

Briefly

A Publication of the Government Law Section of the State Bar of Michigan

June 2019 ■ Steve Joppich, Chair ■ Helen Lizzie Mills, Editor

ADA Compliance in the 21st Century— Accessible Municipal Websites

By Christopher Patterson and Kyle O'Meara

As the use of technology continues to rapidly expand, citizens increasingly rely on websites and other online media to access information about everything—including their local governments.¹ For many, the accessibility of information on a municipality's website is efficient and effortless. Others, however, may struggle; this is particularly true for disabled individuals. Consider a blind citizen attempting to access a township's online minutes or a deaf citizen attempting to play recordings of the latest city council meeting. To ensure these citizens have access to government, it is essential that municipalities consider the importance of providing websites with a high level of accessibility. Doing so not only protects local governments from potential (and costly) legal challenges, but also enables all citizens to actively participate in local affairs.

ADA as a Framework

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against persons with physical and/or cognitive disabilities in all state and local governmental programs and services.² ADA case law and administrative guidance have made clear that this requirement applies to online media, including municipal websites. Although many municipalities are familiar with ADA compliance measures relating to their physical facilities, local governments often express confusion on how to make their website “accessible.” This article provides insight on tools municipalities can use to achieve ADA compliant websites.

The DOJ Mandates ADA Compliant Municipal Websites

The World Wide Web Consortium (W3C) is the international standards organization for the world wide web that created the Web Content Accessibility Guide-

lines (“WCAG”).³ WCAG serves as a universal set of accessibility standards for webpages for individuals with disabilities.⁴ There are currently two sets of WCAG standards: WCAG 2.0 and the newer WCAG 2.1. In recent years, the United States Department of Justice (“DOJ”) and federal courts have routinely found that municipal webpages must meet WCAG 2.0 to be accessible under the ADA. Non-compliance with WCAG 2.0 has resulted in significant financial exposure.⁵

In 2010, the DOJ began working on a rule governing ADA compliance for websites and related electronic media. The proposed rule required municipal websites to meet WCAG 2.0.⁶ Although the DOJ withdrew the proposed rule in December of 2017,⁷ it has continued to mandate that municipal websites must be ADA accessible despite the lack of uniform, promulgated guidelines. For example, the DOJ entered into several identical settlements in 2015 with municipal governments in Illinois, Nevada, South Carolina, Florida, New Mexico, and Utah, requiring those municipalities to “ensure that [their] employment opportunities website and

job applications contained therein conform to, at a minimum, the [WCAG 2.0].”⁸

Closer to home, the DOJ has not shied away from requiring Michigan municipalities to maintain ADA-compliant websites as part of settlements related to other ADA issues. In fact, the DOJ entered into settlement agreements with at least two different governmental units in Michigan on issues relating to ADA compliance and web-based services. These settlements mandate the Michigan municipalities must “[e]stablish, implement, and post online a policy that its web pages will be accessible and create a process for implementation.”⁹

Federal Courts are Mandating WCAG for Private and Public-Sector Websites

Federal courts have also required compliance with WCAG. For example, the Southern District of Florida required that the supermarket chain Winn-Dixie make its website compliant with WCAG 2.0 under a similar section of the ADA.¹⁰ The 2017 case involved a visually impaired plaintiff who required a screen reader to navigate the internet.¹¹ The plaintiff’s screen reader did not work on Winn-Dixie’s website, despite working on hundreds of others.¹² At trial, the court ruled in the plaintiff’s favor and both required Winn-Dixie’s website to comply with WCAG 2.0 and allowed the plaintiff to seek reasonable attorney’s fees as a prevailing party under the ADA.¹³ The Southern District of Florida noted that the United States Access Board, a federal agency that promotes equality for individuals with disabilities, utilizes WCAG 2.0 for its online presence. Moreover, the court also found that thousands of e-commerce websites are WCAG 2.0 compliant.¹⁴ Winn-Dixie is appealing this ruling.

Prior to *Winn-Dixie*, the Southern District of Ohio held that the Ohio Secretary of State’s website must comply with the WCAG 2.0 standards after it was found inaccessible to visually impaired users using screen readers.¹⁵ Unlike Winn-Dixie, the Ohio Secretary of State did not contest that its website must comply with WCAG 2.0, arguing instead for additional time to update its website.¹⁶ Despite Ohio’s apparent good faith, the court entered an injunction requiring compliance with WCAG 2.0 many months sooner than the defendants proposed timeline.¹⁷ More recently, in this past March, the Northern District of Ohio refused to dismiss a case brought under the ADA where a visually-impaired individual

sued Ford Motor Company because Ford’s website layout made it difficult for him to apply for a job.¹⁸

How Can Municipal Websites Become WCAG Compliant?

Case law suggests that municipal websites must be WCAG compliant under Title II of the ADA. But, it is difficult to determine whether websites are, in fact, WCAG compliant. Further, there are now two versions of WCAG (WCAG 2.0 and WCAG 2.1). Thankfully, websites that comply with WCAG 2.1 also comply with WCAG 2.0.

What is the Format of WCAG?

The WCAG standards are based on the concept that all websites must be (1) perceivable; (2) operable; (3) understandable; and (4) robust to users regardless of disabilities.¹⁹ Generally, perceivable means a website presents information in a way a person can perceive. Operable means website user interface components and navigation must allow for multiple methods of operation. Understandable means users must be able to understand a website’s information and user interface; and robust means website content must be able to be reliably interpreted by a variety of assistive technologies.²⁰

How can our Municipality Ensure It Meets WCAG?

There is not an easy way to determine whether a website meets the WCAG. The W3C lacks a tool that allows a municipality to simply enter its website’s URL to evaluate compliance at once.

Instead, W3C makes available a free Website Evaluation Report Generator (“WCAG-EM”). Like a checklist, this tool allows municipalities to hand-audit their websites to determine WCAG compliance.²¹ There are also a variety of private online vendors who offer WCAG compliance services. If a municipality has staff or a third party perform a WCAG audit on its website, it can provide its web-provider any issues it must address to achieve WCAG compliance. Given the DOJ’s increased focus in this area, municipalities should audit their websites for WCAG compliance to shield themselves from legal liability and to promote better access to government.

Furthermore, a municipality can (and should) document all WCAG audits to build a record for potential

court cases or DOJ investigations. Finally, municipalities should ensure that web-providers comply with WCAG as part of any contract to update or support a website.

Conclusion

The non-uniform application of Title II to municipal websites leaves local government in a precarious situation. Given the current legal trends, local governments should assume their websites must be WCAG 2.0 compliant in the event of an ADA investigation. Municipalities should also consider future-proofing websites by meeting WCAG 2.1. By conducting accessibility audits, preparing reports, and drafting plans for becoming (and remaining) WCAG compliant, local governments will not only better protect themselves from liability under the ADA, but more importantly, ensure that all residents are able to take advantage of their online services.

About the Authors



Christopher S. Patterson is a member at Fahey Schultz Burzych Rhodes PLC, where he focuses on the areas of municipal law, real property, and administrative law. Chris' expertise is highly regarded in his areas of practice, and he is frequently asked to present on hot topic issues

at conferences and seminars across the state. Chris is an executive member of the Administrative Law Section of the State Bar, as well as co-chair of the Real Estate Section of the Ingham County Bar Association.



Kyle A. O'Meara is an associate attorney in Fahey Schultz Burzych Rhodes PLC's Municipal Practice Group. He is a member of the Haslett-Okemos Rotary Club and is a graduate of Notre Dame Law School.

Endnotes

1 See e.g. Accenture Public Service Insights, *Digital Government: Your Citizens are Ready, Willing... and Waiting*, https://www.accenture.com/t20151014T210834_w/us-en/acn-media/Accenture/Conversion-Assets/DotCom/Documents/Global/PDF/Dualpub_16/Accenture-Your-Digital-Citizens-Ready-Willing-Waiting-2.pdf (accessed May 5, 2019)

(November 2014 survey in which 42% of survey respondents state a high or very high percentage of their interactions with government is digital) p 4.

2 42 USC §12132.

3 W3C, *Web Content Accessibility Guidelines (WCAG) Overview*, <https://www.w3.org/WAI/standards-guidelines/wcag/#intro>, (accessed May 5, 2019).

4 *Id.*

5 See e.g. *Gil v Winn-Dixie Stores, Inc.*, 257 F Supp 3d 1340, 1349 (SD Fla 2017) (injunctive relief and attorneys' fees are available to prevailing plaintiffs in ADA cases including those regarding website accessibility).

6 RIN 11190-AA65, <https://www.ada.gov/regs2016/sanprm.html>, (accessed May 5, 2019).

7 Federal Register Vol 82 No 246, Notice of Withdrawal, <https://www.gpo.gov/fdsys/pkg/FR-2017-12-26/pdf/2017-27510.pdf>, (accessed May 5, 2019).

8 See e.g. City of Parowan, Utah ADA Settlement Agreement, https://www.ada.gov/parowan_sa.html, (accessed May 5, 2019); see also ADA Enforcement Activities https://www.ada.gov/enforce_activities.htm.

9 City of Burton ADA Settlement Agreement, <https://www.ada.gov/burtonsa.htm>, (accessed October 25, 2018); City of Muskegon ADA Settlement Agreement, https://www.ada.gov/muskegon_pca/muskegon_sa.htm, (accessed May 5, 2019).

10 See *Gil v Winn-Dixie Stores, Inc.*, 257 F Supp 3d 1340, 1351 (SD Fla 2017); "full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation...." 42 USC 12182(a).

11 *Id.* at 1342.

12 *Id.* at 1345.

13 *Id.* at 1351.

14 *Id.* at 1346.

15 *Hindel v Husted*, No 2:15-CV-3061, 2017 WL 432839, at *7 (SD Ohio, Feb. 1, 2017).

16 *Id.* at *3.

17 *Id.* at *7.

18 *Kasper v Ford Motor Co.*, No. 1:18-CV-2895, 2019 WL 1317921, at *3 (N.D. Ohio Mar. 22, 2019).

19 W3C, *Web Content Accessibility Guidelines (WCAG) Overview*, <https://www.w3.org/WAI/WCAG21/quickref/>, (accessed May 5, 2019).

20 *Id.*

21 W3C, *WCAG-EM Report Tool*, <https://www.w3.org/WAI/eval/report-tool/#/evaluation/audit>, (accessed May 5, 2019).

Emergency Rules for Marihuana are on the Way

By Matthew A. Kuschel, Fahey Schultz Burzych Rhodes PLC

Michigan's Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 *et seq.*, approved by voters during the November 2018 election, requires municipalities to adopt an ordinance if they desire to prohibit recreational establishments and retail centers within their jurisdictions. Otherwise, the State of Michigan may process an application and establish recreational marihuana establishments without local input. Recreational marihuana *establishments* under MRTMA are similar to, but distinct from, medical marihuana *facilities* under the Medical Marihuana Facilities Licensing Act (MMFLA), MCL 333.27101.

The Marijuana Regulatory Agency (MRA) has not yet established an application process. According to more recent information, however, LARA/MRA expects

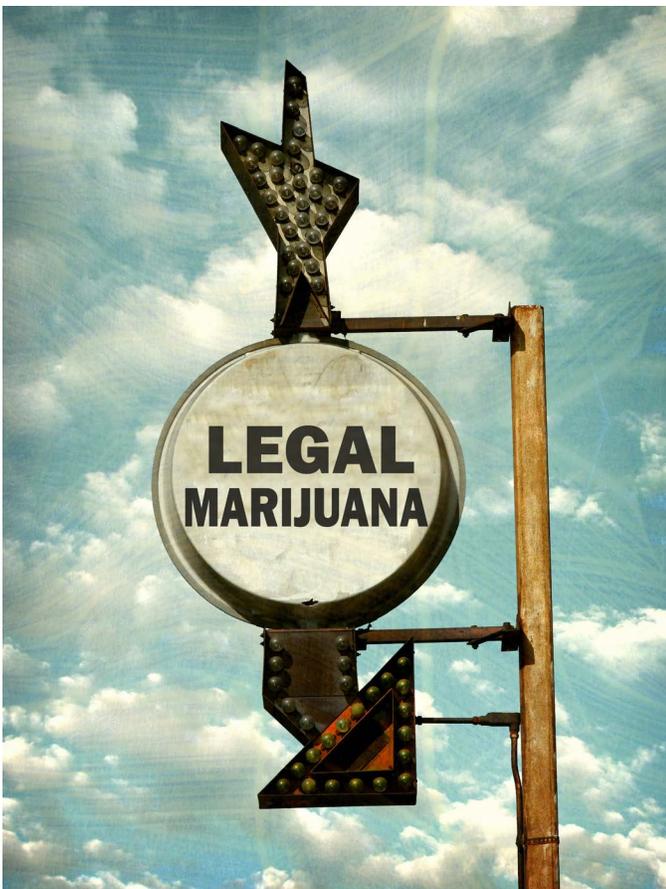
to approve emergency rules in June 2019. These rules would allow the State to begin accepting and approving applications for recreational marihuana establishments. Practitioners may wish to advise clients that have not adopted any ordinance that establishments and retail centers may be approved by the State to operate within their municipality. Zoning alone may not be enough to prevent or regulate the operation of establishments. Practitioners may also wish to advise clients regarding ordinances as permitted under the MRTMA to either prohibit or regulate such establishments and retail centers so that it is clear whether or how they may operate.

For those municipalities that have not yet adopted an ordinance, these are some of the available options:

- Prohibit recreational establishments and prevent the State from locating establishments in the community (unless and until the community determines otherwise);
- Prohibit recreational establishments even if the community has permitted commercial medical marihuana;
- Permit commercial medical marihuana under a local regulatory framework; or
- Permit commercial medical marihuana similar to any framework already established for medical marihuana facilities.

Once the MRA begins accepting applications, an applicant can submit for a state license as of the date of the application and the MRA may approve recreational establishments in municipalities that have not opted-out of MRTMA. Local government ordinances must be both passed and have taken effect, likely before September 1, 2019. There is no requirement to send the local ordinance to MRA, but boards and councils may certainly do so.

Although the emergency rules are anticipated to be similar to the commercial medical marihuana rules, they have yet to be released or studied. Significant questions



remain over the interpretation of MRTMA and the associated rules. Several different licensed activities are permitted under MRTMA, like microbusinesses, that were not previously allowed under the commercial medical marijuana statute. Thus, each community should take time to consider the community-specific appropriate approach, and practitioners should be familiar with the various marijuana-related statutes, rules and options. Recall that a community's decision to opt out of MRTMA now does not prevent future local action (via ordinance amendment) to allow (limited) recreational establishments following MRA's release of the final rules and, hopefully, clarity surrounding several ambiguities.

We encourage practitioners with local government clients that have not adopted either an opt-in or opt-out ordinance under MRTMA to review the current laws and

provide consultation about the options for creating the appropriate framework for each client's community at this juncture.

About the Author



Matthew A. Kuschel works as an associate attorney in Fahey Schultz Burzych Rhodes PLC's Municipal Practice Group, with an emphasis on zoning law, ordinance enforcement, and real estate transactions. He is a magna cum laude graduate of Ave Maria School of Law.

Legislative Update

By Kester K. So, Eric A. McGlothlin, Laura M. Bassett, and Jessica L. Wood, Dickinson Wright PLLC

A number of bills of public sector interest are currently under consideration in the Michigan Legislature. The following are summaries of a number of the most pertinent bills.

Enacted Legislation

- **Civil Procedure** - [SB 3 \(2019 PA 2\)](#) amends Chapter 57 of the Revised Judicature Act, concerning eviction proceedings, to revise the list of persons allowed to serve an order of eviction and restore a plaintiff to full possession of the premises to allow a court to issue a writ to a court officer appointed by the court, a bailiff of the court, the sheriff or a deputy sheriff, or an officer of the law enforcement agency of the local unit of government where the court is located. Amends section 5744 of 1961 PA 236.
- **Marijuana** - [SB 203 \(2019 PA 3\)](#) amends the Medical Marijuana Facilities Licensing Act to revise the definition of "applicant" for an operating license under the act to expand the level of ownership interest a

person must have for purposes of disclosure and eligibility for a license to operate a facility under the act, restoring the definition of "applicant" that was enacted into law by 2018 PA 582 and then negated by 2018 PA 648. Amends section 102 of 2016 PA 281.

- **Affordable Housing** - [SB 110 \(2018 PA 585\)](#) amends Public Act 226 of 1988 to specify that the prohibition of local governmental units from controlling the amount of rent charged for leasing private residential property would not prohibit local governments from implementing voluntary incentives to increase the supply of moderate- or low-cost private residential property available for lease. Amends section 1 of 1988 PA 226 (MCL 123.411).

Pending Legislation

- **Civil rights** - [HB 4445](#) clarifies scope of nonpaper physical media responses and the fee for public records provided on nonpaper physical media. Amends section 4 of 1976 PA 442 (MCL 15.234).

- **Civil rights** - [HB 4468](#) allows a person, when making a request for a copy of a public record under the Freedom of Information Act (FOIA), to ask that any written response to the request be made by email, fax, or first-class mail. Amends section 5 of 1976 PA 442 (MCL 15.235).
- **Contracts** - [SB 19](#) amends 1968 PA 317 which governs contracts between public servants and public entities to raise the maximum population of a city, village, township, or county in which a public servant may serve as an emergency medical personnel or firefighter or perform other services. Amends section 3a of 1968 PA 317 (MCL 15.323a).
- **Counties** - [HB 4120](#) extends to 30 years from 15 years the allowable installment payment period for county road commission contracts for the purchase of real or personal property for public use. Amends Section 10, ch. IV of 1909 PA 283 (MCL 224.10).
- **Delinquent taxes** - [HB 4121](#) amends the General Property Tax Act to eliminate the sunset of June 30, 2019, on the authority of county treasurers to enter into tax foreclosure avoidance agreements. Amends section 78q of 1893 PA 206.
- **Delinquent taxes** - [HB 4219](#) amends the General Property Tax Act to provide that if proceeds from the sale of tax foreclosed property exceed the minimum bid, the foreclosing governmental unit shall remit an amount equal to the excess to an individual who owned and occupied the property as a principal residence immediately before the entry of judgment foreclosing the property. Amends section 78m of 1893 PA 206.
- **Drains** - [SB 185](#) amends the Drain Code of 1956 to prohibit drain maintenance if an assessment is necessary for the maintenance and 10% or more of the freeholders who would be liable for the assessment are concurrently liable for an assessment for previous maintenance on the drain. Amends sections 196 and 201 of 1956 PA 40.
- **Economic development** - [HB 4091](#) amends the Neighborhood Enterprise Zone Act to revise the eligibility requirements to qualify as a rehabilitated facility under the act, and would remove the current requirements for a “qualified local government unit” to define “local government unit” as a city, village or township. Amends sections 2 and 8 of 1992 PA 147.
- **Environmental** - [HB 4500](#) repeals 2016 PA 389 which preempted local ordinances regulating the use, disposition, or sale of, prohibiting or restricting or imposing any fee, charge or tax on certain containers. Repeals 2016 PA 389 (MCL 445.591 to 445.593).
- **Environmental** - [HB 4389](#), [HB 4390](#), [HB 4391](#) amends various acts to regulate the use and reporting of firefighting foam containing PFAs chemicals. Amends Part 147 of the Natural Resources and Environmental Protection Act, the Firefighters Training Council Act, and the Michigan Occupational Safety and Health Act. Amends heading of subpt. 1 of pt. 147 of 1994 PA 451 (MCL 324.101 - 324.90106) and adds sections 14701, 14703, 14705 & 14707.
- **Ethics** - [HB 4163](#) creates a process for the gubernatorial removal or suspension of certain elected officials in political subdivisions for gross neglect of duty, corrupt conduct, misfeasance or malfeasance. Creates new Act.
- **Health Insurance** - [SB 225](#) allows a city with a population greater than 600,000 to exempt itself from the requirements of the Publicly Funded Health Insurance Contribution Act. Amends 2011 PA 152 by amending section 8 (MCL 15.568).



- **Land use** - [HB 4563](#) permits short-term rentals of 14-days or less in a calendar year as a residential use of property and a permitted use in all residential zones. Amends sections 102 and 207 of 2006 PA 110 (MCL 125.3102 & 125.3207) and adds section 206b. See also, [HB 4554 – 4563](#), each of which bills are tie-barred with [HB 4554](#).
- **Libraries** - [HB 4119](#) (also introduced as [SB 62](#)) amends the Charter Township Act to allow a charter township to reestablish a library that was established as a township library under the 1955 School Code, which was repealed in 1976 with the enactment of the Revised School Code, eliminating the charter township library provisions. Amends section 13a of 1947 PA 359.
- **Local government** - [HB 4083](#) creates a new act entitled “local government sanctuary policy prohibition act” to prohibit enacting or enforcing local laws, ordinances, policies, or rules that prevent local units of government and local officials from cooperating with federal authorities regarding an individual’s immigration status. See also, [HB 4090](#), with respect to counties.
- **Local government** - [SB 0271](#) provides for certain billing requirements, requires municipalities to adopt a written dispute resolution process for disputed water or sewerage service bills, and requires municipalities to monitor for customer water leaks. Amends title and section 6 of 1939 PA 178 (MCL 123.166) and adds sections 1a, 1b, 1c, 1d & 1e. See also, [HB 4431](#).
- **Local government** - [SB 259](#) and [260](#) amend 2012 PA 436, the Local Financial Stability and Choice Act to limit an emergency manager’s authority and provide reimbursement to a local government that incurs additional debt or liability while in receivership. Amend sections 12, 14, 15 and 19 (MCL 141.1552, 1554, 1555, and 1559) and add sections 12a and 14a.
- **Marihuana** - [SB 81](#) repeals section 474 of the Penal Code, which restricts the transportation or possession of usable marihuana in a motor vehicle, in alignment with a Michigan court decision holding the section impermissible. Repeals section 474 of 1931 PA 328.
- **Marihuana** - [HB 4440](#) amends the Medical Marihuana Facilities Licensing Act to provide that a person operating a marihuana facility without a license after June 1, 2019 is ineligible for a license for a period of one year. Amends section 402 of 2016 PA 281.
- **Property tax** - [SB 0026](#) and [0039](#) reintroduce legislative fixes to “dark stores” property tax avoidance strategy and requires tax tribunal to make certain determinations in assessment disputes as to the valuation of property. Amends section 3 of 1973 PA 186 (MCL 205.703) and adds section 38. See also, [HB 4025](#) and [4047](#).
- **Property tax** - [SB 59](#) creates a partial residential real property tax exemption for certain relatives of senior citizens. Amends 1893 PA 206 (MCL 211.1 to 211.155) by adding section 7xx.
- **Property tax** - [HB 4214](#) allows property owner an extended period in which to file a small business personal property tax exemption appeal with the Board of Review. Amends sections 9o, 30 and 53b of 1893 PA 206 (MCL 211.9o et seq.).
- **Property tax** - [HB 4215](#) increases the small taxpayer exemption threshold for eligible personal property. Amends section 9o of 1893 PA 206 (MCL 211.9o).
- **Property tax** - [HB 4176](#) holds local taxing units harmless for disabled veteran exemptions. Amends section 7b of 1893 PA 206 (MCL 211.7b).
- **Property tax** - [HB 4158](#) modifies the affidavit filing requirements for disabled veteran exemptions. Amends section 7b of 1893 PA 206 (MCL 211.7b).
- **Records** - [HB 4007-4016](#) would add Part 2 for the Freedom of Information Act (FOIA) to implement a new Legislative Open Records Act (LORA) that would serve to bring the state legislature under FOIA and would remove the current exemption from FOIA for the governor, lieutenant governor, and executive office employees.
- **Retirement** - [HB 4448](#) provides for use of county road millage funds for funding the unfunded actuarial accrued liability of a retirement system of a county road commission. Amends Section 20b, ch. IV of 1909 PA 283 (MCL 224.20b).
- **Special Assessments** - [SB 227](#) expands the purposes for which certain Townships may specially assess to include the prevention of invasive species and signage relating thereto. Amends section 2 of 1954 PA 188 (MCL 41.722).

GOVERNMENT LAW SECTION
STATE BAR OF MICHIGAN

OFFICIAL NOTICE OF
ANNUAL MEETING, AMENDMENTS TO BYLAWS,
AND ELECTION

FRIDAY, JUNE 21, 2019 | 4:45 P.M. | THE INN AT BAY HARBOR
BAY HARBOR, MICHIGAN

The Annual Meeting is open; no registration is required, so please join in helping to support our Section and all its members!
Your support is an essential component to the vitality of the Section and the value it provides to all members.

(1) Proposed Amendments to Bylaws:

Proposal #1: To amend Article 5, Section 5.3 to have all officers' terms commence on October 1 after the annual organizational meeting of Council, instead of at the conclusion of the organizational meeting.

Proposal #2: To amend Article 4, Section 4.1 and Article 5, Section 5.3, and to add new Sections 4.3.3(j) and 4.3.4 to create the new permanent position of Deputy Secretary/Treasurer.

**A complete text of the above proposed amendments to the Bylaws is attached.*

(2) Proposed Election Slate:

Officers (1-year term/expiring at the conclusion of the 2020 Organizational Meeting):

Chair: Gregory T. Stremers

Chair Elect: Catherine A. Mullhaupt

Secretary/Treasurer: Helen E. R Mills

Deputy Secretary/Treasurer: Sonal H. Mithani (*subject to Bylaws Amendment #2 taking effect*)

Council Members (3-year term expiring at the Close of the 2022 Annual Meeting):

Michael P. McGee

James E. Tamm

Sonal Hope Mithani

Debra A. Walling

Mark E. Nettleton Eric D. Williams

Kester K. So

Nominations from the floor will be accepted.

Please contact sjoppich@rsjalaw.com if you have any questions

GOVERNMENT LAW SECTION
STATE BAR OF MICHIGAN

FULL TEXT OF
PROPOSED AMENDMENTS TO BYLAWS

TO BE CONSIDERED AT THE SECTION'S ANNUAL MEETING ON
FRIDAY, JUNE 21, 2019 | 4:45 P.M. | AT THE INN AT BAY HARBOR
BAY HARBOR, MICHIGAN

PROPOSAL #1: To amend Article 5, Section 5.3 as follows:

Section 5.3 ELECTION OF OFFICERS. Officers shall be elected for a one (1) year term by the Council at its Organizational Meeting held immediately following the Annual Meeting. The term of office of each officer shall commence **at the conclusion of the Organizational Meeting of the Council on October 1**. The Nominations Committee shall propose nominations for positions of Officers. Subject to the approval of the members of Council, it is anticipated that the Chairperson-Elect shall be nominated to succeed to the office of Chairperson. Other nominations may be made by members of the Council present at the annual Organizational Meeting. Election of Officers shall be by voice vote of the members of the Council present at the annual Organizational Meeting, unless voting by written ballot is requested and approved by a majority vote of the members present at the annual Organizational Meeting or the outcome of the election by voice vote is indeterminable in which case voting by written ballot is required.

PROPOSAL #2: To amend Article 4, Sections 4.1, 4.3.3, and 4.3.4, and Article 5, Section 5.3 as follows:

Section 4.1 OFFICES. The Council shall elect a Chairperson, a Chairperson-Elect, a Secretary-Treasurer, **a Deputy Secretary-Treasurer**, and such other officers as it shall determine necessary for the proper conduct of its business.

Section 4.3.3 SECRETARY-TREASURER. The Secretary-Treasurer shall:

- (a) Attend all meetings of the Council and of the Section and prepare minutes of such meetings;
- (b) Be the custodian of the official records of the Council and of the Section;
- (c) Cause to be maintained at the State Bar offices a record of the members of the Section who are eligible to vote and the members and term of office of each member of the Council; **and**
- (d) Be responsible for a record of all of the funds of the Section;

(e) Cause to be maintained full and accurate books of account;

(f) Prepare and present, if requested, at each Annual Meeting of the Section a report of the finances of the Section;

(g) Prepare or cause to be prepared an annual financial report for the Council to be completed promptly after the close of the fiscal year;

(h) Perform the duties of the Chairperson when required by the absence or inability of the Chairperson and the Chairperson – Elect to act; **and**

(i) In general perform all of the duties incident to the office of Secretary-Treasurer and such additional duties as may be from time to time assigned by the Chairperson or by the Council; **and**

NEW (j) Assist the Deputy Secretary-Treasurer in becoming familiar with performance all of the duties and responsibilities of the Secretary-Treasurer position.

NEW Section 4.3.4 DEPUTY SECRETARY-TREASURER. The Deputy Secretary-Treasurer shall learn how to perform and assist the Secretary-Treasurer with all of the duties of the Secretary-Treasurer, perform the duties of the Secretary-Treasurer when required by the absence or inability of the Secretary-Treasurer, and, if possible, attend all available State Bar of Michigan orientation and training meetings associated with the position of Secretary-Treasurer.

Section 4.3.5~~4~~ OTHER OFFICES. The duties of any other office established by the Council shall be specified at the time of the creation of such office.

Section 5.3 ELECTION OF OFFICERS. Officers shall be elected for a one (1) year term by the Council at its Organizational Meeting held immediately following the Annual Meeting. The term of office of each officer shall commence on October 1. The Nominations Committee shall propose nominations for positions of Officers. Subject to the approval of the members of Council, it is anticipated that the Chairperson-Elect shall be nominated to succeed to the office of Chairperson **and the Deputy Secretary-Treasurer shall be nominated to succeed to the office of Secretary-Treasurer.** Other nominations may be made by members of the Council present at the annual Organizational Meeting. Election of Officers shall be by voice vote of the members of the Council present at the annual Organizational Meeting, unless voting by written ballot is requested and approved by a majority vote of the members present at the annual Organizational Meeting or the outcome of the election by voice vote is indeterminable in which case voting by written ballot is required.

Please contact sjoppich@rsjalaw.com if you have any questions

Time's Running Out!

Don't Miss the Summer Conference at Bay Harbor June 21-22, 2019!

If you haven't already registered for the Government Law Section's joint Summer Conference with MAMA, your time is running out! The conference will be held on June 21st and June 22nd at the beautiful Inn at Bay Harbor. This year's Conference features plenty of hot topics for today's government law practitioner, mixed with networking opportunities before and after the sessions, AND, of course, our Annual Meeting.

Agenda for Friday, June 21, 2019

PANEL DISCUSSION: THE HISTORY, RECENT AMENDMENTS AND PRACTICAL APPLICATION OF THE FREEDOM OF INFORMATION ACT.

A panel discussion on board history, the future and application of the FOIA.

- Herschel P. Fink, of counsel, Jaffe Raitt Heuer & Weiss, P.C.
- Steven D. Mann, Miller, Canfield, Paddock and Stone, PLC.
- Lawrence T. Garcia, corporation counsel, city of Detroit.

SOCIAL MEDIA & LOCAL GOVERNMENT LEGAL ISSUES.

- Julie Tappendorf, co-author of the book *Social Media & Local Governments: Navigating the New Public Square*.

INFORMATION TECHNOLOGY, STRATEGY, LOCAL GOVERNMENT POLICY AND SECURITY ISSUES.

- Joellen Shortley, chair, State Bar of Michigan Information Technology Law, deputy corporation counsel, Oakland County
- Kaitlin Keeler, Oakland County Information Technology E-Government Division.

VIEW FROM THE BENCH.

- Justice Megan K. Cavanagh will provide introductory remarks and allow a question-and-answer period.

AMICUS COMMITTEE AND LEGAL DEFENSE FUND UPDATE.

- Member of the GLS Amicus Committee and MML Legal Defense Fund will update the membership on cases filed, funding, results, and information on access to briefs.

GOVERNMENT LAW SECTION ANNUAL MEETING.

Agenda for Saturday, June 22, 2019

SUPREME COURT UPDATE.

- Amanda Kellar, deputy general counsel/director of legal advocacy, International Municipal Lawyers Association, Inc.

PUBLIC IMPROVEMENT DECOMMISSIONING.

Panel discussion of major public undertaking in the decommissioning of dams in Grand Traverse County, Michigan.

- Moderator: Richard Baron, Foley, Baron, Metzger & Juip, PLLC.
- Panelists: Dan DeVaan, AECOM; Frank Dituri.

PUBLIC IMPROVEMENT CONSTRUCTION – INCIDENT RESPONSE.

- Ron VanderVeen, City of Holland.

LUNCH DISCUSSION: AN OVERVIEW HISTORY OF LEGAL ETHICS & SOME IMPORTANT ISSUES RAISED FOR GOVERNMENT LAWYERS.

- Professor Larry Dubin, University of Detroit Mercy Law School.

In addition to these fantastic learning opportunities, the Section will be holding its 7th annual John Beras Memorial Cup Bocce Ball Tournament on Saturday, June 22nd. Please join us for a weekend filled with fun and learning. Register for the summer conference by clicking [here](#).