



Fahey Schultz Burzych Rhodes

4151 Okemos Road
Okemos, MI 48864 USA
fsbrlaw.com

Township Law *E-Letter*

Assessing Reform Under New Michigan Law – PA 660 of 2018

For years, the State Tax Commission (STC) used a “14-point review” evaluation process to enforce statutes, administrative rules, and court decisions on the local townships, counties, and cities. A common complaint about the 14-point review was that the state standards were not clear, making compliance difficult. The 14-point review was replaced with the Audit of Minimum Assessing Requirements (AMAR) review about five years ago. AMAR was met with mixed responses, but Treasury data shows that the AMAR standards weren’t being met across the board.

Public Act 660 of 2018 became a law on December 28, 2018, after unanimous support in both the Michigan House and Senate. The Act is the latest step in State oversight in local assessing.

EVOLUTION OF REVIEW

Only 10% of all 1,528 assessing jurisdictions met all eight of the AMAR’s key factors, and roughly 50% were rated as deficient in at least three. “*Improving Michigan’s Property Tax Assessment*,” Sen. Jim Stamas, Rep. Jim Lower, State Treasurer Nick Khouri, Aug. 28, 2018, presented at three public meetings to hear comments on Treasury’s 2018 *Proposal to Reform and Regionalize Property Assessing*.

The State Treasurer suggested the problem was too many assessment districts. The recommendation and original intent of PA 660 was to consolidate districts and regionalize boards of review. This was met with strong opposition. Local township supervisors and assessors overwhelmingly supported the need to correct the widespread problems but disagreed that consolidation and regionalization were the answers.

Local officials asserted that the problems were due to many contributing factors, including lack of assessors and training (due partially to not enough resources at the local level and low compensation). An already small pool of assessors could shrink even further, as some assessors may choose to retire or change professions in lieu of dealing with all the new oversight. This is a problem that was addressed during the process, but without a solution so far.

THE ACT AND WHAT YOU MUST DO TO COMPLY

After numerous public comment sessions, Michigan Township’s Association opinions, and other interested party input, many changes were made to the proposed statute before the final version was signed into law.

PA 660 requires assessing districts to substantially meet the AMAR standards before being subject to STC audit beginning on December 31, 2021. Substantially meeting the standards means that any identified deficiencies do not pose a significant risk that the local unit is unable to perform the assessment function in conformity with the state constitution and state statutes.

Townships must employ or contract with an assessor of record who oversees and administers an annual assessment of all property liable to taxation in the township in accordance with the constitution and laws of this state.

Therefore, townships should adopt a policy statement or add language to the assessor's job description stating clearly that:

1. No later than December 31, 2021, the assessor shall document to the board substantial compliance with the statutory assessing performance standards provided for in PA 660 of 2018.
2. The assessor shall periodically document continued substantial compliance with PA 660 of 2018 performance standards in accordance with board monitoring and evaluation schedule.
3. Substantial compliance with PA 660 of 2018 performance standards is a condition of the assessor's employment.

Townships should develop the monitoring and evaluation schedule with the township assessor to monitor progress and adherence to assessor compliance requirements.

Greater transparency is also required under the Act. The assessor's office must be reasonably accessible to taxpayers. The new act requires governing boards to adopt a policy that is to be included in assessing notices, specifically designating by name, telephone number and email address at least one employee in the assessor's office to whom taxpayer inquiries may be submitted directly. The township must give an estimated response time for taxpayer inquiries of no more than seven business days.

Township boards should adopt a resolution making clear their expectation for the assessor to respond to public contacts and information requests. Townships should train every member of the township board on how to effectively oversee assessment administration and monitoring. Assessing staff must be trained to respond to taxpayer inquiries, assessors must maintain certification levels, and board of review members must receive training and updates approved by the STC. Therefore, training materials and courses will be necessary, and the higher costs should be considered in the budget.

If the township is in an area with broadband internet, taxpayers must be provided online access to information regarding parcel information, land value studies and documentation, and economic condition factors. Townships with high-speed internet capability that are not currently posting their valuation information online should contact their assessing software provider and install links to the data on the township website.

CONSEQUENCES OF NONCOMPLIANCE

Substantial noncompliance would prompt a remedy process, with an option to appeal at each step. Following a notice of noncompliance from the STC, the township has 60 days to file a corrective action plan. The STC must approve the plan or request changes within 60 days after it is filed. The township's board has one year to correct the problems.

Ultimately, a township could lose its ability to choose its assessor or lose its assessing authority all together. If the township is found to have not made adequate progress towards correcting deficiencies, the township would be required by the STC to discharge its assessor and either hire a level 3 or level 4 assessor or contract with another qualified local unit.

A township can be required to contract with the “designated assessor” (a person qualified to assume the assessing authority for any township within the county) of that county, who will be the assessor of record for that township in the following circumstances:

1. Failure to submit a corrective action plan in a timely manner
2. If the township remains out of compliance for the second year
3. Failure to make a good-faith effort to comply within a reasonable time
4. If the township falls out of substantial compliance within five years of achieving compliance pursuant to the corrective action plan. (If found to be out of compliance within four years of achieving substantial compliance, the condition will be treated the same as a new noncompliance.)

A township contracting with a designated assessor relinquishes assessing authority; however, it will continue to be responsible for the costs of assessing. After three years with a designated assessor, the township can petition the STC to have its assessing authority returned but will be obligated to remain with the designated assessor for at least five years unless the STC and the designated assessor agree to a shorter term. The STC has the authority to resolve disputes.

CONCLUSION

Instead of immediate, forced consolidation and regionalization, the State has given the local assessing units the chance to keep the assessing power local. Townships may find themselves unable to fund the potentially higher assessing costs. Some may consider the possibility and potential advantages of forming a multi-assessing district board of review. Consult your township attorney to help navigate all these new changes and the challenges they present to the road ahead.

-- Zacharie Stephen

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