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FOR IMMEDIATE RELEASE
SEPTEMBER 7, 2016



Taxpayers sue the State of Michigan

TMCG is suing the State for withholding billions in payments to local communities

DETROIT — Taxpayers for Michigan Constitutional Government (TMCG) filed a lawsuit against the State of Michigan this morning with the Michigan Court of Appeals in Detroit. TMCG is suing the State for withholding billions of dollars of Constitutional Payments to local units of government during the past two decades.

The lawsuit is centered around the State's failure to meet the requirements of the Headlee Amendment, which stipulates that the State pay 48.97 percent of revenues to local units of government. The State has some discretion over the allocation of the payments, but the Headlee Amendment lists certain types of payments that are prohibited from inclusion in satisfying the 48.97 percent requirement.

By including prohibited payments in the calculation of the minimum percentage payment, the State has continually failed to meet the required 48.97 percent payment to local governments and in doing so has jeopardized communities throughout Michigan.

"The shortfall in payments has been extreme in some years," said John Mogk, president of TMCG and professor at the Wayne State School of Law.

"As a result, local governments, like Flint, have been required to reduce services, work force, pay levels, pensions and, in some cases, turn over local control to the State."

The Michigan Department of Technology Management and Budget is tasked with calculating the constitutional payments made to local governments. Their miscalculation has hurt municipalities and allowed Constitutional Payments to be kept by the State and redirected for other purposes.



From left: Eastpointe Finance Director Randy Blum, Attorney Tracey Peters, Research Assistant Nick Guttman, Research Assistant Jack Stride, Professor John Mogk, Attorney John Philo and City Manager Steve Duchane discuss the case at a Sept. 6, 2016 TMCG meeting in Eastpointe.

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The DTMB has included in the calculation of the minimum percentage requirement four types of prohibited payments:

Payments made to local units of government to maintain major trunklines, prohibited from inclusion under Article 9, Section 30, which prohibits payments made to local units of government to perform obligations of the State;

Payments resulting from Proposal A, prohibited from inclusion under Article 9, Section 25, which prohibits a tax shift placing a tax burden on local governments;

Payments made to public school academies, prohibited from inclusion under Article 9, Section 33, which prohibits payments made to agencies that are not political subdivisions of the State; and

Payments made to local units of governments to fund obligations imposed upon them by the state.

“The purpose of the Headlee Amendment was to establish a balanced fiscal policy framework for local governments, limiting their ability to increase revenues from local property taxes on one hand, but protecting local governments from State actions that would undermine their fiscal integrity, on the other,” said TMCG Attorney John Philo.

“The DTMB’s miscalculations have completely undermined the balanced fiscal policy framework that was established when the people of Michigan voted to adopt the Headlee Amendment.”

The DTMB’s miscalculations has put strain on all municipalities everywhere and wreaked havoc on many of the communities that were hardest hit by the economic recession.

“The symptoms of underfunding municipalities are clear,” said TMCG Treasurer and Eastpointe City Manager Steve Duchane. “Unsafe water, fewer police officers, fewer firefighters, the list goes on, we’ve talked about it before, but we are done talking about it now, now we are taking action, we are sick and tired of struggling while money that rightfully belongs to us gets spent on select legislative pet projects.”

The lawsuit seeks a declaration that the use of funds raised through Proposal A, spending on public school academies, spending on the maintenance of major trunk lines and payments to fund state obligations cannot be included in the calculation of the minimum mandatory payment; an injunction barring the State from including funds from these areas in the minimum percentage payment calculation and monetary relief to local governments to recover shortfalls in State spending.

Taxpayers for Michigan Constitutional Government is a non-partisan, Michigan non-profit organization. TMCG can be found online at michcongov.org. For more information please call John Mogk at (313) 204-6635 or Steve Duchane at (586) 524-6927.

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