

2018 Legislative Wrap-up Report



Grassroots
Government
Minnesota
Association of Townships

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Introduction

The 2018 legislative session convened Tuesday, February 20 and adjourned at midnight Monday, May 20, 2018. The House introduced 1,820 bills, and 1,669 bills were introduced in the Senate in 2018. However, because this was the second year of the two-year legislative term, all the bills introduced in 2017 were also available for legislative action. Of these combined 3,489 pieces of legislation introduced in 2018, the Legislature sent 115 chapters of law to the Governor, although several were Omnibus bills containing many provisions from the stand-alone bills. Of the 2018 Regular Session bills presented to the Governor, 15 were vetoed in full and 1 received line item vetoes.

What follows is a summary of the Regular Session 2018 Session Laws (identified by their Chapter Numbers) that have a direct impact on townships, a discussion of how these new laws fit MAT's legislative policies and its 2018 legislative agenda, and some broader commentary from MAT staff as well as an overview of what the next steps may be on each issue. This summary reflects all bills passed and signed into law as of May 21, 2018. A complete list of the 2018 Session Laws, can be found at: <https://www.revisor.mn.gov/laws/current/>.

Remember MAT's legislative objectives are driven by resolutions introduced by individual townships or their county units of townships, or from district meetings, and then approved at the annual business meeting of MAT during the Annual Conference.

I. Annexation

MAT's annexation policies call for a fair and equitable process under which townships and their residents have a right to be heard, have their input be properly considered, and be on equal footing with cities. MAT supports the use of Orderly Annexation agreements when an annexation is to occur. MAT's 2018 annexation goals were: (1) to protect orderly annexation agreements from interference from cities not party to the agreement; and (2) reform the detachment process to provide a process by which townships could remove or 'detach' qualifying properties from a city back into the township in a way like the cities' power of annexation by ordinance.

- A. Orderly Annexation Protection:** MAT's orderly annexation bill (SF 1749 / HF 1995) would have added language to the existing orderly annexation statutes to make clear that property subject to an orderly annexation agreement could not be annexed by a city that was not part of the orderly annexation agreement. In short, this bill protects the annexation contracts between townships and cities. This language is needed because a new Court of Appeals decision held the existence of an orderly annexation agreement does not prevent a third-party city from annexing the property subject to the orderly annexation agreement. While this decision is being appealed to the State Supreme Court, MAT wishes to ensure the orderly annexation statute protects the agreements made between towns and their neighbors.

The Senate heard our Orderly Annexation bill late in the session, which led to conversations on the inequality of the annexation statutes. Legislators were concerned that residents had little to no influence in some annexation laws. Since so many lawmakers are not in communities in which annexation is used, there is a great deal of education left to be done. Given lawmakers' interest in examining the annexation statutes and offering more input for landowners, we believe this issue will continue to be discussed.

- B. Detachment:** Current detachment law allows either a city or a property owner to start the process of returning or "detaching" city property to the neighboring township. The law does not allow the township to begin the process. MAT seeks detachment reform that allows townships to begin detachment when certain conditions are met. For example, property that was annexed into the city but has not received city services after a fair period of opportunity for the city to provide such services, should be subject to detachment by the township because the property has not benefited from the annexation. This and other conditions would offer cities a fair chance to include annexed parcels in city services, but prevent annexations that are merely property tax-grabs.

MAT presented the issue of detachment reform to committees in both the House and Senate and found some possible bill authors. Legislators are beginning to see the reforms proposed are based on fairness to all parties and that no party should be rewarded for annexations that provide no new services to the annexed parcels while increasing the parcel's taxes.

- C. Future Action:** MAT is already working with the Senate Local Government Committee on our Orderly Annexation bill, which we expect will be re-introduced in the 2019 legislative session. Several Senators and Representative expressed interest in examining the other parts of the annexation chapter, as well, and MAT will continue to seek equitable reforms to the annexation laws.

II. Environment

It was a quiet year for township-related environment bills, as the only laws passed in this area related to spending for a variety of water quality purposes. The Legislative Citizen Commission on Minnesota Resources (LCCMR) and Bonding bill both contained water quality funding from the Environmental Trust Fund, so the two bills were combined this year into Chapter 214. (HF4425). The spending allocations include:

- \$6.7 million for the Local Roads Wetland Replacement fund (also discussed in transportation section)
- \$25 million to the Public Finance Authority (PFA) to be made available to municipalities for drinking water systems
- \$14 million to the PFA to match Federal funds for the Clean Water Revolving Fund, which is used for water infrastructure projects
- The LCCMR must consider recommending up to \$10 million for grants and up to 5% of the total value of the trust for loans to towns and cities under 5,000 people for wastewater treatment projects

- A. Municipal Storm Water (MS4):** Legislators delivered on their attempt to reform the municipal storm water control (MS4) law to exempt non-urbanized portions of townships from the MS4 requirements. The reform language was included in the Omnibus Supplemental Finance bill (HF4099/SF3656), that was vetoed by the governor. However, this issue was not controversial, and we believe the same language can be passed in 2019.

- B. Culvert Replacement:** Efforts to create a culvert replacement fund were discussed in the House Legacy Committee (HF717 - Rep. Green), but the Senate companion bill (SF 643 – Johnson) did not receive a hearing this year. With it being a short session, the legislators heard very few bills in committee and this issue was not one they were interested in pursuing in the 'short' session.

- C. Noxious Weeds:** MAT has long supported funding for the noxious weed program and to assist with abatement efforts. MAT has a delegate on the Noxious Weed Advisory Council and participates in the review and updating of the noxious weed classifications and identification list. MAT continues discussions on how to handle weeds on State-owned property.

The noxious weed law already includes a procedure to demand landowners, including the State, control their noxious weeds. The law also contains a process for collecting costs from the State if the State fails to control noxious weeds after being ordered to do so by a weed inspector. The later steps in the process provide that the State Commission of Agriculture can order other State agencies to pay for noxious weed abatement performed by weed inspectors. After inquiring about the Dept. of Agriculture's willingness to use this power, the Department indicated they were not likely to order other Departments to pay claims for noxious weed abatement. While the Department of Agriculture has discretion in this matter, we believe their current stance renders the law toothless. However, the Department of Agriculture suggested they would help townships if the State is not complying with their noxious weed obligations. MAT asks townships to use this process and tell us how well it works. This will help us determine our needs on this issue.

III. Government Operations

MAT's Government Operations issues are broad-ranging and amount to a catch-all category of items that don't fit well in other categories.

- A. Broadband:** For several years the Legislative and Research Committee has indicated broadband is a co-top priority for townships, along with transportation needs. MAT had two primary goals related to broadband funding this year: (1) maintain or increase the \$35 million per year matching funding provided in the State Broadband Grant Program; and (2) maintain the focus of broadband funding to "unserved" areas, which are mostly townships. More broadly, MAT believes Minnesota's township residents should have the same access to reliable, affordable, and unlimited broadband service that is commonly available in population centers.

The Broadband program was funded until the end of 2018. MAT again tried to get additional money to the program for this legislative season with the surplus that was predicted from the Department of Revenue. MAT continued with the same policy of unserved areas should have priority. Broadband funding was in the Omnibus Supplemental Finance bill (Chapter 201; HF4099/SF3656) that was vetoed by the governor.

- B. Elections:** MAT supports collaborative efforts with the Secretary of State and other election administrators to review elections laws to ensure fair and secure elections in a manner that can be administered without excessive burden on election officials or undue costs to local governments. MAT supports a State funded source of revenue to offset the cost of new election equipment, a goal partially met in the 2018 Omnibus State Government Finance Bill.
- 1. Technical Changes:** The 2018 Omnibus Elections bill (HF3221/SF3021) which did not pass, included many technical changes. For example, it would have allowed towns located in the metro area with under 400 people to adopt mail-in balloting, provided absentee balloting in person 30 days prior to the March elections, added electronic voting machines for voting booths, and a repeal of the 2017 law requiring townships to designate their polling location each year. Many of these were requested by the Secretary of State and County Election Officials to improve accuracy of reports and data.
 - 2. Referenda & Special Election limitations:** MAT successfully defended against a proposal that would have limited townships' abilities to hold special elections and referenda. While special elections are rare in townships, townships are more frequently required to hold referenda on Subordinate Service Districts (SSD) and bonding requests. The proposed legislation was incorporated into the House version of the Omnibus Tax Bill (HF 3435) and would have prohibited townships from holding referenda or special elections on any day other than the even-numbered November election days. In the case of a Subordinate Service District, it means the special taxing district requested by voters (as all SSD's must be) could take up to two years to form. At our request, the Conference Committee Conferees removed the language.
 - 3. Election Security:** Along with other local governments and interest groups, MAT supported the Secretary of State's request to transfer \$1.5 million of Federally-provided funds currently sitting in a State account to election security funding. The funds are a grant from the Federal government used to help secure our elections with the stipulation that the state must match the funds. The \$1.5 million would have been part of the match. The issue was not controversial, but the funding was placed into the Supplemental Budget bill which was vetoed.
- C. Municipal Contracting Law:** For contracts made after August 1, 2018, townships will not be required to use sealed bidding unless the contract value is expected to exceed \$175,000. This increase recognized that the typical value of municipal contracts has increased significantly, due in part to inflation, since the Municipal Contracting law was last updated. Towns may use written quotes for contracts expected to cost between \$25,000 and \$175,000.

- D. **PERA Policy Change:** Township officials are now able to collect PERA retirement benefits without retiring or resigning from public office. (HF3053) Before this change, town officers were required to separate from all employment before being eligible to receive PERA. This made little sense as town officers are part-time officials performing a public service.
- E. **Food Shelves:** Town boards may now contribute funds to local non-profit food shelves that provide food to “needy people without charge”. (HF2364) While counties and cities have been able to contribute to local food shelves for a long time, townships were left out of that authority. This power does not require voter approval at an annual meeting, so the town board supervisors decide the amount they wish to contribute.

IV. Taxes, Bonding & Aids

Townships are heavily dependent on property taxes, amounting to about 75% of town revenue. This is not a sustainable financial system. That is one reason MAT strongly supports full funding for the Townships Aid program, which was not included in this year’s omnibus supplemental budget bill.

- A. **Loss of Tax Base:** When the State acquires property that becomes non-taxable, towns must be held harmless and be able to provide the same services to our residents without raising our property taxes. Currently, the remaining taxable properties end up paying more for the shortfalls created by loss of tax base. MAT supports funding for the Payment-In-Lieu-of-Taxes (PILT) program to ensure townships are made whole, dollar for dollar. However, some townships have found their PILT payments reduced after about 5 years when the non-taxable land is reassessed and declines in value.

As possible addition to PILT, MAT supports No Net-Loss of Tax Base options, which were introduced in 2017 as House File 143 and Senate File 372. This plan would allow each county board to decide if they would issue a No Net-Loss ordinance, which would freeze the amount of non-taxable land in the county at the current amount. Where a No Net-Loss policy is in place, if land is to become non-taxable, an equal amount of similar land must be sold to become taxable. While this method does not restore tax base already lost, it does hold it at the current amount, so no further harm can be done.

Another alternative to PILT, is MAT’s 30-Year Tax Plan, introduced in 2017 as House File 586 and Senate File 1005. This plan proposes that if land is to become non-taxable, 30 years’ worth of property tax payments be invested into a fund managed by the State, and that the interest generated on the fund would pay the township the full amount of taxes due on the property every year. This plan provides a dollar-for-dollar match of tax base but still allows property to become non-taxable. The primary question has been who pays the tax trust amount. Suggestions include payments from the State’s General Fund, payments from the State’s Legacy Fund, and payments by the seller and/or purchaser.

Legislators have taken a surprising interest in this issue in 2018 as they are beginning to see how much land is non-taxable in some counties. Over the interim we will be having the discussion on how to protect our townships from more land loss, or at least how PILT can help bridge the gap.

V. Transportation

MAT’s general policy on Transportation supports a comprehensive, sustainable, and preferably constitutionally dedicated source of funding. This would help reduce strains on local property taxes, it would help improve public safety, and help sustain economic growth in the State. MAT supports a reasonable increase in the gas tax, adjustment of tab fees and the depreciation schedule, maintaining the full 60% share of the vehicle excise tax for highway related purposes. MAT believes that bonding plays an important role in funding, particularly for bridges. MAT has remained open to other sources of revenue, including the so-called “capturing” of the sales tax on auto parts, accessories, and repairs, but finds that on its own that source of funding is not sufficient to meet the growing needs of townships and other road authorities. This session a proposed Constitutional amendment was introduced and passed out of the House

to have the question put on the ballot. Unfortunately, the proposal was not passed by the Senate. The sales of the auto parts would have given townships another 3.25 % of the sales tax collected to use on roads.

Townships are responsible for 56,000 miles of road and more than 6,200 bridges. Townships are responsible for more road and bridge infrastructure than any other road authority, including the State. Townships expended over \$170 million on their local roads and bridges.

The Bonding bill (HF4425) provided the only township road funding added in 2018. The bonding bill included \$35 million in undesignated grant funds for the Local Road Improvement Fund Grants

- \$5 million into the Local Bridge Replacement Program
- \$6.7 million in the Local Government Roads Wetland Replacement Program (Wetland credits fund)
- Municipal Contracting Law change - sealed bidding not required unless the contract is expected to exceed \$175,000

The Supplemental Budget Bill would have provided an additional \$4 million cash into the Town Road Account, and \$10 million cash infusion into the Town Bridge Account (SF3656). Again, these appropriations were not controversial but became the victim of being included in the Omnibus Supplemental Budget bill, which was vetoed by the Governor.

If you have any questions about MAT's legislative issues and policies, or if MAT can be of assistance on a constituent service matter, please feel free to contact any member of our legislative policy team.



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Appendix A - 2018 Regular Session Laws

The following bills affecting townships have been signed into law. The effective date for each is cited. Copies of these and other session laws can be found at: <https://www.revisor.mn.gov/laws/current/>
Please contact MAT if you have any questions about these or other legislative actions from the 2018 regular legislative session.

Chapter	Authors	Title / Description	Summary
105 (HF 2636)	Rep. Erickson Sen. Mathews	Gifts to Food Shelves	Town Boards may contribute town funds to non-profits that provide food to needy people without charge. No voter authorization required. Will be codified at Minn. Stat. § 465.039.
107 (HF 3841)	Rep. Nash Sen. Hall	Uniform Municipal Contracting Law Contract Ranges increased	Increases the minimum sealed bidding threshold to \$175,000, and expands authority to use written quotes for contracts between \$25,000 and \$ 175,000. Will be codified at Minn. Stat. § 471.345.
124 (HF 1975)	Rep. Vogal Sen. Koran	Water Tank Service contract bidding exception narrowed.	Modification of water tank service contracting requirements. Applies the sealed bidding process to purchase of supplies, materials, equipment, or the rental thereof, or construction, alteration, repair, or maintenance of real or personal property related to water tank facility, but only for the portion of the work related to those items. Town may continue to use direct negotiation for professional service contracts related the water tank service.
134 (SF 2921)	Rep. Loonan Sen. Draheim	Local recycling programs matching funds requirements modification	Allows local government expenditures, other than county expenditures, to be included in the amount of local funds spent in determining the amount of matching funds provided by the State for recycling programs. Counties may ask what expenditures townships are making relation to recycling programs in order to increase the grant offered by the state.
148 (HF2802)	Rep. Lueck Sen. Weber	Regulatory certainty provided to municipalities that construct publicly owned treatment works to comply with new or modified effluent limitations.	Towns that construct water treatment operations to comply with a new or modified 'effluent' (water discharge) standard will not be required to make any additional improvement to the treatment facility because of changing effluent standards for at least 16 years. Acts as a 16-yuear 'grandfather clause' against changing effluent standards.
165 (SF 3569)	Rep. Swendzinski Sen. Dahms	Moratorium on permits to mow or hay trunk highway right-of-way establishment	Places a moratorium on the State's attempt to require permits to mow or bale hay in right of way on trunk highways. Does not apply to township rights of way. Does not apply to right of way adjacent to land owned by the State or a political subdivision. Towns may still regulate the right of way on property the township owns.
171 (HF 3548)	Rep. Miller Sen. Lang	Agricultural transportation	Modification to statute that prohibits vehicles from being operated on roads if their loads are not secured. Statute allows a vehicle to drop sand for traction, spray water to

		governing requirements modified	clean the road, and sugar beet trucks to leak liquid from thawing beets. Farmers transporting small grains, shelled corn, soybeans, or other farm produce is exempt from the statute.
177 (HF 3095)	Rep. Smith Sen. Hall	Waste management provisions modified	Organized waste collection contract process modified to add additional factors for consideration in selecting a waste collection service. Added language requiring the town officers to meet and confer regarding waste collection issues including road deterioration, public safety, pricing mechanisms, and contractual considerations before the exclusive meetings required by the statute.
185 (HF 3873)	Rep. Albright Sen. Utke	Workers Compensation Advisory Council recommendations adopted; workers compensations provisions modified; hospital outpatient fee schedules modified; billing, payment, and dispute modified; ambulatory surgical center payments defined, and covered benefits.	Technical and substantive changes to the Worker's Compensation statute. Adds a rebuttable presumption that post-traumatic stress syndrome diagnosed in a police officer, firefighter, paramedic, emergency medical technician, emergency care nurse, public safety dispatcher, corrections officers, and county sheriffs diagnosed while employed in the position described, is an occupational disease caused by the employment. This could increase the Worker's Compensation obligations for townships who have employees serving in these roles.
202 (HF 3972)	Rep. Nash Sen. Dahms	Brewing and winemaking on premises provisions clarified, and licenses authorized.	Modifies liquor licensing statute. Establishments that provide on-premises brewing and winemaking by customers may allow tasting of malt liquor and wine make by customers or employees without a liquor license if the liquor is not for sale.
208 (HF 3423)	Rep. Fabian Sen. Ingebrigtsen	Legacy Fund money appropriated, and legacy fund requirements modified.	In addition to the appropriations made by the bill, it added two notice provisions related to land acquisitions. First, at least 30 days before closing on an acquisition of land in fee titled with money in whole or in part for the outdoor heritage fund, a non-governmental organization must notify in writing the county board and town board where the land is located and furnish them a description of the land to be acquired. Second, by July 1 of each year, Outdoor Heritage Fund must provide counties with a list of projects include a potential fee title land acquisition in the county based on that year's funding requests received by the council from the non-governmental organizations. While the second notification does not go directly to the township, the township may get a copy of the notice by asking the county to provide it.
211 (SF 2620)	Rep. O'Driscoll Sen. Rosen	Omnibus Retirement Bill	Art. 16, Sec 2, Subd. 2: Modifies PERA policy to allow public officials over the age of 65 to collect benefits after termination of service, disability, or death if they are still employed by a public employer. It appears this allows a town officer to separate from employment from a non-

			<p>town public employer, and collect PERA benefits while still serving as a town officer. Before this change, a town officer would have been required to resign from town office to begin collecting PERA benefits.</p> <p>Art. 16, Sec 2, Subd. 6: Changes PERA policy. If a participant is employed by a public employer and is at least 65 years old, the participant may elect a disbursement of all or a part of the participant's account. The participant may make this election only once per year and the minimum distribution is \$5,000.</p>
214 (HF 4425)	Rep. Miller Sen. Draheim	Ominbus Bonding Bill	<p>Art. 1, Sec. 16, Subd. 2: \$35 million in undesignated local road improvement fund grants to be administered by Commissioner of Transportation.</p> <p>Art. 1, Sec. 16, Subd. 3: \$5 million for the Local Bridge Replacement Program</p> <p>Art. 1, Sec. 9, Subd. 2: \$6.7 million for the Local Government Roads Wetland Replacement Program, otherwise known as wetland credits.</p> <p>Art. 4, Sec. 2, Subd. 11: LCCMR must consider placement of up to \$10 million for grants and/or up to 5% of the corpus of the trust for loans for wastewater treatment projects in cities and towns under 5,000 people.</p> <p>Art. 1, Sec. 22, Subd. 2: \$14 million placed into the Clean Water revolving fund, representing part of the state's portion of the federal match, to be used for clean water capital projects.</p> <p>Art. 1, Sec. 22, Subd. 3: \$25 million placed into the water infrastructure funding program for drinking water systems.</p> <p>Art. 4, Sec. 2, Subd. 11: \$6 million placed into the Clean Water revolving fund, representing part of the state's portion of the federal match, to be used for clean water capital projects.</p> <p>Art. 6, Sec. 4, Subd. 8: \$14.652 million appropriated for grants to municipalities for wastewater projects on the Pollution Control Agency's project priority list. Also provides \$38.348 million for point source implementation grants.</p>