

# State-Local Relations

## BACKGROUND

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The relationship between state government and local government is a central factor in a wide range of public policy.

To understand the state-local relationship in Michigan, one must understand a key difference between the federal and state government.

- The federal government was created by the individual states and the people who lived in them, and the Tenth Amendment to the U.S. Constitution reserves to the individual states all powers not specifically delegated to the federal government. The federal government, in essence, is a creature of the 50 states.
- The states created their own governing structures. As in other states, Michigan's constitution and laws formed the local levels of government (nothing in the U.S. Constitution prescribes such entities as K–12 school districts, counties, townships, cities, villages, and authorities), and they have only the powers conferred upon them by the state. Local government clearly is a creature of state government.

From statehood to the present, Michigan legislatures and governors have struggled over how to balance the roles, responsibilities, and funding of state and local government; generally, the relationship between the two levels of government boils down to three matters, which usually are interrelated.

- *Policy responsibility*, e.g., who should establish the curriculum for K–12 schools—the State Board of Education or local school districts?
- *Operating/delivering government services*, e.g., who should maintain roads—the Michigan Department of Transportation (MDOT) or county road commissions?
- *Funding government programs*, e.g., who should fund K–12 education—the state, through state taxes, or local school districts, through local property taxes?

## DISCUSSION

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The list of issues about the proper balance between state and local government is almost endless, but a few examples of questions currently prompting discussion will illustrate the public policy implications involved.

### **Policy Responsibility**

#### *Telecommunications*

A cable television system may wish to offer its customers access to local telephone service through their home's cable TV hookup. The cable television system finds that it has to apply to the city government for a license to offer the new telecommunicating service, just as it did to win a franchise agreement to offer cable television. The city council may respond by telling the system that it must obtain a permit and pay new fees to the city—perhaps a flat fee, one based on the number of homes connected to the new service, or one based on the gross revenue of all of the cable television system's services.

State government may look at the city's decisions, regulations, and fees and decide that they (1) act to deprive city residents of the right of access to a new telephone service or (2) result in residents being charged an unnecessarily high fee to offset local costs imposed on the provider. The state may decide that it is in the broader interest to have as many businesses and homes as possible connected to modern telecommunications because doing so will stimulate economic development or give more choice and lower rates to consumers. Thus the state may seek to limit the extent to which a local jurisdiction may burden a telecommunications provider.

Some state-government policymakers believe that everyone will benefit from a more open and less costly telecommunications marketplace. Some in local government argue that it is only fair that a telecommunications provider be required to adhere to municipal regulations (e.g., a ban on cellular telephone towers because they are an eyesore) and pay fees to the local unit. The debate is over which policy—state or local—benefits the greater number of people.

#### *K-12 Education*

Another example of debate over which level of government should set policy concerns school curriculum: classes offered, objectives, teaching aids,

textbooks, and methods. Some education policymakers believe that it would be more cost effective and improve performance if there were a single, statewide curriculum for math, science, and reading—e.g., in every fifth grade classroom the subject would be taught approximately the same way. They also point out that in today's mobile job market, families move, and district-to-district consistency is less disruptive both to a child who enters a new classroom and to the class that has to integrate him/her and other newcomers during the year.

Others argue that K-12 education is a local issue, and a community's own teachers, parents, and administrators know best what and how their fifth graders and others should be taught. They argue that one curriculum does not fit all. In Michigan, differing state and local views about curriculum policy have led to the State Board of Education creating a model curriculum but permitting local school districts to accept, modify, or disregard it.

#### *Zoning*

Still other examples of state-local policy issues involve zoning. The state long has sought to increase the number of adult foster care homes. Neighbors' concerns may move a local council to prohibit such homes through zoning policies (local zoning dictates how property may be used—e.g., single- or multiple-family housing, commercial development, industrial use, farming). The state counters that no local government is permitted to zone against foster care homes so long as they represent only one home for every so many thousand residents.

A recent zoning dispute involves the Michigan Department of Natural Resources (MDNR) seeking to expand public boating access to inland lakes and streams; usually this involves building a launching ramp, parking lot, and entrance road. Many lakeshore homeowners oppose public access and have successfully sought zoning restrictions that prevent the MDNR from developing sites on its state-owned property. In a Burt Lake case, the Michigan Court of Appeals has ruled that only the legislature may

exempt the MDNR from having to comply with township zoning ordinances, and no such law exists. The MDNR now may appeal the case to the Michigan Supreme Court or seek legislation exempting it from local zoning restrictions.

### **Operating and Delivering Government Services**

There are many examples of state-local dispute about providing government services; here we present an enduring one: road maintenance.

County road commissions fill potholes, remove snow, and perform routine maintenance on county roads and portions of state trunk lines. Most money for these services comes from the state (from gasoline tax and vehicle registration fees), and some from federal aid. The commissions decide what sections of which roads most need maintenance and repair and allocate funds accordingly.

Some state policymakers argue that some primary roads (those with heavy traffic) that cross county lines are more appropriately maintained under the jurisdiction of the MDOT, because motorists crossing county lines may encounter patches of well-maintained and poorly maintained surfaces, based on how well each county repairs its section of the road and how it cooperates with adjacent counties.

Of Michigan's 119,000 miles of roads, the MDOT currently is responsible for 9,600 miles. Current law gives 39.1 percent of all road funds to the MDOT, 39.1 percent to counties, and 21.8 percent to cities and villages. Governor Engler and the MDOT believe that the state should assume responsibility—and funding—for another 9,100 miles, thereby extending state jurisdiction to the roadways that carry 70 percent of all vehicle traffic and 85 percent of commercial (truck) traffic.

County road commissions are resisting the administration's "road repair rationalization plan," arguing that local bodies know better the condition of local roads and can move faster than the

state in making necessary repairs and removing snow and ice. The County Road Association of Michigan points out that it would be prudent to figure out how funding—federal, state, and local—will be affected before any jurisdictional transfers occur. For example, under the governor's plan some counties would give up 10 percent of their road system but 20 percent of their funding, and there also is concern that transferring jurisdiction could cost locals their eligibility for federal funds. Policymakers have yet to resolve the issue.

### **Funding**

#### *Headlee Amendment*

Which level of government shall pay for which public services always is a point of contention in public policy debate. In 1978 voters adopted the so-called Headlee amendment to the state constitution. Among its provisions, the amendment (1) prohibits state government from reducing the share of total state spending allocated to local units of government to a level lower than that allocated in FY 1978–79 and (2) requires state government to pay local units the necessary increased costs of any activity that it may require local units to perform (Article IX, sections 25–32).

Until the Headlee amendment, the state legislature was almost entirely free to transfer programs and their funding from local units to the state; now, in every budget passed by the state, at least 41.6 percent of all spending—the proportion in FY 1978–79—must be allocated to local government. This floor, however, is a moot point, at least for now: Today, about 60 percent of state spending goes to local units; the high percentage was prompted largely by voters adopting Proposal A (1994), which shifted much of K–12 school funding from locally generated property taxes to the state sales tax.

But the other aforementioned Headlee provision—mandating that the state compensate locals for any new program, service, or activity it requires of them—has dramatically changed the state-local funding relationship.

## STATE-LOCAL RELATIONS

The most significant consequence stems from a lawsuit brought by various local school districts seeking retroactive funding for special education and other programs mandated by the legislature but allegedly not fully funded. The case was *Durant v. State of Michigan*, and the locals won: In 1997, the Michigan Supreme Court ordered the state to pay \$212 million plus legal fees to the 84 K–12 school districts that were the *Durant* plaintiffs. The court ruled that the state had violated the Headlee amendment. Another 440 school districts, which had operated under the same unfunded mandates, had not sued but nonetheless held similar claims against the state. The state agreed to pay the 84 plaintiff school districts \$212 million with a lump sum payment and, to forestall lawsuits by the other districts, all others a total of \$768 million, half by November 1998 and the other half over ten years.

At about the same time, the court issued a similar opinion with regard to funding child-welfare services. In *Oakland County v. State of Michigan*, the court ruled that the legislature had violated the Headlee amendment by capping the Child Care Fund—the state fund used to reimburse counties for child-welfare expenditures. This ruling will more than double state reimbursement to counties.

To some observers, the notion that creatures of the state—school districts—sued state government and, to a large extent, won is similar to children suing their parents over promises made but not kept. That may be, but these cases surely suggest that future state governors and legislators will be careful to fully compensate local units of government for any new programs, services, or activities that they ask them to carry out.

### *Revenue Sharing*

Another funding issue involves state revenue sharing, through which state government provides aid to local governments (in Michigan such aid is unrestricted, i.e., locals may use it however they wish). For counties, state revenue sharing provides 8–10 percent of their general fund revenue; for some townships, however, the program provides as much as 70 percent. Cities also receive support. The aid has been based on population and how much property and

income taxes are levied by a local unit compared to the state average (relative tax effort). Some legislators want this state aid to be based solely on population, which would produce more revenue sharing dollars for local units that are growing—including many suburban townships—and less for older cities that are declining in population.

Public Act 342 of 1996 eliminated consideration of relative tax effort as of September 30, 1998. The new law also removes income, intangibles, and single business tax revenue from the revenue-sharing pool, offsetting the loss with new money from the sales tax. All future growth in the share of the sales tax that is allocated for revenue sharing will be distributed strictly on a per capita (population) basis unless a new formula is devised. A Joint Senate/House Revenue Sharing Task Force is working to arrive at a new distribution formula.

*See also* Chapter 3; Devolution; Headlee Amendment; K–12 Funding; K–12 Quality and Assessment; Land Use; Local Telephone Service; Personal Property Tax; Revenue Sharing; Road Funding; Solid Waste Management and Recycling; State Lands and Waters; Urban Revitalization; Water Quality.

## FOR ADDITIONAL INFORMATION

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Budget Office  
Michigan Department of Management and Budget  
P.O. Box 30026  
Lansing, MI 48909  
(517) 373-1004  
(517) 373-7268 FAX  
[www.state.mi.us/dmb/dir/](http://www.state.mi.us/dmb/dir/)

County Road Association of Michigan  
417 Seymour Street  
P.O. Box 12067  
Lansing, MI 48901  
(517) 482-1189  
(517) 482-1253 FAX

House Fiscal Agency  
200 North Capitol, Suite 300  
Lansing, MI 48933  
(517) 373-8080  
(517) 373-5874 FAX  
[www.house.state.mi.us/hfa](http://www.house.state.mi.us/hfa)

Michigan Association of Counties  
935 North Washington Avenue  
Lansing, MI 48906  
(517) 372-5374  
(517) 482-4599 FAX  
[www.miaco.org](http://www.miaco.org)

Michigan Association of School Administrators  
1001 Centennial Way, Suite 300  
Lansing, MI 48917-9279  
(517) 327-5910  
(517) 327-0771 FAX  
[www.melg.org](http://www.melg.org)

Michigan Association of School Boards  
1001 Centennial Way, Suite 400  
Lansing, MI 48917-9279  
(517) 327-5900  
(517) 327-0775 FAX

Michigan Cable Telecommunications Association  
615 West Ionia Street  
Lansing, MI 48933  
(517) 482-2622  
(517) 482-1819 FAX

Michigan Municipal League  
1675 Green Road  
P.O. Box 1487  
Ann Arbor, MI 48106-1487  
(734) 662-3246  
(734) 662-8083 FAX  
[www.mml.org](http://www.mml.org)

Michigan Townships Association  
P.O. Box 80078  
Lansing, MI 48908-0078  
(517) 321-6467  
(517) 321-8908 FAX  
[www.mta-townships.org](http://www.mta-townships.org)

Office of Communications  
Michigan Department of Transportation  
Transportation Building, 4th Floor  
P.O. Box 30050  
Lansing, MI 48909  
(517) 335-3084  
(517) 373-8518 FAX  
[www.mdot.state.mi.us](http://www.mdot.state.mi.us)