



# Legislative Update

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## Court Allows Straight-Ticket Voting to Remain for Now

Straight-ticket voting will remain an option in Michigan for the upcoming November election.

Straight-ticket voting, allowing a voter to select a single party's entire slate with one notation, has been available in Michigan since 1891. In January, the Legislature passed a law to ban straight-ticket voting, arguing that it would help create a more informed electorate if voters had to vote for each individual candidate.

The new ban was challenged in federal court, with opponents of the ban arguing that it would create longer voting lines and people, particularly minority voters, would

be discouraged from voting.

The U.S. District Court granted a preliminary injunction of the ban, citing a possible violation of the Voting Rights Act. The injunction would keep straight-ticket voting as an option for the upcoming November election.

The State of Michigan unsuccessfully requested the ban remain in place for the November election until a final decision

is reached on the validity of the ban, but the U.S. Supreme Court disagreed, so straight-ticket voting will still be available for the November election. The appeal of the ban will now go back to the lower courts to fully decide the issue for future elections.



## Recording Fees to Change October 1

Public Act 224 introduces a flat fee of \$30.00 for recording documents, regardless of the number of pages. The new law was signed by the Governor in June and goes into effect on October 1.

Previously, the fee for the first page of a document was \$10.00 to file, and each additional page was \$3.00

to file. The new law is intended to make recording documents simpler and reduce filing rejections for incorrect fees, which

often occur when a page is added or removed from a document or when a simple miscalculation is made.

Based on the previous fees, the new flat fee would make recording documents with fewer than eight pages more expensive and recording documents with eight pages or more less expensive.



PA 224 also adds a \$5.00 fee for certifying a recorded document and removes previous fees for filing and sealing.

# Notice for Certain Property Entry Now Required

Public Act 171 of 2016 (formerly House Bill 4656), introduced by Representative Joel Johnson (R-Clare), was signed by the Governor in June and took effect on **September 12, 2016**.

“HB 4656 came to us from constituents in our district who were not notified of certain drain maintenance projects happening on their property until equipment arrived and the work had begun,” Johnson said.

PA 171 amends Chapter 8 of the Drain Code by adding a new Section 201. Section 201 requires written notification be sent to property owners by first-class mail for expected entry onto their property for any excavation or tree removal performed under Chapter 8. The notice must be mailed at least seven days in advance.

Two exceptions exist for the new notice requirement—when excavation or tree removal is performed under emergency maintenance and when excavation or tree removal is performed as part of an obstruction removal on a natural watercourse as landowner permission is already required.



Drain Commissioners or Drainage Boards may also obtain permission from landowners who agree to waive the notice requirements of the excavation or tree removal on their property.

MACDC provided both notice and waiver of notice forms at the Summer Drain Conference. Additional copies can be obtained by contacting [LDutcher@fsbrlaw.com](mailto:LDutcher@fsbrlaw.com).

## LEGISLATOR SPOTLIGHT

### Representative Rick Outman (R—Six Lakes)



**Representative Rick Outman**

State Representative Rick Outman represents the 70th House District, which includes Montcalm County and portions of Gratiot County. He is in his third term and serves as a member of the Committees on Agriculture, Communications and Technology, Energy Policy, and Veterans Affairs.

As the owner of Outman Excavating, an excavating company based in Six Lakes, Outman has spent a large portion of his life working on county drains.

“I consider county drains and county drain commissioners to be a critical public utility system in the state of Michigan. Drains, in most of our state, are fundamental infrastructures whereby agricul-

ture, commercial/industrial and residential development could not exist without it,” he said.

Rep. Outman noted that “when it comes to water management and the quality of water we have in Michigan, it is our elected county drain commissioners that make the difference.”

“The challenge, however, in other less agricultural areas, is increasing awareness among those residents and elected officials about the importance of drain commissioners,” he said.

Rep. Outman is a member of the Montcalm County Farm Bureau, and serves on the Board of Directors for the Montcalm County Soil and Conservation District.

# Legislation of Interest to MACDC

The following bills of interest to Drain Commissioners and Associate Members are currently pending before, or recently passed by, the Legislature.

Full text and up-to-date action for each bill can be found online on the Legislature's website at [www.legislature.mi.gov](http://www.legislature.mi.gov).

## **PUBLISHING LEGAL NOTICES**

House Bill 5522, introduced by Representative Lucido (R-Shelby Township), would allow fees for publishing a legal notice to be adjusted annually for inflation, based on the Consumer Price Index.

The bill also applies to orders, citations, summons, advertisements, and other matters arising out of judicial proceedings required by law to be published in a newspaper.

Under the current law, fees were adjusted for inflation starting March

1, 2008, but only for a period of five years. House Bill 5522 removes the five-year period.

*HB 5522 was reported from the Committee on Judiciary on September 13, and awaits a vote in the full House.*

## **OPEN MEETINGS ACT**

House Bill 5778, introduced by Rep. Martin Howrylak (R-Troy) would amend the Open Meetings Act (OMA) to clarify the remedies available for violations of the Act. The bill clarifies that past violations of the OMA are treated the same as present or continuing violations, and that a public body can be sued for: 1) a declaratory judgment that the public body violated or is violating the Act or 2) mandamus or injunctive relief to compel compliance or stop noncompliance with the Act.

HB 5778 would also change where

a claim can be brought. Actions for declaratory judgment and injunctive relief would be brought in the Court of Claims; actions for mandamus would still be brought in the Court of Appeals. The bill would also set a one-year statute of limitations for a civil action under this section, running from the date of the violation that gave rise to the cause of action.

*HB 5778 was referred to the Committee on Judiciary on July 13, 2016.*

## **FOIA LAWSUITS**

House Bill 5826, introduced by Rep. Klint Kesto (R-Commerce Twp.), would amend the Freedom of Information Act (FOIA) to prohibit a public body receiving a FOIA request from commencing a civil action under FOIA against the person who requested the information.

*HB 5826 (H-1) passed the House on September 22, 2016.*

## Court Sends PA 222 Claim Back for Further Review

In *Travelers Property Casualty Co. of America v. City of Grand Rapids*, an 8-inch pipe failed, causing the street outside an apartment building to collapse. The same day, two Calvin College apartment buildings were flooded with sewage and/or water, causing over \$400,000 in remediation expenses.

Calvin College's insurer sued the City of Grand Rapids under the Public Act 222 exception to gov-

ernmental immunity, claiming that the City knew or should have known of the broken pipe and failed to repair it in a reasonable time.

The City argued that it did not know or should not have known of the broken pipe, and that the broken pipe was not the proximate cause of the flooding event (because rain may have played a significant role).

Expert testimony on the pipe's

condition before the event was not conclusive enough for the trial court to grant summary disposition for either side on the issue of knowledge, and the issue of proximate cause similarly left questions of fact remaining.

Both parties appealed, but the Court of Appeals affirmed the denial of summary disposition and remanded it back to the trial court for further proceedings to determine the facts of the case.

## Water Quality Alliance Would Provide New Monitoring

House Bill 5403, introduced by Rep. Kurt Heise (R-Plymouth Charter Township) would provide a new option for two or more municipalities, counties, county agencies, or other public bodies to jointly monitor water quality within the jurisdiction of the member entities.

The water quality alliance would be voluntary and would be established by resolution of the governing body of each participating member entity. Beyond monitoring water quality within its jurisdiction, the water quality alliance could also sample water bodies and use water quality data to identify contamination and contamination sources, and inform the public of its monitoring program and the sampling and analyses of water quality data.

The water quality alliance can also share water quality data with other governmental agencies, colleges and universities, and other persons for scientific, environmental compliance, and educational purposes.

A water quality alliance would be its own organization, with the ability to hire employees, enter into agreements and contracts, assess and collect membership fees (from member entities, not from individual property owners), and expend funds, among other actions. It would also be subject to reporting requirements detailing revenue received and expenses made.

**House Bill 5403 was referred to the House Committee on Natural Resources on March 1, 2016.**

### COMMITTEE SPOTLIGHT

### House Judiciary Committee



**Chairman  
Klint Kesto**

**Committee Members**

- Chair Klint Kesto (R-Commerce Township)
- Maj. Vice-Chair Peter Lucido (R-Shelby Township)
- Kurt Heise (R-Plymouth Township)
- Joel Johnson (R-Clare)
- Martin Howrylak (R-Troy)
- Triston Cole (R-Mancelona)
- Jim Runestad (R-White Lake)
- Min. Vice-Chair Irwin (D-Ann Arbor)
- Rose Mary Robinson (D-Detroit)
- Stephanie Chang (D-Detroit)
- Vanessa Guerra (D-Saginaw)

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- N-890 House Office Building
- S-1389 House Office Building
- N-893 House Office Building
- S-987 House Office Building
- S-588 House Office Building
- S-685 House Office Building
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Currently scheduled meetings are available at: [www.legislature.mi.gov](http://www.legislature.mi.gov)

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**The Michigan Association of County Drain Commissioners is dedicated to safeguarding the health, safety, and welfare of Michigan's citizens through the protection of property, surface waters and environment. We seek to accomplish these goals by providing storm water management, flood control, drainage, development review, and water quality programs.**

**We're on the web!**

**[www.macdc.us](http://www.macdc.us)**