

# ***MAHONING TOWNSHIP AUTHORITY***

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May 22, 2008

Dear Representative:

The attached information is forwarded to the Sustainable Water Infrastructure Task Force as some possible recommendations. We will have Mahoning Township Authority Chairman, Thomas Mertz present at the May 27, 2008 meeting.

Any questions, please contact the office.

Best Regards

Mahoning Township Authority

**TAXPAYERS BEWARE  
IT'S YOUR MONEY  
MY MISSION STATEMENT  
1971**

**DEVELOPERS SHOULD PAY FOR ALL NEW PUBLIC SERVICE COSTS**

Local government is in a financial predicament. Why? Because landowners and developers, of Housing, Institutions, Industry and Commercial Projects have been cashing in on available public service facilities for years. They have been reaping a windfall at the expense of the public. When existing public service facilities are overloaded and must be expanded, bond issues or loans usually are necessary.

Public facilities are expensive and interest doubles the cost which falls on all residents, OLD and NEW.

Most communities are now in this financial trap for lack of foresight.

**SIMPLE SOLUTION**

The solution is simple. Open and agricultural land requires few public services and reasonable tax rates maintain all public services.

Any rezoning or building permit should carry a fee that anticipates new public service costs for each proposed EDU, because the COSTS for SCHOOL, WATER, SEWER, sanitation, health, RECREATION, library, fire and POLICE PROTECTION, transportation, WELFARE, COURT HOUSE and OTHER PUBLIC SERVICES are very expensive.

These are the costs developers have been passing to the taxpayers. Other costs passed onto OLD and NEW taxpayers are AIR POLLUTION, GROUND WATER CONTAMINATION, ROAD REPAIRS, WATER RUNOFF, NOISE POLLUTION, ENGINEERS and LOCAL INSPECTORS FEES, and LEGAL FEES. INTEREST and GENERAL OPERATIONS COST along with FAULTY or DEFECTIVE FACILITIES COST and all OTHER IMPACT COSTS will be passed on to TAXPAYERS.

PAYMENT in LIEU of TAXES should be collected for NONE TAXABLE PER. PROPERTIES VALUATIONS. Proper allocations of cost of services must be demanded. BEWARE of any MAJOR CAPITAL IMPROVEMENTS!!!!!!!!!!!!

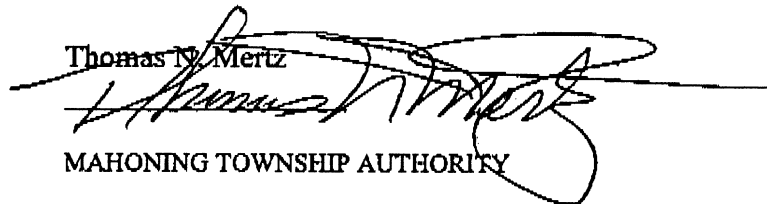
Promises, Promises, Promises.

Why are some Public Officials and other Elected Officials making promises to subsidize all of the above costs?

**I WONDER WHY !!!!!!!!!!!!!!!!!!!!!!!**

**NO PROJECT SHOULD BE TAKEN OVER BY MUNICIPALITY UNTIL 100% COMPLETE.  
TAXPAYER BEWARE IT IS YOUR MONEY THESE PEOPLE WILL FLEECE THE PUBLIC MONEY TREE!**

Thomas N. Mertz



MAHONING TOWNSHIP AUTHORITY

## Check List for developers in Mahoning Township

	Obtain a copy of the "Standard Specifications for Developers for Water and Sewer Systems, Improvements and Additions - Mahoning Township Authority, Montour County, Pennsylvania."
	Obtain a copy of the Rates-Rules and Regulations of the Mahoning Township Authority.
	Submit a "Letter of Intent" stating the quantity of water and sewer capacity desired.
	Submit for approval the name of "Developers Engineer."
	Provide and furnish to the Authority executed Performance and Payment Bonds naming the Authority as "Obligee."
	The Bonds shall be in the amount of One Hundred Percent (100%) of the estimated construction cost or Confirmed Irrevocable Letter of Credit with the Evergreen Clause to secure project.
	Procure all necessary permits and licenses with the exception of the sewer permit, which shall be procured by the Authority.
	Submit for approval the name of "Developers Contractor."
	Submit three (3) sets of preliminary plans to the Authority for Engineering review.
	Commit to an escrow account the sum of ten thousand dollars and no cents (\$10,000.00)
	Submit three (3) sets of detailed drawings to the Authority for Engineering review.
	Submit to the Engineer at least four (4) copies of shop drawings, catalog cuts; etc., for all materials to be used.
	Correct drawings based on Engineers comments.
	Resubmit final drawings (three copies) showing any changes reflected by the Engineer's review.
	Submit all permit applications and required attachments, exhibits, and drawings as required by the Pennsylvania Department of Environmental Protection.
	Commit to an escrow account an amount as determined by the Authority to pay for supervision of construction, inspection, and administrative and legal costs.
	Procure a Water Quality Management Permit.
	Provide and furnish to the Authority certification of the necessary insurance.
	Afford the engineer every facility for inspection of material and workmanship.
	Prosecute the Work in a systematic manner.
	Test facilities as required by the Engineer.
	Maintain all completed portions of the line, whether used by the Authority or not, until the final inspection is made and for a period of two years following acceptance by the Authority.
	No Development will be considered for Acceptance by the Authority until 80% of the lots or units are occupied or connection and tapping fees have been paid for all lots or units.
	Within two weeks after completion and acceptance of the work, the Developer or Contractor shall supply to the Engineer five copies of As-Built Drawings of the completed installation. No permits will be issued until approved As-Builts have been received by Authority.
	Following issuance of an Acceptance Certificate by the Authority, the Authority shall then become the owner of the facilities.

**This list is to be used as a guide only. For detailed instructions, refer to the "Standard Specifications for Developers for Water and Sewer Systems, Improvements and Additions - Mahoning Township Authority, Montour County, Pennsylvania."**

## LEGISLATIVE

## TESTIMONY

# PSATS Applauds Bill to Expand Local Impact Fees But Questions Plan to Consolidate Police Pensions

In recent testimony before state legislators, PSATS took a firm stance for one proposal and against another. The Association contributed language to a bill that would expand townships' ability to levy impact fees on developers and applauded the efforts of the bill's sponsor. A plan to create a mandatory, statewide pension system for municipal police brought a much different reaction, however, with PSATS opposing the bill and questioning many of its components.

BY JENNIFER L. HAWBAKER / ASSISTANT EDITOR

**“The phenomenal residential growth experienced by townships in the last 35 years has created formidable challenges for township governments and their current residents.”**

**S**tate legislators are considering two bills that could impact the financial affairs of townships statewide, one positively and one negatively, and PSATS is working to make sure the concerns of local governments are heard — and heeded.

House Bill 397, now before the House Local Government Committee, would amend the Municipalities Planning Code to expand local government's authority to levy impact fees. Additional fees would help defray the financial strain that new development places on local police, recreation, fire, and emergency services. The bill would also improve municipalities' current authority to levy transportation impact fees.

Senate Bill 596, now before the Senate Finance Committee, would create a mandatory statewide municipal police retirement system, taking away local control of taxpayer dollars.

Both committees recently held hear-

ings on these bills, and PSATS was there to speak on behalf of the state's 1,455 townships and their 5.4 million residents.

## **Impact fees**

PSATS Assistant Executive Director Elam Herr stressed the importance of House Bill 397 in testimony before the House Local Government Committee in November. Townships are growing faster than any other type of municipality, he said, with citizens migrating from urban areas into the more suburban and rural townships.

“The phenomenal residential growth experienced by townships in the last 35 years has created formidable challenges for township governments and their current residents,” Herr said. New residents, he explained, create new demands for paved roads, sewage systems, police and fire protection, recreation, and many other services. Local governments are left wondering how to foot the bill.

★ "Studies have consistently shown that residential growth does not pay for itself in the generation of new local tax revenue," Herr said. "In most cases, the cost of new growth results in higher taxes to pay for services and facilities to serve a growing population."

★ Herr told the committee that planners and other experts believe infrastructure needs should not be an afterthought to new development. Instead, needed improvements should precede new development.

★ "Choices must be made," Herr said. "Either the township must be allowed to require new development to concur with its timetable for infrastructure improvements in accordance with its financial capabilities, or developers must be willing to help finance these improvements through direct contributions or impact fees. Development projects should not be approved unless the infrastructure improvements needed to serve the residents are provided for."

★ While the Municipalities Planning Code does allow local governments to levy transportation impact fees on new development, Herr said, it first requires extensive and cost-prohibitive studies. House Bill 397 would allow townships to use their existing comprehensive plans and maps to justify transportation impact fees instead.

★ The bill would also authorize impact

fees to support local police, recreation, fire, and emergency services, as well as other areas affected by new development. Before levying these "development impact fees," municipalities would have to identify projected capital improvement needs and distinguish current from future needs. Herr noted that this section of the bill is open to interpretation and requires clarification.

★ Herr also suggested that the use of transportation impact fees be expanded to cover costs attributable to traffic passing through the township and questioned whether the definition for "municipal facilities" includes the installation of fire hydrants. "It would be a benefit to townships to have the authority to levy impact fees for these purposes," Herr said.

★ "The sponsor of House Bill 397 (Rep. Scott Petri, R-Bucks) should be applauded for his work on this important issue," Herr added. "We support House Bill 397 and thank the sponsor for incorporating several of our suggestions into this legislation."

★ Those suggestions included eliminating the requirement for costly studies before levying transportation impact fees, increasing township representation on local impact fee advisory committees by reducing representation from the building industry, and clarifying the definition of "capital improvement costs."

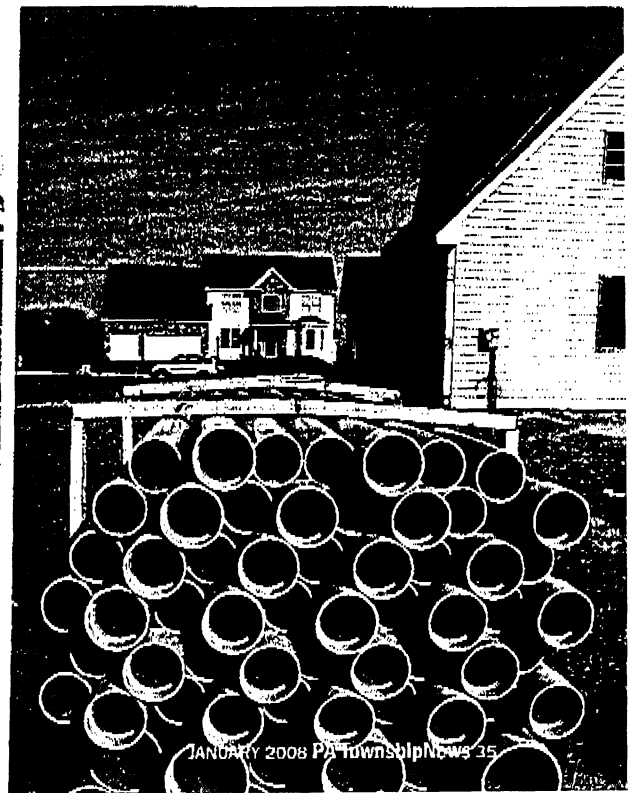
## Statewide police pension program

In 2003, PSATS members adopted Resolution 03-54: "Resolved, that PSATS oppose legislation to establish a mandatory, single state pension system for municipal employees, to require the mandatory participation of local government employees in the system, and/or to remove from local control the administration of local pension and benefit plans."

Such legislation is now under consideration in the state Senate. Sen. Jane Clare Orié (R-40, Allegheny/Butler) has introduced Senate Bill 596 to create a statewide, mandatory police pension system. Herr opened his testimony on this bill before the Senate Finance Committee in October by saying that the Association's members have long opposed any such proposal.



**The impacts of new development can stretch township budgets to the breaking point. In recent testimony before state legislators, PSATS urged the passage of House Bill 397, which would allow municipalities to levy additional impact fees to help pay for local police, fire, and recreation services.**



LEGISLATIVE

## TESTIMONY

# Legislation Could Spell Relief for Townships with Tax-Exempt Property

PSATS is supporting a bill that would dedicate proceeds from the state's liquor tax, which was originally enacted to help rebuild Johnstown after the 1936 flood, to municipalities that find themselves flooded with tax-exempt property.

BY JENNIFER L. HAWBAKER / ASSISTANT EDITOR

**N**onprofit hospitals, churches, libraries, and schools can be an asset to any community. However, there's a flip side to the bonuses they bring: As tax-exempt properties, they deprive their home municipalities of much-needed revenue — sometimes to the tune of hundreds of thousands of dollars each year.

It's a problem for cash-strapped communities statewide, but several legislators have come up with a solution that PSATS supported in recent testimony before the House Local Government Committee.

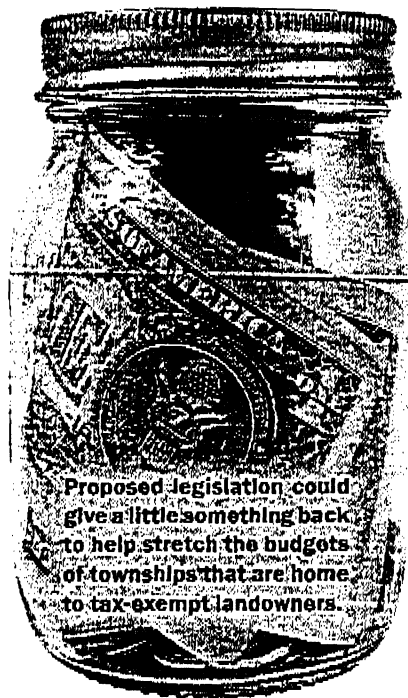
Under House Bill 2018, funds collected from the state's 18-percent tax on the sale of liquor and wine would go to

municipalities where at least 17 percent of the total assessed property value is tax-exempt. The liquor tax generates about \$240 million each year and now supports the state's general fund.

### Assessing the problem

In testimony on behalf of the State Association, PSATS Assistant Executive Director Elam Herr said this revenue shift would help townships deal with a common complaint. "Nearly every municipality in the commonwealth has some type of tax-exempt property within its jurisdiction," he said. "This issue cuts across all sizes and types of municipalities."

The problem, he said, is that townships must provide services to these entities without the benefit of tax dol-



**"Fewer taxpayers are supporting more expensive services, and their burden continues to increase to the benefit of the tax-exempt special interests."**

# TESTIMONY

lars to pay for them, and the situation is only getting worse. The number of tax-exempt properties has ballooned, Herr said, because the legislature has granted so many exemptions over the years. "Consequently," he said, "fewer taxpayers are supporting more expensive services, and their burden continues

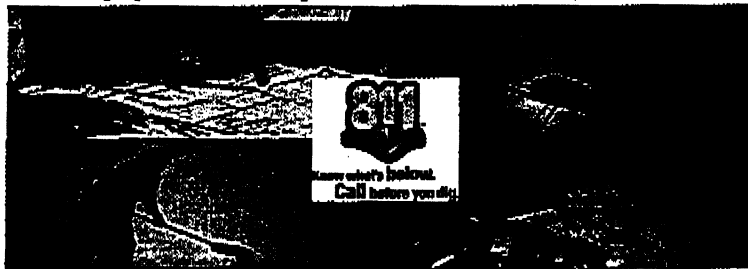
to increase to the benefit of the tax-exempt special interests.

"If state or federal government passes a law to exempt an entity from local taxes," Herr said, "it should provide in-lieu-of-tax payments to compensate for the loss of tax revenue." He also suggested that the state periodically review tax-exempt properties to make sure their use still warrants that special status and determine which organizations should be included in that category.

The legislature should also re-exam-

ine the number of tax-exempt entities that qualify under the umbrella of an institution of purely public charity," Herr said. "While we agree that entities serving a clear public benefit, such as volunteer fire companies, public libraries, and public parks, should be tax-exempt, is it fair for these same benefits to apply to a private college or other charitable institutions that serve a narrow constituency and charge substantial fees for services? Perhaps required payments in lieu of taxes or a reduced assessment could be a solution."

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## Finding relief

Under House Bill 2018, the state would use a formula based on the total assessed value of tax-exempt property in a municipality to determine the liquor tax distribution. No municipality could get more than 10 percent of the total.

While PSATS supports this concept, it does question one aspect of the proposal, which states that a municipality may not receive payment in lieu of taxes from a government entity while also receiving payment under this bill for the same property. Herr sought clarification on this issue but also stressed the State Association's overall support of the bill.

Rep. Robert Freeman, chairman of the House Local Government Committee and the bill's primary sponsor, is adamant that local governments need some relief to make up for their financial losses from tax-exempt properties.

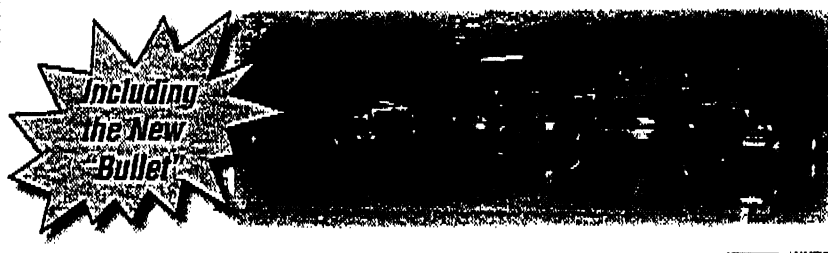
"In 1936, the legislature enacted the 18 percent Johnstown Flood tax to provide much-needed relief and revitalization to a community devastated by a natural disaster," Freeman said during the hearing. "The revenues from that tax are now needed to come to the assistance of communities across Pennsylvania overwhelmed by the flood of tax-exempt properties within their borders." ◆

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## Find bills online

TO VIEW House Bill 2018, log onto [www.legis.state.pa.us](http://www.legis.state.pa.us). Click on "Session Information," and on the next screen, under "Bill Information," type in the bill number and click "Go."



# LEGAL BRIEFS

The cases in this column are summaries of articles from recent issues of *The Township Solicitor* newsletter, compiled by Jeffrey C. Clark, Esq., an attorney with the Association's law firm, Wix, Wenger and Weidner Townships should consult their solicitors for more details on how these cases will affect them.

*Repeal.*  
 ★ **Prevailing Wages**  
 Court Says Road Milling and Resurfacing Are Subject to the Prevailing Wage Act

A recent Commonwealth Court decision could stress already tight municipal road budgets even further if it is not reversed by the state Supreme Court on appeal.

In *Borough of Youngwood v. Pennsylvania Prevailing Wage Appeals Board*, 938 A.2d 1198 (Pa. Commw. 2007), the borough milled and resurfaced five streets at a cost of about \$183,000, with \$71,000 paid from liquid fuels funds. The borough characterized the resurfacing as "maintenance" and therefore determined that it was not subject to the Prevailing Wage Act, which requires that all workers on a "public work" project must be paid a minimum wage as determined by the state Department of Labor and Industry.

The act defines "public work" as "construction, reconstruction, demolition, alteration, and/or repair other than maintenance work" that is done under contract, is paid for in whole or in part with public funds, and costs more than \$25,000. "Maintenance work," which is exempt from prevailing wage requirements, is defined as "the repair of existing facilities when the size, type, or extent of such facilities is not thereby changed or increased."

In determining that the roadwork was maintenance, the borough had relied on a publication from the state Department of Transportation on the administration of liquid fuels funds. The publication also contained a memorandum of understanding between

PennDOT and the state Department of Labor and Industry that said black-top paving up to 3½ inches thick laid on top of asphalt, cement concrete, or another hard surface was classified as maintenance.

After the borough completed the project, the state Department of Labor and Industry's Bureau of Labor Law Compliance concluded that the major portion of the project, the milling and resurfacing, was reconstruction, and not maintenance. Therefore, it said, the minimum wage requirements of the Prevailing Wage Act applied.

The department had abandoned the provisions of the memorandum of understanding in January 2005, it said but acknowledged that it did not inform PennDOT of this action until the fall of 2005, after the Youngwood project had been completed. L&I also claimed that the borough could not rely on the publication's guidelines because it had not been a party to the memorandum of understanding.

The borough appealed the decision to the Prevailing Wage Appeals Board which upheld L&I's interpretation, and then to the Commonwealth Court. December 24, 2007, the court agreed with the appeals board decision and held that the work could not be defined as maintenance and, therefore, was subject to prevailing wage requirements.

The court addressed two issues: first whether the resurfacing work was "maintenance" within the meaning of the Prevailing Wage Act, and second, if so, whether the borough was entitled to rely on the contents of the joint memorandum.

On the first question, the court found little precedential guidance b

Local officials may be understandably surprised and disappointed to learn that they **may not rely on state publications** because they were not a party to the documents they are based on.