



Webinar

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A Distinction without a Difference: Ad Valorem Special Assessments and Property Taxes

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Citizens Research Council

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- Statewide
- Nonpartisan
- Private not-for-profit
- Promotes sound policy for state and local governments through factual research – accurate, independent, and objective
- Relies on charitable contributions from Michigan foundations, businesses, and individuals
- *www.crcmich.org*

Property Taxation in Michigan

- **General property tax:** used by all local governments to fund general services; based property value (“ad valorem”)
- **Traditional special assessment:** used to finance the construction and maintenance of public improvements; based on the concepts of need and benefit within a limited geographical area; costs apportioned based upon front footage, land value, or some method that can be reasonably connected to the benefit received by the property
- **Ad valorem special assessment:** hybrid special assessment – based on property value; used to fund specific government services and typically levied unit-wide; levied similar to a property tax, but treated like an assessment under separate and distinct laws

Four Types of Property Taxation

General Property Tax

Tax based on the value of real and personal property. Revenue used for all government services.

Dedicated Property Tax

Tax based on the value of real and personal property. Revenue used for specific government services.

Ad Valorem Special Assessment

Tax based on the value of real property. Revenue used for specific government services.

Traditional Special Assessment

Cost of infrastructure apportioned among all benefiting properties. If based on value, then only real property.

Legal Distinctions

Special assessments:

- 1) Levied only on land
- 2) Cannot be made a personal liability of person assessed
- 3) Based wholly on benefits
- 4) Apportioned across a limited section of a municipality
- 5) Exceptional as to both time and locality

Taxes:

- 1) Levied on land and equipment
- 2) Levied to raise revenue for general operation of government
- 3) Levied to benefit the general public
- 4) Compulsory in nature

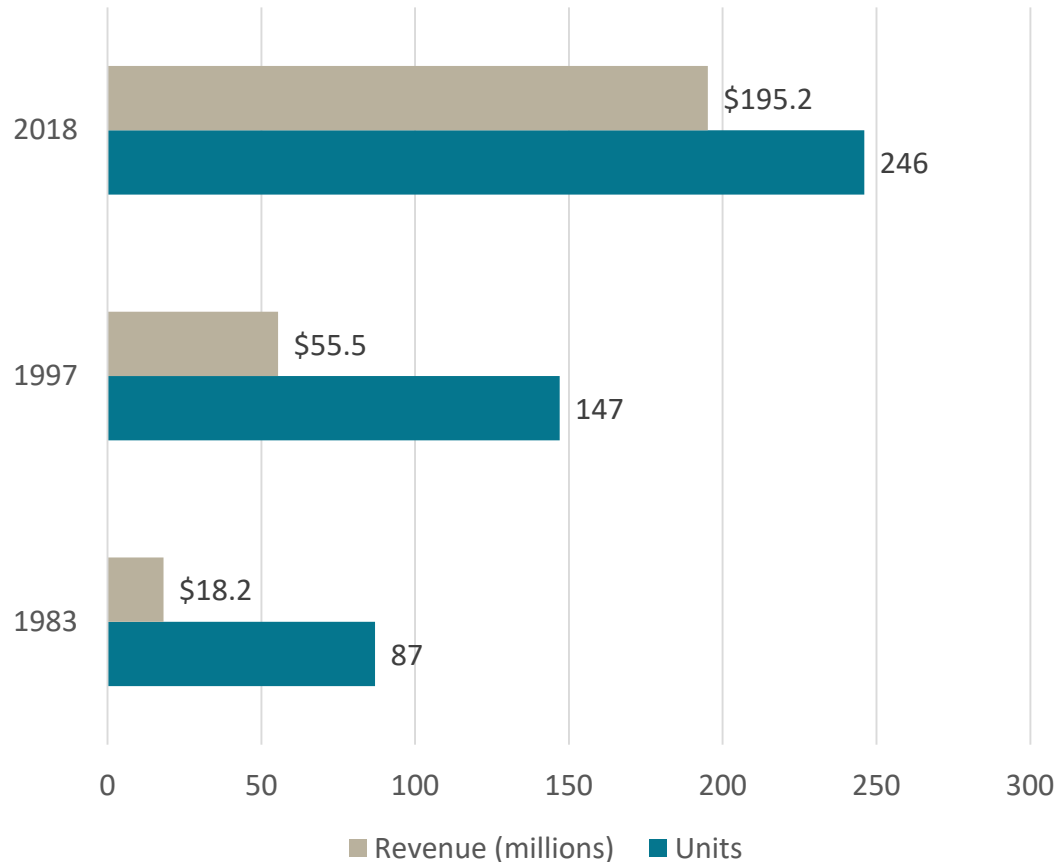
Why Distinctions Matter: Differences between Property Taxes and Special Assessments

	GENERAL PROPERTY TAXES	AD VALOREM SPECIAL ASSESSMENTS	TRADITIONAL SPECIAL ASSESSMENTS
SIZE OF DISTRICT	Unit-wide	Unit-wide	Land and premises specially benefitted
BASIS OF LEVY	Taxable value (modified acquisition value)	Taxable value; sometimes SEV (50% of cash value)	Market value increase in property; costs generally apportioned by front footage or land area/value
VOTER APPROVAL REQUIRED?	Yes, unless authorized by existing law	Optional with governing board or demanded by petition	No, unless demanded by petition
PROPERTY INCLUDED IN LEVY	Real and tangible personal property	Land and premises; sometimes exempts property exempted from general property tax	Land and premises; does not exempt property exempted from general property tax
RATE LIMITED?	Yes	No	No
SUBJECT TO HEADLEE ROLLBACKS?	Yes	No	Headlee rollback provisions are not applicable
PROCEEDS USED FOR	Basic municipal services or infrastructure improvements	Basic municipal services or infrastructure improvements	Finance physical improvements to infrastructure
APPEALS	Appeals process transparent and easy to follow	Appeals process difficult; presumed valid	Appeals process difficult; presumed valid

What is the Problem?

- Ad valorem special assessments are similar to property taxes, but being levied as assessments
 - Avoids tax limitations in state law and Michigan Constitution
 - Does not require voter approval
 - Erodes connection between special assessments and special benefits created by public improvements
 - Undermines distinction between special assessments and general property taxes
- Creates fairness issue
 - Unfair to other local governments that support same services with general property taxes
 - Unfair to taxpayers because state tax limits are avoided and assessment appeals are more difficult

Not a New Problem



- Previous Research Council recommendations to address use of ad valorem special assessments largely ignored
- State allowing local officials to meet immediate funding needs rather than addressing the hard issue – municipal finance system is broken

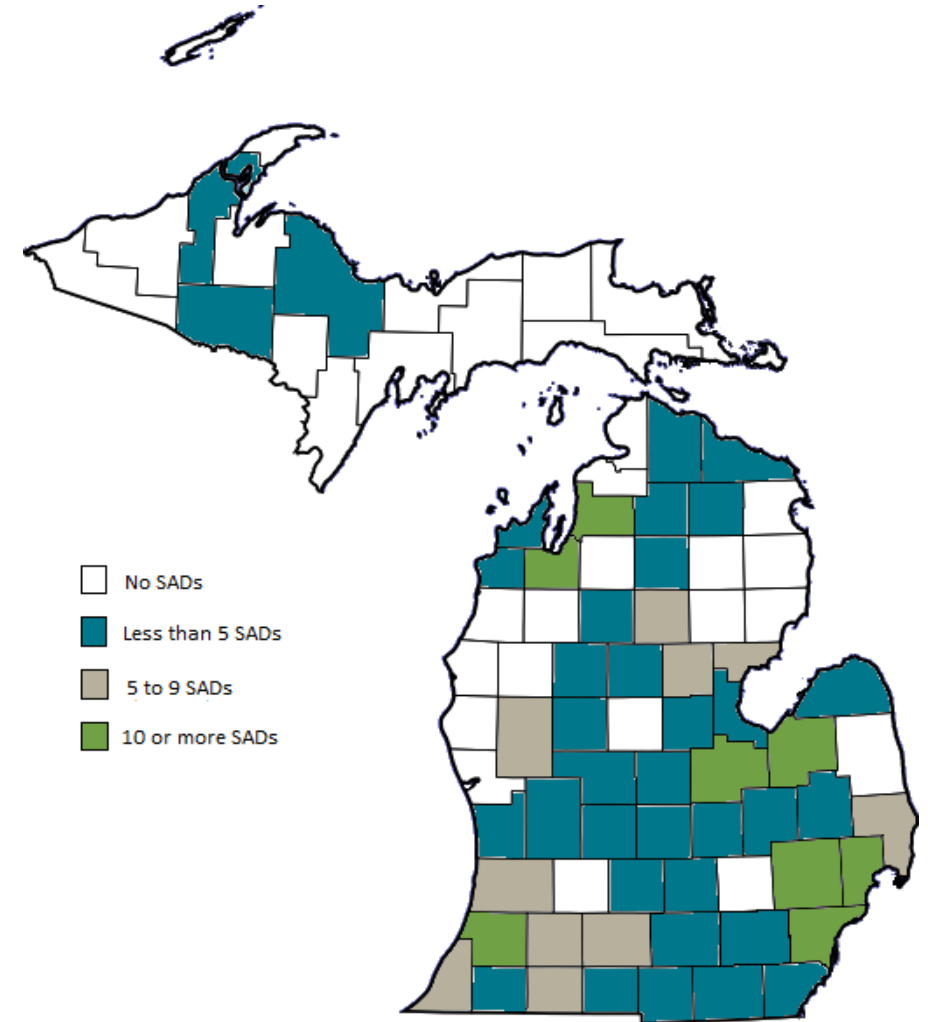
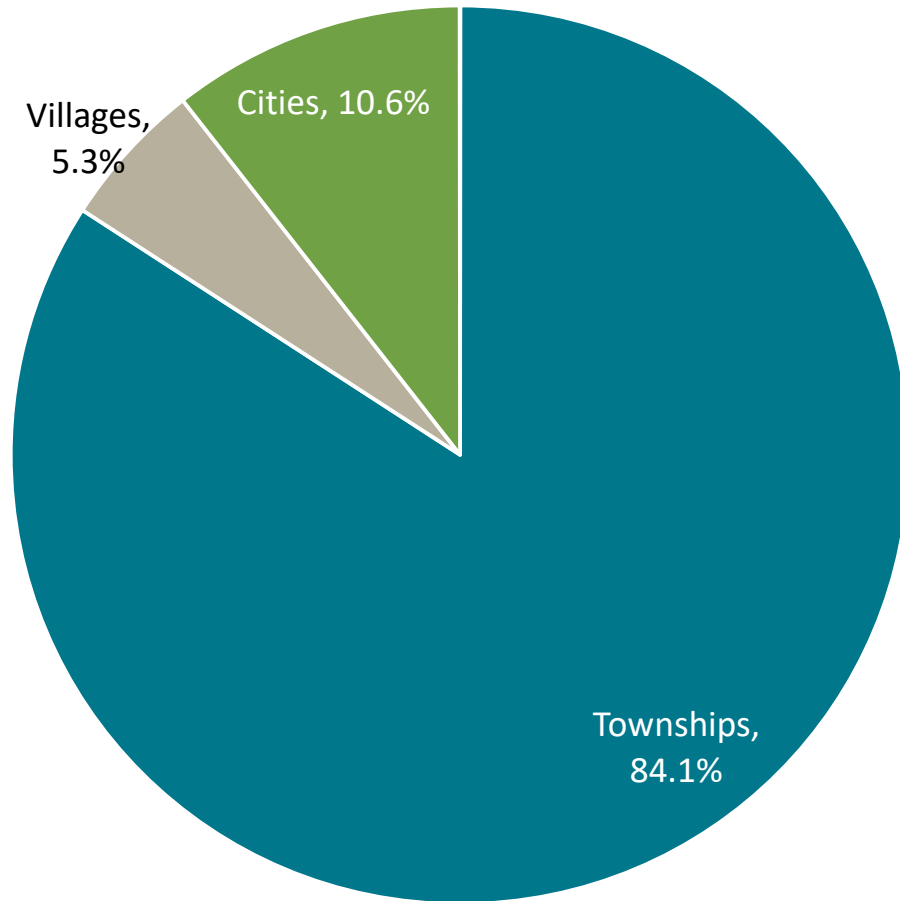
Big Problem – Funding Same Basic Government Services Differently

- Linkage between property value and benefit is tenuous
 - Case law replete with requirement that special assessments can only be levied when property specially assessed receives benefit from the improvement differing from benefit to general public
 - Unit-wide ad valorem special assessments fund municipal operating services for which general public has opportunity to benefit equally – **no special benefit**
- Taxpayer confusion
 - Not clear to taxpayers how or why ad valorem special assessments are different from general property taxes
 - Looks and acts like a tax
 - Inherently unfair to treat them differently under law

Types of Ad Valorem Special Assessments, 2018

- 246 districts across Michigan
 - 192 local governments
 - \$195 million in revenue
- Act 33 assessments for public safety:
 - Available to townships, villages, and small cities
 - Used to finance police, fire, ambulance services, vehicles, and equipment
 - Levied on taxable value and exempts nonprofit, government property
 - 90% of all assessments (218 districts)
 - 97% of revenue raised (\$188 million)

Governments in Michigan Levying Ad Valorem Special Assessments



Townships with High Unit-Wide Ad Valorem Special Assessment Millage Rates, 2018

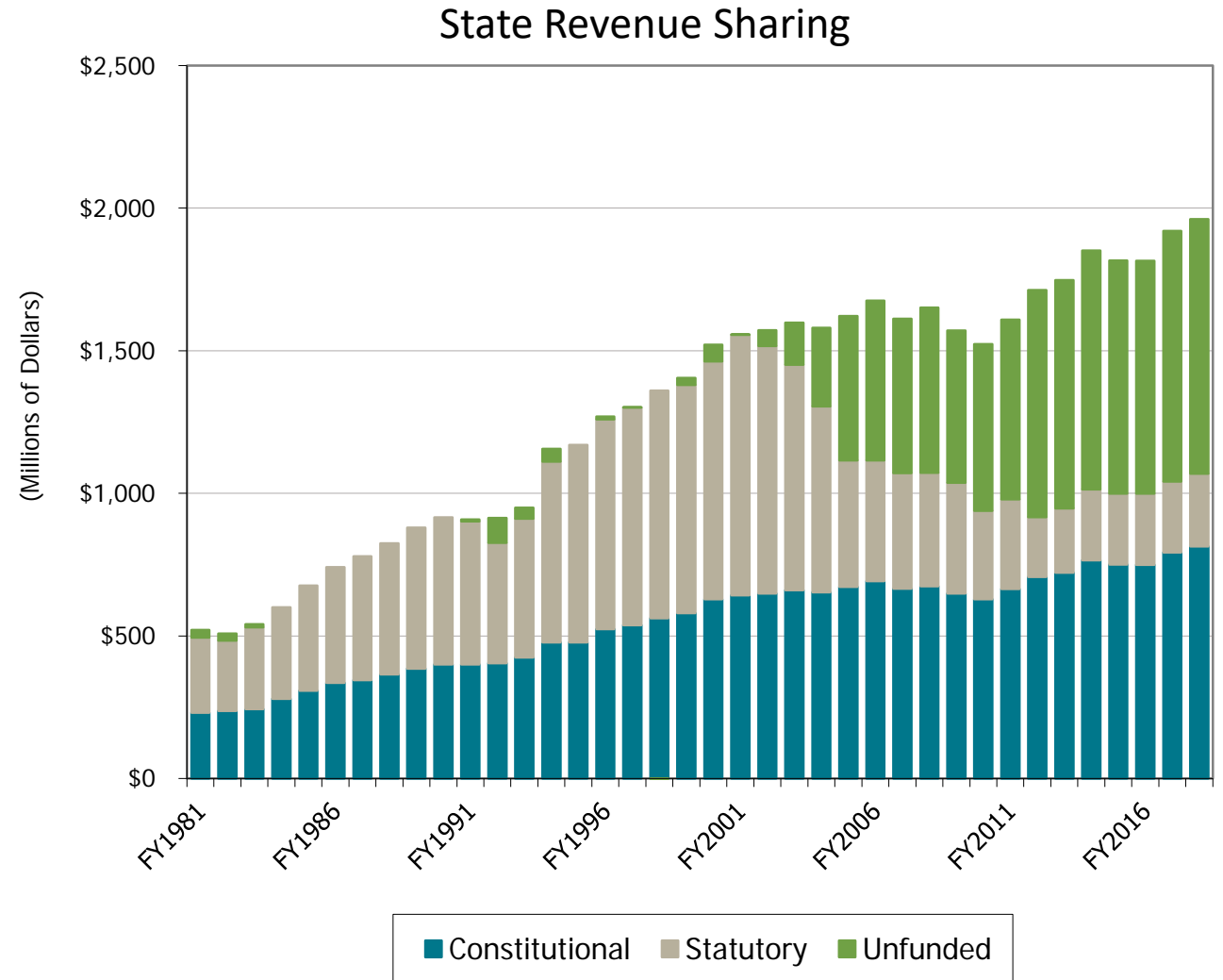
	COUNTY	SPECIAL ASSESSMENT MILLAGE RATE	SPECIAL ASSESSMENT PURPOSE	PROPERTY TAX MILLAGE RATE
ROYAL OAK TOWNSHIP	Oakland	19.7500	Garbage, Fire, Parks, and Street Lights	13.2102
CARROLLTON TOWNSHIP	Saginaw	11.9500	Public Safety	0.9134
CANTON CHARTER TOWNSHIP	Wayne	9.5340	Public Safety	2.8160
CLINTON CHARTER TOWNSHIP	Macomb	9.0000	Public Safety	5.4829
CHESTERFIELD TOWNSHIP	Macomb	8.0000	Public Safety	0.7776
BROWNSTOWN CHARTER TOWNSHIP	Wayne	8.0000	Public Safety	4.0221
CLAY TOWNSHIP	St. Clair	6.7250	Public Safety	0.5422
BRUCE TOWNSHIP	Macomb	5.5300	Public Safety	1.7443
SHERIDAN TOWNSHIP	Calhoun	5.5000	Fire	0.7985
HIGGINS TOWNSHIP	Roscommon	5.0000	EMS	1.4276

High Combined Tax Rates, 2018

	COUNTY	SPECIAL ASSESSMENT MILLAGE RATE	PROPERTY TAX MILLAGE RATE	TOTAL MILLAGE RATE
Ecorse City	Wayne	33.2766	23.6063	56.8829
Harper Woods City	Wayne	20.0000	24.6903	44.6903
Melvindale City	Wayne	10.0000	23.2892	33.2892
Royal Oak Charter Township	Oakland	19.7500	13.2102	32.9602
River Rouge City	Wayne	8.0000	23.9816	31.9816
Fraser City	Macomb	9.0000	21.7998	30.7998
Redford Charter Township	Wayne	8.4700	18.3458	26.8158
Hazel Park City	Oakland	2.8000	21.8238	24.6238
Bangor City	Van Buren	6.7500	16.9604	23.7104
Ferndale City	Oakland	3.5333	18.9689	22.5022
Gaastra City	Iron	3.0000	18.2016	21.2016
Gaylord City	Otsego	3.0000	17.1382	20.1382
Clinton Charter Township	Macomb	9.0000	5.4829	14.4829
Waterford Charter Township	Oakland	2.9500	10.6291	13.5791
Benton Charter Township	Berrien	3.5000	9.9196	13.4196
Carrollton Township	Saginaw	11.9500	0.9134	12.8634
Kalamazoo Charter Township	Kalamazoo	3.5400	8.9412	12.4812
Canton Charter Township	Wayne	9.5340	2.8160	12.3500
Brownstown Charter Township	Wayne	8.0000	4.0221	12.0221
Champion Township	Marquette	2.5000	8.9067	11.4067
Brandon Charter Township	Oakland	4.3905	6.7142	11.1047
Lansing Charter Township	Ingham	2.0307	9.0065	11.0372

Possible Reasons for Increased Use

- Amendments to Act 33 – easier than ever to levy by expanding scope and purpose
- Not subject to property tax Headlee rollbacks
- Michigan's economic struggles
 - State revenue sharing losses total more than \$8 billion since 1998
 - Property values and property tax revenues decreased with Great Recession



Recommendations

Ad valorem special assessments should NOT be maintained in their current form

- While their use is technically legal, it undermines the legal and practical distinctions between assessments and taxes
- Special assessments should be levied only for recuperating costs that increase the market value of specific properties
 - Should not be unit-wide
 - Should not support general government services
- If property tax is insufficient, then bigger issue of the inadequacy of the municipal finance system needs to be addressed

First Recommendation: Eliminate Statutory Authorization for Unit-Wide Ad Valorem Special Assessments

- General government services should be funded by general taxes
- Property taxes would
 - Subject levies to voter approval and constitutional and statutory restrictions
 - Give property owners more rights to appeal levies
 - Make ad valorem taxes easier to track by making general property tax the sole method for raising funds
- Must be recognized that ad valorem special assessments are often funding essential government services that cannot be eliminated
 - Local units can raise more property taxes – can be difficult
 - Townships can become cities
 - Cities can levy income tax
- Recommendation should not be implemented in isolation

Second Recommendation: Establish Police and Fire Authorities

- Majority of unit-wide assessments fund public safety services under Act 33
- State law allows local governments to join together to form public safety authorities
- Authority could levy property tax to fund public safety services within geographic footprint of all authority members
- Public safety authorities are an improvement over unit-wide assessments:
 - Subject to voter approval and need voter approval to levy taxes
 - Subject to some constitutional tax limitations
 - Multi-jurisdictional

Third Recommendation: Rethink Municipal Finance and Governance

- The fact that local governments have limited revenue options and need to fund public safety services does NOT justify implementation of bad policy
- If property tax not sufficient, then local governments need more revenue options
- Municipal finance and service delivery system has not changed much since 1800s despite advances in transportation, communication, and technology

New Local-Option Taxes

- High property tax rates are burdensome and generally unsustainable
- Local tax options: income, sales or excise, motor fuel or vehicle related, utility, “sin”, tourism, entertainment or amusement, 9-1-1 or phone related, and sharing economy taxes
- Michigan is an outlier and needs to provide local governments with more taxing options
- Authorizing more local taxes just provides more options for local officials and voters – no new taxes can be implemented at local level without voter approval
- Citizens Research Council Report 399: “Diversifying Local-Source Revenue Options in Michigan,” February 2018

Regional Taxes and Service Delivery

- New local-option taxes best levied at the regional level
 - Reduces economic distortions
 - Lessens competition at local level
 - Less socioeconomic disparities at regional level
- Expand regional governance at the county level
 - Counties can provide IT, administration, tax collection, property assessment, public safety, etc.
 - Maximize economies of scale and skill and improve efficiency
- Coupling new regional taxes with regional service delivery might help to eliminate need for ad valorem special assessments
- Citizens Research Council Report 395: "Counties in Michigan: An Exercise in Regional Government," March 2017

Conclusion

- Problem not with all special assessments, but with hybrid ad valorem special assessment
 - Levied like a tax, regulated like an assessment
 - General government services provided unit-wide should be funded by tax revenues
- Despite admonitions against ad valorem special assessments, their use has only increased in recent years
- Band-Aid for local governments – allows state and local officials to avoid hard issue of broken municipal finance system
- Three recommendations not mutually exclusive and can be pursued concurrently
 - 1) Eliminate statutory authorization for unit-wide ad valorem special assessments
 - 2) Establish police and fire authorities
 - 3) Rethink municipal finance and governance

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