

MICHIGAN COUNTIES



Where's the end to the long and winding road on tax foreclosure challenges?



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Letter from the Executive Director



A stylized, handwritten signature in black ink, appearing to read 'S. Currie'.

STEPHAN W. CURRIE
MAC EXECUTIVE DIRECTOR

**Executive Director
Stephan Currie
participated in
the Generative
AI Discussion
and Outreach
workgroup of the
National Association
of Counties' AI
Exploratory
Committee.**

Generative AI offers transformative potential for county leaders

Generative AI, a cutting-edge subset of artificial intelligence, is revolutionizing various sectors, including local governance. For county commissioners, this technology presents numerous opportunities to enhance efficiency, improve public services, and engage with the community more effectively. To assist counties in these areas, the National Association of Counties (NACo) established the Artificial Intelligence Exploratory Committee, which I will discuss later. First, let's explore how commissioners may find generative AI useful.

Streamlining administrative tasks

County staff often face a heavy load of administrative duties, from drafting documents to responding to constituents. Generative AI can alleviate this burden by automating tasks such as creating meeting agendas, summarizing lengthy reports, and generating responses to common inquiries.

Enhancing public communication

Effective communication is crucial for local governance. Generative AI can help county commissioners craft clear and accessible messages for various platforms, including social media, newsletters, and press releases. AI tools can tailor content to specific demographics, ensuring relevance and engagement. Additionally, AI-assisted translations can reach non-English-speaking residents, fostering a more inclusive community.

Data-driven decision-making

Generative AI excels at analyzing vast amounts of data and generating actionable insights. County commissioners can leverage this capability to make informed decisions on budgeting, resource allocation, and policy development. AI algorithms can predict trends in population growth, traffic patterns, and economic indicators, enabling better future planning. AI-generated models and simulations allow commissioners to explore various scenarios and their potential impacts, leading to more robust policy decisions.

Improving public services

Generative AI can enhance public services by powering chatbots that provide residents with 24/7 access to information and services, from reporting potholes to applying for permits. AI can also optimize public transportation routes, waste collection schedules, and emergency response strategies by analyzing data and generating efficient plans.

Fostering community engagement

Engaging with the community is essential for understanding residents' needs and concerns. Generative AI can analyze social media interactions, public comments, and survey responses to identify common themes and sentiments. This information can help commissioners gain a clear picture of public opinion and make more informed decisions.

CONTINUED ON PAGE 11



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Letter from the President



Jim Storey

JIM STOREY
PRESIDENT, MAC BOARD OF
DIRECTORS

“I hope we do not lose sight of this perhaps once-in-a-state’s-lifetime opportunity to build back from the economic and population losses of COVID and the 2008 recession.”

As a fabulous Pure Michigan summer winds down, as well as my term as MAC president and an Allegan County commissioner, parting thoughts flood the mind on the condition of county government and Michigan generally.

A few years ago, I attended a public power conference that featured a climatologist speaking about the changes in earth’s climate. He noted that as the southern U.S. continues to warm, states “up north”

could benefit as Southerners scramble for more tolerable climate conditions. He specifically cited Michigan, with the buffer offered by four of the five Great Lakes, as a state that could especially gain from climate-generated popularity.

The record-setting, soaring temperatures in Nevada, Texas, Arizona and other states this summer confirm the worth of the climatologist’s prediction.

This year, I noticed the increased popularity of our summer destination locales. Crowds of visitors eager to take advantage of our wonderful weather were large and persistent. It sets up an opportunity, in my view, for the rise in local hospitality businesses and the jobs they provide, if they are not priced out of financial survival. These businesses, many owned by locals, are the backbone of the communities we are elected to represent and champion.

Some recent Michigan Supreme Court decisions may make it difficult to seize the opportunity presented by Michigan’s climate popularity for new businesses and their job creation potential. I hope we do not lose sight of this perhaps once-in-a-state’s-lifetime opportunity to build back from the economic and population losses of COVID and the 2008 recession.

Another Supreme Court decision concerning payment of proceeds from the sale of foreclosed properties has the potential for a significant impact on counties (see more in this edition’s cover story). While the impact of the decision has not been fully measured, requiring counties to store up money for the potential of refunding gains from the sale of foreclosed properties will add to the complexity and cost of county government.

Both of these lead to the importance of paying attention to the quality of Supreme Court candidates this year. It has been pointed out that a distinct minority of current justices previously served as county circuit court judges. It means the current majority may not have the feel of how a county operates and the impact of court decisions on overall county services. For this reason, I intend to question Supreme Court justice candidates when I encounter them on their understanding of county government, especially those that may have never served as circuit or district judge.

Finally, a thank you for the opportunity to serve on the MAC Board and as your president. I’ve made some wonderful friends and learned much from your experiences and sharing. None would have been possible without participating in MAC conferences. Changes are in the works to make them more effective and less time-consuming, but your attendance and participation is essential if the counties we serve are to be the strong voice our county residents need for sound public policy.

I hope to see you in September in Grand Traverse County! ♦



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Stroke claims life of Allegan's Kapenga



KAPENGA

Dean Kapenga, a longtime Allegan County commissioner and fixture at MAC events, passed away Aug. 6, 2024, after suffering a stroke in his home. He was 69.

“Dean Kapenga was an exceptional county commissioner,” said MAC President Jim Storey of Allegan County. “He had both heart and head for serving Allegan County residents in two careers: 30 years as a sheriff’s deputy and nearly 20 as a county commissioner. It is a deep understatement that his commitment to Allegan County in many venues will be missed.”

Kapenga was first elected to the Allegan Board in 2006 and had served continuously since, including a stint as board chair. At the time of his passing, he was vice chair of the Allegan Board and was seeking his ninth term.

Kapenga also chaired MAC’s Health and Human Services Committee and was a strong supporter of MAC’s policy and advocacy work.

Kapenga had served decades in the Allegan Sheriff’s Office and held a degree in criminal justice from Grand Valley State University.

Bay’s Poirer passes in June



POIRER

Bay County Commissioner Dennis Ray Poirer, 75, passed away on June 16, 2024. A native of Bay City, Poirer served in city government as well as county government. He earned degrees from Western Michigan University, Central Michigan University and Wayne State University and served in teaching and administrator positions in schools in Michigan and Texas.

Poirer was in his third term as a Bay commissioner, rejoining the board on Jan. 1, 2023, after a nearly 20-year absence.

Poirer also served on MAC’s Agriculture and Tourism Committee and was a supporter of MACPAC.



SAGINAW COUNTY LEADERS POSE IN FRONT OF THE NEWLY RENOVATED DOW CENTER THIS SUMMER. (PHOTO: SAGINAW COUNTY)

Local team’s victory caps Saginaw County’s event investment

When the Saginaw Spirit Hockey Club claimed its first Memorial Cup Championship in June, it did so before hometown fans, thanks to efforts by the Saginaw County Board of Commissioners.

In 2023, the Saginaw Board approved more than \$8 million in improvements to the Dow Event Center in preparation for 2024 Memorial Cup hockey tournament. The investment proved beneficial not only on the ice, but with a more than \$25 million economic impact to the entire Great Lakes Bay region, the county reported.

Antrim unveils renovated county building

Antrim County held an open house on June 20, 2024, to show off its newly renovated county building, ending a nearly two-year effort that came in under its \$5 million budget.

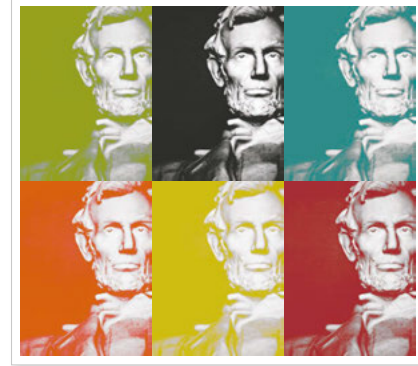
Concerns arose in 2022 about the integrity of the structure’s concrete panel façade. In August 2022, the



(PHOTO: ANTRIM COUNTY)

Antrim Board opted to utilize ARPA funds to address the situation. Construction began in July 2023 and was finished in less than a year.

“I want to express my deepest gratitude to all those who endured months of disruption with such positive attitudes,” said County Administrator Jeremy Scott in a statement. “Thanks to everyone’s hard work, we now have an efficient and safer building that better serves the public.” ♦



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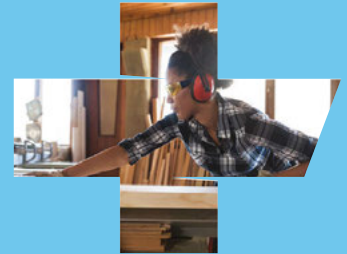
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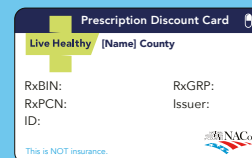
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Where's the end to the long and winding road on tax foreclosure challenges?

BY TED SEITZ, MEMBER, DYKEMA GOSSETT, PLLC

“On June 27, 2024, U.S. District Court of the Western District of Michigan approved a class action settlement that will return surplus proceeds to those foreclosed by Michigan counties due to unpaid property taxes between 2013 and 2020.”



Over the past decade, Michigan counties (and their elected county treasurers) have faced constitutional challenges to Michigan’s statutory tax foreclosure process, as set forth in Michigan’s General Property Tax Act (GPTA). Much of the litigation was first driven by public interest groups arguing that the retention of surplus proceeds for tax foreclosed properties violated the Takings Clauses in the Michigan and U.S. constitutions.

In late July 2020, the Michigan Supreme Court ruled a portion of Michigan’s tax foreclosure laws were unconstitutional in *Rafaelli, LLC v Oakland County* — to the extent that they did not allow interest holders in tax foreclosed properties a statutory mechanism to seek surplus proceeds. The court also hinted that that something should be done by the Michigan Legislature to fix this issue. The Legislature answered the call. And, in late December 2020, Public Acts 255-256 were unanimously passed and signed into law by

Gov. Gretchen Whitmer. PA 256 specifically amended the GPTA to create a statutory process for interest holders in tax foreclosed properties to seek and obtain surplus proceeds. PA 256 also left the question of whether or not the *Rafaelli* decision was retroactive for the Michigan Supreme Court to decide another day.

The *Rafaelli* decision spawned a deluge of litigation against Michigan counties in state and federal courts. Many of the cases were brought as putative class actions. Most remain pending and awaiting final resolution. Michigan counties, however, are not alone. Many other states have seen constitutional Takings claims challenging their respective property tax foreclosure systems.

In late May 2023, the U.S. Supreme Court weighed in: holding in *Tyler v. Hennepin County* that Minnesota’s tax foreclosure law, which offered no ability for interest holders to obtain surplus proceeds, violated the Fifth

Amendment Takings Clause of the U.S. Constitution. MAC, along with the Michigan Association of County Treasurers, submitted an amicus brief to the Court — explaining how Michigan’s enactment of PA 256 fixed this issue in Michigan and should be left alone. The U.S. Supreme Court implicitly blessed Michigan’s statutory surplus proceeds claim process by stating that if there is an avenue for interest holders to obtain surplus proceeds — there is no Fifth Amendment Takings.

On June 27, 2024, U.S. District Court of the Western District of Michigan approved a class action settlement that will return surplus proceeds to those foreclosed by Michigan counties due to unpaid property taxes between 2013 and 2020. The decision approving the settlement covering all of the counties within the Western District (with the exception of one) arises from *Wayside Church v. Van Buren County*, a 2014 federal lawsuit where three property owners failed to pay property taxes and lost their property to tax foreclosure. All three properties were sold at auction for more than taxes owed. At the time, Michigan law required the surplus funds to be retained by the county. The property owners sued for those excess amounts, saying the county should be required to pay just compensation under the Fifth Amendment. Treasurers, acting as the statutory “foreclosing governmental unit” often used surplus funds to offset losses on other properties that either failed to sell or sold for less than the unpaid taxes. However, most properties sold at foreclosure auctions do not result in surplus funds or the costs of unpaid property taxes, leaving counties and local communities responsible for the losses each year.

The *Wayside Church v. Van Buren County et al.* settlement was the result of lengthy negotiations overseen by the Mediation Office of the U.S. Sixth Circuit Court of Appeals.

To obtain the benefit of the settlement, former property owners filed claims during the spring and summer of 2023. The settlement, federal Judge Paul Maloney noted, had a claim rate that “is quite high, and the relief provided for the class is substantial.” Nevertheless, because of the appeal filed by competing plaintiff class action counsel, a final payout to claimants is not expected until late 2025.

On July 24, 2024, the Michigan Supreme Court issued a decision in the *Schafer v. Kent County* and *Hathon v. State of Michigan* cases, which held the Rafaeli decision to be retroactive, but limited it to a six-year look back period (i.e., until 2014) for claims against the Counties and a three-year period (i.e. until 2017) for claims against the State of

Michigan (acting as the “foreclosing governmental unit” for several counties). However, the Michigan Supreme Court also held that the surplus proceeds process set forth in the Section 78t of the GPTA was the “exclusive remedy” for claimants and that any and all notices of intent to submit claims for surplus proceeds must be filed by March 31, 2025 — with the clock starting from the date the *Schafer* opinion was issued.

Nevertheless, litigation remains pending in the federal courts on Takings cases brought as class actions against the Counties within the federal Eastern District of Michigan. Takings cases have also been brought against counties in Illinois, Wisconsin, New Jersey, Ohio, and Massachusetts. Earlier this year, Minnesota announced that it had entered into a class action settlement on behalf of Minnesota counties that includes properties impacted by those tax forfeiture practices rejected by the U.S. Supreme Court in the *Tyler* case. The proposed class settlement, which totals \$109 million and covers a period of seven years, will be funded by state of Minnesota as part of the budget passed by the Minnesota Legislature and signed into law by Minnesota Gov. Tim Walz. Minnesota also is attempting to enact legislation that modifies its tax foreclosure process — using PA 256 as a model. ♦

Letter from the Executive Director

FROM PAGE 3

NACo AI Committee

To explore these areas and more, NACo created the AI Exploratory Committee. The committee comprises 16 county leaders from across the country, representing a broad spectrum of county demographics and functions. Their recommendations can be found at www.naco.org/program/ai-exploratory-committee. The document will continue to be updated in the coming years.

Generative AI offers county commissioners powerful tools to enhance governance, improve services, and engage with the community. By embracing AI technologies responsibly, commissioners can drive positive change and promote a more efficient and responsive local government. ♦

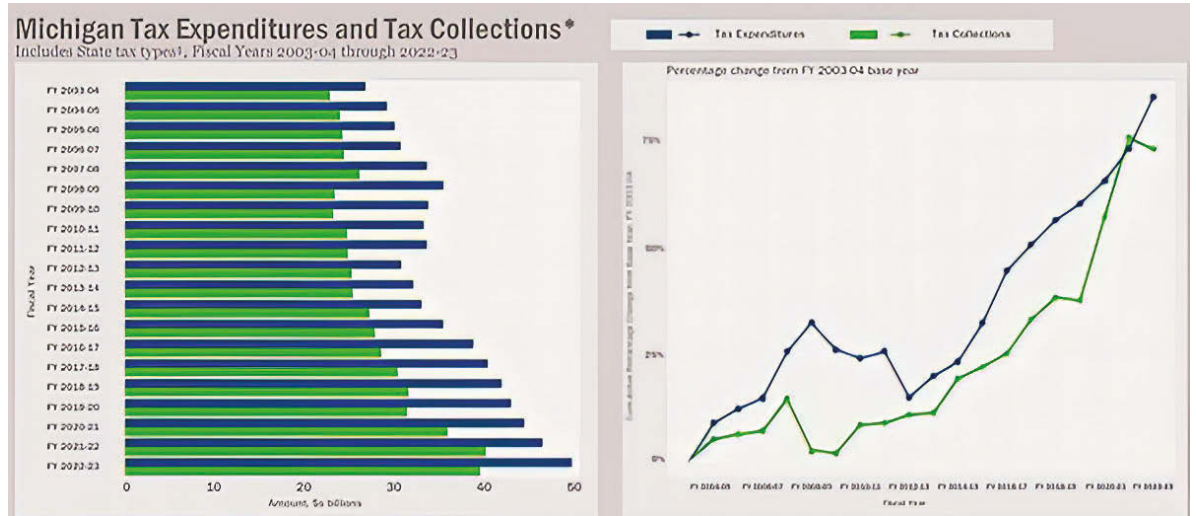
Tax expenditures may be costing your county big bucks

BY ERIC LUPHER/CITIZENS RESEARCH COUNCIL OF MICHIGAN

Eric Lupher is president of the Citizens Research Council of Michigan.



MAC strongly supports the work of the **Citizens Research Council of Michigan**, a nonpartisan, independent public policy research organization. MAC Executive Director Stephan Currie currently sits on the CRC Board.



Tax expenditures are provisions in the tax code that allow special exclusions, exemptions, or deductions from a tax base. They can provide special credits, preferential rates of taxation, or deferral of tax liabilities. Accounting for tax expenditures acknowledges that, absent these provisions in the tax law, the tax base would be broader and consequently tax revenues to finance government services would be higher.

Most of the state’s tax expenditures are established in statute. Michigan’s Income Tax Act provides various exemptions, deductions, and credits to lessen tax liabilities. In this way, the state uses tax policy to account for the cost of raising a child, acknowledge the lesser disposable income of senior citizens, and encourage certain behaviors. The sales tax base includes most tangible items, but it is not applied to items such as food purchased at grocery stores or to most services.

Tax expenditures that most directly affect Michigan counties are established by the property tax law and laws that allow preferential tax treatment for economic development.

Tax expenditures have long been baked into the property tax system. We exempt land owned by nonprofit organizations such as churches and hospitals.

Some tax expenditures in the property tax were created when the state exempted items from local taxation. Intangible property was exempted in the 1930s, inventory property in the 1970s, and some personal property a decade ago. These exemptions came with a promise of state reimbursement for lost revenues, but counties currently only get reimbursed for foregone personal property tax revenues.

More recent tax exemptions have nibbled at the tax base by exempting property owned and used as homesteads by disabled veterans, property with facilities that are controlling or disposing of air pollution, and solar energy facilities.

For many counties, the most significant tax expenditures are related to economic development. Tax abatements apply preferential tax rates or defer adjustment of the taxable value to reflect investments. In Michigan, they are available for commercial redevelopment and rehabilitation; development of forests; industrial plant development and rehabilitation; non-ferrous metallic minerals extraction; the rehabilitation of obsolete property; and for development and rehabilitation of residential properties in some communities. Michigan law provides far more tax abatements than most other states.

In most Michigan cities and townships, offering these tax abatements may cause them to forego

tens of thousands of dollars. In some counties, the aggregate of county taxes abated by the cities and townships may add to hundreds of thousands of dollars.

Tax increment finance (TIF) programs “capture” county tax revenues generated by the incremental growth in property values attributable to the economic development in defined areas to pay for past and present economic development activities. Counties only receive the revenues from taxes levied on the value of the tax base before the development was initiated. Singularly these tax captures might not feel like a big deal in the broader picture of city, township, or county finances. However, their significance grows when aggregated. Every county has multiple TIF districts capturing revenues that would otherwise flow to the

county coffers. Wayne County has more than 60 TIF districts.*

You can quantify some of the tax expenditures affecting your county’s tax revenues in your annual financial statements. For nearly the past decade, the Government Accounting Standards Board has called for tax abatement disclosures.

As documented in earlier articles in this space and in papers published on the Citizens Research Council website, Michigan municipal finances are imperiled. One cause is the incremental erosion of the property tax base. ♦

**The value of county taxes abated by, and county tax revenue captured in Detroit is far greater than the amounts in other cities and townships, thus exponentially changing the magnitude of the value of foregone revenue for Wayne County.*

“Tax expenditures that most directly affect Michigan counties are established by the property tax law and laws that allow preferential tax treatment for economic development.”

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With ‘lame duck’ looming, now is time for county leaders to get involved

BY DEENA BOSWORTH/DIRECTOR OF GOVERNMENTAL AFFAIRS

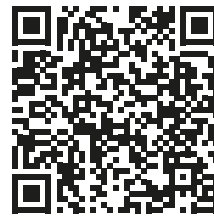
“With only 12 session days scheduled after the general election, the window for legislative action is exceedingly narrow. Bills will move through the process at breakneck speed, making it imperative for county commissioners to stay informed and responsive.”



It's only August, but your MAC Governmental Affairs Team already is busy preparing for what looks to be an intense “lame duck” legislative session in November and December. The infamous lame duck period is the period after the general election but before the newly elected legislators take office and is notorious for its frenetic pace and the swift movement of bills through the legislative process. For County Commissioners across Michigan, this period demands heightened vigilance and proactive communication with state representatives and senators.

During a lame duck session, legislators, some of whom are leaving office and, thus, less politically constrained, often push through a flurry of legislation. And if power is going to shift from one political party to another in the next Legislature, as is possible this cycle in the Michigan House, a lame duck can be even more chaotic. The urgency and compressed timeline mean that bills can be introduced, debated and passed in a matter of days.

For county commissioners, this whirlwind presents both opportunities and challenges.



**Michigan Senate
Directory For
2023-2024**



**Michigan House
Directory For
2023-2024**

The key to navigating it lies in maintaining close contact with state legislators, staying informed about legislative developments and responding swiftly to action alerts and updates issued by MAC staff.

With only 12 session days scheduled after the general election, the window for legislative action is exceedingly narrow. Bills will move through the process at breakneck speed, making it imperative for county commissioners to stay informed and responsive. The MAC staff will be working tirelessly during this period, but they cannot do it alone. The collective voice of county commissioners, informed by their direct experience and expertise, is crucial to shaping legislation that works for local governments.

MAC has identified three legislative priorities for the session that reflect counties' most pressing challenges:

Revenue Sharing Trust Fund legislation

House Bills 4274, by Rep. Amos O'Neal (D-Saginaw), and 4275, by Rep. Mark Tisdell

(R-Oakland), would create a separate “Revenue Sharing Trust Fund” to receive a percentage of state sales tax revenue and hold dollars solely for the purpose of fulfilling the state’s promise to local governments on revenue sharing. MAC has long sought to create stability and fairness in the revenue sharing system by removing the statutory portion of it from the annual appropriations process and by designating a steady revenue source.

COMMISSIONERS’ ACTION ITEM: *Call or email your legislators and tell them to pass HBs 4274-75.*

Disabled veterans property tax exemptions

Legislation in both chambers (HBs 4894-4895 and SBs 95-96 and 454-455) would change the disabled veterans exemption on property taxes to an income tax credit in the amount of the property taxes. This change would shift the financial burden of this assistance from local governments, now estimated at more than \$100 million, to the state. The bills have not seen movement in this Legislature despite having bipartisan support.

COMMISSIONERS’ ACTION ITEM: *Call or email your legislators and tell them to revamp property tax exemptions for veterans.*

Legislation to prohibit unfunded mandates

House Bill 5353 would require the state to pay for any new or increased activity or service and would create a fiscal note process to inform the Legislature of the anticipated cost of the service or activity, thereby complying with the provisions of the Headlee Amendment.

Unfunded mandates have strained county resources for decades and hinder the ability to deliver services effectively.

COMMISSIONERS’ ACTION ITEM: *Call or email your legislators and tell them to pass HB 5353.*

In addition to these priorities, MAC is monitoring environmental legislation that could be financially or operationally burdensome to counties, cost counties money or be very difficult to implement. While MAC is not supporting bills for a statewide septic code (HBs 4479-80 and SBs 299-300) or those that implement an unrealistic “polluter pay” system (HBs 5241-47 and SBs 605-611). However, we are engaged in workgroups with bill sponsors and interest groups to identify a way to mitigate the ramifications of such legislation. Our message is simple: Legislators must consider the capabilities and resources

of local governments to ensure effective environmental protection without undue burden.

As MAC and Michigan’s Legislature prepare for this end-of-year crush, the active involvement of county commissioners becomes ever more critical.

Commissioners should prioritize communication with their legislators, providing insights into how bills will impact their counties. They should also be prepared to respond quickly to action alerts from MAC and other advocacy organizations, mobilizing their networks to support or oppose legislation as needed. Personal stories, data and clear examples of potential impacts can make a compelling case for legislators.

On these pages are QR codes that send you directly to lists of contact data for both the House and Senate to make this engagement a convenient part of your county schedule.

The stakes are high, but with diligent and proactive engagement, commissioners this fall can help shape a legislative agenda that supports strong and vibrant local governments. ♦

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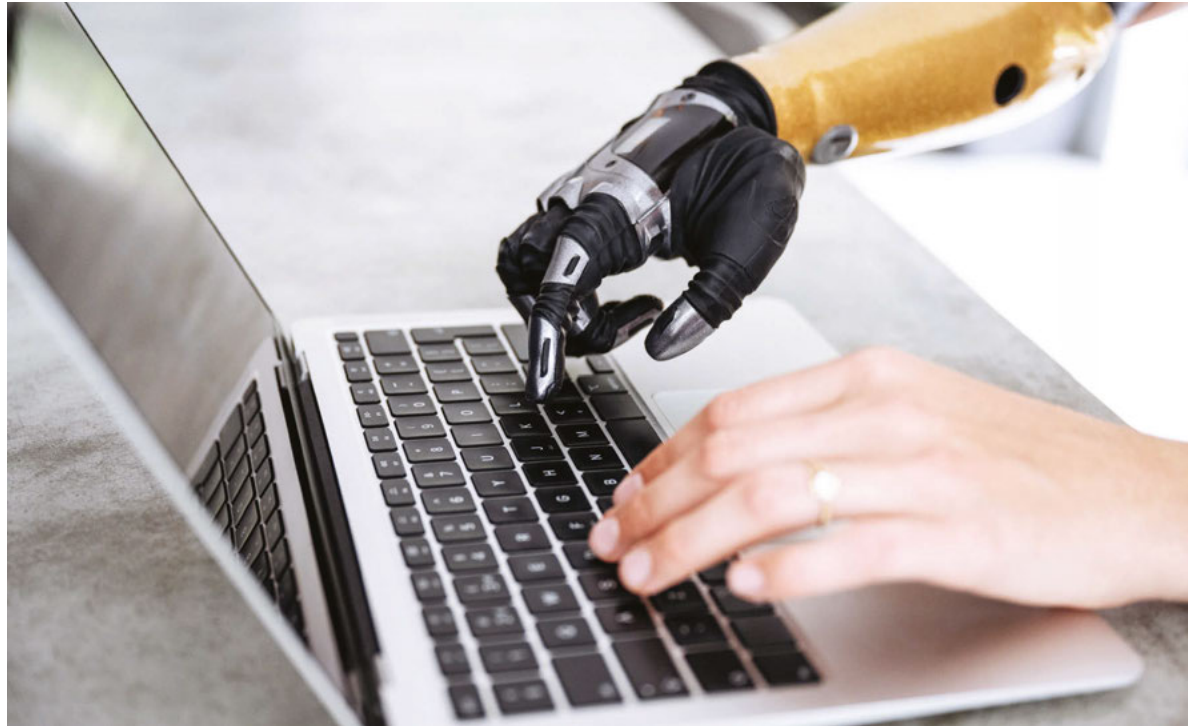
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Counties face new federal rule on accessible digital content

BY MATT NORDFJORD/COHL, STOKER AND TOSKEY P.C.

Matt Nordfjord is a principal with the firm of Cohl, Stoker and Toskey P.C.

“On April 8, the U.S. Department of Justice (DOJ) announced the release of a final rule which seeks to implement Title II on web content and mobile app services provided by state and local governments. Starting April 26, 2026, counties with populations above 50,000 persons must comply with the requirements of the rule. Counties with populations of 49,999 or less must meet these requirements by April 26, 2027.”



Counties, along with other local governments, are subject to the provisions contained within Title II of the Americans with Disabilities Act (ADA). Title II requires that state/local governments, including any agencies or departments of the governments, give people with disabilities an equal opportunity to benefit from all programs, services and activities.

The ADA has always required counties to provide individuals with disabilities with effective communication, reasonable modifications and an equal opportunity to participate in or benefit from government services, programs and activities. These requirements also apply to government services, programs and activities offered online and through mobile apps.

On April 8, the U.S. Department of Justice (DOJ) announced the release of a final rule which seeks to implement Title II on web content and mobile app services provided by state and local governments. Starting April 26, 2026, counties with populations above 50,000 persons must comply with

the requirements of the rule. Counties with populations of 49,999 or less must meet these requirements by April 26, 2027.

Counties provide many of their services, programs and activities through websites and mobile apps. Examples include applying for an absentee ballot, reviewing tax information, or applying for social service programs. If they are not accessible, it may create barriers for people with disabilities and possibly violate the rule.

The new rule formally adopts the Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA. The WCAG provides what is needed for web accessibility for people with disabilities. These requirements apply to web content and mobile apps that governments make available and web content or mobile apps that are managed by an outside party. Web content can include any information or experience on the web, like text, images, sound, videos and documents. For example, if a county provides the option for people to pay property taxes on-line, or through a mobile app which uses a third-party

program for payment processing, that program must also be compliant with the WCAG.

Counties must ensure that third-party providers make web content available to the public, that it is in compliance with the rule.

There are limited situations where some web content and content in mobile apps does not have to meet the technical requirements of the rule. These exceptions include:

- Archived web content. Information and content which was created before the government must comply with the rule, AND the content is kept only for reference, research or record keeping AND the content is kept in a special area for archived content, AND the content has not changed since it was archived. This exception only applies if all four points are applicable.
- Preexisting conventional electronic documents. Old documents (PDFs) on the website may be difficult

to bring into compliance with the new rule. To meet the exception all the following must be met: word processing, presentation, PDF or spreadsheet files, AND available on the website or mobile app before the date of compliance, AND not currently being used to apply for, access, or participate in services, program or activities.

- Content posted by a third-party where there is no contractual, licensing, or other arrangement with the local government. Here, they would be considered members of the public and are not controlled by the government.
- Individualized documents that are password protected. Governments may use password-protected websites to share information with one particular individual.
- Preexisting social media posts. It may be difficult for governments that have been utilizing social media posts previously to make them accessible. ♦



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Suppose they gave an LDROM war, and nobody came?

BY DAVID L. DRISCOLL/PRINCIPAL, BUCK, A GALLAGHER COMPANY

“Contrary to those expectations, reactions to the initial LDROM disclosures have been muted, to say the least.”

Those who follow developments in the actuarial world may recall the controversy that accompanied the most recent revision of Actuarial Standard of Practice No. 4 (commonly referred to as ASOP 4), Measuring Pension Obligations and Determining Pension Plan Costs or Contributions. Adopted by the Actuarial Standards Board at the end of 2021, the revised standard mandated that funding valuations for pension plans performed as of dates (and completed) on or after Feb. 15, 2023, include disclosure of a low-default-risk obligation measure (or LDROM) for the plan. The change was particularly important for governmental retirement plans, as plans subject to the funding requirements of ERISA have calculated liabilities that could be used to satisfy this requirement for many years, but public-sector plans have almost never previously had a need to calculate such a liability.

Generally, for a governmental pension plan, the LDROM is calculated using assumptions the same assumptions and methods as are used in the calculation of funding requirements, except that the interest rate used to discount future benefits is to be “derived from low-default-risk fixed income securities whose cash flows are reasonably consistent with the pattern of benefits expected to be paid in the future.” The revised standard provides several examples of such rates, including yields on U.S. Treasury securities, rates implicit in calculating lump-sum pension benefits and annuity purchases, and others that reflect expected returns on low-to-no-risk investments.

Incorporating the LDROM requirement was controversial because public-sector plans rarely, if ever, settle benefit obligations by purchasing annuity contracts or backing



those obligations with a dedicated bond portfolio. Advocates for public retirement systems have long sparred with adherents of the “financial economics” school of thought, which has long argued that settlement liabilities provide valuable information about the “true value” of pension obligations. The requirement to include LDROMs in funding valuation reports was expected to produce intense public disagreements between public-plan supporters and financial-economics advocates.

Contrary to those expectations, reactions to the initial LDROM disclosures have been muted, to say the least. A session on “LDROM Wars” that was planned for an actuarial conference held in March of this year had to be canceled when no instances of “LDROM Wars” could be found.

What accounts for the unexpected absence of LDROM-induced turmoil? Three factors are arguably responsible.

First, the LDROM is not, strictly speaking, the settlement liability that financial-economics devotees believe is appropriate for gauging the financial health of a pension plan. An earlier draft of the revision of ASOP 4 would have required the disclosure of an “investment risk defeasement measure,” which corresponded much more closely to the “ideal” measure of pension plan liabilities among financial-

economics enthusiasts. Because the LDRM falls short of this ideal, financial-economics adherents have been less inclined to insist that it is the “true” measure of a pension plan’s liabilities.

Second, the revised standard emphasizes the importance of accompanying it with “commentary to help the intended user understand the significance of the low-default-risk obligation measure with respect to the funded status of the plan, plan contributions, and the security of participant benefits.” Properly formulated, such commentary goes a long way toward defusing potential misuse of the LDRM.

Finally, the Code of Professional Conduct that applies to U.S. credentialed actuaries in all of their work requires that they “recognize the risks of misquotation, misinterpretation, or other misuse” of their work and take “reasonable steps” to ensure that it is communicated “clearly and fairly.” The apparent initial success in communicating LDRM disclosures without misinterpretation or misuse reflects well on the profession’s upholding of this precept. ♦

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Transforming the ‘giants’ through strategic impact

BY AL VANDERBERG/KENT COUNTY ADMINISTRATOR-CONTROLLER

“The scope, timing and/or complexity of “giants” can be unpredictable. In many cases, a county department or community at-large may not have the capacity to meet these challenges head-on.”



Giants” are those major problems for which easy solutions don’t exist and at times for which no solutions are evident. These problems may only impact county operations or be of greater complexity impacts a greater number of stakeholders.

This may include resolving a funding gap in a major county or community initiative or convening a variety of stakeholders to develop a comprehensive strategy to address a complex problem. The scope, timing and/or complexity of “giants” can be unpredictable. In many cases, a county department or community at-large may not have the capacity to meet these challenges head-on.

The question that I have continually asked myself and the governments I have led is: “How should counties respond to the increasing number and complexity of ‘giants?’”

Many, if not most, Michigan counties had Planning and Grant Departments back in the 1970s. When a major source of funding dried up in 1976, some counties (including Kent) eliminated that department. In contrast, Ottawa County kept its department and refocused it over time on issues of wider community and organizational impact. As

the department focused more on tackling countywide issues, the then Planning & Performance Improvement Department was renamed to the Department of Strategic Impact, capably led by Director Paul Sachs.

When I left Ottawa County to join Kent County, I chose to build on this concept with a strategic impact director position. The focus of this position is threefold:

- Secure significant financial resources to help Kent County departments and offices move the needle on major initiatives
- Facilitate improvement of existing, or development of new, initiatives that address significant opportunities and/or challenges in Kent County communities
- Engage with tri-sector stakeholders to ensure Kent County is partnering where needed to achieve our strategic priorities

Kent hired Josh Spencer from the private sector, someone who had experience with grants, major capital campaigns and the development of large initiatives, including the Grand Rapids Promise Zone. In barely 18 months:

- He facilitated the development of a plan for a county-wide backbone non-motorized

trail along the Grand River. The \$60 million project has already secured more than \$30 million in public funding and about \$2 million in private funding.

- He assisted our Community Action Department and Health Department in developing a county-wide lead remediation program and secured a \$2.5 million federal grant to resource the initiative.
- He continues to administer \$108 million in Kent County ARPA funding, a large majority of which was awarded to outside organizations. He has been able to help organizations hone the scope of their projects, overcome hurdles and identify grants and donor sources to fill funding gaps.
- He led development of the first county-wide brownfield redevelopment authority largely driven by new state legislation allowing authorities to incentivize affordable housing development.

Altogether, Josh has assisted in securing more than \$20 million in outside funding for various initiatives.

This is just a short list of some of the initiatives to which Josh has been assigned. A county taking on such a role is a departure from traditional government. However, given the complexity of “giants” and the number of entities working toward solutions, I believe this role is necessary to make our communities a better place to live and to do business. ♦



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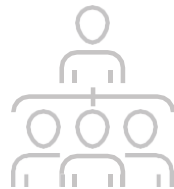
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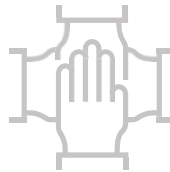
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NRM-12870M5 (01/15)

Rep. Sarah Lightner

LEGISLATOR
Q&A

What is the most pressing issue facing Michigan?

The cost of living everyday life! Everything has gone up in price: fuel, food, medication, you name it. We need to do better as a state so that people can keep more of their paychecks and provide a safe and secure environment to live, work and play.

Based on your experience, how important are counties to the effective delivery of public services?

Counties provide multiple services that touch our everyday lives. Locally elected officials are closest to the people and know what their communities need. Public safety is at the top of the list when it comes to services that are provided at the county level. Then, there is infrastructure, local roads and bridges. We want to make sure there is money to provide for safe roads! There are numerous health care services and social services provided by counties as well. The counties I represent have been fiscally responsible with their budgets to make sure such essential services are provided to my communities, and I appreciate their initiative and effort in doing so.

How do you feel your experience as a county commissioner impacts your policy decisions in the Legislature?

Having board experience and a working of how government works at the local level helps when you get to Lansing tremendously. Being a county commissioner, I was able to sit on a MAC committee that dealt with state policy and updates. Eventually, I went on to chair that committee. That is when I expanded my network and got a better understanding of who the stakeholders were for issues and which legislators specialized in such subjects.

I also was appointed by Gov. Rick Snyder to the Criminal Justice Policy Commission to review and make recommendations on policy changes. That gave me a little taste of being a policymaker at the county level.

You can make the best out of being a county commissioner just by being involved

and expanding your network. Accordingly, when I was elected to the Legislature, I was equipped to navigate the ins and outs of Lansing.

As minority vice chair of the House Appropriations Committee, what are you hoping to accomplish throughout the remainder of this term?

Being in the minority, I have minimal control over the agenda. Nonetheless, there are still some issues we need to work on, such as additional funding for infrastructure, mental health and school safety, and continuing to try to pass tax policy reform. People need to be able to keep more of their paychecks and not have the government spend them for them!

As you know, counties rely heavily on the Legislature to appropriate revenue sharing funds. How important do you think it is to tie revenue sharing to growth in the state sales tax, as laid out in the Revenue Sharing Trust Fund legislation?

Revenue sharing has been a point of contention for a while. This reform is needed so that counties can rely on support in funding the essential services in our communities. It ensures that we have funding for public safety, roads, community health and numerous other functions in local government. Talk about important! ♦



Name:
Rep. Sarah Lightner

District/Counties:
45/ Calhoun, Jackson and Kalamazoo

Committees:
Appropriations (minority vice chair)
Appropriations Judiciary Subcommittee (minority vice chair);
Appropriations Corrections Subcommittee;
Appropriations General Government Subcommittee;
House Fiscal Governing Committee

Previous public service:
Jackson County commissioner




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