Instead, the state would reward local governments for hosting economic activities such as manufacturing, commerce, retail, health care, and tourism. This approach would tie state and local economic development interests together far better than is currently the case.

## Alternate Path 2: Restricted Statutory Revenue Sharing

An alternative approach would transition the statutory program from unrestricted state revenue sharing—in which local governments are without restrictions on how they use the funding—to a restricted revenue sharing program tied to public safety programs. Funding in this approach would be distributed based on the public service activities that keep police, fire, and emergency medical service providers busy. Statistics such as crime responses, traffic monitoring, fire suppression, accident responses, and calls for medical assistance generally are reported to the state already. This approach would use those statistics to fund the public safety agencies with the greatest needs.



## Conclusion

If state officials see the value that can be created by partnering the state's revenue raising strengths with the vital services provided by Michigan's local governments, they will resume funding state revenue sharing. State policymakers realized some 45 years ago that per capita distributions of state funding do not adequately direct funding to the communities with the greatest needs. Any one of these ideas for reforming statutory state revenue sharing can go a long way toward helping many of Michigan's cities that are struggling the most.

To view the full report, visit [crcmich.org](http://crcmich.org). 

*Eric Luper is president of the Citizens Research Council of Michigan. You may contact him at 734-542-8001 or [eluper@crcmich.org](mailto:eluper@crcmich.org).*



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# CAPITOL POINT

- Legislators' Views on Finance
- Challenges Facing Municipalities

By Lisa Donovan

**T**umbling real estate prices and crumbling municipal budgets have reverberated across the state in recent years. The hometowns of Michigan legislators are no exception.

Some, like Bloomfield Hills, were fortunate to have some proposed developments to help them weather the rough times, said Representative Mike McCready (R-Bloomfield Hills). Others, like Flint, were hit much harder.

"We were over-reliant on GM for a long time and it devastated our community when they closed auto plants here," said Senator Jim Ananich (D-Flint), who serves as Senate minority leader. "There has also been disinvestment in older urban communities like ours when people move to the suburbs."

The serious decline in both primary sources of municipal revenue—property taxes and revenue sharing—has meant belt-tightening all around. Staffing, public safety, trash pickup, and a variety of other services have come under scrutiny as communities search for ways to balance ever-shrinking budgets.

"Livonia has had to learn to do more with less, or make decisions not to provide certain services," said Representative Laura Cox (R-Livonia), who sits on the House Appropriations Committee and chairs its Subcommittee on General Government.

Representative Sam Singh (D-East Lansing) had a front-row seat to his community's struggles with significant reductions in revenue sharing during his tenure as a councilmember and then mayor. "Unfortunately, the state balanced its budget on the back of local governments and schools," said Rep. Singh. "Money that would have been statutorily available just wasn't there. We had to make difficult decisions." Singh now serves as the House Democratic Floor Leader and sits on the Appropriations and Government Operations Committees.

## Managing Costs and Improving Revenues

Sen. Ananich acknowledges the need to offer a variety of tools. Shared services is one such tool, that can provide long-term benefits but takes a lot of time and resources to implement. Ananich advocates offering communities positive incentives to make shared services a more viable option.

Another option involves the 22 Michigan cities that currently levy a city income tax. Rep. Singh said the state could collect those taxes on behalf of the communities to help with the cost of collection. Next year, the state is engaging in a pilot program with Detroit to collect their city income tax.

## Revenue Sharing

As helpful as those programs might be, the elephant in the room is always revenue sharing. Singh makes it a point to educate newer colleagues on its history—that revenue sharing isn't a handout, but rather a decades-old compact between the state and municipalities. "It's an obligation of the state and we should be making the statutory limits," said Rep. Singh. "We have to make sure we reinvest in communities at a higher rate because they took so many cuts in the last decade."

"We need to make sure it's a priority. Local government is often the first to get cut, and that's a problem," agreed Sen. Ananich. "We need a mechanism to make sure there is a steady stream of revenue, because revenue is declining but costs are remaining steady."

As the Legislature considers revenue sharing and other elements for the 2016 budget, Senator Peter MacGregor (R-Rockford), vice chairman of the Senate Appropriations Committee, stressed the challenges they face as old MEGA tax credits from the previous administration are now being called in. To address the constitutional component of revenue sharing, MacGregor said the Senate Appropriations Subcommittee on



"Rep. Laura Cox (House Appropriations Committee and chair of Subcommittee on General Government) believes it's important to look at the types of services that all communities provide, either directly or indirectly, such as public safety, and use that to determine the distribution of funds."



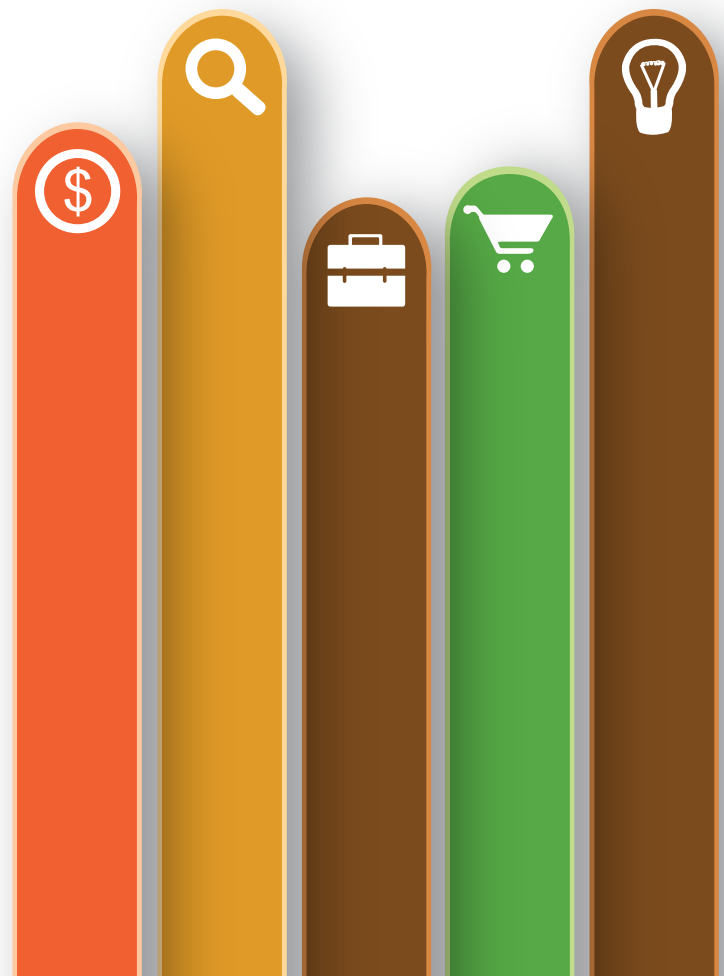
1. Far right: Rep. Mike McCready (R-Bloomfield Hills). 2. Sen. Jim Ananich (D-Flint), Senate Minority Leader. 3. Rep. Sam Singh (D-East Lansing), House Democratic Floor Leader; Appropriations and Government Operations Committees. 4. Far right: Rep. Laura Cox (R-Livonia), House Appropriations Committee; Chair of Subcommittee on General Government. 5. Sen. Peter MacGregor (R-Rockford), Vice Chair of the Senate Appropriations Committee.

General Government agreed with Governor Snyder's recommendation to increase that portion this year by \$23.8 million over last year. He added that the subcommittee's approved version of the budget also calls for investing an additional \$424,100 for 101 cities, villages, and townships that are not slated to receive per capita funding in the governor's recommendation.

MacGregor cautions that it is still early in the budget process, but he's confident that local governments will see some increased investment from revenue sharing over last year.

For next year, Rep. Cox said they plan to create a work group to evaluate revenue sharing metrics and try to come up with a new formula that's a better, more equitable, way to share funds.

As a step in that direction, the Citizens Research Council unveiled their Reforming Statutory State Revenue Sharing (see article on pgs 18-19) report before the House Appropriations Subcommittee on General Government in February.






Rep. Cox applauded all the research that went into the report, which gives the committee members some good ideas to use as a starting point. The report recommends creating a formula for getting funding to the governments with the greatest needs based upon a level of funding sufficient to make a difference.

Rep. Cox believes it's important to look at the types of services that all communities provide, either directly or indirectly, such as public safety, and use that to determine the distribution of funds. "Basically, we need to find good metrics, a fair way to measure, then put that into a formula to come up with a revenue sharing number, a percentage of the entire pot," she said.

## Talent Attraction

To further enhance the economic viability of Michigan communities, talent attraction and retention is a key component. This piece of the puzzle starts at home, with communities developing inviting places where people of all ages want to live and work. "In East Lansing, we built a downtown that was welcoming and met the needs of a variety of people, from families to young professionals," said Rep Singh. "It's important to make laws welcoming and develop good policies around placemaking that can have long-term economic benefits for the community and the region."

The state has an important role in this process, as well. Sen. MacGregor cited the MITalent.org website, state programs that help better prepare students for the jobs of tomorrow, and efforts to help schools and universities work with job providers to align education and training programs toward developing in-demand skills. And perhaps most important, the new Department of Talent and Economic Development is designed to amplify the message of the smaller workforce development programs to close the talent gap. 

*Lisa Donovan is the communications coordinator for the League. You may contact her at 734-669-6318 or [ldonovan@mml.org](mailto:ldonovan@mml.org).*



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# 2015 CAPITAL CONFERENCE

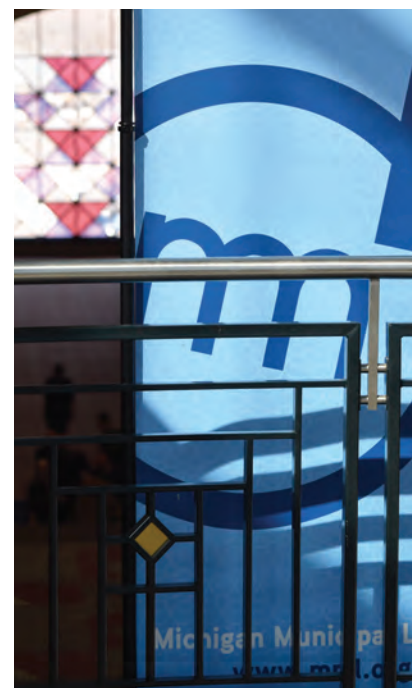
H I G H L I G H T S



# CAPITAL CONFERENCE

## Capital Conference 2015 Recap

Michigan local officials gathered in Lansing for networking and sessions on everything from Proposal 1 to clean energy. Fixing our state's crumbling roads and bridges was the center point of the 2015 Capital Conference. League President Dick Bolen opened the conference with a review of Proposal 1, the road funding initiative going to voters May 5. He outlined the proposal's benefits to Michigan communities and strongly encouraged League members to back the proposal—our last, best chance to fix Michigan roads.





# March 24-25, 2015 • The Lansing Center, Lansing



This year's conference also included a legislative breakfast for members to network with their state level elected representatives; an address by Lieutenant Governor Calley; a session on the massive changes coming to the Freedom of Information Act in July; and an awards luncheon where Livonia Assistant City Attorney Mike Fisher and Port Huron DPW Director Bob Clegg were honored for their time and significant aid to the League's lobbying efforts.

# From Local to

By Jessica Reed

# Lansing

“It is our job to partner with you to create great communities.”

Representative Rob VerHeulen’s promise captured the theme of the “From Local to Lansing” panel discussion where four members of the Legislature joined Capital Conference attendees. The panel discussion was moderated by Flint Mayor Dayne Walling and included:

- Representative Jeremy Moss (Southfield, Lathrup Village, Beverly Hills, Bingham Farms, Franklin), former Southfield city councilmember;
- Representative Rob VerHeulen (Walker, Grandville, Rockford, Cedar Springs), former mayor of Walker;
- House Democratic floor Leader Sam Singh (East Lansing, Haslett, Okemos), former mayor of East Lansing;
- Representative Michael Webber (Rochester, Rochester Hills, Oakland Township), former vice president of the Rochester Hills City Council.

The four legislators have the unique perspective of serving at both the local and state levels. With that experience, they recognized that local government officials are the closest to the people. Rep. Webber remarked that local government leaders are on the “front lines” and interact with residents daily, giving locals a special connection to and knowledge of the public.

Despite that strong association, the panelists acknowledged not enough legislators are educated on local issues and how state policy affects local government. Rep. Moss said many legislators are stuck in the Lansing “bubble” and need encouragement to break out of that mindset to look at the communities they serve. Along the same lines, Rep. Singh encouraged local government leaders to “take every opportunity to educate” their legislators. The panelists pointed to direct communication with legislators as a way to prevent misunderstanding and promote favorable policies.

Mayor Walling asked the legislators to comment on essential issue areas, specifically:

- revenue sharing,
- Proposal 1, and
- talent attraction.

## Revenue Sharing

A key tension between the Legislature and local communities is the decrease in revenue sharing, which Rep. Singh tied back to the critical misunderstanding that this funding is a “handout rather than a compact.” Michigan’s cities and villages have seen a decline in statutory revenue sharing of around \$650 million since 2003, and fear that the state will continue to decrease this essential funding source. The panelists were not able to offer detailed information on revenue sharing for this upcoming fiscal year in advance of the budget release. However, Rep. VerHeulen was open to discussing the total amount of revenue sharing dollars and changes to the distribution formula. They all opposed directing funds away from revenue sharing and agreed, as Rep. Webber stated, “it wouldn’t do any good to disinvest in local government.”

## Proposal 1

The May 5 ballot proposal to provide the necessary funding for Michigan’s roads, was created from a bill that was passed in the last legislative session. The legislators all recommended support for Proposal 1 at the local level, even though Rep. Moss was the only one who believed that it would be approved by the voters. Rep. Moss praised the recent road diet and development on the Southfield’s Evergreen Road North End and noted opportunities with the passage of Proposal 1 to spur economic development in communities across the state. Representatives Singh and VerHeulen explained that outside of the Proposal 1 option, funding is not available to fix roads. If Proposal 1 fails, they said that it’s likely the money will come out of funds set aside for schools and local governments.

## Talent Attraction


Rep. Moss was enthusiastic about the role of placemaking in attracting and retaining talent. He pointed out that young talent move to a preferred area first, and then look for a job. Therefore, the focus should be on attracting young talent to a place rather than solely looking at employment. Rep. Moss’ comments connect with the statistics: dense, downtown areas



are growing 77 percent faster than the rest of the country, with walkability and transit options ranking extremely high as desired qualities of a community. The legislators also felt that the governor was doing a great job with the recent reorganization of state agencies and creation of the Workforce Development Agency. According to Rep. Singh, education also plays a substantial role in attracting talent and therefore needed to be prioritized and funded.

Mayor Walling also asked the legislators to identify the biggest upcoming issue for Lansing to tackle. Rep. VerHeulen believed that securing a second waiver for Medicaid expansion would be the next big thing due to the number of people currently enrolled in healthcare under the expansion. Rep.

Moss felt that promoting growth and attracting talent was critically important and deserved a strong effort. Rep. Singh thought education funding at the K-12 and higher education levels should be the next policy area.

The panelists consistently exhorted local government leaders to form a close relationship with legislators. This included asking for legislative updates at council meetings and two-way communication about important policies. Legislators could greatly benefit from the insight and closeness that local officials have from interacting with residents every day and seeing firsthand the impacts of state policy. Local government leaders have an essential perspective that deserves to be heard at all levels of government. 

*For more information on how to better connect with your legislators and advocate for your community, contact Derek Tisler at the League's Lansing office at 517-908-0302 or [dtisler@mml.org](mailto:dtisler@mml.org).*

*Jessica Reed is an administrative assistant for the League. You may contact her at 734-669-6325 or [jreed@mml.org](mailto:jreed@mml.org).*



1. From left to right: Rep. Michael Webber and Rep. Rob VerHeulen 2. From left to right: Rep. Michael Webber, Rep. Rob VerHeulen, Rep. Sam Singh, and Rep. Jeremy Moss.

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## House of Representatives

2nd – D – Alberta Tinsley Talabi  
(former Detroit City Councilmember)

96th – D – Charles Brunner  
(former Mayor of Bay City)

50th – D – Charles Smiley  
(former Mayor of Burton)

15th – D – George Darany  
(former Dearborn City Councilmember)

52nd – D – Gretchen Driskell  
(former Mayor of Saline)

35th – D – Jeremy Moss  
(former Southfield City Councilmember)

22nd – D – John Chirkun  
(former Mayor of Roseville)

109th – D – John Kivela  
(former Mayor of Marquette)

38th – R – Kathy Crawford  
(former Novi City Councilmember)

31st – D – Marilyn Lane  
(former Mayor of Fraser)

41st – R – Martin Howrylak  
(former Mayor Pro Tem of Troy)

45th – R – Michael Webber  
(former Rochester Hills Council Vice President)

87th – R – Mike Callton  
(former Nashville Village Trustee)

40th – R – Mike McCready  
(former Mayor of Bloomfield Hills)

101st – R – Ray Franz  
(former Village President of Onekama)

74th – R – Rob VerHeulen  
(former Mayor of Walker)

69th – D – Sam Singh  
(former Mayor of East Lansing)

110th – D – Scott Dianda  
(former Village President of Calumet)

34th –D – Sheldon Neeley  
(former Flint City Councilmember)

## Senate

34th – R – Geoff Hansen  
(former Bear Lake Village Trustee)

27th – D – Jim Ananich  
(former Flint City Councilmember)

20th – R – Margaret O'Brien  
(former Portage City Councilmember)



1. Rep. John Chirkun being sworn into office. 2. Sen. Margaret O'Brien being sworn into office. 3. Rep. Sheldon Neeley being sworn into office.



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# Significant Changes to Michigan's FOIA Take Effect July 1st



By Steven D. Mann and Cassie J. Hare

**B**eginning July 1, 2015, significant new regulations take effect governing how public bodies administer and respond to requests under the Freedom of Information Act, PA 442 of 1976 (FOIA). The changes are the result of HB 4001, which was approved during the Legislature's final session day of 2014, and was signed into law by Governor Snyder on January 11, 2015 as PA 563 of 2014 (the "Amendment"). Changes of this magnitude are unprecedented in FOIA's nearly 40-year history. The changes impact nearly every area of FOIA, including local policies required for FOIA administration, fees categories and methods of calculation, good-faith deposits and fee waivers, records available on the public body's website, and the appeal process, including significant new penalties.

## Newly Required Procedures and Guidelines

The most significant change made by the Amendment is that public bodies will be required to establish specific written Procedures and Guidelines (the "Procedures and Guidelines") to implement FOIA, including a standard fee itemization form, and separate written public summary. If the public body directly or indirectly administers or maintains an internet presence, the public body is required to post the Procedures and Guidelines on its website. A public body that has not established these Procedures and Guidelines or has not created a written public summary is prohibited from charging a fee for

providing public records. Free copies of the Procedures and Guidelines must be available at the public office.

The written public summary must be written "in a manner so as to be easily understood by the general public," and must inform the public "how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal."

All responses to written FOIA requests must include the standard fee itemization form detailing any fee charged to the requestor. The form must clearly list and explain detailed and allowable charges for each of FOIA's new six fee components. In addition, a free copy of the Procedures and Guidelines must be included with the response, or a link to the website where the Procedures and Guidelines are available.

## New Fee Categories and Methods for Calculations

Another significant area of change is the categories and manner in which fees may be charged. The Amendment establishes six fee components for which a public body may charge, generally requires labor costs to be charged in increments of fifteen minutes, permits a multiplier to be applied to cover part of all of the cost of fringe benefits, and in certain cases allows charges for contracted labor costs. The fee components are as follows:



## 1 Labor Costs—Search, Location, and Examination of Public Records<sup>1</sup>

The labor costs that are directly associated with the necessary search, location, and examination of public records are limited to the hourly wage of the lowest-paid employee of the public body that is capable of performing the task in each particular instance, regardless of whether that employee is available to or actually performs the task. The public body may add up to 50 percent to the labor charge to cover the cost of fringe benefits, not to exceed the actual cost of the fringe benefits. This percentage multiplier used for fringe benefits must be noted on the itemization form. The public body may not charge for overtime unless it is specifically stipulated to by the requestor. The labor cost must be charged in increments of 15 minutes or more, and all partial time must be rounded down.

## 2 Labor Costs—Redaction

Similar to search, location, and examination, the labor costs associated with separating and redacting exempt information from non-exempt information are limited to the hourly wage of the lowest-paid employee of the public body that is capable of performing the task in each particular instance, regardless of whether that employee is available to or actually performs the task. The public body may add up to 50 percent to the labor charge to cover the cost of fringe benefits, not to exceed the actual cost of the fringe benefits. This percentage multiplier used for fringe include a completed detailed itemization of the good-benefits and must be noted on the itemization form. The public body may not charge for overtime unless it is specifically stipulated to by the requestor. The labor cost must be charged in increments of 15 minutes or more, and all partial time and must be rounded down.

If the public body does not employ a person capable of redacting the records, as determined by the FOIA Coordinator, the public body may charge for contracted labor. The fee itemization form must list the name of the person or firm contracted and the hourly rate charged for contracted labor may not exceed six times the state minimum wage. The contracted labor costs must be charged in increments of 15 minutes or more, and all partial time must be rounded down.

In either case, if the public body knows or has reason to know that the requested public record has previously been redacted and the redacted version is still in the public body's possession, in the public body may not charge for labor redaction costs.

## 3 Cost of Non-Paper Physical Media

The Amendment allows a requestor to require the public body to provide the records on non-paper physical media, by email, or otherwise by electronic means. The public body may charge the actual and most reasonably economical cost for the non-paper physical media used to provide the public records.

Non-paper physical media includes flash drives, computer discs, computer tapes, or other digital or similar media. These provisions do not apply if the public body does not have the technological capability necessary to provide records in the requested electronic format.

## 4 Cost of Paper Copies

The public body may charge for the actual incremental cost of duplicating the public records, not including labor costs. The fee charged for letter (8 ½" x 11") or legal (8 ½" x 14") size paper may not exceed \$0.10 per sheet. The public body may charge the actual cost for other types of paper. The fee itemization form must include both the cost per sheet and the number of sheets for each type of paper. The Amendment requires the public body to use the most economical means available when providing paper copies, including using double-sided printing if available and less costly.

## 5 Labor Costs of Duplication and Publication

The public body is also authorized to charge for labor costs directly associated with the duplication and publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the internet or other electronic means stipulated by the requestor. The labor costs are limited to the hourly wage of the lowest-paid employee of the public body that is capable of performing the task in each particular instance, regardless of whether that employee is available to or actually performs the task. The public body may add up to 50 percent to the labor charge to cover the cost of fringe benefits, not to exceed the actual cost of the fringe benefits. This percentage multiplier used for fringe benefits must be noted on the itemization form. The public body may not charge for overtime unless it is specifically stipulated to by the requestor. Unlike the other labor costs, labor costs for duplication and publication may be charged in any time increment chosen by the public body and identified in its Procedures and Guidelines. All partial time is still required to be rounded down.

## 6 Cost of Mailing

The final component for which a public body may charge is the actual cost of mailing the documents in a "reasonably economical and justifiable manner." The public body may only charge for expedited shipping or insurance if it is stipulated by the requesting person. The public body is allowed to charge for the least expensive form of postal delivery confirmation.



Steven Mann explaining FOIA changes to Capital Conference attendees

**Fee Waivers.** Currently FOIA requires a public body to waive the first \$20 of a charge for completing a FOIA request for public records from a person who is indigent if that individual provides an affidavit stating the individual is receiving public assistance or stating facts showing inability to pay due to indigence. The Amendment places additional restrictions on this waiver requiring the affidavit to state that the individual is indigent and receiving specific public assistance, or stating facts showing the inability to pay due to indigency. The Amendment also limits an indigent individual to receiving two discounts from the public body per calendar year. The Amendments also provide that an indigent individual is ineligible for a discount if the request is made in conjunction with other parties who are offering remuneration.

The Amendment also provides for a fee waiver category for certain requests made by nonprofit organizations designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors. There are no annual limits for fee waivers for these nonprofit organizations.

The fee itemization form must note any waivers granted for the request.

**Deposits.** A public body may continue to require a good faith deposit, not to exceed one-half the total estimated fee, for request where the fee estimate exceeds \$50. However, requests for deposits are now required to faith fee calculation and a “non-binding” “best efforts estimate” of the time frame it will take the public body to provide the public records to the requestor once the deposit is received.

The Amendment now permits a public body to require a 100 percent deposit from an individual who has not paid a previous FOIA fee in full to the public body before the public body begins another search for that individual. This 100 percent deposit may only be required if (i) the prior final fee was not more than 105 percent of the estimated fee, (ii) the public records made available contained the information being sought in the prior request and are still in the public body’s possession, (iii) the public records were made available to the individual within the time frame originally estimated by the public body, (iv) 90 days have passed since written notifica-

tion that the records were available, (v) the individual is unable to show proof of prior payment, and (vi) the public body calculates a detailed itemization of the current request. The 100 percent deposit requirement is inapplicable if the individual is able to show proof of prior payment in full, the public body is subsequently paid in full, or 365 days have passed since the individual made the written request for which payment was not made.

All deposits required under FOIA are considered a fee and must be noted on the itemization form. Categorizing deposits as fees allows individuals certain appeal rights under FOIA with respect to the deposit.

## Mandated Fee Reduction for Late Responses

The Amendment mandates that if public bodies fail to respond to requests in a timely manner as required by FOIA, they must reduce the charges for labor costs by 5 percent for each day the public body exceeded the time limit, up to a maximum of 50 percent reduction. This reduction must be noted in the fee itemization form. There are certain exceptions for requests which are not clearly identifiable as a FOIA request.

## Information Available on the Public Body’s Website

If a written request is made for documents or information that is available on the public body’s website, the public body may not charge for those documents. Instead, if the public body’s FOIA Coordinator knows or has reason to know that all or a portion of the requested information is available on the website, he or she must notify the requesting person in the public body’s written response and must include, to the degree practicable, the specific webpage address. The fee itemization form must separate the information that is available on the website from that which is not and shall inform the requestor that there will be an additional charge to receive copies of public records that are available on its website. If the requestor then requests the information be provided, the public body may charge for providing the records and may use a fringe benefit multiplier that exceeds the standard 50 percent multiplier (not to exceed the actual fringe benefit cost).

## Verbal Requests

While a requestor is required to provide a written request in order to receive a response from a public body regarding FOIA, the Amendment provides limited ability to make a verbal request. Under the Amendment, if a verbal request is made and the public body believes the information requested is available on the public body’s website, the public body employee is required, to the best of his or her knowledge, to inform the requestor about the website location of the requested information.

## Requests Caught in Spam or Junk Folder

The Amendments provide new provisions for electronic requests delivered to the public body's spam or junk mail folder. Electronic requests are generally considered "received" one business day after the transmission is made. However, the Amendments provide that if a request is delivered to the public body's spam or junk mail folder, the request is not considered "received" until one day after the public body first becomes aware of the request. The public body is required to keep a log detailing when requests are delivered to the spam or junk mail folder and when the public body becomes aware of them. The public body's Procedures and Guidelines should require the FOIA coordinator to periodically check the spam and junk folders at reasonable intervals.

## Appeals

Once the Amendments take effect, requestors will have two appeal options under FOIA. The first is for the appeal of a denial of a request for public records. The second is a new appeal process for an appeal of an excessive fee. FOIA did not previously provide a method for appealing an excessive fee and fee appeals therefore were generally brought as small claim or circuit court actions.

For both denial of records and excessive fee appeals, the Amendments require any civil action to be filed in the Circuit Court for the county in which the public record or an office of the public body is located, or if the claim is against a state public body, then in the Court of Claims. This is a welcomed change from the prior provisions which allowed requestors to file in jurisdictions where they lived or worked, and sometimes resulted in public bodies facing claims in courts geographically unrelated to their offices or the location of the public records.

The Amendments allow the public body to require (in its Procedures and Guidelines) that appeals for excessive fees must first be brought before the head of the public body, or in the absence of such a provision, directly in the Circuit Court.

**"Changes of this magnitude are unprecedented in FOIA's nearly 40-year history. The changes impact nearly every area of FOIA, including local policies required for FOIA administration, fees categories and methods of calculation, good-faith deposits and fee waivers, records available on the public body's website, and the appeal process, including significant new penalties."**

Fee appeals to the head of the public body must be responded to within 10 business days with a determination to either waive, reduce, or uphold the fee. In certain circumstances, the head of the public body may extend the response time by an additional 10 business days. Fee appeal determinations must be in writing and must indicate the specific basis that supports the fee amount, along with other certifications required by the Amendments. After a determination is made by the head of the public body, or if there is a failure to respond to the appeal, the requestor may file an action in the Circuit Court. If the court reduces the fee by 50 percent or more, it may award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the court determines that the public body arbitrarily and capriciously violated FOIA by charging an excessive fee, the court shall order a civil fine of \$500, to be deposited in the general fund of the state treasury, and the court may also award actual or compensatory damages, and punitive damages of \$500 to the requestor. If the court finds the public body willfully and intentionally failed to comply with FOIA, or acted in bad faith, it must impose a civil fine in the amount of \$2,500-\$7,500 for each occurrence, such fine also being deposited in the general fund of the state treasury.

**Visit [mml.org](http://mml.org) for the League's One Pager *Plus* Fact Sheet with sample summary, policy and guidelines, and fee itemization form.**

## 2015 LEAGUE EVENT

### CHANGES TO THE FREEDOM OF INFORMATION ACT


The Public Act 563 of 2014 (HB 4001) makes significant changes to the Freedom of Information Act (FOIA). The changes concern fees charged by public bodies for public records, civil actions brought under the Act, and the receipt and denial of requests; and would add provisions allowing a person to appeal to a public body or bring a civil action if he or she believed that a fee was unreasonable. This is a must-attend webinar for all local government attorneys, clerks and other officials.

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## Conclusion

The Amendment brings a wide range of changes to Michigan's FOIA. This article discussed the most significant changes to FOIA as a result of PA 563, but is not intended as a complete or comprehensive guide to all changes. Public bodies are encouraged to consult with their own legal counsel regarding the new requirements and policy implementations. Public bodies must adopt FOIA Procedures and Guidelines before July 1, 2015. 

*Steven D. Mann is a principal at Miller, Canfield, Paddock and Stone, P.L.C. You may contact him at 313-496-7509 or [mann@millercanfield.com](mailto:mann@millercanfield.com).*

*Cassie J. Hare is an associate at Miller, Canfield, Paddock and Stone, P.L.C. You may contact her at 313-496-7909 or [hare@millercanfield.com](mailto:hare@millercanfield.com).*

*1. Labor costs for search, location, examination and redaction (fee categories 1 and 2) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. The Court of Appeals has interpreted this provision to require that the determination be made relative to the usual or typical costs incurred by the public body in responding to FOIA requests. The key factor in determining whether the costs are "unreasonably high" is the extent to which the particular request differs from the usual request. Bloch v Davison Cmty Schools, (Mich.App. Apr. 26, 2011), 2011 WL 1564645.*



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# Fabulous Fridays

By League Staff

Local business owners knew West Branch had the makings of a great city. To encourage more people to visit downtown, a group of business owners, led by Peter Fabri, owner of the Silver Lining shop, worked with local officials and residents to conceive “Fabulous Fridays.” It is a weekly destination and cultural event, revitalizing the streets of downtown after hours throughout the summer months. The business owners and city officials wanted to create a more vibrant downtown, where people could shop, dine, attend events, and mingle with friends and family.

## Accomplishments

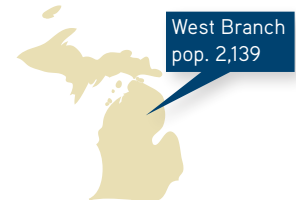
- Brought business leaders together to collectively imagine and create ongoing cultural events to activate their downtown.
- Boosted downtown businesses annually by 10 to 15 percent.
- Attended by thousands, it has become a catalyst for spurring other events.
- Created an opportunity for spontaneous social interactions and reconnections through walkability.
- Attracted artists from around the region, giving them an opportunity to perform, display and sell their artwork, and network with other artists.
- Served as the impetus for several property owners to rehabilitate and preserve historic buildings in the community.
- Based on street interviews, residents expressed a sense of pride for their community.
- Increased attendance numbers each year.
- Functioned as a springboard for a Saturday farmers market which will double in booths this year and include arts and crafts for the first time.

## Organization

The Downtown Promotions Committee, a group of business leaders and residents, holds a weekly breakfast meeting to stay connected throughout the year and plan events that have now gone beyond Fabulous Fridays. It developed and maintains an excellent working relationship with city officials. One of their big events, as part of Fabulous Fridays, is the Motor Cross, which requires a designated full street closure. One member of the committee acts as the liaison to the council and brings requests, such as a street closure, to the council for approval.

## Budget/Equipment

The Downtown Development Authority allocates \$3,000 annually for Fabulous Fridays. This money is spent on printing costs for advertising flyers and printing and mailing costs for promotional mailings that are widely distributed. No equipment is required. If individual business owners want to provide any seating, etc. outside of their storefronts, they can choose to do so.



"Create a physical space that allows people to sit and interact with those they don't know. This will encourage spontaneous conversations and "get-to-know-your-neighbor" opportunities."

## Actions Taken

### 1) IDENTIFY NEEDS AND OPPORTUNITY

Every community has characteristics and elements to celebrate which sets it apart from other communities. Brainstorm on ideas that celebrate its heritage, its people, products, landscape, etc. Ask what will give that community its own unique identity.

### 2) FOLLOW THE RULES

Talk with your municipal officials and planning department to make sure that you are in compliance with your municipality's local ordinances and any other required regulations.

### 3) SOLICIT NEIGHBORHOOD ALLIES

It's important to get buy-in up front and educate the community on why investing in downtowns is so important.

### 4) MAKE IT ACCESSIBLE AND FUN

Make sure that there is something for everyone and the experiences are rich and layered for all ages.


### 5) PROMOTE GOOD PHYSICAL DESIGN

Create a physical space that allows people to sit and interact with those they don't know. This will encourage spontaneous conversations and "get-to-know-your-neighbor" opportunities.

### 6) IT ISN'T JUST ABOUT THE ACTUAL EVENT

It's about creating a welcoming place where people will visit, eat, and shop at other times of the week. Fabulous Fridays draws people from all over the region that had never set foot in West Branch before. Be flexible and open to other activities that can spawn from the original intent.

## Lessons Learned

- Identify the leaders and stakeholders in your community.
- Educate the community on why investing in downtowns is so important.
- Reach out and develop public/private partnerships.
- Engage the community. Get buy-in from surrounding neighbors and businesses. Demonstrate how increased people traffic benefits everyone.
- Identify what defines your community (heritage, people, products, etc.) and celebrate it!
- Identify potential funding sources for long-term sustainability.
- Maintain a good interface with all businesses, even with those that don't see a direct value in what you are trying to accomplish.
- Contact the appropriate governing bodies upfront to make sure that everyone is on the same page.
- Don't be afraid to try something new. Stay flexible.
- Without a more walkable downtown, i.e. safe pedestrian crossings, a narrower main road — calming of traffic, and more enhancements—it will be very difficult for businesses to be successful year round. Events can be a powerful impetus for some real change. West Branch has begun to work with MDOT to consider different options in making their downtown more pedestrian-friendly.
- Use social media—such as Twitter and Facebook—to market your business and engage the community. 

For more information, contact Heather Van Poucker, director of information and policy research for the League, at 734-669-6326 or [hvanpoucker@mml.org](mailto:hvanpoucker@mml.org). To see a full listing of the League's case studies, please visit [placemaking.mml.org](http://placemaking.mml.org).





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Saginaw, May 12, 6:00–9:00pm

Grand Rapids, May 13, 6:00–9:00pm

Kalamazoo, May 14, 5:30–8:30pm

### Workshop Option 2: Overview + Placemaking Strategy Development – 6 Hours

This workshop includes the Overview (Modules 1-3) and a session with facilitators to assist the registrants from your community in developing a draft placemaking strategy.

This workshop is for city and village councils and township boards; local, county, and regional planning commissioners and staff; local economic development staff, and other interested stakeholders. Communities will need multiple participants attending to maximize synergy and benefit for the community.

Pontiac, May 18, 1:30–8:30pm

St. Johns, May 20, 1:30–8:30pm

Howell, May 20, 1:30–8:30pm

Iron Mountain, May 26, 1:30–8:30pm CST

Ishpeming, May 27, 1:30–8:30pm

Taylor, May 27, 1:30–8:30pm

Hancock, May 28, 1:30–8:30pm

Escanaba, May 29, 9:00am–3:00pm

RSVP's required (at least 10 days prior to each workshop). Register for the free workshops online at <http://events.anr.msu.edu/placemakingstrategy/>. For general information contact Holly Madill at [madill@landpolicy.msu.edu](mailto:madill@landpolicy.msu.edu) or (517) 432-8800. Provided by MSU Land Policy Institute – MSU Extension – MSHDA – Michigan Municipal League

# Are video surveillance recordings created by third parties public records?

## FACTS:

The city of Dearborn received copies of video surveillance recordings created by third parties during the course of pending criminal misdemeanor proceedings against James Amberg. At the time of receipt of the recordings, the city had already issued a citation against James Amberg. Amberg subsequently initiated a Freedom of Information Act (FOIA), MCL 15.231 et seq., request, to receive materials related to the pending criminal proceedings that were in the city's possession, including the video surveillance recordings created by private businesses. The city denied the request for the surveillance recordings on the basis that the recordings were not public records within the meaning of FOIA. Amberg then sued the city to require disclosure of the recordings.

Under FOIA, except under certain specifically delineated exceptions, a person who provides a public body's FOIA coordinator with a written request that describes a public record is entitled to inspect, copy, or receive copies of the public record. A "public record" is defined as "a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created...." MCL 15.232(e). The parties did not dispute that the video recordings are "writings" within the meaning of FOIA. The city asserted, however, that it did not use the recordings "in the performance of an official function" because it did not obtain the recordings until after it had issued the citation.

## QUESTION:

Were the recordings at issue in possession of or retained by the city "in the performance of an official function, from the time [they were] created"?

## ANSWER ACCORDING TO THE TRIAL COURT AND THE COURT OF APPEALS:

**No.** The trial court and the court of appeals majority held that the city did not use the recordings in the performance of an official function—specifically, its issuance of a criminal misdemeanor citation—because it did not obtain the recordings until after it issued the citation.

## ANSWER ACCORDING THE MICHIGAN SUPREME COURT:

The Michigan Supreme Court reversed, stating that the issuance of a citation is not the only official function to consider. Since the city collected the recordings as evidence to support its decision to issue the citation, the recordings were in its possession or retained in the performance of an official function for purposes of FOIA.

*Amberg v City of Dearborn*, No. 149242 (December 16, 2014)

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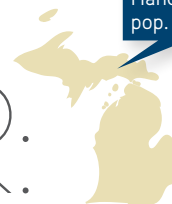
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# BETTER TOGETHER:



How Hancock and Finlandia University Kicked Creative Collaboration into High Gear

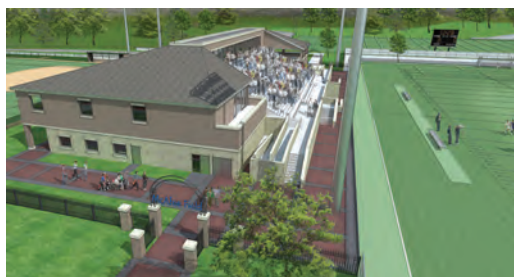
By Lisa Donovan

Trade school might have been in Elaina Hobmeier's future, but now the Hancock Central High School senior has her sights set on a philosophy degree at Finlandia University. Ashley Boomer is also headed to Finlandia for two years before transferring elsewhere for an elementary education degree. They'll be joined by classmate Chris Jaehnig, a 3.0 student who is planning on a degree in history. "The tuition program made a huge difference," he said. "I don't come from a well-to-do family, so this is a pretty big deal."

The program that is helping Elaina, Ashley, and Chris realize their dreams developed from a public/private collaboration between Finlandia University, Hancock Public Schools, and the city of Hancock. It all began in 2008 with a conversation between John Sanregret, principal of Hancock High School, and Philip Johnson, president of Finlandia University, about the former Hancock Middle School. The building was adjacent

to Finlandia's campus, making it a good location to expand their College of Health Sciences, but funds were in short supply. Sanregret suggested an exchange, and after several months of discussion between the three parties, the exchange blossomed into a formal program known as "Campus and Community: Together for Good."

The program calls for a 12-year exchange of Finlandia's educational and recreational resources in return for two Hancock School District properties: Hancock Middle School and Condon Athletic Complex. Finlandia would renovate both properties for its own and community uses. The school building would then house the university's College of Health Sciences, and Condon would be transformed into a collegiate field to support athletic programs for both Finlandia and Hancock High.



## Educational Benefits

Finlandia offered a variety of educational benefits to the community. Chief among them is the Hancock Award, a 12-year, \$4.2 million tuition remission program for Hancock High students. Beginning with the Class of 2009, graduates have the opportunity to receive one year of free college tuition at Finlandia for every year they attended Hancock High.

"The biggest advantage is giving students a private, high-quality education right here in their hometown," said Travis Hanson, director of admissions at Finlandia.

At the initial meeting, news of the tuition program was met with great excitement by Hancock High families. "Parents were hugging and crying because they couldn't believe this was happening, that they'd be able to send their kids to college," said Sanregret.

Now, an average of 25 students per year—about one-third of Hancock High graduates—take advantage of the Hancock Award. Not only do they start college, but they finish strong. In fact, this year's Finlandia valedictorian was a recipient of the Hancock Award.

"We've seen our college-bound students rise significantly and we have a good retention rate because many are inclined to take advantage of the program," said Sanregret. "It's a real feather in the district's cap."

The Hancock Award is a feather in the city's cap, as well. As City Manager Glenn Anderson pointed out, there are seven high schools within about 10 miles of Hancock, so it's a highly competitive school of choice market. "It certainly has helped keep families and students in the district and in the city," he said. "It's a very powerful program."

Karin VanDyke, Finlandia's vice president for university relations, agrees with Anderson. "Other area schools are jealous that they don't have this program," she said. "This is one of the things that makes us distinctive and high touch."

The plan also calls for Finlandia to provide lectures, short-courses, and workshops to other segments of the community, including Hancock schools, adult learners, and Hancock organizations and agencies.

"We have faculty doing things in the area, like a financial aid workshop they just conducted for high school students," said

Hanson. "And our athletic programs are active in the community, reading to elementary students and mentoring."


"Parents were hugging and crying because they couldn't believe this was happening, that they'd be able to send their kids to college."

—Hancock High School Principal John Sanregret.

## Shared Use

Although Finlandia is shouldering the expense of improvements at the former school district properties, they share their use with the high school and the community at large. The middle school, now known as the College of Health Sciences, has undergone some basic infrastructure improvements, with the transformation expected to be complete in about two years. In the meantime, the auditorium hosts some school district events, and Quincy Green—the area outside the building—is the site of a variety of college and community events, including the weekly Hancock Tori Farmers Market.

In 2011, Condon was reborn as McAfee Field, the first phase of an 11.4 acre collegiate athletic complex. The field now sports artificial turf, stadium lighting, and a 27 x 25 ft electronic scoreboard. Each year, staff from the university and the school district work out a schedule that allows adequate practice and game time for both the Finlandia Lions and the Hancock Bulldogs.

"It's been a great relationship. We have a vested interest in each other's best interest," said Sanregret. "I'm retiring at the end of the year, and I'm glad students will continue to benefit after I'm gone." 

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*Lisa Donovan is the communications coordinator for the League. You may contact her at 734-669-63 or [ldonovan@mml.org](mailto:ldonovan@mml.org).*



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**Q:** What can we do about councilmembers who miss council meetings? Is it possible for a councilmember to participate in a council meeting by phone or Skype?

**A:** This is a two-part question.

1) If you want to deal with council absences, you can enact a provision in your council rules to address it or amend your city (or home rule village) charter to address it. The policy can say something like this:

### A. Council Rules

No city councilmember shall miss three (3) consecutive, unexcused regular meetings in a twelve (12) month period. Any violation of this provision shall result in the matter being reviewed by the Board of Ethics for appropriate action, including but not limited to removal from the city council. This provision recognizes the duty of city councilmembers to be in attendance to represent the citizens in matters concerning the city. An absence shall be excused only upon a quorum vote by the present city council.

### B. Charters

Most city charters contain a provision dealing with council absences. The most common is: four unexcused absences or missing 25 percent of meetings in a year results in a councilmember getting removed from office. Variations include three consecutive absences or 25 percent; 30 percent in a year; or seven consecutive meetings in a year. The League's charter database has a listing of all the city charters and what method they use. It is available at [mml.org](http://mml.org).


### C. General Law Villages (Act 3 of 1895 is the charter)

You can pass similar council rules as the example in A. Or, if you are having trouble finding enough residents to serve on council, you might consider reducing the number of trustees from six to four. This is done by ordinance. (email [info@mml.org](mailto:info@mml.org) for a sample ordinance)

2) Regarding the method of how a councilmember/commissioner/trustee participates in a council meeting, the Open Meetings Act (OMA) regulates meetings of public bodies in Michigan. Most Michigan cities and villages do not allow councilmembers to vote unless they are physically present at council meetings. The Legislature proposed adding an amendment to the OMA to specifically prohibit participation in a council meeting by Skype or teleconferencing. However, this legislation while passing the House, is still in committee as of this writing. Please seek the advice of your municipal attorney on using Skype or teleconferencing to participate in meetings. [In *Goode v. Michigan Department of Social Services*, 143 Mich App 756 (1985), teleconferencing of social services

hearings were found to comply with the OMA; and Michigan Attorney General Opinion #6835 of 1995 concluded that an intermediate school district representative could participate in a meeting through interactive television and comply with the Open Meetings Act.]

**Q:** We need guidance on what constitutes appropriate contact between individual councilmembers and city staff. Some councilmembers ask staff (other than the city manager) directly for information. This causes problems because information is given to one councilmember and not to others. At times it puts the city manager in the middle.

**A:** Direction on appropriate council action with respect to city staff can be incorporated into council rules or ethics policies. Grand Ledge has a section devoted to it in its code of conduct on city council relations with city staff. Manistee covers the issue in its council rules. Both these cities encourage councilmembers to work through their city managers for information from city staff. Other cities have included guidelines in their city charters. Email [info@mml.org](mailto:info@mml.org) for sample provisions. 

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