MAC
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Legislative Updates

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Ending the reign of Dark Stores

Led by Meijer, "Big Box" retailers in Michigan have waged a successful campaign to convince the Michigan Tax Tribunal to abandon the traditional cost-based approach to assessing the value of property in favor of a comparable sales approach. Further, the retailers convinced the Tax Tribunal to accept property value comparisons with vacant — or dark — Big Box structures.

The net result of this shift in assessment has been value drops of 40 percent, 50 percent or more, prompting the permanent loss of millions upon millions of dollars in tax revenue for local governments across Michigan.

For many months, MAC has been working with the administration, legislative staffers and key lawmakers, such as Rep. Dave Maturen, to develop a legislative fix for Dark Store devaluations, which are wreaking havoc on local budgets and blighting key retail areas.

These discussions are bearing fruit in the form of a framework for reform on the following principles:

- Require that highest and best use (HBU) exclude speculative, hypothetical uses
- Prohibit the use of restrictive deeds in determining value
- Require a transfer limitation on deed restrictions to 90 days, after which the deed restriction comes off
- Create the ability for locals to determine that a property constitutes economic blight if it does not sell and remains vacant

Legislation to reflect these fixes is expected to be the focus of Capitol hearings in 2016.

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Stopping unfunded mandates

In 2009, the Legislative Commission on Unfunded Mandates determined that more than $2.5 billion in services that can be measured — and billions more that cannot be measured — is provided by local units of government for free to the State of Michigan. Since the report, several bills have been introduced in the Legislature to change the legislative and administrative rules process to prevent future unfunded mandates.

These bills have been met with much resistance and have not received serious consideration due to the obstacles they presented to the legislative process. Hence, MAC has worked with lawmakers to create legislation that is more palatable to the Legislature, but still prevents the state from imposing any additional unfunded mandates.

In general, the bills (Senate Bills 388-90) would institute a process for ensuring the funding for mandates is appropriated before any local governmental unit would be required to comply with the mandate.

Major changes:

- Unlike the bills that have been introduced in past legislative sessions, these bills would not impede the legislative process or hold up the movement, passage or enactment of any unfunded mandate, but would exempt local units from complying with the mandate if there has not been a fiscal note prepared indicating the cost of the mandate, as well as the appropriation made accordingly.

- The Commission called for a local government mandate panel that would review each piece of legislation for a potential unfunded mandate. After working to implement this panel, it has become apparent that this process would be lengthy and burdensome. With that in mind, the new legislation will eliminate the mandate panel and instead rely on the Legislative Service Bureau and the fiscal agencies to flag the bills and complete the fiscal note process.

- These bills would also put the responsibility for enforcing compliance of the mandate on the State, instead of requiring local units to sue the State for a Headlee violation. The State would be required to maintain the burden of proof.

- If a local unit of government refuses to comply with what they consider an unfunded mandate, and later it is deemed to be a frivolous case, the local unit of government would, in future disputes, have the burden of proof placed back on them.

MAC urges the passage of legislation to protect counties from new duties that are not accompanied by appropriate funding.

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Treating 17-year-olds as juveniles

A 20-bill package of legislation designed to alter how the state handles 17-year-old criminal offenders **would fundamentally change** Michigan's criminal justice system — and present county and state officials with a multitude of programming and financial challenges.

Many questions and issues need to be addressed before Michigan can consider making this change, as this proposal will require time and resources, if it is to take place in a fashion that will actually benefit the juvenile system.

MAC recognizes questions and concerns in three general areas:

Capacity: First, consider what happens at the time of arrest. Where will 17-year-olds be placed? Is there capacity in county detention centers, or will other secured settings need to be found when 17-year-olds cannot be held in jail at the time of arrest?

Next, look at judicial capacity. The state recently realigned its judicial staffing, yet "raise the age" proposal would put new pressures on the Family Divisions of Circuit Courts across Michigan.

The proposal calls for increases in community-based services for 17-year-old offenders. Yet the capacity to provide such services varies greatly around the state. Without additional resources, juvenile justice leaders could be forced to make choices between a stronger intervention with a younger offender or meeting the supervision requirements for a 17-year-old with a more serious record.

Programming: The nature of juvenile rehabilitation is far more complex than what is required in the adult system. This complexity and a network of services require expertise, which requires, again, resources. In some counties, new programs will have to be built from the ground up; in others, expansion of existing programs will be necessary. Those changes will take time. Simply saying that dealing with lower-level offenders who are 17 the same way they are dealt with now, except in the juvenile system, will not solve any long-term juvenile justice issues.

Money: Unlike offenders in the adult correctional system, juveniles are under the Child Care Fund, with a 50/50 split of costs between the state and counties. There is no provision in this package for state delivery of funds to counties for these new commitments — a clear violation of the Headlee Amendment and a potential budgetary crisis for counties large and small.

MAC opposes the current version of this package due to concerns and uncertainty on proper funding.

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Updating tax increment financing law

There are approximately 1,000 tax capture authorities in Michigan, 25 of which date to the time of the Carter administration, disco and bell-bottomed pants.

About 40 percent of these tax increment financing authorities, or TIFAs, are downtown development authorities.

State law on TIFAs and "tax capture," the diversion of local property taxes from their intended purpose and recipient to entities created to boost sagging business districts, hasn't really been update since the early 1990s.

Then, counties were allowed to opt out of downtown development authorities created after Feb. 15, 1994, but counties do not have that option with those TIFAs created before 1994, even if the authority changes its purpose to exist.

MAC's goal is to reform the TIF process so elected county officials always have direct input on the amount and duration of capture of vital county resources that are going to be used on TIF projects. This reform would follow these principles:

- Stop the capture of voter-approved special millages. MAC believes when voters approve a special millage for items such as veterans services, senior services, public safety, jails and county medical care facilities, those tax revenues should go toward the voter-approved purpose.

- Require that all tax capture districts created prior to 1994 that did not provide for a county opt-out or input be required to expire and reconstitute. At that point, counties will decide whether to participate in a particular capture district — and for how much and how long.

- Acknowledge that those tax capture districts that have outstanding bond obligations will need the resources to pay back the bonds. Legislation should include language that prioritizes how those funds are dedicated to pay those obligations.

- Ensure greater accountability of TIF districts. The state, local units and residents should have a much better idea of how many of these entities exist, how much money they are capturing, what they are using the funds for and what kind of financial condition they are in.

- Limit what expenditure and the types of projects eligible for tax capture dollars.

MAC is working with allies in the Legislature to bring new bills forward to implement these reforms. Hearings are expected in 2016.

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Working for proper mental health funding

Gov. Snyder's fiscal 207 would take an entirely new approach to how Medicaid dollars would be managed in the community mental health system, a change the Michigan Association of Community Mental Health Boards (MACHMB) calls "drastic" and a "privatization" of the Medicaid system for behavioral health.

A major concern for MAC and the community mental health field is the proposed shift of dollars from the CMH system to Medicaid health plans to provide services to Medicaid recipients ─ in effect, a privatization of the community mental health system.

Based on the higher administrative overhead in Medicaid health plans vs. the traditional public system, MACHMB estimates this policy shift would reduce the funding for actual services by $300 million.

The budget does not include general fund increases for mental health or substance use disorders that would allow community mental health providers to deliver more community services and jail diversion programming.

MAC will advocate for appropriate community mental health service delivery and funding in this budget process. The governor and Legislature have declared their intent to make corrections systems changes, including "Raise the Age" and other juvenile justice and adult criminal justice reforms in the upcoming year. Without adequate funding of the mental health and substance use disorder system, we cannot tackle one of the root causes of criminal behavior and recidivism.

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Ensuring the promises on revenue sharing

Revenue sharing exists, in large part, as part of a promise from the state to local governments: In exchange for strict limitations on taxing authority on locals, the state will provide funds the locals could not generate on their own.

These funds, since they are provided for basic operations, have been — and should always be — unrestricted in nature. This is a substitute for money the locals would raise themselves, not a gift from the state or a lever to be used against local units.

Stability and predictability are vital components to a proper revenue sharing system, since these funds help form the basis for all local operations.

Michigan counties remain caught in a fiscal vise — one that keeps tightening even as the state's economy improves.

The collapse of Michigan property values in the last decade has imposed a permanent reduction in county revenue. As reflected in the first two charts at right, the combination of Proposal A restrictions and Headlee rollbacks have ensured counties will see only small gains in taxable value, even if their housing markets are recovering rapidly.

The other jaw of the vise was the move to suspend state revenue sharing to counties in fiscal 2005. Counties were forced to adjust to a loss of approximately $2 billion. While the last two state budgets have seen massive improvements in revenue sharing funding, there is no expectation from any quarter that the state will move to make good on the money it didn't deliver a decade ago.

Calhoun County

% of Budget to State Mandates

80

% of Budget from RS

7

Marquette County

% of Budget to State Mandates

75

% of Budget from RS

6.6

Midland County

% of Budget to State Mandates

70

% of Budget from RS

6.7

MAC strongly supports Gov. Rick Snyder's budget recommendation for a third consecutive year of full funding for county revenue sharing in fiscal 2017.