

PUBLIC IMPROVEMENTS

**PAVEMENTS, SIDEWALKS, AND ELEVATED STRUCTURES
Act 246 of 1931**

AN ACT to provide for the construction, repair, and maintenance of pavements, sidewalks, and elevated structures on or along public roads and highways; to provide for the levying of taxes and of special assessments; to authorize the borrowing of money and the issuance of bonds; to prescribe the powers and duties of certain state and local agencies and officers; to validate actions taken, special assessments levied, and bonds issued; and to provide for the lighting of certain roads, highways, and bridges.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;--
- Am. 1973, Act 122, Imd. Eff. Aug. 21, 1973 ;-- Am. 1989, Act 80, Imd. Eff. June 20,
1989

The People of the State of Michigan enact:

41.271 Pavements or sidewalks; application by petition; eligibility of signers, certificate of tax status; authority of county road commissioners; highway or public highway, definition.

Sec. 1. Whenever the owners of more than 51% of the lineal frontage of lands outside of the corporate limits of any city or village fronting or touching upon any public highway or portion thereof, desire a pavement or sidewalks built thereon, they may file an application for such improvement with the county road commissioners of the county in which such pavement or sidewalk is proposed to be built. No application for the paving of any highway, or portion thereof, shall be considered unless at least 75% of the lands fronting thereon have been subdivided into parcels having a frontage of not more than 300 feet each on such highway or there shall be an average of at least 1 building, including buildings under construction, located along the portion of such highway proposed to be paved for every 300 lineal feet thereof, according to a survey thereof to be made by the commissioners. The eligibility of signers to any

application hereby authorized may be determined by their interest of record in the office of the register of deeds or in the probate court of the county in which such lands are situated at the time the petition is presented or by other satisfactory proof of interest presented to the commissioners. Such petition shall be accompanied by a description of the land fronting or touching on the highway owned by each signer and by a certificate of the county treasurer, showing the taxes or special assessments, if any, against such lands which appear delinquent on his books; no name of any signer on the petition shall be considered valid whose land fronting or touching on the highways shows delinquent assessments or taxes on such certificate. Any petition so received by the commissioners or presented to them under the provisions of this act, shall be deemed to confer full authority to cause such work to be done in order that the proper proportion of the expense thereof may be met accordingly. The commissioners shall have all the power of laying out and establishing all such pavements or sidewalks. The words "highway" or "public highway" as used in this act mean any road, street or alley taken over by and under the jurisdiction of the board of county road commissioners.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.271 ;-- Am. 1951, Act 73, Imd. Eff. May 28, 1951 ;-- Am. 1960, Act 47, Imd. Eff. Apr. 19, 1960 ;-- Am. 1967, Act 42, Imd. Eff. June 7, 1967

41.271a Pavements or sidewalks; application by resolution of township board; declaration of necessity, public hearing; petition for discontinuance.

Sec. 1a. Any township board, by resolution, may make application to the board of county road commissioners for the improvement of a county road or portion thereof located within the township. The resolution when received and accepted by the county road commissioners shall confer the same authority to cause an improvement to be made and benefits assessed as if a petition were filed in accordance with the provisions of section 1. The petition shall not be considered unless it complies with the subdivision and building requirements set forth in section 1 relating to applications by property owners.

A declaration of necessity shall be made by resolution of the board of county road commissioners who shall thereafter hold a public hearing at the township hall upon the declaration of necessity in the same manner as if an application had been filed by property owners as set forth in section 1. After the date of the public hearing on the declaration of necessity, the property owners of 51% or more of the lineal frontage along the proposed improvement may submit within 45 days a petition to the board of county road commissioners requesting that the project be discontinued. The project shall be discontinued if, upon examination, the owners of 51% or more of the lineal frontage along the improvement have signed the petition. If no petition is filed within 45 days, the project shall proceed in the same manner as if inaugurated by property owners.

History: Add. 1968, Act 55, Eff. Nov. 15, 1968

41.272 Pavements or sidewalks; survey, plat; adoption of materials, grade and manner of construction by county road commissioners.

Sec. 2. Upon the filing of such application, the commissioners shall proceed to examine the location, and, if they deem the proposed improvement necessary, shall cause a survey thereof and establish grades and make specifications of the kind of improvement suitable for the purpose, and estimates of the cost thereof to be filed with them by a registered engineer. The said commissioners shall also cause a plat to be made of said proposed improvement and of the lands that may be benefited by the proposed improvement. The commissioners may adopt such kind of material, grade and manner of construction as they shall deem best under the circumstances, and shall assume responsibility for proper inspection during the construction of said proposed improvement.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.272

41.273 Bridges, drains, curbing, culverts and additional rights of way; deemed part of improvement.

Sec. 3. All bridges, road drains, drainage structures, curbing, culverts and any additional right of way required shall be deemed a necessary part of any proposed improvement and the cost and expenses thereof shall be included in the special assessment roll for such improvement.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.273 ;-- Am. 1951, Act 73, Imd. Eff. May 28, 1951

41.274 Pavements or sidewalks; first order of determination, specifications, description of assessment district by county road commissioners; location along state trunk line, approval by state highway commissioner.

Sec. 4. If after such survey, establishment of grades, plans and specifications and estimates of cost have been filed with them, the commissioners shall still be of the opinion that the proposed improvement is necessary for the benefit of the public and is for the benefit of the public welfare and convenience, they shall make their first order of determination and attach a copy of the specifications to such order. These specifications shall not be final but may be changed by the commissioners at any time before the final order is made, but not after the hearing of the objections hereinafter provided for, except after due notice and hearing thereon. The commissioners shall also attach to such order either a description of the boundaries of the proposed assessment district or a description of the several parcels of land which may be liable to assessment for the benefits on account of the proposed improvement: Provided, however, That whenever the proposed improvement is located on a state trunk line, no hearing as above referred to shall be held unless the state highway commissioner shall have been furnished with a written determination of necessity signed by the county road commissioners and a complete file of the plans and specifications, and the approval of the state highway commissioner as to determination, plans and specifications has been obtained.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- CL 1948, 41.274

41.275 Pavements or sidewalks; hearing of objections, notice, contents; change in specifications or boundaries of assessment district, new hearing.

Sec. 5. The commissioners shall hear objections to the proposed improvement at the time and place to be fixed by them either at the office of the commissioners or at some suitable place within the township in which the proposed special assessment district is located: Provided, That the holding of such hearing may be enforced by

mandamus in case the commissioners shall fail to hold the hearing within 60 days after the filing of the petition required under section 1 of this act. At this hearing all parties or persons interested shall be given an opportunity to present their objections, if any, to the proposed improvement. Notice of this hearing shall be given by the commissioners by causing a notice thereof to be published at least once in each week for 2 weeks in succession in some newspaper of general circulation in such district, and by posting 5 notices within the limits of such district, in public and conspicuous places therein. Such posting shall be done and at least 1 publication in the newspaper shall be made not less than 10 days prior to such hearing. Such notice shall set forth a description of the boundaries of the proposed special assessment district or the several parcels of land proposed to be assessed on account of such improvement and the time and place of hearing. At this hearing the commissioners shall make any changes in the specifications deemed advisable without further notice or hearing, provided such changes do not increase the estimate more than 10 per cent. If they do increase the estimate more than 10 per cent, then a new hearing shall be had and notice thereof given as in the first instance. At such hearing, the commissioners may alter the boundaries of the proposed assessment district: Provided, however, That if said district is enlarged or otherwise altered so as to embrace additional lands, hearing thereon after due notice shall be had as hereinbefore provided.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- CL 1948, 41.275 ;-- Am. 1949, Act 218, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 73, Imd. Eff. May 28, 1951 ;-- Am. 1952, Act 241, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 84, Imd. Eff. May 18, 1953

41.276 Pavements or sidewalks; liability of petitioners.

Sec. 6. The petitioners for the construction of any improvement under the provisions of this act shall be jointly and severally liable for the costs and expense of proceedings had, but not for any portion of the construction of the improvement, in case the proceedings therefor shall be dismissed for any cause where the county road commissioners have incurred expense because of such petition.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.276

41.277 Pavements or sidewalks; final order of determination, attachment of specifications.

Sec. 7. Within 30 days after hearing objections, if the commissioners shall deem the proposed improvement necessary for the benefit of the public welfare and convenience, they shall make their final order in writing, under their hands, determining that the proposed improvement shall be made according to the final specifications adopted by them, a copy of which specifications shall be attached to said order.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- CL 1948, 41.277 ;-- Am. 1952, Act 241, Eff. Sept. 18, 1952

41.278 Contracts for construction of improvement; bids, notice, procedure; commencement of construction.

Sec. 8. On the making of the said final order, the commissioners shall proceed to let the contract for the construction of the proposed improvement to the lowest responsible bidder, said bidder to furnish adequate security for the performance of the same, in a sum to be fixed by the commissioners: Provided, That no contract shall be let or rolls spread under the provisions of this act when 25 per cent or more of the total tax levied for all purposes upon real property within the assessment district shall have been delinquent for 1 or more years. The commissioners shall give notice of the letting of such contract by publishing a notice thereof in some newspaper of general circulation in the county, at least once in each week for 2 weeks, and may publish notice thereof in other newspapers if they shall deem the same advisable. At least 1 publication of the notice shall be made not less than 10 days prior to the date of letting. They may reserve the right to reject any and all bids. If rejected, the same procedure for obtaining bids shall be repeated, or if deemed advisable by the commissioners, they shall proceed with the construction of said proposed improvement in the same manner and with the same authority, when applicable, as they have to build roads under the provisions of the county road law. After the bids have been received or as soon thereafter as practicable, the commissioners shall enter into the necessary contract for the construction of the proposed improvement with the party whose bid shall be accepted by them and who shall have furnished the bonds required. The commissioners shall take such action as may be necessary to commence

construction of the proposed improvements, or cause such construction to be commenced, within 6 months, or if weather does not then permit, as soon thereafter as the weather does permit after making said final order.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.278 ;-- Am. 1952, Act 241, Eff. Sept. 18, 1952

41.279 Special assessment district; determination, announcement, addition of lands; determination of installments.

Sec. 9. At the time of hearing objections to the proposed improvement, the commissioners shall finally determine the special assessment district to be assessed for benefits on the construction of the proposed improvement, and shall not assess any lands therefor not included in the district. The determination shall be announced at the conclusion of the hearing. If at any time error is discovered in the district as so determined, before the special assessment roll has been finally approved by the commissioners and if in the judgment of the commissioners further lands should be brought within such assessment district, they may give notice of a new hearing as to the limits of such assessment district, and bring in additional lands as provided in the first instance. The commissioners shall also then and there determine the number of installments, if any, in which the money therefor shall be raised, which shall not be more than 10 annual installments. The determination as to the number of installments in which the money for the improvements shall be raised, may be altered, subject to the limitations in section 13, after notice and hearing thereon given and conducted in the manner hereinbefore provided.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- CL 1948, 41.279 ;-- Am. 1960, Act 47, Imd. Eff. Apr. 19, 1960

41.280 Assessment of benefits against township and parcels of land; review; assessment against state lands; numbering of districts.

Sec. 10. The commissioners shall apportion the percentage of the total cost of the improvement which the township at large shall be taxed to pay by reason of the benefit to the public convenience and welfare, which shall not exceed 25% of the total cost of the improvement, and

may apportion a percentage of the total cost of the improvement, to be borne by the board of county road commissioners from the county road fund, and shall also apportion the percentage of the benefits to accrue to any piece or parcel of land by reason of the construction of that improvement over and above the sum of the percent assessed against the township at large and the percentage, if any, apportioned to the board of county road commissioners to be paid from the county road fund as provided in this section, which percent of benefit shall be apportioned upon and assessed against the lands benefited, according to the benefits received, and which apportionment shall be announced at the time and place of hearing objections to and equalizing the apportionment of benefits. The assessments of percent benefits shall be subject to review and correction and may be reviewed in the manner provided in this act. All appeals in this act provided for shall be from the apportionment of the percent of benefits. Any state lands, except state tax homestead or state swamp lands under the control of the department of natural resources, benefited by any such improvement, shall be liable to assessment in the same manner as are privately owned lands. The amount of any assessment on state land shall be certified by the board of county road commissioners, and shall be paid by the state treasurer. Payment shall be made out of any funds in the state treasury appropriated for that purpose. In any case where an assessment is imposed by the board of county road commissioners under this act the state shall have the same right of appeal as is given to owners of other lands. The board of county road commissioners shall designate each assessment district by number, by which number it shall thereafter be known. Whenever any state land is assessed for benefits, the board of county road commissioners shall give 10 days' notice to the state treasurer of the time and place of the hearing of objections on account of the assessment.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.280 ;-- Am. 2002, Act 373, Imd. Eff. May 24, 2002

41.281 Creation of indebtedness; approval by township board; limitation on issue of township bonds.

Sec. 11. In the creation of any indebtedness hereunder, it shall not be necessary to have the approval of the board of supervisors thereon, but no indebtedness against the township at large shall be incurred without

the approval of the township board of each township in which any part of the assessment district is situated. No bonds shall be issued on behalf of any township which would cause the total bonded debt of the township to exceed 5 per cent of its assessed valuation.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- CL 1948, 41.281

41.282 Maintenance and repair of improvement; proration of expense of joint improvement.

Sec. 12. After the completion of said proposed improvement, the highway authorities having jurisdiction over the highway involved, shall maintain and repair said pavement and/or sidewalk and shall keep the same in a reasonably safe condition for public travel, using for this purpose any money which may be available for the maintenance and repair of said highway. If there is a surplus of the money collected after paying the cost of building such proposed improvement, the same shall be turned over to the highway authorities having the responsibility for the maintenance and repair thereof and shall be used solely for such maintenance and repair. If the improvement is in more than 1 highway jurisdiction, the fund shall be prorated between such jurisdictions according to the amount of the improvement in each.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.282

41.283 Proceedings governed by MCL 247.418 to 247.481; records; reports.

Sec. 13. The construction of the proposed improvement, the assessment for same, the collection of the interest on the assessment, the making of any assessment district, all appeals and hearings thereon, the issuing of bonds, the collection of money, the levying of reassessments to cover deficiencies, and all other necessary proceedings shall be conducted in the same manner as is provided in and governed by the provisions of Act No. 59 of the Public Acts of 1915, as amended, being sections 247.418 to 247.481 of the Michigan Compiled Laws, so far as the same may be applicable to this class of improvements. Records shall be kept and reports made of bonds issued under this act by the same officers and in the same manner as provided by law for bonds under said act.

History: 1931, Act 246, Eff. Sept. 18, 1931 ;-- Am. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.283 ;-- Am. 1949, Act 218, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 73, Imd. Eff. May 28, 1951 ;-- Am. 1960, Act 47, Imd. Eff. Apr. 19, 1960 ;-- Am. 1973, Act 122, Imd. Eff. Aug. 21, 1973

41.283a Bonds; issuance and sale; full faith and credit; assessment district sinking fund; bonds subject to revised municipal finance act.

Sec. 13a. (1) The commissioners may issue and sell bonds and pledge the full faith and credit of the assessment district for the payment of the bonds.

(2) The township board of any township in which a special assessment district is created under the provisions of this act may, by resolution duly adopted, pledge the full faith and credit of the township for the payment of bonds issued on that special assessment district. Whenever an assessment district sinking fund is insufficient to pay the bonds and interest on the bonds when due, and the full faith and credit of the township have been pledged to the payment of those bonds, the amount necessary to make the payment shall be immediately paid into the assessment district sinking fund by the township. In any case where the payment is made by the township, all special assessments collected in the district after all bonds issued have been retired or sufficient funds have been accumulated in the assessment district sinking fund to retire all the bonds shall belong to and be turned over to the township.

(3) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1951, Act 73, Imd. Eff. May 28, 1951 ;-- Am. 1973, Act 122, Imd. Eff. Aug. 21, 1973 ;-- Am. 2002, Act 273, Imd. Eff. May 9, 2002

41.284 Advancement of county road funds; reimbursement by township.

Sec. 14. In lieu of borrowing money and issuing bonds or other evidence of indebtedness, the board of county road commissioners may advance the necessary funds for the construction of the proposed improvement from county road funds under its control, and, upon written certification by the board of county road commissioners that the cost of said

improvement has been or will be paid from the county road fund, the county treasurer shall credit all assessments collected from the township at large and the assessment district, including any share of delinquent tax sales apportioned thereto, directly to the county road fund. Whenever funds are so advanced from county road funds, the township board of any township within which such improvement is located may, by resolution duly adopted, pledge the full faith and credit of the township to the repayment of all funds so advanced. In such case, if the county road fund has not been fully reimbursed by special assessment collections upon the final due date of the last installment of such special assessment, the township shall, within 90 days thereafter, pay to the board of county road commissioners such sum as is necessary to complete such reimbursement, and any delinquent special assessments thereafter collected shall belong to and be turned over to the township.

History: Add. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.284 ;-- Am. 1951, Act 73, Imd. Eff. May 28, 1951

41.285 County board of supervisors; appropriation of funds for advancement; establishment of revolving fund.

Sec. 15. The board of supervisors of any county may appropriate necessary funds to advance the cost of any proposed improvement constructed under the provisions of this act, or said board of supervisors may set up and establish a revolving fund to finance proposed improvements under the provisions of this act. Whenever the cost of any improvements constructed under the provisions of this act is advanced from funds so appropriated or set up and established by the board of supervisors, the county treasurer shall credit all assessments collected from the township at large and the assessment district, including any share of delinquent tax sales apportioned thereto, directly to the fund from which the cost of said improvement was advanced.

History: Add. 1945, Act 141, Eff. Sept. 6, 1945 ;-- CL 1948, 41.285

41.286 Hearing examiners; powers and duties; determination of board of county road commissioners, petition for reconsideration, filing; notice, hearing.

Sec. 16. Any board of county road commissioners may designate by resolution a hearing examiner or examiners who shall be authorized to make examinations and hold hearings as required by this act. The hearing examiner or examiners, after the necessary examinations and hearings, shall submit findings of fact and proposed determinations to the board who may modify the proposed determinations and confirm the same as submitted or as modified and order them placed on file in its offices. A copy of the determination of the board shall be served by first class mail to each owner of or party in interest in property to be assessed at their addresses as shown upon the last local tax assessment records. The determinations shall become the final determinations of the board 10 days after mailing of the copies of the determination unless a petition for reconsideration is filed as provided in this section.

If the owners of record of more than 50% of the lineal frontage, who were qualified under the provisions of section 1 of this act to sign the petition, desire to have the board of county road commissioners reconsider its determination made under this section, they shall submit within 10 days after mailing of copies of the board's determination, a petition for reconsideration of such determination by the board of county road commissioners.

The board of county road commissioners shall set a time and place of hearing upon the petition for reconsideration, and shall give notice thereof by first class mail to each owner of or party in interest in property to be assessed at their addresses as shown upon the last local tax assessment records. At the conclusion of the hearing, the board of county road commissioners may modify or confirm its previous determination, the determination shall thereupon be final.

History: Add. 1963, Act 76, Imd. Eff. May 8, 1963

41.287 Validation of prior actions, special assessments, and bonds.

Sec. 17. Actions heretofore taken, special assessments heretofore levied and bonds heretofore issued under this act, as originally adopted or subsequently amended, are validated. A board of county road commissioners acting under this act, or a township, shall not contest the

validity of any such bonds after they are sold and delivered and the board of county road commissioners has received the consideration therefor.

History: Add. 1973, Act 122, Imd. Eff. Aug. 21, 1973

41.288 Installation of sidewalks and elevated structures; payment; contracts; approval.

Sec. 18. (1) The township board of a township may install sidewalks along the sides of a highway and may install elevated structures for foot travel over highways in the township. The township board may pay for the elevated structures out of the funds of the township or purchase the elevated structures on title retaining contracts. Contracts shall not be entered into or issued for a period longer than 10 years. A highway under the jurisdiction of the director of the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the director of the state transportation department or the board of county road commissioners.

(2) In proceedings under this section, the township board may provide that the cost of the sidewalk or elevated structure shall be paid entirely by public money and may allocate for this purpose unexpended money in the contingent fund or general fund of the township.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.288a Sidewalk construction, repair, or maintenance; order; meeting; notice; assessment of costs; approval; election.

Sec. 18a. (1) The township board of a township may order the construction, repair, or maintenance of, or may construct, repair, or maintain sidewalks in a designated area within the township because of the health, safety, or welfare of the residents of the township.

(2) The township board shall hold a public meeting relative to the ordering of the sidewalk construction, repair, or maintenance and shall notify property owners involved of the time and place of the hearing.

(3) If the board determines that the construction, repair, or maintenance of sidewalks is necessary, it may construct, repair, or maintain the sidewalks and assess the costs to the property involved, payable over a 5-year period, or permit the owners of the property involved to have the sidewalks constructed, repaired, or maintained according to township specifications at their own expenses. Sidewalks constructed, repaired, or maintained under this section on the right-of-way of state highways or county roads must have the approval of the state or county highway authority having jurisdiction over the highway or road.

(4) A township board may construct, repair, and maintain walkways or sidewalks along main or arterial roads where it considers it necessary to protect the safety of the public. The costs of the sidewalks may be paid by the township at large. When determined necessary by the township board, the board shall submit to the electors the question of raising the necessary funds by a levy not to exceed 1 mill at a general, primary, or special election.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.288b Public street cleaning vehicles and snow removal equipment.

Sec. 18b. The township board of a township, by a majority vote at a regular meeting or a special meeting called for that purpose, may authorize the purchase of a public street cleaning vehicle or vehicles and snow removal equipment, and may provide for the maintenance and operation of the vehicles and equipment, payable from the funds of the township. The written approval of the board of county road commissioners shall first be obtained.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.289 Lighting of roads, highways, and bridges generally.

Sec. 19. The township board of a township may authorize the expenditure of funds to provide for the lighting by artificial means of roads, highways, and bridges in the township that are located outside of the limits of incorporated villages. The expense of the lighting shall be paid out of the funds of the township. If a road, highway, or bridge is situated in or between 2 or more townships, a provision shall be made by

a majority vote of the township boards of the townships in or between which the road, highway, or bridge is situated, at a joint meeting of the boards, held for that purpose, and the proportion of the expense to be paid by each of the townships shall be determined at the joint meeting. This section and sections 19a to 19d for reasons of public safety authorize the lighting of a state trunk line highway, county road, or platted road or street outside the limits of incorporated villages, whether the road or street has been dedicated to the public use or not.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.289a Lighting of roads, highways, and bridges; supervision; contracts.

Sec. 19a. If lighting of a road, highway, or bridge is provided in accordance with section 19, the supervisor of the township shall exercise general supervision over the installing and maintenance of the lighting system, under the direction of the township board. However, if a road, highway, or bridge is situated in or between 2 or more townships, it shall be determined by the township boards which one of the township supervisors shall exercise supervision. The township board, or in case of roads, highways, or bridges located in or between 2 or more townships, then the township boards of the townships in or between which the road, highway, or bridge is situated, may contract for a period of time not exceeding 10 years with a person for furnishing the road, highway, or bridge lighting by artificial means, upon the terms and conditions as may be agreed.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.289b Expenses for lighting highways; special assessment; hearing; notice.

Sec. 19b. (1) The township board or boards mentioned in section 19, either on its or their own motion, or upon the filing of a petition signed by the record owners of not less than 10% of the number of parcels of land in the district to be lighted described in the petitions, may order the expenses for lighting the highways to be defrayed by a special assessment on all the taxable lands in the territory described in the petitions or the order of the township board. A petition under this section

is not valid if a majority of the territory described in the petition was included in a petition filed under this section not more than 1 year earlier.

(2) A part of the expenses may be paid by the township or townships at large and the balance assessed against the lands in the described district.

(3) The township board or boards shall then estimate the cost and expense of the lighting system and fix a day, time, and place for a hearing on the question of creating a district and defraying the expenses of the district by special assessment. A notice stating the time, place, and purpose of the hearing shall be published in a newspaper of general circulation in the district. If there is not a newspaper of general circulation in the district, then notices shall be posted in at least 3 of the most public places in the district. Notice shall be published or posted at least 5 days before the date of the hearing.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989 ;-- Am. 1996, Act 127, Imd. Eff. Mar. 13, 1996

41.289c Assessment in district for lighting roads, highways, and bridges.

Sec. 19c. If the township board or boards create a district under section 19b, it or they shall determine the boundaries of the district by resolution and shall direct the township supervisor or supervisors to make a special assessment upon the lands and premises in the district benefited by the lighting to defray the expenses of lighting the roads, highways, or bridges or to defray that portion of the expenses to be assessed against the district. The board or boards shall thereafter annually determine the amount to be assessed in the district for lighting the roads, highways, and bridges and shall direct the supervisor or assessor to levy this amount or the supervisors or assessors to levy the portion of this amount attributable to the territory of the district within their respective townships. The assessment may be made either in a special assessment roll or in a column provided in the regular tax roll. The assessment shall be spread and become due and be collected at the same time as the other township taxes are assessed, levied, and collected and shall be returned in the same manner for nonpayment.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.289d Relieving district of duty to light streets or highways.

Sec. 19d. A district that has been lighting its streets or highways under this act may be relieved of this duty by action of the township board or boards on their own motion or by a petition to the township board or boards as provided in section 19b.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

41.290 Lighting county roads, highways, and bridges; expense; contracts; extension of lines or service; payment; statement and budget; apportionment of sum required; tax; lighting state trunk line highways and bridges.

Sec. 20. (1) Notwithstanding sections 19 through 19d, the board of county road commissioners of a county operating under the county road system may provide for the lighting, by artificial means, of roads, highways, and bridges under its jurisdiction, located outside of the limits of incorporated cities and villages. The township board or boards of a township or townships in which county roads, highways, and bridges are located may also provide for the lighting, by artificial means. Boards of county road commissioners and township boards may also provide for the lighting by joint action, and by dividing the expense of the lighting between the county or counties and the township or townships affected as may be determined by joint meeting of the boards. The board of county road commissioners or township board, acting separately or in conjunction with other boards of county road commissioners or with a township board or township boards, may enter into a contract with a person for a period not exceeding 10 years for the lighting upon terms and conditions as may be agreed upon, and may also contract for the extensions of lines or service to furnish the lighting. The boards of county road commissioners may pay from available highway funds under their control and jurisdiction sums required to provide for the extensions and furnish the lighting. If funds are not available, the board of county road commissioners shall submit to the county board of commissioners a statement and budget designating the roads, highways, and bridges to be lighted, and the estimated cost of the lighting. At the next October session of the county board of commissioners, the board

shall pass upon the statement and budget, and, if a majority of the county board of commissioners agree, the sum required shall be apportioned among the several townships and cities of the county according to their equalized valuation. The supervisors or other assessing officers in the townships and cities shall levy and apportion the tax so apportioned as provided in this section, to their respective townships and cities. The tax shall be collected and paid to the county treasurer and disbursed by him or her upon orders of the board of county road commissioners, the orders to be signed by the chairperson and countersigned by the clerk of the board. The county board of commissioners shall raise a sum which, together with the other funds available, is sufficient to provide the lighting for which the facilities have, under an existing contract, been previously installed and operated.

(2) With the approval of the director of the state transportation department, boards of county road commissioners and township boards acting together or separately, may, with respect to state trunk line highways and bridges located in whole or in part within their respective counties and townships, provide for the lighting of these highways and bridges by artificial means and may contract in the same manner as for county roads. In such case, the entire expense shall be borne by the boards of county road commissioners or township boards, or by both.

History: Add. 1989, Act 80, Imd. Eff. June 20, 1989

**TOWNSHIP WATER SUPPLY AND SEWAGE DISPOSAL
SERVICES AND FACILITIES
Act 107 of 1941**

AN ACT to authorize township water supply and sewage disposal services and facilities; to provide for financing of those services and facilities; to prescribe the powers and duties of township boards with respect to those services and facilities; and to prescribe penalties and provide remedies.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- Am. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989 ;-- Am. 1998, Act 195, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

41.331 Furnishing water to water supply district; petitions; contracts; terms and conditions.

Sec. 1. Upon filing with the township clerk of petitions, verified both as to signature and ownership, signed by 60% of the record owners of the land to be made into a township water supply district, the township board in the township may contract with another township or a city, village, or authority for the furnishing of water to the water supply district for fire protection and domestic purposes under terms and conditions agreed upon between the township board and the board or other representative body of the township, city, village, or authority.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.331 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.332 Water mains and fittings; purchase, installation, and maintenance.

Sec. 2. For the purpose of distributing the water to be furnished in pursuance of a contract authorized by section 1, the township board may purchase and lay necessary water mains and fittings and maintain and control their use, either along public highways or upon private property for which the right to lay the pipe has been obtained.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.332 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.333 Water supply system; payment from contingent fund; limitations; separately financed and operated water supply system; map.

Sec. 3. Not more than 75% of the net cost, exclusive of money, materials, and labor that are supplied by a federal agency, of purchasing and laying the mains and fittings of a water supply system shall be paid out of the contingent fund of the township. On resolving to make and install the improvement, the township board shall determine by resolution the net cost and the share of the net cost not exceeding 75% that the contingent fund of the township shall bear. However, no part of the cost of a water supply system acquired or created under sections 1 to

20a shall be levied or collected as a tax or assessment, whether general or special, upon property located in a village or school district or located in a water supply district in the township, including an area of the township served by a water system owned or operated by a city, if the village, school district, or water supply district has a water supply system that was originally acquired and is operated by or for the village, school district, or water supply district without any expense to the township at large. A water supply system, so separately financed and operated, shall not be taken, as to ownership or control, except by due process of law as provided by the general laws of this state. After determining the amount of money to be appropriated at any time from the township's contingent fund for purposes authorized in this section, the township board may set apart from that amount when appropriated a proportionate part of that amount for the benefit of the separately operated water supply system in the same ratio to the whole amount appropriated as the population of the separate district bears to the total population of the township, as determined by the board. This proportionate part shall be applied for the betterment of the separate water supply system as and when authorized by the board. The township board shall prepare and keep on file a map defining the boundaries of a water supply district served by the separately financed and operated water supply system separate from a township water system.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.333 ;-- Am. 1949, Act 10, Imd. Eff. Mar. 8, 1949 ;-- Am. 1949, Act 118, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.334 Percentage of net cost remaining after application of MCL 41.333; payment.

Sec. 4. The percentage of the net cost remaining after application of section 3 shall be raised by payment, in accordance with sections 5 and 5a from property owners in the township water supply district.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.334 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.335 Tapping or making connection with mains of water supply district; payment; plan for financing, maintenance, and control of improvement.

Sec. 5. A person or property owner shall not tap or make a connection with the mains of a water supply district established under section 1 without having paid for the privilege. On compliance with the provisions of section 3, the township board shall promulgate and adopt, by resolution, a plan for financing, maintenance, and control of the improvement. The plan shall provide all of the following:

- (a) The minimum payment for the privilege of tapping and making of each private connection with the mains.
- (b) A specified date by which all minimum payments shall be made to the township treasurer. The date shall be not less than 30 nor more than 60 days after completion of the publication required by section 6.
- (c) The amount payable to the township treasurer after the date specified pursuant to subdivision (b) for the privilege of tapping and making of each private connection with the mains. This amount shall be not more than 50% nor less than 20% greater than the minimum payment specified pursuant to subdivision (a).
- (d) Rules and regulations designed to vest exclusive governing control of the mains and fittings in the township board and to maintain and preserve adequate water pressure throughout the mains. The rules and regulations shall conform to the contract made under section 1. The rules and regulations shall include a provision limiting the number of private connections that may be purchased and made with the mains; a provision limiting the length of all private connections with the mains; provisions declaring the maximum size of pipe that may be used by all persons and property owners in making and maintaining private connections with the mains; a provision for minimum distance, on either or both sides of the mains, between taps for all private connections; and general provisions governing use and control of the mains, assessment of water rates, collection and payment of water rates, and suitable penalties for nonpayment of the rates.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.335 ;-- Am. 1949, Act 10, Imd. Eff. Mar. 8, 1949 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.335a Township water board; establishment; powers; loans from private parties; retirement of loans.

Sec. 5a. The township board may include, in its plan under section 5, rules and regulations for the establishment of a township water board and for loans to the water board from private parties of money necessary to aid in the financing of the project petitioned for under section 1. The loans shall be retired only out of excess money as defined in section 9 and other direct revenues, if any, to be derived from the project. A water board established in accordance with this section shall exercise under direction of the township board all of the powers of maintenance and control that are granted by sections 1 to 20a to the township board.

History: Add. 1949, Act 10, Imd. Eff. Mar. 8, 1949 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.336 Publication of plan adopted under MCL 41.335.

Sec. 6. Immediately following adoption of the plan under section 5, it shall be published at full length by the township board once each week for 3 successive weeks in a newspaper circulating within the township in which the improvement petitioned for under section 1 is to be made. Proof of the publication shall be made and filed with the township clerk before installation of the improvement commences. The publication is the sole notice of the improvement and of the provisions of the plan that interested persons and property owners are entitled to receive.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.336 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.337 Failure to pay percentage of net cost remaining after application of MCL 41.333; refund of money previously deposited.

Sec. 7. If the percentage of the net cost remaining after application of section 3 is not, in pursuance of the plan under section 5, fully paid in to the township treasurer, by paid for connection rights as provided for in the plan or loans made in accordance with section 5a, or both, by the date specified pursuant to section 5(b), the improvement petitioned for under

section 1 shall not be commenced and all money previously deposited with the township treasurer in pursuance of the plan shall be refunded immediately by the township treasurer to the respective depositors of the money.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.337 ;-- Am. 1949, Act 10, Imd. Eff. Mar. 8, 1949 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.338 Installation of improvement by township board; loan.

Sec. 8. If a sufficient number of private connection rights are timely paid for in accordance with the terms of the plan provided for by section 5, the township board shall immediately proceed to make and install the improvement petitioned for under section 1 and may, by resolution, do what is necessary to accomplish the purposes of the plan. The board may borrow all or part of the amount to be appropriated from the contingent fund under section 3 if, in the judgment of the board, the contingent fund will, by such appropriation, be depleted to such extent as may hamper general township operations. The loan shall conform to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.338 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989 ;-- Am. 2002, Act 227, Imd. Eff. Apr. 29, 2002

41.339 Excess money; deposit in contingent fund; applicability of section.

Sec. 9. Money that is paid in to the township treasurer for private connection rights under section 5 on or before the date specified pursuant to section 5(b) which creates an excess over the percentage of the net cost remaining after application of section 3 and money that is paid into the township treasurer for the rights after that date is excess money and shall be deposited in the contingent fund. This section applies to all money received by the township treasurer after May 19, 1941, in cases in which water mains, prior to May 20, 1941, were extended or installed in accordance with a plan substantially similar to that contemplated by section 5.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.339 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.340 Maintenance and use of mains and fittings of water supply district; control by township board; amendment of rules and regulations; notice; publication.

Sec. 10. The township board has exclusive governing control over the maintenance and use of the mains and fittings of a water supply district established under section 1 and shall exercise this control in accordance with the terms of sections 1 to 20a and the rules and regulations that are required by and conform to section 5(d). The rules and regulations may be amended by the township board only after notice of its intention to do so, specifying the date, hour, and place of meeting of the board for this purpose, is published for 3 successive weeks in a newspaper circulating within the township.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.340 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.341 Water mains extended or installed in accordance with similar plan; control by township board; rules and regulations; publication; amendment or alteration; notice.

Sec. 11. If water mains have been extended or installed in accordance with a plan substantially similar to that contemplated by section 5, the township board, subject to provisions of any contract that has been made with another township or a city, village, or authority for furnishing water through the mains, has exclusive governing control over the mains and fittings and their maintenance and use. In such cases, the township board may promulgate and adopt, by resolution, rules and regulations conforming substantially with section 5(d). The rules and regulations become effective on completion of their publication, at full length, once each week for 3 successive weeks in a newspaper circulating within the township in which the improvement has been made. After the rules and regulations become effective, they may be amended or altered by the township board only after notice of its intention to do so, specifying the date, hour, and place of meeting of the board for this purpose, is published for 3 successive weeks in a newspaper circulating within the township.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.341 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.342 Definitions.

Sec. 12. As used in sections 1 to 20a:

(a) "Township water supply district" means the portion of the township described in the petition required by section 1.

(b) "Private connection" means the tapping of a main and the connection of the main with a nonpublic building or premises as distinguished from a connection with a public building or premises and from an extension of such a main, lateral or otherwise, that the township board, in accordance with altered or amended rules and regulations, authorizes in and along a public highway.

(c) "Corporation" includes foreign and domestic corporations lawfully doing business in this state.

History: 1941, Act 107, Imd. Eff. May 20, 1941 ;-- CL 1948, 41.342 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.343 Township water supply and sewage disposal system; loan from corporation; bonds.

Sec. 13. A corporation proposing to locate and construct, in a township having no sewage disposal system and a water supply system installed before June 14, 1951 under the terms of sections 1 to 12 that is inadequate for domestic and proposed industrial or commercial requirements, a business or plant requiring the facilities of a modern and sufficient public water supply and sewage disposal system may loan to the township money sufficient to provide for the acquisition and construction of an adequate township water supply and sewage disposal system and for the refunding of revenue bonds or revenue notes then outstanding and constituting a lien upon the revenues of the existing water supply system. Without complying with section 1, the township may borrow money from the corporation for these purposes; execute revenue bonds and mortgages securing the loan; pledge the net revenues of the proposed water supply and sewage disposal system to the

repayment of the loan; acquire, construct, or improve the works; and refund the bonds or notes. A bond issued under the provisions of this section is a valid and subsisting obligation of the township.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.344 Contract for issuance and delivery of negotiable revenue bonds; interest, terms, and conditions.

Sec. 14. A township borrowing pursuant to section 13 may enter into a contract with the corporation described in section 13 for the issuance and delivery to the corporation or its assigns of self-liquidating and fully negotiable revenue bonds for the repayment of the loan with interest on the bonds not exceeding the legal rate, according to terms and conditions consistent with sections 1 to 20a and agreed upon between the township board and the lending corporation.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.345 Exercise of power by ordinance; incorporation and publication of contract as part of ordinance.

Sec. 15. The power conferred on a township by sections 13 and 14 shall be exercised by means of an ordinance adopted by the township board according to the procedure set forth in Act No. 191 of the Public Acts of 1939, being sections 41.191 to 41.192 of the Michigan Compiled Laws, and the contract agreed upon with the corporation as provided in section 14 shall be incorporated in and published as a part of the ordinance.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

Compiler's Notes: Act No. 191 of the Public Acts of 1939, cited in this section, was repealed by Act No. 78 of the Public Acts of 1989, Imd. Eff. June 20, 1989.

41.346 Statutory lien upon net revenues; net revenues as trust funds.

Sec. 16. There shall be created in an ordinance required by section 15 a lien, by this act made a statutory lien, upon the net revenues of the water supply and sewage disposal project authorized by section 13. The

authorizing ordinance shall pledge the net revenues to the payment of the principal of and interest upon the bonds issued under section 13 to and in favor of the holders of the bonds and the interest coupons pertaining to the bonds and each of the holders. The lien shall be a first lien upon the net revenues. The net revenues shall constitute trust funds for the purposes expressed in this section.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.347 Duration and enforcement of statutory lien.

Sec. 17. The net revenues pledged pursuant to section 13 remain subject to the statutory lien required by section 16 until payment in full of the principal of and interest upon the revenue bonds issued under section 13. The holder or holders of the bonds representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, protect and enforce the statutory lien and enforce and compel the performance of duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues, and the proper application of revenues. However, the statutory lien does not give a holder or owner of a bond or coupon authority to compel the sale of the water supply and sewage disposal system, the revenues of which are pledged pursuant to section 13.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.348 Default in payment of principal or interest on bond; appointment and powers of receiver.

Sec. 18. If there is a default in the payment of the principal of or interest upon a bond issued under section 13, a court having jurisdiction in a proper action may appoint a receiver to do 1 or more of the following:

(a) Administer and operate on behalf of the township, under the direction of the court, the water supply and sewage disposal system authorized by section 13, the revenues of which are pledged to the payment of the principal and interest.

(b) With the approval of the court, fix and charge rates and collect revenues sufficient to provide for the payment of bonds or other obligations outstanding against the revenues of the water supply and sewage disposal system authorized by section 13 and for the payment of expenses of operating and maintaining the system.

(c) With the approval of the court, apply the income and revenues of the water supply and sewage disposal system in conformity with sections 1 to 20a and the ordinance required by section 15 providing for the issuance of the bonds and in accordance with the court's orders.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.349 Payment of principal and interest on bonds solely from net revenues; bond or coupon not general obligation or indebtedness; registration.

Sec. 19. The principal of and interest upon the bonds issued under section 13 are payable solely from net revenues derived from the operation of the water supply and sewage disposal system purchased, acquired, constructed, improved, enlarged, extended, or repaired from the proceeds of the bonds that are pledged in the authorizing ordinance, which may include, if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions, or repairs to the water supply and sewage disposal system. A bond or coupon issued pursuant to section 13 is not a general obligation of the borrower and does not constitute an indebtedness of the borrower within the meaning of a state constitutional provision or statutory limitation. Such a bond may be registered as to principal under the terms and conditions determined by the township board.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.350 Operation or maintenance of public improvement; appropriation to pay expenses.

Sec. 20. A township that borrows money under section 13 may appropriate and use revenues from a source other than the operation of

the public improvement authorized by section 13 to pay expenses of operation or maintenance of the public improvement.

History: Add. 1951, Act 201, Imd. Eff. June 14, 1951 ;-- Am. 1989, Act 83, Imd. Eff. June 20, 1989

41.350a Powers conferred by MCL 41.331 to 41.350.

Sec. 20a. Sections 1 to 20 constitute a new and independent authority for the exercise of the powers granted in those sections. The powers conferred by sections 1 to 20 are not affected or limited by any other statute, except as expressly provided in those sections. Sections 1 to 20 create a full and complete additional and alternate method for the exercise of the powers conferred in those sections.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350b Water service for fire protection within district; special assessment; resolution.

Sec. 20b. In a township where there are lands serviced by a water system financed by revenue bonds issued under the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.140 of the Michigan Compiled Laws, or by bonds issued under the county public improvement act of 1939, Act No. 342 of the Public Acts of 1939, being sections 46.171 to 46.188 of the Michigan Compiled Laws; Act No. 185 of the Public Acts of 1957, being sections 123.731 to 123.786 of the Michigan Compiled Laws; or Act No. 233 of the Public Acts of 1955, being sections 124.281 to 124.294 of the Michigan Compiled Laws, having water service available for fire protection through fire hydrants and water mains, the township board may determine by resolution that the reasonable cost and value of the water service for fire protection within the district served by the water system shall be borne by a special assessment levied annually, while bonds are outstanding, against all of the real property located within the district, which shall constitute a special assessment district. A special assessment under this section shall not be levied against any property in 1 year in excess of 1/5 of 1% of the state equalized valuation of the property unless a special hearing is held.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350c Contents of resolution required by MCL 41.350b.

Sec. 20c. A resolution of the township board shall designate the boundaries of the special assessment district authorized by section 20b, estimate and determine the reasonable annual cost and value of the water service available for fire protection through fire hydrants and mains, and determine what portion of this annual fire protection cost should be paid for by special assessment because of benefits and what portion, if any, should be paid by the township out of general funds.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350d Annual fire protection cost; payment.

Sec. 20d. The township board may use unappropriated money in its general fund to pay for a portion of the annual fire protection cost described in section 20c, including money received under the provisions of sections 8 and 10 of article IX of the state constitution of 1963.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350e Fixing date for public hearing.

Sec. 20e.mThe township board shall fix a date for a public hearing upon the establishment of a special assessment district authorized by section 20b, the properties to be included in the district, the estimate of the reasonable cost and value of the fire protection afforded annually, and the assessments to be levied against the respective lots within the district.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350f Preparation and levy of assessment; report.

Sec. 20f. After fixing a date for a public hearing pursuant to section 20e, the township board shall direct that the assessment authorized by section 20b be prepared by the township supervisor, who shall levy the total sum estimated of fire protection benefit apportioned in accordance with benefits against all of the property located within the special assessment district benefited by the fire protection water service. The township

supervisor shall then report the assessment to the township board. The report shall be made before the date of the hearing.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350g Making assessment on special assessment roll or on regular township tax roll; due date; collection; return for nonpayment.

Sec. 20g. The assessment authorized by section 20b may be made either on a special assessment roll or in a column provided for this purpose on the regular township tax roll. After the assessment has been confirmed, it shall become due and collected when other township taxes fall due and are collected and shall be returned for nonpayment in the same manner as other township taxes.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350h Conducting business at public meeting; notice.

Sec. 20h. The business that the township board performs pursuant to sections 20b to 20k shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The township board shall give public notice of a meeting and the time, date, place, and purpose of the meeting in the manner required by Act No. 267 of the Public Acts of 1976 and by publishing a notice in a newspaper of general circulation in the district proposed to be assessed. If a newspaper is not circulated in the district, then notice shall be posted in at least 3 of the most public and conspicuous places in the district.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350i Public hearing; objections; determination; equitable change.

Sec. 20i. The township board shall hold the public hearing required by section 20e and hear and consider all objections relative to the establishment of the special assessment district authorized by section 20b, the boundaries of the district, the properties to be included in the district, the total amount so proposed to be assessed, and the respective individual assessments so proposed on the individual properties of the district. After the hearing, the township board shall determine whether or

not the district shall be established and the assessments levied. The township board may change the district authorized by section 20b or the special assessments of the district as it considers equitable in accordance with the fire protection benefits conferred.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350j Review, correction, and confirmation of assessment roll; collection.

Sec. 20j. If the township board approves the establishment of a special assessment district authorized by section 20b, it shall review, correct, and confirm the assessment roll and direct that it be collected immediately in the same manner as township taxes.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350k Annual determination of amount to be assessed; levy; additional hearings.

Sec. 20k. After the creation of a special assessment district authorized by section 20b and while bonds are still outstanding, the township board may annually determine the amount to be assessed in the district and then levy that amount of annual assessments as special assessments against the benefited properties within the district. Further hearings shall not be held unless a change in the amount of annual assessment against an individual property is contemplated or attempted.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350l Contract with another township, city, or village for supplying water.

Sec. 20l. The township board of a township may contract with another township or a city or village for the supplying of water to the township for fire protection and domestic purposes under terms and conditions agreed upon between the township board and the legislative body of the other municipality.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350m Acquisition and installation of water supply facilities; borrowing money and issuing notes.

Sec. 20m. A township board may borrow money and issue notes for money necessary for acquisition and installation by the township of water supply facilities, including water mains and elevated water tanks, which are required of the township by the terms of a water supply contract authorized by section 20l.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989 ;-- Am. 2002, Act 227, Imd. Eff. Apr. 29, 2002

41.350n Provisions to which transaction authorized by MCL 41.350m subject.

Sec. 20n. A transaction authorized by section 20m is subject to the following provisions:

(a) A note shall be payable in annual installments the aggregate of which does not exceed 10 and the first of which is due not later than August 1 after the calendar year in which the note is issued. Subsequent maturity dates, if any, shall likewise be August 1. The note shall bear interest at a rate not exceeding 4% per year, payable semiannually, and may be made subject to redemption on an interest payment date before maturity at par plus accrued interest on terms and conditions provided in the authorizing resolution.

(b) The amount of a loan authorized by section 20m shall not, when payable, exceed the following percentage of the total aggregate revenues derived from sales tax money received by the township for the preceding 5 calendar years:

- (i) For a loan payable in 10 installments..... 40%.
- (ii) For a loan payable in 9 installments..... 36%.
- (iii) For a loan payable in 8 installments..... 32%.
- (iv) For a loan payable in 7 installments..... 28%.
- (v) For a loan payable in 6 installments..... 24%.
- (vi) For a loan payable in 5 installments..... 20%.

- (vii) For a loan payable in 4 installments..... 16%.
- (viii) For a loan payable in 3 installments..... 12%.
- (ix) For a loan payable in 2 installments..... 8%.
- (x) For a loan payable in 1 installment..... 4%.

(c) The resolution authorizing the borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest from the money to be derived from state collected sales tax returned to the township. After the borrowing is authorized, the township treasurer shall set aside in a separate fund from the money received in each year an amount sufficient for the payment of the principal and interest of the loan maturing on August 1 of the next calendar year. The full faith and credit of the township shall not be pledged.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350o Notes issued under MCL 41.350m.

Sec. 20o. Notes issued under section 20m are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989 ;-- Am. 2002, Act 227, Imd. Eff. Apr. 29, 2002

41.350p Pledge of sales tax money by ordinance.

Sec. 20p. To secure repayment of a loan authorized by section 20m, the township board may pledge, by ordinance as provided in sections 20q to 20s, all or any specified portion of sales tax money to be received by the township under sections 8 and 10 of article IX of the state constitution of 1963 during the period the loan remains outstanding.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350q Withholding and paying lender constitutionally allocated money.

Sec. 20q. An ordinance pledging sales tax money pursuant to section 20p may provide that the official charged with disbursement of sales tax money returnable to the township pursuant to sections 8 and 10 of article

IX of the state constitution of 1963 shall withhold and pay to the lending person, firm, corporation, bank, or trust company such of the constitutionally allocated money of the township as may be necessary to fulfill the pledge.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350r Exercise of powers by ordinance; procedure.

Sec. 20r. By the affirmative vote of 2/3 of its members, the township board may adopt an ordinance relating to the exercise of the powers granted in sections 20l to 20t and to any other matter necessary or desirable to effectuate the full intent and purpose of sections 20 l to 20t, including provisions for control and maintenance of a water supply facility, charges for rights of connection with a facility for water service, charges for water delivered by means of a facility, and other provisions to ensure the proper and adequate operation of a facility. An ordinance adopted pursuant to this section becomes effective at the expiration of 30 days after the date of its publication unless a referendum is required as provided in section 20s. An ordinance adopted pursuant to this section shall be recorded in the minutes of the meeting of the township board as soon as practicable after its adoption. The record shall be authenticated by the signatures of the supervisor and clerk of the township. The ordinance shall be published promptly after its adoption in a newspaper of general circulation within the township. The ordinance may be so published as a part of the minutes of the meeting at which it was adopted. Except as otherwise provided in sections 20l to 20t, the provisions of this section are the sole requirements concerning the adoption and publication of the ordinance and are not limited by other statutory provisions.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350s Effective date of ordinance authorized by MCL 41.350r; petition; election.

Sec. 20s. If, within 30 days after the date of publication of an ordinance authorized by section 20r, a petition signed by not less than 10% of the registered electors residing within the limits of the township is filed with the township clerk requesting a referendum upon the effectiveness of the

ordinance, then the ordinance does not become effective until approved by vote of a majority of the electors of the township qualified to vote and voting on the ordinance at an election. Signatures on the petition shall be verified by some person or persons under oath as the actual signatures of persons whose names are signed, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in the township shall be determined by the township clerk from the township registration books.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350t Powers cumulative.

Sec. 20t. The powers granted to townships in sections 20l to 20s are granted in addition to those granted by other statutes.

History: Add. 1989, Act 83, Imd. Eff. June 20, 1989

41.350u Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 20u. A petition under section 20s, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 195, Eff. Mar. 23, 1999

41.351z Repealed. 1989, Act 83, Imd. Eff. June 20, 1989.

Compiler's Notes: Sec. 21, as added by Act 201 of 1951, was assigned the compilation number "41.a351" rather than "41.351" to avoid a conflict with another section previously numbered "41.351". Subsequent to its repeal, Sec. 21 was assigned compilation number 41.350z. The repealed section pertained to powers conferred by act.

**TOWNSHIP AND VILLAGE PUBLIC IMPROVEMENT AND
PUBLIC SERVICE ACT
Act 116 of 1923**

AN ACT to authorize certain township or village public improvements and services; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1923, Act 116, Eff. Aug. 30, 1923 ;-- Am. 1925, Act 263, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 58, Imd. Eff. Apr. 21, 1927 ;-- Am. 1929, Act 232, Eff. Aug. 28, 1929 ;-- Am. 1931, Act 140, Imd. Eff. May 21, 1931 ;-- Am. 1935, Act 68, Imd. Eff. May 18, 1935 ;-- Am. 1937, Act 318, Imd. Eff. July 27, 1937 ;-- Am. 1941, Act 201, Eff. Jan. 10, 1942 ;-- Am. 1945, Act 239, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 150, Imd. Eff. June 2, 1947 ;-- Am. 1952, Act 43, Imd. Eff. Apr. 1, 1952 ;-- Am. 1957, Act 227, Eff. Sept. 27, 1957 ;-- Am. 1961, Act 33, Imd. Eff. May 18, 1961 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989 ;-- Am. 1998, Act 159, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

41.411 Township board, common council, or board of trustees of incorporated village; powers and duties; short title.

Sec. 1. (1) In township lands, the township board or common council or board of trustees of an incorporated village may do 1 or more of the following:

(a) Make public improvements and provide public service by constructing bridges over natural or artificial waterways; grading, paving, curbing, stoning, graveling, macadamizing, or cinderizing streets; treating the streets with chloride or other suitable dust laying process or material; laying storm sewers to care for surface water in the streets; destroying weeds; providing street markers and lighting; contracting for public transportation facilities; providing police protection or contracting for police protection; establishing and maintaining garbage and mixed refuse systems or plants for the collection and disposal of garbage and mixed refuse or contracting for such collection and disposal for not to exceed 30 years; constructing or acquiring and maintaining sanitary sewers and sewage disposal plants or equipment; constructing filtration plants; constructing sidewalks; purchasing or constructing waterworks; purchasing fire apparatus and

equipment; constructing and maintaining housing facilities for fire apparatus and equipment; making extensions of water mains to provide water for fire protection and domestic uses; trimming and spraying trees and shrubbery; providing and maintaining soil and beach erosion control measures including, but not limited to, the construction of breakwaters, retaining walls, and sea walls, in or for township lands or waters adjacent or contiguous to township lands; establishing and conducting chemical beach treatment service necessary for the control of aquatic nuisances such as swimmers' itch or contracting with others to provide the services.

(b) Levy and collect special assessments to pay the cost of an improvement or service and issue bonds in anticipation of the collection of the special assessments, upon filing the petition and subject to the terms and conditions provided in sections 2 to 5.

(2) In an incorporated village, the common council or board of trustees is vested with and shall perform the powers and duties vested by this section and sections 2 to 5 in the township board in areas outside of the incorporated village.

(3) The township board or common council or board of trustees of an incorporated village may purchase, accept by gift or devise, or condemn private property. If the property is to be acquired by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.25 of the Michigan Compiled Laws; the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws; or other appropriate provisions of law may be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings.

(4) This act shall be known and may be cited as the “township and village public improvement and public service act”.

History: 1923, Act 116, Eff. Aug. 30, 1923 ;-- Am. 1925, Act 263, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 58, Imd. Eff. Apr. 21, 1927 ;-- Am. 1929, Act 232, Eff. Aug. 28, 1929 ;-- CL 1929, 2385 ;-- Am. 1931, Act 140, Imd. Eff. May 21, 1931 ;-- Am. 1937, Act 318, Imd. Eff. July 27, 1937 ;-- Am. 1941, Act 201, Eff. Jan. 10, 1942 ;-- Am. 1945, Act 239, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 150, Imd. Eff. June 2, 1947 ;-- CL

1948, 41.411 ;-- Am. 1952, Act 43, Imd. Eff. Apr. 1, 1952 ;-- Am. 1957, Act 227, Eff. Sept. 27, 1957 ;-- Am. 1961, Act 33, Imd. Eff. May 18, 1961 ;-- Am. 1967, Ex. Sess., Act 1, Imd. Eff. Nov. 3, 1967 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989

41.412 Special assessment district; creation, enlargement, and discontinuance; petitions; assessment.

Sec. 2. Upon the filing of petitions verified both as to signature and ownership, signed by record owners of land to be made into a special assessment district in which an improvement or service specified in section 1 is desired by the owners of the land, the township board may construct and maintain the improvement or provide the service, determine the cost of the improvement or service, and create, define, and establish a special assessment district within all or within and comprising not less than 80% of the area. The cost of the improvement or service shall be levied upon the district. However, the record owners of not less than 51% of the land actually created into the special assessment district by the township board must have signed the petitions. A district established and assessed may be enlarged through a petition, circulated and signed as required for an original district, but covering only the area to be added to create the enlarged district. Benefits of an improvement or service may be extended to the added part, and the entire enlarged district may be assessed for the improvement or service, as provided for an original district. If a service has been instituted and no assessment bonds for the service are outstanding, the service may be discontinued upon petition by owners of 51% of the lands.

History: 1923, Act 116, Eff. Aug. 30, 1923 ;-- Am. 1927, Act 58, Imd. Eff. Apr. 21, 1927 ;-- CL 1929, 2386 ;-- Am. 1941, Act 201, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 150, Imd. Eff. June 2, 1947 ;-- CL 1948, 41.412 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989

41.413 Cost of proposed improvement or service; special assessment bonds; special assessment taxes; proceedings; insufficiency of special assessment fund; advancement of township funds; reimbursement.

Sec. 3. Before commencing an improvement or service authorized by section 1, the township board shall obtain from competent sources maps, plans, and estimates of the proposed improvement or service, shall determine by resolution the cost of the proposed improvement or service,

and shall provide for the making of a special assessment upon each parcel of land in the special assessment district by benefits and for the issuing and sale of special assessment bonds in anticipation of the collection of the special assessment taxes. The special assessment bonds shall not be issued before the final confirmation of the assessment roll by the township board. A proceeding relating to the making, levying, and collection of a special assessment authorized by this section and to issuing bonds in anticipation of the collection of the special assessment shall conform, as near as may be, to a proceeding for levying a special assessment and issuing special assessment bonds by a village for a similar improvement or service, as set forth in Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 74.22 of the Michigan Compiled Laws. If the special assessment fund is insufficient to pay the bonds and interest on the bonds when due and the bonds were issued subsequent to April 21, 1927, the township board may advance the amount necessary to pay the bonds and shall be reimbursed from the assessments when collected or by reassessment of the deficiency if necessary. However, as to bonds issued subsequent to July 1, 1951, the township board may, at the time of issuance, pledge the full faith and credit of the township for the payment of the bonds, and if the special assessment fund is insufficient to pay the bonds and interest on the bonds when due, the township board shall advance the amount necessary to pay the bonds and shall be reimbursed from the assessments when collected or by reassessment of the deficiency against the special assessment district, if necessary.

History: 1923, Act 116, Eff. Aug. 30, 1923 ;-- Am. 1927, Act 58, Imd. Eff. Apr. 21, 1927 ;-- CL 1929, 2387 ;-- Am. 1934, 1st Ex. Sess., Act 24, Imd. Eff. Mar. 28, 1934 ;-- CL 1948, 41.413 ;-- Am. 1951, Act 32, Imd. Eff. May 3, 1951 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989

41.413a Waterworks; control and operation; election and terms of members of board of public service commissioners; vacancy; member as resident of district; “annual township election” defined; employees; violation of MCL 168.1 to 168.992 applicable to petitions; penalties; dissolution of board; records.

Sec. 3a. (1) A waterworks established under sections 1 to 5 and any other service provided under sections 1 to 5 for a district having a waterworks

may be under the control of and operated by a board of public service commissioners, except that in a village such an improvement or service shall be under the control of and operated by the legislative body of the village. The board of public service commissioners shall consist of 5 commissioners elected at the annual township election by the qualified electors residing in the district. A vacancy on the board of public service commissioners shall be filled by the remaining members of the board until the next annual township election, at which election the vacancy shall be filled for the unexpired term. A member of the board of public service commissioners shall be a resident of the district. As used in this section, "annual township election" means an election held on the first Tuesday after the first Monday in November every year.

(2) The township clerk shall call a special township election, upon the filing with the clerk of a petition signed by 25 registered electors of the district, for the election of the members of the board of public service commissioners to hold office until the first annual township election. At the first annual township election held under this section, 2 commissioners shall be elected for a term of 3 years, 2 commissioners shall be elected for a term of 2 years, and 1 commissioner shall be elected for a term of 1 year. After the first annual township election, a commissioner shall be elected for a term of 3 years. The commission may hire necessary employees to carry out the purpose of sections 1 to 5. The provisions of this section do not apply to a waterworks facility constituting only a part of a general township water system. A petition under this subsection, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this subsection is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(3) A board of public service commissioners may dissolve itself, alone or together with the district, upon satisfaction of all of the following requirements:

(a) The board of public service commissioners shall prepare a financial report of the assets and liabilities of the district. The financial report shall include a description of obligations of the district, an accounting of money held by the district, an appraisal or inventory of other assets of the district, and a description of any encumbrances on assets of the district. The board of public service commissioners shall file a copy of the financial report with the township clerk of the township where the district is located.

(b) The board of public service commissioners shall hold a public hearing on the issue of the dissolution. In addition to satisfying the requirements of the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, the board of public service commissioners shall publish notice of the hearing in a newspaper of general circulation in the township where the district is located not less than 10 days before the hearing. The notice shall give the time, date, location, and purpose of the hearing and state that a copy of the financial report is available for public inspection at the office of the township clerk.

(c) After the hearing, the board of public service commissioners shall prepare a plan for the transfer of the assets and liabilities of the district to the township where the district is located. The plan shall not impair the rights of holders of special assessment bonds issued pursuant to section 3 or the rights of property owners served by the waterworks.

(d) The township board of the township where the district is located shall adopt a resolution agreeing to the dissolution of the board of public service commissioners, alone or together with the district, in accordance with the plan under subdivision (c).

(e) After the township board adopts a resolution under subdivision (d), the board of public service commissioners shall adopt a consistent resolution to dissolve itself, alone or together with the district, in accordance with the plan under subdivision (c).

(4) As its last act before the effective date of dissolution, a board of public service commissioners shall file its records with the clerk of the township where the district is located, for safekeeping and reference.

History: Add. 1935, Act 68, Imd. Eff. May 18, 1935 ;-- Am. 1937, Act 318, Imd. Eff. July 27, 1937 ;-- Am. 1941, Act 201, Eff. Jan. 10, 1942 ;-- CL 1948, 41.413a ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989 ;-- Am. 1992, Act 177, Imd. Eff. July 27, 1992 ;-- Am. 1998, Act 159, Eff. Mar. 23, 1999

41.413b Lighting in residential areas; special assessments; basis.

Sec. 3b. Special assessments levied under this act for lighting purposes in township residential areas shall be based on benefit received by the property owner and may be determined on the equivalent front footage basis or may be levied equally on each parcel of property to be assessed.

History: Add. 1971, Act 164, Eff. Mar. 30, 1972

41.414 Special assessment installments; limitations; collection; appeal; tapping works to supply water outside of village or district; restrictions; special assessment after December 31, 1998; “taxable value” defined; finding of invalid assessment.

Sec. 4. (1) For a special assessment levied before January 1, 1999 for the cost of an improvement or service specified in section 1, the special assessment installments for 1 year shall not be levied on property in excess of 15% of that property's assessed valuation. For a special assessment levied after December 31, 1998 for the cost of an improvement or service specified in section 1, the special assessment installments for 1 year shall not be levied on property in excess of 15% of that property's taxable value. For a special assessment levied before January 1, 1999, the total assessment installments for a year for a combination of improvements or services specified in section 1, regardless of the year in which the assessment installments are levied, shall not exceed 45% of the property's assessed valuation. For a special assessment levied after December 31, 1998, the total assessment installments for a year for a combination of improvements or services specified in section 1, regardless of the year in which the assessment installments are levied, shall not exceed 45% of the property's taxable value. The collection of the special assessments shall be by installments

as provided by the general law village act, 1895 PA 3, MCL 61.1 to 74.25. However, assessments for paving, for street markers and lampposts, or for a combination of projects authorized by section 1 that includes paving may be divided into a number of annual installments not exceeding 10. Assessments for the construction of filtration plants, for the construction or extension of sanitary sewers or water mains to provide water for fire protection and domestic uses, or for a combination of projects authorized by section 1 that includes the construction or extension of sanitary sewers or water mains to provide water for fire protection and domestic uses may be divided into a number of annual installments not exceeding 20. Assessments for the purchase or construction of waterworks or sewage disposal plants may be divided into a number of annual installments not exceeding 40.

(2) An appeal may be taken from the assessment of the supervisor to the board of public service commissioners, which shall act as a board of review and have the same powers and duties and be governed by the same procedures and the same legal consequences as the board of review provided for in the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) If a village or district is served by a waterworks, water reservoir, or aqueduct to a source of water supply established without expense to the township at large, the works shall not be tapped for the purpose of supplying water outside of the village or district if the tapping would seriously deplete or imperil the water supply or pressure of the village or district. The works shall not be tapped in any case without the consent of the board of public service commissioners. If a village or district is served by a public improvement or service described in section 1 that has been established and is being operated without expense to the township, no part of a tax or assessment shall be levied by the township upon the village or district for the purpose of establishing or operating a similar improvement or facility for other parts of the township.

(4) After December 31, 1998, any ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(5) As used in this section, “taxable value” means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(6) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

History: 1923, Act 116, Eff. Aug. 30, 1923 ;-- Am. 1927, Act 58, Imd. Eff. Apr. 21, 1927 ;-- Am. 1929, Act 232, Eff. Aug. 28, 1929 ;-- CL 1929, 2388 ;-- Am. 1931, Act 204, Eff. Sept. 18, 1931 ;-- Am. 1937, Act 318, Imd. Eff. July 27, 1937 ;-- Am. 1941, Act 201, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 110, Eff. Oct. 11, 1947 ;-- CL 1948, 41.414 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989 ;-- Am. 1998, Act 542, Imd. Eff. Jan. 20, 1999

Compiler's Notes: For provisions of Act 3 of 1895, referred to in this section, see MCL 61.1 et seq.

41.415 Special assessments levied against platted corner lots; payment by township.

Sec. 5. The governing body of a township, by resolution, may agree to pay up to 1/3 of the cost of the special assessments levied against any platted corner lot for the payment of public improvements authorized under sections 1 to 4.

History: Add. 1959, Act 178, Eff. Mar. 19, 1960 ;-- Am. 1989, Act 82, Imd. Eff. June 20, 1989

41.416 Borrowing money; motion; application; referendum; issuing bonds; use of money borrowed.

Sec. 6. On a township board's own motion or after an application has been filed with the township board signed by at least 20% of the registered electors of the township, and subject to the referendum required in section 6a, the township board of an organized township may borrow money, not exceeding 5% of the assessed valuation of the township according to the assessed valuation of all the real and personal property of the township for the preceding December 31, on the faith and credit of the township. The township may issue bonds for the repayment

of money borrowed under this section. The money borrowed shall be used for 1 or more of the following purposes:

- (a) Acquiring a site for, erecting, and furnishing a town hall, fire station, or library.
- (b) Making additions and improvements to an existing site, town hall, fire station, library, or other township public building.
- (c) Purchasing and furnishing a building to be used for a town hall, fire station, library, or other township public building.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.416a Requirements of application filed pursuant to MCL 41.416; resolution; submission of proposition to electors of township; ballot; notices; calling special election.

Sec. 6a. (1) Upon the filing of an application with a township board pursuant to section 6, the board shall determine if the application meets the requirements of section 6. If the township board determines that the requirements of section 6 are met, the board shall by resolution provide for the submission of the proposition to the electors of the township at the general election or a special election to be held within 90 days after the adoption of the resolution. The township board shall prescribe in the resolution the form of ballot to be used in voting upon the proposition, whether the proposition shall be voted upon at a special election to be called by the township board for that purpose or at the general election, and that the township clerk of the township give notice of the proposition and of the vote by posting notices signed by the clerk in not less than 3 public and conspicuous places in each election district of the township. Notice shall be given not less than 20 days before the general or special election and shall set forth the form of the ballot to be used.

(2) In addition to the other provisions of the resolution specified in subsection (1), if the proposition is to be voted upon at a special election, the township board shall call the special election.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.416b Conduct of election; canvass of vote.

Sec. 6b. The general election or special election to be held under section 6a shall be conducted and the vote shall be canvassed in the same manner as is provided by law for ordinary township elections.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.416c Issuance and sale of bonds in conformity with revised municipal finance act.

Sec. 6c. If a township votes in favor of borrowing money and issuing bonds as provided in sections 6 to 6b, the township board of the township may issue and sell the bonds in conformity with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989 ;-- Am. 2002, Act 274, Imd. Eff. May 9, 2002

41.416d Levy and collection of tax.

Sec. 6d. If bonds issued by a township under sections 6 to 6c have been sold, the township board of the township may in each year impose a tax upon the taxable property of the township for the purpose of paying the sums of money that become due before the collection of the taxes of the next succeeding year upon the principal of the bonds, or any part of the bonds, and the interest. The tax shall be levied and collected in the same manner as other township taxes are levied and collected.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.416e Tax for maintenance, upkeep, or repair of public buildings.

Sec. 6e. A township may, at a primary, general, or special election, vote a tax upon the property of the township not to exceed 1/20 of 1% of the assessed valuation of the township according to the assessed valuation of all the real and personal property of the township for the preceding year. The township board shall use the money raised by the tax for the maintenance, upkeep, or repair of the township hall, fire station, library, or other public buildings of the township.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.416f Library.

Sec. 6f.n The township board of an organized township may purchase a site and building for a library or lease, construct, remodel, add to, and maintain a building or space for a library.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.417 Use of building by township for public purposes where real property becomes part of incorporated village or city.

Sec. 7. If a township is the owner of real property within the township where a building used for township purposes is located and, subsequent to the erection of the building, the real property becomes part of an incorporated village or city, the township may use the building for township purposes, including the holding of an election and the adoption of a resolution or other action by the township or its officers. The use of the building for township purposes is valid in all respects as though the building were located within the corporate limits of the township.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.417a Township or village scales.

Sec. 7a. A township board or village council may appropriate money to establish a township or village scale for the weighing of farm produce and for other purposes. Money appropriated shall be assessed, levied, and collected in the same manner as other expenses of the township or village are assessed, levied, and collected. The maintenance, management, and control of the scales shall be under the direction of the township board or village council. The expense connected with the scales shall be paid in the same manner as other expenses of the township or village are paid.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.418 Weed control.

Sec. 8. Upon receipt of a petition signed by 25 individuals who reside and own real property within the township requesting the control of

weeds in inland public lakes situated within the township, a township board may appropriate money from the contingent or general fund to control the weeds.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.418a Control of weeds in inland public lakes.

Sec. 8a. A township board may appropriate money from the contingent or general fund for entering into agreements with other townships in this state to control weeds in inland public lakes situated within more than 1 township of this state.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

41.418b Use of pesticide for weed control in inland lake; “pesticide” defined.

Sec. 8b. (1) A pesticide shall not be used for weed control in an inland lake except with the consent of, and under the supervision of, the department of natural resources.

(2) As used in this section, “pesticide” means that term as defined in section 8305 of part 83 (pesticide control) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.8305 of the Michigan Compiled Laws.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989 ;-- Am. 1996, Act 35, Imd. Eff. Feb. 26, 1996

41.419 Spraying of trees or shrubs.

Sec. 9.m A township board may provide for the spraying of trees or shrubs within its jurisdiction for the prevention of Dutch elm disease or other diseases or insect pests destructive to trees or shrubs. The cost of the spraying may be paid from funds created specially for this purpose, money appropriated from other funds of the township, or both.

History: Add. 1989, Act 82, Imd. Eff. June 20, 1989

**TOWNSHIP PARKS AND PLACES OF RECREATION
Act 157 of 1905**

AN ACT to provide for the acquisition, maintenance, management, and control of township parks, resorts, bathing beaches, and places of recreation; to provide for the creation of a township park commission; to provide for a board of commissioners to provide for the issuance of bonds and the levy of taxes; to provide for the transfer of certain real property for parks; to authorize cities and villages to appropriate money for park purposes; to provide for the acquisition, construction, and use of wharves, piers, docks, and landing places in townships; to provide the powers and duties of certain local units of government and certain officials; and to prescribe penalties and provide remedies.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- Am. 1941, Act 308, Eff. Jan. 10, 1942 ;--
- Am. 1964, Act 32, Imd. Eff. May 4, 1964 ;-- Am. 1989, Act 79, Imd. Eff. June 20,
1989 ;-- Am. 1998, Act 160, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

41.421 Township parks; acquisition; control by board of commissioners; condemnation of land.

Sec. 1. Any township or townships, being a contiguous or adjacent territory, may acquire by gift or devise a tract of real estate which shall be contiguous or adjacent to the territory acquiring the same for a free public park, resort, bathing beach or other place of recreation, and may hold such real estate in fee simple for such purposes. The supervisor of each of such townships shall comprise a board of commissioners for the control of such park or resort and in case any such supervisor shall decline to act as such commissioner, then the township board shall designate a member of the township board to act as such commissioner. In case there is only 1 township interested in such park, then the township board shall be the board of commissioners. Such commissioners shall act in that capacity during the term of office to which they were elected respectively in their townships and until their successors are elected and qualified.

Such commission shall have authority in the name or names of the interested township or townships to condemn land for such purpose in accordance with the condemnation laws of this state.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- CL 1915, 2192 ;-- CL 1929, 2400 ;-- Am. 1941, Act 308, Eff. Jan. 10, 1942 ;-- CL 1948, 41.421 ;-- Am. 1964, Act 32, Imd. Eff. May 4, 1964

41.422 Place of recreation; adoption of rules and regulations by board of commissioners; violation as misdemeanor; recreational trailway; posting of regulations; prohibited operation of vehicle as municipal civil infraction; penalty; admission charges.

Sec. 2. (1) The board of commissioners may adopt rules and regulations for the use and maintenance of the place of recreation, including the hours during which the place of recreation shall be open to the public, and may make leases for the purposes of erecting cottages and other necessary buildings under such rules and regulations as it considers expedient. Under any such lease no spirituous or malt liquors shall be sold on the premises.

(2) A person who violates the rules and regulations of the board of commissioners is guilty of a misdemeanor.

(3) A rule or regulation that regulates a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(4) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by a rule or regulation is a municipal civil infraction, whether or not so designated by the rule or regulation. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the rule or regulation or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that is excluded from the definition of municipal civil infraction in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

(5) A charge for admission to the place of recreation may be made by the board of commissioners, but the charge shall not exceed the charge for admission to state parks of this state. Funds received from such admissions shall be used for the improvement of the places of recreation.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- CL 1915, 2193 ;-- CL 1929, 2401 ;-- Am. 1941, Act 308, Eff. Jan. 10, 1942 ;-- CL 1948, 41.422 ;-- Am. 1964, Act 32, Imd. Eff. May 4, 1964 ;-- Am. 1994, Act 88, Eff. Oct. 1, 1994

41.423 Board of commissioners; election of officers; employees; record of transactions; treasurer, bond.

Sec. 3. The said board of commissioners shall annually elect 1 of its members as president. It shall elect a secretary and treasurer, and may appoint such other officers or employees as it may deem necessary. The secretary shall keep a correct record of all the transactions of the board of commissioners, which shall be a public record, and may be inspected at all times by any taxpayer residing in any township owning an interest in any such park or resort as a grantee. The treasurer shall give a bond in the penal sum of 6,000 dollars.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- CL 1915, 2194 ;-- CL 1929, 2402 ;-- CL 1948, 41.423

41.424 Township parks; plan for acquisition, specifications; referendum, adoption, record.

Sec. 4. Any plan for the securing such park or resort shall fully set forth the premises which it is intended to occupy as a park or resort, and specify the sum which each of said townships will raise by tax each year for the maintenance and support thereof, which shall not be less than 1/10 of a mill nor more than 5 mills on the respective valuations of each of said townships. Said moneys so received shall be paid to the treasurer of said board of commissioners, and shall be paid out on orders drawn on him, signed by the chairman and secretary of said board of commissioners. The full proposition shall be submitted to the qualified electors of each township at a regular or special election, and if adopted by a majority vote shall be a binding contract on such township, and if adopted, shall be recorded in the office of the register of deeds in the county or counties in which said lands shall be situated. The manner of

conducting, noticing, canvassing, returning and declaring the result of such election shall, as near as may be, be the same as is now prescribed by the general election law governing elections in said townships for the election of township officers.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- CL 1915, 2195 ;-- CL 1929, 2403 ;-- CL 1948, 41.424

41.425 Exemption from taxation.

Sec. 5. So much of the estate, both real and personal, as is owned by such township or townships shall be exempt from taxes, but all improvements under lease for private use shall be liable to be taxed.

History: 1905, Act 157, Eff. Sept. 16, 1905 ;-- CL 1915, 2196 ;-- CL 1929, 2404 ;-- CL 1948, 41.425

41.425a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 5a. A petition under section 6, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 160, Eff. Mar. 23, 1999

41.426 Township park commission; petition; election; membership; terms; increase or decrease in number of members; vacancy.

Sec. 6. (1) On receipt of a written petition signed by not less than 8% of the registered voters of a township, the township board of that township, at its first meeting after the receipt of the petition, shall submit the question of establishing a township park commission to the registered voters of the township at the next regular election to be held in the township. If a majority of the registered voters voting on the question vote in favor of establishing a township park commission, the township

board shall appoint the following number of members to a township park commission:

- (a) Before the effective date of the amendatory act that added subsection (3), 6 members.
 - (b) On and after the effective date of the amendatory act that added subsection (3), an odd number of members not fewer than 5 or more than 9 as determined by the township board.
- (2) The members appointed pursuant to subsection (1) shall serve until the next township election at which township officers are elected. At the next township election at which township officers are elected held pursuant to section 358 of the Michigan election law, 1954 PA 116, MCL 168.358, the number of members of the township park commission as determined under subsection (1) shall be elected for terms of 4 years each.
- (3) On and after the effective date of the amendatory act that added this subsection, a township board shall increase or decrease the number of members of an existing township park commission in conformity with subsection (1)(b). If the township board increases the number of members of the township park commission board, the township board shall appoint the additional members who shall serve for the period prescribed in sections 370 and 370a of the Michigan election law, 1954 PA 116, MCL 168.370 and 168.370a. If the township board decreases the number of members of the township park commission board, the members of the township park commission then serving shall remain in office until the next township election at which township officers are elected held pursuant to section 358 of the Michigan election law, 1954 PA 116, MCL 168.358.
- (4) After a township board increases or decreases the number of members of an existing township park commission in conformity with subsection (1)(b), any future increase or decrease in the number of park commission members shall only occur at a township election at which

township officers are elected held pursuant to section 358 of the Michigan election law, 1954 PA 116, MCL 168.358.

(5) A vacancy in the township park commission shall be filled by appointment of the township board for the period prescribed in sections 370 and 370a of the Michigan election law, 1954 PA 116, MCL 168.370 and 168.370a.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989 ;-- Am. 1999, Act 15, Imd. Eff. Apr. 27, 1999

41.426a Township park commission; authority generally.

Sec. 6a. The township park commission shall have authority to acquire, maintain, manage, and control township parks and places of recreation, including bathing beaches, and shall have authority, in the name of the township, to condemn land for those purposes, in accordance with the condemnation laws of this state. The township board may authorize the township park commission to act as the township recreation board provided by Act No. 156 of the Public Acts of 1917, being sections 123.51 to 123.54 of the Michigan Compiled Laws. The township park commission may accept, in the name of the township, gifts, grants, and devises of land suitable for parks and places of recreation, and gifts and bequests of money. That money shall be held in trust and used for the acquisition and improvement of land suitable for parks and places of recreation.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.426b Township park commission; compensation of members; employment of clerical assistance; expenses.

Sec. 6b. The members of the township park commission shall receive compensation as fixed by the township board. The township park commission may employ clerical assistance and incur other expenses that are authorized by the township board. Compensation and expenses shall be paid from the park maintenance fund provided for in section 6c.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.426c Budget; limitation; assessment, levy, and collection of tax.

Sec. 6c. The township park commission shall submit to the township board a detailed budget covering the cost of maintenance of the township parks and places of recreation of the township for the ensuing year. The budget shall not exceed 1 and 1/2 mill on the assessed valuation of the township. The township board shall examine the budget and shall approve the entire budget, or a part of the budget that the board considers reasonable and necessary, which sum shall be incorporated into the tax on the township, and when collected shall be deposited by the township treasurer in a fund to be known as the park maintenance fund.

Expenditures from this fund shall be on vouchers approved by the township park commission, and it shall be the duty of the township treasurer to allow and pay these vouchers on presentation to him or her. The assessment, levy, and collection of the tax provided in this section shall be performed in the manner provided in the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.426d Township bonds; acquisition of lands for parks and places of recreation; payment.

Sec. 6d. The township park commission may request that the township board submit to the voters of the township the question of the issuance of township bonds, the proceeds of which shall be used in the acquisition of lands for township parks and places of recreation. A majority vote of the qualified voters voting shall authorize the issuance of township bonds. The issuance of township bonds shall be governed by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. However, if the township has no outstanding indebtedness, bonded or otherwise, and the amount of the total proposed acquisition cost is less than 1 per cent of the assessed valuation of the township, the township board may authorize and direct the township park commission to purchase or condemn designated lands for township parks and places of recreation and may pay annually to the township park commission the available portions of contingent funds of the township necessary to pay for the acquisition of the lands. The township board shall determine the

maximum amount to be paid for these lands and if acquisition is made by purchase instead of condemnation, shall also prescribe the terms of payment.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989 ;-- Am. 2002, Act 228, Imd. Eff. Apr. 29, 2002

41.426e Sale or conveyance of portions of land not needed.

Sec. 6e. If land is, or has been, acquired under this act by a township park commission, the commission, subject to approval of the township board, may sell and convey the portion or portions not needed on terms the township board considers proper.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.426f Annual report.

Sec. 6f. The township park commission shall make a detailed annual report concerning township parks and places of recreation to the township board and to the state treasurer, in the form and containing information that the state treasurer directs.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.427 Conveyances to and duties of board of county park trustees.

Sec. 7. The township board of a township may convey to the board of county park trustees of a county in which the township is located lands held by the township for township parks or places of recreation, including lands acquired by the township through the dedication of a plat duly approved and recorded, or may arrange with the board of county park trustees for the improvement, maintenance, management, and control of those lands. Upon the acceptance by the county park trustees of the transfer and conveyance, or upon the making of any arrangement for the care, management, and control, the county park trustees shall be charged with all the duties relating to parks and public places as are provided by Act No. 90 of the Public Acts of 1913, being sections 123.61 to 123.68 of the Michigan Compiled Laws.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.428 Appropriation; purpose; contribution to park commission.

Sec. 8. The legislative body of a city or village may appropriate, out of the general or contingent funds of that city or village, funds for the purpose of contributing toward the cost of the acquisition, support, maintenance, upkeep, and improvement of land acquired by a township, or 2 or more townships, for use as a free public park, resort, bathing beach, or other place of recreation. The contribution shall be made to the park commission created by the act under which the park site was or will be acquired.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

41.429 Wharves, piers, docks, and landing places.

Sec. 9. (1) A township abutting upon navigable waters in this state may acquire, construct, and maintain wharves, piers, docks, and landing places for the use and benefit of the public and may lease and control the wharves, piers, docks, and landing places. The township board shall act for the township in acquiring, constructing, and maintaining wharves, piers, docks, and landing places if authorized to do so by the affirmative vote of 3/5 of the registered voters of the township voting on the question at a general or special election.

(2) Proceedings taken under this section shall be taken by the township board, which has the power and authority usually exercised by the board of county road commissioners of the township in acquiring land for laying out, constructing, and maintaining highways. The township board may acquire land for wharves, piers, docks, and landing places and lay out, construct, and maintain these in accordance with the same proceedings, so far as applicable, as are required to be taken by the board of county road commissioners of the township for acquiring land and constructing and maintaining highways. Act No. 283 of the Public Acts of 1909, being sections 220.1 to 239.6 of the Michigan Compiled Laws, is extended to include wharves, piers, docks, and landing places, subject to the provisions contained in this section.

History: Add. 1989, Act 79, Imd. Eff. June 20, 1989

PUBLIC IMPROVEMENTS
Act 188 of 1954

AN ACT to provide for the making of certain improvements by townships; to provide for paying for the improvements by the issuance of bonds; to provide for the levying of taxes; to provide for assessing the whole or a part of the cost of improvements against property benefited; and to provide for the issuance of bonds in anticipation of the collection of special assessments and for the obligation of the township on the bonds.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1995, Act 139, Imd. Eff. July 10, 1995

The People of the State of Michigan enact:

41.721 Public improvements by township board; bonds; special assessments to defray costs.

Sec. 1. The township board has the power to make an improvement named in this act, to provide for the payment of an improvement by the issuance of bonds as provided in section 15, and to determine that the whole or any part of the cost of an improvement shall be defrayed by special assessments against the property especially benefited by the improvement. The cost of engineering services and all expenses incident to the proceedings for the making and financing of the improvement shall be deemed to be a part of the cost of the improvement.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.721a “Record owner” defined.

Sec. 1a. As used in this act, “record owner” means a person, sole proprietorship, partnership, association, firm, corporation, or other legal entity, possessed of the most recent fee title or a land contract vendee's interest in the land as shown by the records of the county register of deeds.

History: Add. 1986, Act 180, Imd. Eff. July 8, 1986

41.722 Types of improvements authorized; approval; conditions.

Sec. 2. (1) The following improvements may be made under this act:

- (a) The construction, improvement, and maintenance of storm or sanitary sewers or the improvement and maintenance of, but not the construction of new or expanded, combined storm and sanitary sewer systems.
- (b) The construction, improvement, and maintenance of water systems.
- (c) The construction, improvement, and maintenance of public roads.
- (d) The acquisition, improvement, and maintenance of public parks.
- (e) The construction, improvement, and maintenance of elevated structures for foot travel over roads in the township.
- (f) The collection and disposal of garbage and rubbish.
- (g) The construction, maintenance, and improvement of bicycle paths.
- (h) The construction, maintenance, and improvement of erosion control structures or dikes.
- (i) The planting, maintenance, and removal of trees.
- (j) The installation, improvement, and maintenance of lighting systems.
- (k) The construction, improvement, and maintenance of sidewalks.
- (l) The eradication or control of aquatic weeds and plants.
- (m) The construction, improvement, and maintenance of private roads.
- (n) The construction, improvement, and maintenance of a lake, pond, river, stream, lagoon, or other body of water or of an improvement to the body of water. This subdivision includes, but is not limited to, dredging.

(o) The construction, improvement, and maintenance of dams and other structures that retain the waters of this state for recreational purposes.

(p) The construction, improvement, and maintenance of sound attenuation walls, pavement, or other sound mitigation treatments unless a written objection is filed in the same manner as provided under section 3 by the record owners of land constituting more than 20% of the total area in the proposed special assessment district. If a written objection is filed, then the township board shall not proceed with the improvement until a petition signed by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established is filed with the board.

(2) A road under the jurisdiction of either the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the state transportation department or the board of county road commissioners. As a condition to the granting of approval, the state transportation department or the board of county road commissioners may require 1 or more of the following:

(a) That all engineering with respect to the improvement be performed by the state transportation department or the board of county road commissioners.

(b) That all construction, including the awarding of contracts for construction, in connection with the improvement be pursuant to the specifications of the state transportation department or the board of county road commissioners.

(c) That the cost of the engineering and supervision be paid to the state transportation department or the board of county road commissioners from the funds of the special assessment district.

(3) A lake, pond, river, stream, lagoon, or other body of water under the jurisdiction of a county drain commissioner shall not be improved under this act without the written approval of the county drain commissioner of

the county in which the lake, pond, river, stream, lagoon, or other body of water is located.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1958, Act 163, Eff. Sept. 13, 1958 ;-- Am. 1964, Act 30, Imd. Eff. May 1, 1964 ;-- Am. 1966, Act 116, Imd. Eff. June 22, 1966 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1976, Act 148, Imd. Eff. June 16, 1976 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986 ;-- Am. 1995, Act 139, Imd. Eff. July 10, 1995 ;-- Am. 2002, Act 585, Imd. Eff. Oct. 14, 2002

41.723 Written objections; petition; filing; signatures; determining record owners; determining sufficiency of petition; supplement to petition; validity of signatures.

Sec. 3. (1) The township board may proceed to carry out an improvement as provided in this act unless written objections to the improvement are filed with the township board at or before the hearing provided in section 4 by property owners as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 20% of the total land area in the proposed special assessment district.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 20% of the total frontage upon the road, bicycle path, or sidewalk.

(2) A township board may require the filing of a petition meeting the requirements of subsection (3) before proceeding with an improvement under this act.

(3) If written objections are filed as provided in subsection (1), or if the township board requires a petition before proceeding, the township board shall not proceed with the improvement until there is filed with the board a petition signed as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established by the township board.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 50% of the total frontage upon the road, bicycle path, or sidewalk.

(4) Record owners shall be determined by the records in the register of deeds' office as of the day of the filing of a petition, or if written objections are filed as provided in subsection (1), then on the day of the hearing. In determining the sufficiency of the petition, lands not subject to special assessment and lands within a public highway or alley shall not be included in computing frontage or an assessment district area. A filed petition may be supplemented as to signatures by the filing of an additional signed copy or copies of the petition. The validity of the signatures on a supplemental petition shall be determined by the records as of the day of filing the supplemental petition.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1957, Act 187, Imd. Eff. June 4, 1957 ;-- Am. 1961, Act 143, Eff. Sept. 8, 1961 ;-- Am. 1976, Act 113, Imd. Eff. May 14, 1976 ;-- Am. 1976, Act 148, Imd. Eff. June 16, 1976 ;-- Am. 1976, Act 332, Imd. Eff. Dec. 15, 1976 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986 ;-- Am. 1995, Act 139, Imd. Eff. July 10, 1995

41.724 Plans; cost estimate; resolution; designation of special assessment district; hearing; notice; periodic redeterminations of cost; objections; adding property to special assessment district; supplemental petition; filing by railroad companies; additional notice; affidavit of service.

Sec. 4. (1) Upon receipt of a petition or upon determination of the township board if a petition is not required under section 3, the township board, if it desires to proceed on the improvement, shall cause to be prepared plans describing the improvement and the location of the improvement with an estimate of the cost of the improvement on a fixed or periodic basis, as appropriate. Upon receipt of the plans and estimate, the township board shall order the same to be filed with the township clerk. If the township board desires to proceed with the improvement, the township board shall tentatively declare by resolution its intention to make the improvement and tentatively designate the special assessment district against which the cost of the improvement or a designated part of the improvement is to be assessed.

(2) The township board shall fix a time and place to meet and hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district, and shall cause notice of the hearing to be given as provided in section 4a. The notice shall state that the plans and estimates are on file with the township clerk for public examination and shall contain a description of the proposed special assessment district. If periodic redeterminations of cost will be necessary without a change in the special assessment district, the notice shall state that such redeterminations may be made without further notice to record owners or parties in interest in the property.

(3) At the hearing, or any adjournment of the hearing which may be without further notice, the township board shall hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district. The township board may revise, correct, amend, or change the plans, estimate of cost, or special assessment district.

(4) Property shall not be added to the district unless notice is given as provided in section 4a, or by personal service upon the record owners of the property in the entire proposed special assessment district, and a hearing afforded to the record owners. If a petition is required because property is added to the special assessment district which makes the original petition insufficient, then a supplemental petition shall be filed containing sufficient additional signatures of record owners. If the nature of the improvement to be made is such that a periodic redetermination of costs will be necessary without a change in the special assessment district boundaries, the township board shall include in its estimate of costs any projected incremental increases. If at any time during the term of the special assessment district an actual incremental cost increase exceeds the estimate therefor by 10% or more, notice shall be given as provided in section 4a and a hearing afforded to the record owners of property to be assessed.

(5) Railroad companies shall file in writing with the secretary of state the name and post office address of the person upon whom may be served notice of any proceedings under this act. After the name and address has

been filed, notice in addition to the notice by publication shall be given to the person by registered mail, or personally, within 5 days after the first publication of the notice. An affidavit of the service shall be filed by the township board with the proof of publication of the notice.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.724a Notice of hearings in special assessment proceedings.

Sec. 4a. (1) If special assessments are made against property, notice of hearings in the special assessment proceedings shall be given as provided in this section.

(2) Notice of hearings in special assessment proceedings shall be given to each record owner of, or party in interest in, property to be assessed whose name appears upon the last township tax assessment records by first-class mail addressed to the record owner or party in interest at the address shown on the tax records, at least 10 days before the date of the hearing. The last township tax assessment records means the last assessment roll for ad valorem tax purposes that was reviewed by the township board of review, as supplemented by any subsequent changes in the names or the addresses of the owners or parties listed on that roll. If a record owner's name does not appear on the township tax assessment records, then notice shall be given by first-class mail addressed to the record owner at the address shown by the records of the county register of deeds at least 10 days before the date of the hearing. Notice shall also be published twice before the hearing in a newspaper circulating in the township. The first publication shall be at least 10 days before the date of the hearing. If a published notice includes a list of the property identification numbers of the property to be assessed, that list may provide either the individual property identification number for each parcel of property to be assessed or 1 or more sequential sets of property identification numbers, which include each parcel of property to be assessed. If a published notice includes a list of the property identification numbers of the property to be assessed, that published notice shall also include either a map depicting the area of the proposed special assessment district or a written description of the proposed special assessment district.

(3) If a person whose name and correct address do not appear upon the last township tax assessment records claims an interest in real property, that person shall immediately file his or her name and address with the township supervisor. This filing is effective only for the purpose of establishing a record of the names and addresses of those persons entitled to notice of hearings in special assessment proceedings. The supervisor shall immediately enter on the tax assessment records any changes in the names and addresses of record owners or parties in interest filed with the supervisor and at all times shall keep the tax assessment records current, complete, and available for public inspection.

(4) A township officer required to give notice of a hearing in special assessment proceedings may rely upon the last township tax assessment records in giving notice of the hearing by mail. The method of giving notice by mail as provided in this section is declared to be the method that is reasonably certain to inform those to be assessed of the special assessment proceedings.

(5) Failure to give notice as required in this section shall not invalidate an entire assessment roll, but only the assessment on property affected by the lack of notice. A special assessment shall not be declared invalid as to any property if the owner or the party in interest of that property actually received notice, waived notice, or paid any part of the assessment. If an assessment is declared void by court decree or judgment, a reassessment against the property may be made.

(6) A special assessment hearing held before June 5, 1974 is validated, insofar as any notice of hearing is concerned, if notice was given by mail to the owners or parties in interest whose names appeared at the time of mailing on the last township tax assessment records. Any such special assessment hearing is validated as to any owner or party in interest who actually received notice of hearing, waived the notice, or paid any part of the special assessment.

History: Add. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986 ;-- Am. 2000, Act 331, Imd. Eff. Dec. 14, 2000

41.725 Approval or determination by township board; levy of special assessment.

Sec. 5. (1) If, after the hearing provided for in section 4, the township board desires to proceed with the improvement, the township board shall approve or determine by resolution all of the following:

- (a) The completion of the improvement.
- (b) The plans and estimate of cost as originally presented or as revised, corrected, amended, or changed.
- (c) The sufficiency of the petition for the improvement if a petition is required. After this determination, the sufficiency of the petition is not subject to attack except in an action brought in a court of competent jurisdiction within 30 days after the adoption of the resolution determining the sufficiency of the petition.
- (d) The special assessment district including the term of the special assessment district's existence. If the nature of the improvement to be made is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the township board shall state that in the resolution and shall set the dates when the redeterminations shall be made. After finally determining the special assessment district, the township board shall direct the supervisor to make a special assessment roll in which are entered and described all the parcels of land to be assessed, with the names of the respective record owners of each parcel, if known, and the total amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district. When the supervisor completes the assessment roll, the supervisor shall affix to the roll his or her certificate stating that the roll was made pursuant to a resolution of the township board adopted on a specified date, and that in making the assessment roll the supervisor, according to his or her best judgment, has conformed in all respects to the directions contained in the resolution and the statutes of this state.

(2) After December 31, 1998, an ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(3) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

(4) As used in this section and section 15b, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986 ;-- Am. 1998, Act 544, Imd. Eff. Jan. 20, 1999

41.726 Filing and review of special assessment roll; hearing; notice; adjournments; objections; confirmation, referral, or annulment; endorsement; finality; action contesting assessment.

Sec. 6. (1) When a special assessment roll is reported by the supervisor to the township board, the assessment roll shall be filed in the office of the township clerk. Before confirming the assessment roll, the township board shall appoint a time and place when it will meet, review, and hear any objections to the assessment roll. The township board shall give notice of the hearing and the filing of the assessment roll as required by section 4a.

(2) A hearing under this section may be adjourned from time to time without further notice. A person objecting to the assessment roll shall file the objection in writing with the township clerk before the close of the hearing or within such further time as the township board may grant. After the hearing the township board, at the same or at a subsequent meeting, may confirm the special assessment roll as reported to the township board by the supervisor or as amended or corrected by the township board; may refer the assessment roll back to the supervisor for revision; or may annul it and direct a new roll to be made.

(3) If a special assessment roll is confirmed, the township clerk shall endorse on the assessment roll the date of the confirmation. After the confirmation of the special assessment roll, all assessments on that assessment roll shall be final and conclusive unless an action contesting an assessment is filed in a court of competent jurisdiction within 30 days after the date of confirmation.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.727 Payment of special assessments in installments; amount of installment; extension; due dates; interest on unpaid installments; payment of future due installments; delinquent installment; penalty.

Sec. 7. (1) The township board may provide that special assessments are payable in 1 or more installments, but the amount of an installment shall not be less than 1/2 of any subsequent installment. The amount of each installment, if more than 1, need not be extended upon the special assessment roll until after confirmation of that assessment roll. Subject to the provisions of section 4(4), the amount of installments for improvements subject to periodic cost revision may be extended upon the special assessment roll by the township board without additional public hearings or public notice, provided that additional property is not added to the special assessment roll.

(2) The first installment of a special assessment shall be due on or before the time after confirmation as the township board shall fix. Subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from a date the township board shall fix.

(3) All unpaid installments, prior to their transfer to the township tax roll as provided by this act, shall bear interest, payable annually on each installment due date, at a rate to be set by the township board, not exceeding 1% above the average rate of interest borne by special assessment bonds issued by the township in anticipation of all or part of the unpaid installments; or not exceeding 1% above the average rate of interest borne by bonds issued by a county, drainage district, or authority if the unpaid installments are to be applied to the payment of a contract obligation of the township to the county or authority or to the payment of

an assessment obligation of the township to the drainage district; or, if bonds are not issued by the township, a county, a drainage district, or an authority, not exceeding 8% per annum, commencing in each case from a date fixed by the township board. Future due installments of an assessment against any parcel of land may be paid to the township treasurer at any time in full, with interest accrued through the month in which the final installment is paid.

(4) If an installment of a special assessment is not paid when due, then the installment shall be considered to be delinquent and there shall be collected, in addition to interest as provided by this section, a penalty at the rate of not more than 1% for each month, or fraction of a month, that the installment remains unpaid before being reported to the township board for reassessment upon the township tax roll.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1957, Act 187, Imd. Eff. June 4, 1957 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1979, Act 173, Imd. Eff. Dec. 13, 1979 ;-- Am. 1981, Act 57, Imd. Eff. June 4, 1981 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.728 Special assessments to constitute lien; character and effect.

Sec. 8. All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall from the date of confirmation of such roll, constitute a lien upon the respective parcels of land assessed. Such lien shall be of the same character and effect as the lien created for township taxes and shall include accrued interest and penalties. No judgment or decree or any act of the township board vacating a special assessment shall destroy or impair the lien of the township upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.729 Special assessments; collection by township treasurer, report of delinquencies.

Sec. 9. When any special assessment roll shall be confirmed the township board shall direct the assessments made therein to be collected.

The township clerk shall thereupon deliver to the township treasurer such special assessment roll, to which he shall attach his warrant commanding the township treasurer to collect the assessments therein in accordance with the directions of the township board in respect thereto. Said warrant shall further require the township treasurer on the 1st day of September following the date when any such assessments or any part thereof have become due to submit to the township board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to September 1 of such year. Upon receiving such special assessment roll and warrant the treasurer shall proceed to collect the several amounts assessed therein as the same shall become due.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.729a Deferred assessment; application; evidence of hardship; ordinance; deferred assessment as recorded lien.

Sec. 9a. (1) An owner of property who by reason of hardship is unable to contribute to the cost of an assessment for an improvement authorized in section 2(1)(a), (b), (c), (g), (h), or (n) may have the assessment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the township may defer partial or total payment of the assessment.

(2) The township board may enact an ordinance to define hardship and to permit deferred or partial payment of an assessment pursuant to this section. As a condition of granting the deferred or partial payment of an assessment, the township board shall require that any deferred assessment constitute a recorded lien against the property.

History: Add. 1976, Act 148, Imd. Eff. June 16, 1976 ;-- Am. 1995, Act 139, Imd. Eff. July 10, 1995

41.730 Special assessments; delinquencies, reassessment.

Sec. 10. In case the treasurer shall, as above provided, report as delinquent any assessment or part thereof, the township board shall certify the same to the supervisor, who shall reassess on the annual

township tax roll of such year in a column headed "special assessments" the sum so delinquent, with interest and penalties to September 1 of such year, and an additional penalty of 6% of the total amount. Thereafter the statutes relating to township taxes shall be applicable to such reassessments.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.731 Division of lands; apportionment of uncollected assessments.

Sec. 11. Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the township board may require the supervisor to apportion the uncollected amounts between the several divisions thereof and the report of such apportionment when confirmed by the township board shall be conclusive upon all parties: Provided, That if the interested parties do not agree in writing to such apportionment, then before such confirmation notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.732 Special assessment roll; insufficiency, additional pro rata assessments; surplus, refunds.

Sec. 12. Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the township board shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount collected on assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next township tax levied against such properties, respectively, or if there be no such tax then it shall be refunded to the persons who are the respective record owners of the properties on the date of the passage of

the resolution ordering such refund. Any such surplus of 5% or less may be paid into the township contingent funds disposed of as above provided.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.733 Illegal special assessment; reassessment proceedings.

Sec. 13. Whenever any special assessment shall, in the opinion of the township board, be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the township board shall, whether the improvement has been made or not, whether any part of the assessment has been paid or not, have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.734 Exempt corporations; agreement to pay assessment.

Sec. 14. The governing body of any public or private corporation whose lands are exempt by law may, by resolution, agree to pay the special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.734a Assessment on platted corner lots; payment of portion by governing body.

Sec. 14a. The governing body of any township, by resolution, may agree to pay up to 1/3 of the cost of the special assessment levied against any platted corner lot for the payment of public improvements authorized under the provisions of this act.

History: Add. 1959, Act 196, Eff. Mar. 19, 1960

41.735 Bonds.

Sec. 15. The township board may borrow money and issue the bonds of the township in anticipation of the collection of special assessments to defray all or any part of the cost of any improvement made under this act after the special assessment roll is confirmed. Bonds issued under this section shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 1 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The township board may pledge the full faith and credit of the township for the prompt payment of the principal of and interest on the bonds authorized under this section. The issuance of bonds under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 2002, Act 229, Imd. Eff. Apr. 29, 2002

41.735a Township improvement revolving fund; advances; interest.

Sec. 15a. As an alternate method of defraying the cost of an improvement made under this act, after the special assessment roll for the improvement is confirmed, the township board may pay the cost of the improvement from the township improvement revolving fund. The amount advanced shall not exceed the amount the board anticipates will be collected by the special assessments. The amount advanced by the township shall bear interest at a rate not exceeding 5% per annum.

History: Add. 1956, Act 109, Eff. Aug. 11, 1956 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.735b Township improvement revolving fund; transfer of funds; amount.

Sec. 15b. The township board of any township by resolution may create and designate a fund to be known as the township improvement revolving fund. Before January 1, 1999, the township board may transfer

to the township improvement revolving fund from the general fund of the township in any 1 year an amount not exceeding 2 mills of the state equalized valuation of the real and personal property in the township and in each subsequent year may transfer from the general fund to the township improvement revolving fund until that fund equals 5 mills of the state equalized valuation of the real and personal property in the township. After December 31, 1998, the township board may transfer to the township improvement revolving fund from the general fund of the township in any 1 year an amount not exceeding 2 mills of the taxable value of the real and personal property in the township and in each subsequent year may transfer from the general fund to the township improvement revolving fund until that fund equals 5 mills of the taxable value of the real and personal property in the township. All interest charges collected are a part of the township improvement revolving fund. The township board may transfer funds from the township improvement revolving fund to the general fund when, in the judgment of the board, funds should be transferred.

History: Add. 1956, Act 109, Eff. Aug. 11, 1956 ;-- Am. 1998, Act 544, Imd. Eff. Jan. 20, 1999

41.735c Special assessments to defray certain obligations.

Sec. 15c. The township board may determine that the whole or any part of an obligation of the township assessed or contracted for pursuant to Act No. 342 of the Public Acts of 1939, as amended, being sections 46.171 to 46.187 of the Michigan Compiled Laws; Act No. 185 of the Public Acts of 1957, as amended, being sections 123.731 to 123.786 of the Michigan Compiled Laws; Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Michigan Compiled Laws; and Act No. 233 of the Public Acts of 1955, as amended, being sections 124.281 to 124.294 of the Michigan Compiled Laws, shall be defrayed by special assessments against the property specially benefited thereby and in such case, the special assessments may be levied and collected in accordance with this act except as herein provided. The requirements of section 3 with respect to requiring a petition and section 4 with respect to the hearing therein required shall not apply to any special assessments levied and collected in accordance with this section and the above described acts.

History: Add. 1974, Act 143, Imd. Eff. June 5, 1974

41.736 Public improvements; powers granted to townships.

Sec. 16. The powers herein granted may be exercised by any township and shall be in addition to the powers granted by any other statute.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1961, Act 14, Imd. Eff. May 9, 1961

41.737 Scope of act.

Sec. 17. The provisions of this act shall not apply to any obligations issued or assessments levied except in accordance with the provisions of this act after the effective date thereof, and shall not validate any proceedings or action taken by any township prior to the effective date of this act.

History: 1954, Act 188, Imd. Eff. May 5, 1954

41.738 Use of interest earned from investments, money from bond proceeds, or money from interest and penalties on unpaid special assessment.

Sec. 18. Interest earned from the investment of money collected under a special assessment under this act or of money received as bond proceeds from a bond issued under this act, or money from interest or penalties charged and collected on an unpaid special assessment under this act shall only be used for the following:

- (a) To pay for the improvement for which the special assessment is assessed.
- (b) To pay the principal and interest of bonds that are issued for the improvement for which the special assessment is assessed.
- (c) To pay the principal and interest of an advance from the township that is used for the improvement for which the special assessment is assessed.

History: Add. 1986, Act 180, Imd. Eff. July 8, 1986

THE CHARTER TOWNSHIP ACT (EXCERPTS)
Act 359 of 1947

42.14a Bonds for public improvements; issuance; approval required; exceptions; limitation on net indebtedness; computation of net indebtedness; bonds subject to MCL 141.2101 to 141.2821.

Sec. 14a. (1) The township may borrow money and issue bonds on the credit of the township for the purpose of constructing or otherwise acquiring a public improvement that the township is authorized to construct or otherwise acquire by law.

(2) Bonds shall not be issued, except special assessment bonds, bonds for the township portion of local improvements, and bonds that the township board is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the bonds at a general or special election.

(3) The net indebtedness of the township incurred for all public purposes shall not exceed 10% of the assessed value of all real and personal property in the township. In computing the net indebtedness all of the following shall be deducted:

(a) Bonds issued in anticipation of the collection of special assessments, even though they are general obligations of the township.

(b) Revenue bonds, even though they are general obligations of the township.

(c) Bonds issued to comply with an order of the former water resources commission, the department of environmental quality, or a court of competent jurisdiction, even though they are a general obligation of the township.

(d) Bonds issued, or contract or assessment obligations incurred, for water supply, sewerage, drainage, solid waste disposal, and steam generation and distribution necessary to protect the public health by

abating pollution, even though they are a general obligation of the township.

(e) Bonds issued or contract or assessment obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(i) “Combined sewer overflow” means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(ii) “Combined sewer overflow abatement facility” means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(iii) “Combined sewer system” means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(iv) “Construction” means any action taken in the designing or building of a combined sewer overflow abatement facility. Construction includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) Township supervision of the project activities described in subparagraphs (A) to (F).

(v) “Improvement” means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(vi) “Replacement” means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(4) The resources of the sinking fund or debt retirement fund pledged for retirement of outstanding bonds shall also be deducted from the amount of the indebtedness.

(5) Bonds are issued subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1953, Act 188, Eff. Oct. 2, 1953 ;-- Am. 1973, Act 82, Imd. Eff. July 31, 1973 ;-- Am. 1979, Act 141, Imd. Eff. Nov. 7, 1979 ;-- Am. 1995, Act 212, Imd. Eff. Nov. 29, 1995 ;-- Am. 2002, Act 230, Imd. Eff. Apr. 29, 2002

42.16 Streets, alleys, bridges and public places; regulation of use; record of ordinances, filing.

Sec. 16. Except insofar as limited by state law and the provisions of this act, the township board shall have power to establish and vacate and use, and to control and regulate the use of the streets, alleys, bridges, and public places of the township and the space above and beneath them, such regulation of its streets, alleys, bridges, and public places shall be deemed a matter of local concern. Nothing in this act shall be construed to repeal or nullify the provisions of Act No. 221 of the Public Acts of 1937. Any ordinance concerning the operation of motor vehicles on any road, street or highway shall not become effective until 30 days after approval by the commissioner of the Michigan state police. A record of all ordinances so approved by the commissioner shall be kept on file in his office. Such power shall include, but not be limited to, the proper policing and supervision thereof; to the licensing and regulation, or the

prohibition of the placing of signs, awnings, awning posts, and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets, upon or over the sidewalks or streets of the township; and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and of all vaults, structures, and excavations under the same.

History: 1947, Act 359, Eff. Oct. 11, 1947 ;-- CL 1948, 42.16 ;-- Am. 1949, Act 70, Eff. Sept. 23, 1949

Compiler's Notes: For provisions of Act 221 of 1937, referred to in this section, see MCL 750.497 and 750.498.

42.31 Local or public improvements; approval; determination of necessity; special assessments; bonds.

Sec. 31. Each charter township may make local or public improvements by paving streets that are not a part of the county highway system, laying curbs and gutters, installing elevated structures for foot travel over highways within the township with the written approval of the director of the state transportation department if the highways are state highways or with the written approval of the board of county road commissioners if the highways are county roads, laying sidewalks, installing solid waste disposal systems, steam generation and distribution, paving streets that are a part of the county highway system with the consent of and according to specifications of the county road commission, laying storm and sanitary sewers and separating storm water drainage and footing drains from sanitary sewers on privately owned property for a public purpose, installing water systems, and installing street and highway lighting systems, and further may maintain or operate these improvements. The township board of each charter township may determine the necessity of the local or public improvement and may determine that the whole or any part of the expense of the local or public improvement shall be defrayed by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement. A special assessment under this section shall be made in all respects as provided for the making of special assessments under 1954 PA 188, MCL 41.721 to 41.738. Each charter township may borrow money and issue bonds therefor in anticipation of the payment of special assessments, which may be an obligation of the special

assessment district or may be both an obligation of the special assessment district and a general obligation of the township. Bonds issued under this act shall be issued in accordance with 1954 PA 188, MCL 41.721 to 41.738.

History: 1947, Act 359, Eff. Oct. 11, 1947 ;-- CL 1948, 42.31 ;-- Am. 1960, Act 13, Imd. Eff. Apr. 13, 1960 ;-- Am. 1964, Act 34, Imd. Eff. May 4, 1964 ;-- Am. 1973, Act 82, Imd. Eff. July 31, 1973 ;-- Am. 1979, Act 141, Imd. Eff. Nov. 7, 1979 ;-- Am. 2002, Act 576, Imd. Eff. Oct. 3, 2002

COUNTY BOARDS OF COMMISSIONERS (EXCERPT)
Act 156 of 1851

46.11 Powers of county board of commissioners.

Sec. 11. A county board of commissioners, at a lawfully held meeting, may do 1 or more of the following:

- (a) Purchase or lease for a term not to exceed 20 years, real estate necessary for the site of a courthouse, jail, clerk's office, or other county building in that county.
- (b) Determine the site of, remove, or designate a new site for a county building. The exercise of the authority granted by this subdivision is subject to any requirement of law that the building be located at the county seat.
- (c) Authorize the sale or lease of real estate belonging to the county, and prescribe the manner in which a conveyance of the real estate is to be executed.
- (d) Erect the necessary buildings for jails, clerks' offices, and other county buildings, and prescribe the time and manner of erecting them.
- (e) Borrow or raise by tax upon the county those funds authorized by law. The exercise of the authority granted by this subdivision is subject to any voting requirement provided by the law authorizing the borrowing or tax if different from the voting requirement under section 3.

(f) Provide for the repayment of a loan made by the board, by tax upon the county. The loan shall be repaid within 15 years after the date of the loan, except that a loan to erect a county building for a public function shall be repaid within 30 years after the date of the loan.

(g) Prescribe and fix the salaries and compensation of employees of the county if not fixed by law and, except in a county having a board of county auditors, adjust claims against the county. The sum allowed in the adjustment of a claim is subject to appeal as provided by law.

(h) Direct and provide for the raising of money necessary to defray the current expenses and charges of the county and the necessary charges incident to or arising from the execution of the board's lawful authority, subject to the limitations prescribed in this act. The county board of commissioners may borrow in a year, in anticipation of the levy or collection of taxes for the year, a sum of money, not exceeding 50% of the tax to be levied or collected for the general fund of the county, necessary to defray current expenses of the county. The money borrowed shall be repaid from the tax when levied and collected.

(i) Authorize the making of a new tax roll.

(j) By majority vote of the members of the county board of commissioners elected and serving, pass ordinances that relate to county affairs and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county, and pursuant to section 10b provide suitable sanctions for the violation of those ordinances. The board may change the limits of a city, village, or school district within the county as provided by law. If there is not a general law governing the subject, or if a change cannot be made pursuant to a general law, the board may change the limits of the village upon petition of at least 10% of the resident taxpayers. An ordinance or act of incorporation provided in this subdivision shall take effect when notice of the adoption is published in a newspaper of general circulation in the county. The clerk of the county board of commissioners shall engross each ordinance or act, and it shall be signed by the chairperson of the county board of commissioners and certified by the clerk of the

county board of commissioners. If, within 50 days after the county board of commissioners adopts an ordinance or act, a petition signed by not less than 20% of the electors residing in the district to be affected by the ordinance or act is filed with the county clerk asking that the ordinance or act be submitted to electors of the district to be affected by the ordinance or act for approval or rejection, then the ordinance or act shall not take effect until it is approved by a majority of the electors of the district affected voting on that issue at a regular or special election called for that purpose. The county board of commissioners shall provide the manner of submitting the ordinance or act to the electors for their approval and of determining the result of the election.

(k) Require a county officer whose salary or compensation is paid by the county to make a report under oath to the county board of commissioners on any subject connected with the duties of that office and require the officer to give a bond reasonable or necessary for the faithful performance of the duties of the office. An officer who neglects or refuses either to make a report or give a bond within a reasonable time after being required to do so may be removed from office by the board by a vote of 2/3 of the members elected or appointed, and the office declared vacant. The board may fill the vacancy for the unexpired portion of the term for which the officer was elected or appointed. If an election occurs before the expiration of the unexpired term, and if the office is elective, the vacancy shall be filled at that election. The board shall give reasonable notice of the election to fill the vacancy.

(l) Represent the county and have the care and management of the property and business of the county if other provisions are not made.

(m) Establish rules and regulations in reference to the management of the interest and business concerns of the county as the board considers necessary and proper in all matters not especially provided for in this act or under the laws of this state. The county board of commissioners shall not audit or allow a claim, including a bill or charge, against the county unless the claim has been filed with the county clerk of the county before the fourth day of a regular meeting of the board, or before the second day of an adjourned or other meeting, the claim is contracted by the board

during the session of the board or the claim is for mileage and per diem of the members of the board. The county clerk shall keep a book of all claims in the order in which the claims are presented, giving the name of each claimant and the amount and date of presentation of each claim. The book, after the time prescribed for the presentation of claims, shall be delivered to the chairperson for the use of the board. At the October session, the board, by a vote of 2/3 of the members, may receive and allow accounts that have wholly accrued during the session.

(n) Subject to subdivision (o), remove an officer or agent appointed by the board if, in the board's opinion, the officer or agent is incompetent to execute properly the duties of the office or if, on charges and evidence, the board is satisfied that the officer or agent is guilty of official misconduct, or habitual or willful neglect of duty, and if the misconduct or neglect is a sufficient cause for removal. However, an officer or agent shall not be removed for that misconduct or neglect unless charges of misconduct or neglect are preferred to the county board of commissioners or the chairperson of the county board of commissioners, notice of the hearing, with a copy of the charges, is delivered to the officer or agent, and a full opportunity is given the officer or agent to be heard, either in person or by counsel.

(o) If the county has an appointed county manager or other appointed chief administrative officer or a county controller, the county board of commissioners may enter into an employment contract with that officer. The term of the employment contract may extend beyond the terms of the members of the county board of commissioners. The term of the employment contract shall be 3 years or less, unless the employment contract is entered into on or after August 1 of an even-numbered year, in which case the term of the employment contract shall be 1 year or less. However, in a county organized under 1966 PA 293, MCL 45.501 to 45.521, with an appointed chief administrative officer, an employment contract with the appointed chief administrative officer shall be for the term provided by section 11a of 1966 PA 293, MCL 45.511a. An employment contract under this subdivision shall be in writing and shall specify the compensation to be paid to the officer, any procedure for changing the compensation, any fringe benefits, and any other conditions

of employment. If the officer serves at the pleasure of the county board of commissioners, the contract shall so state and may provide for severance pay or other benefits in the event the employment of the officer is terminated at the pleasure of the county board of commissioners.

(p) Establish rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, for the manner of proceeding before the board.

(q) Acquire by exchange land needed for county purposes, including the purchase of land to be used in exchange for other land of approximate equal value owned by the federal government and needed for county purposes.

(r) Grant or loan funds to a nonprofit corporation organized for the purpose of providing loans for private sector economic development initiatives. A grant or loan under this subdivision shall not be derived from ad valorem taxes except for ad valorem taxes approved by a vote of the people for economic development. The county shall establish an application process for proposals to receive a grant or loan under this subdivision. The awarding of a grant or loan under this subdivision shall be made at a public hearing of the county board of commissioners. The grant or loan contract shall require a report to the county board of commissioners regarding the activities of the recipient and the degree to which the recipient has met the stated public purpose of the funding.

History: 1851, Act 156, Imd. Eff. Apr. 8, 1851 ;-- CL 1857, 345 ;-- Am. 1859, Act 244, Eff. May 18, 1859 ;-- Am. 1867, Act 81, Eff. June 27, 1867 ;-- CL 1871, 477 ;-- Am. 1877, Act 165, Eff. Aug. 21, 1877 ;-- How. 483 ;-- CL 1897, 2484 ;-- Am. 1905, Act 98, Eff. Sept. 16, 1905 ;-- Am. 1909, Act 322, Eff. Sept. 1, 1909 ;-- Am. 1913, Act 397, Eff. Aug. 14, 1913 ;-- CL 1915, 2274 ;-- Am. 1925, Act 69, Eff. Aug. 27, 1925 ;-- CL 1929, 1130 ;-- CL 1948, 46.11 ;-- Am. 1955, Act 108, Imd. Eff. June 3, 1955 ;-- Am. 1956, Act 132, Imd. Eff. Apr. 13, 1956 ;-- Am. 1958, Act 59, Eff. Sept. 13, 1958 ;-- Am. 1959, Act 193, Imd. Eff. July 22, 1959 ;-- Am. 1964, Act 182, Eff. Aug. 28, 1964 ;-- Am. 1975, Act 206, Imd. Eff. Aug. 21, 1975 ;-- Am. 1978, Act 51, Eff. Mar. 30, 1979 ;-- Am. 1978, Act 278, Imd. Eff. July 6, 1978 ;-- Am. 1978, Act 629, Imd. Eff. Jan. 8, 1979 ;-- Am. 1980, Act 334, Eff. Dec. 30, 1980 ;-- Am. 1985, Act 171, Eff. Mar. 31, 1986 ;-- Am. 1988, Act 227, Imd. Eff. July 8, 1988 ;-- Am. 1994, Act 18, Eff. May 1, 1994 ;-- Am. 1996, Act 22, Imd. Eff. Feb. 16, 1996 ;-- Am. 1996, Act 396, Imd. Eff. Oct. 8, 1996 ;-- Am. 1998, Act 97, Imd. Eff. May 15, 1998 ;-- Am. 2003, Act 94, Imd.

Eff. July 24, 2003

Compiler's Notes: Act 259 of 1937 purported to amend this section, but the effective date of that act depended on the approval of Act 258 of 1937, which was defeated by referendum.

COUNTY PUBLIC IMPROVEMENT ACT OF 1939
Act 342 of 1939

AN ACT to authorize counties to establish and provide water, sewer, or sewage disposal improvements and services within or between cities, villages, townships, charter townships, or any duly authorized and established combinations thereof, within or without the county, and to establish and provide garbage or rubbish collection and disposal facilities and services for such units of government or combinations thereof, and for such purposes to acquire, purchase, construct, own, maintain, or operate water mains and trunk and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds; to authorize counties to establish, administer, coordinate, and regulate a system or systems of water, sewer, or sewage disposal improvements and services, and garbage and rubbish collection and disposal facilities and services, within or between such units of government; to provide methods for obtaining money for the aforesaid purposes; to authorize counties to extend by laterals and connections, and to construct, improve, repair, manage, or operate water, sewer, or sewage disposal improvements and garbage and rubbish collection and disposal facilities and services of and situated within such cities, villages, townships, charter townships, or any duly authorized and established combination thereof, and provide for the loan of money to such units of government for the purposes and the repayment thereof by agreements therefor; to provide methods for collection of rates, charges, or assessments; to authorize counties to enter into contracts with any unit of government providing for the acquisition, construction, and financing of improvements or facilities and for the pledge of the full faith and credit of each unit of government for the payment of their respective shares of the cost thereof; to authorize each unit of government having power to tax to impose taxes without limitation as to rate or amount for the payment of contract obligations in anticipation of which bonds are

issued; to authorize counties to issue bonds secured by the full faith and credit pledges of each unit of government; to authorize counties to pledge their full faith and credit as additional security on such bonds and to impose taxes without limitation as to rate or amount to the extent necessary for the payment of such bonds; to authorize counties to issue revenue bonds and to pledge their full faith and credit as additional security for the payment of such revenue bonds; to validate action taken and bonds issued; and to prescribe penalties and provide remedies.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974 ;-- Am. 1998, Act 202, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

46.171 Establishment of water, sewer, and sewage disposal improvements and services; establishment of garbage and rubbish collection and disposal facilities and services; definitions.

Sec. 1. (1) The county board of commissioners of a county may, by resolution adopted by a majority vote of its members-elect at any regular or special session of the board, authorize and direct that there be established a system or systems of water, sewer, or sewage disposal improvements and services and garbage or rubbish collection and disposal facilities and services within or between cities, villages, townships, charter townships, or any duly authorized and established combinations thereof, within or without the county, and mains, trunks, connecting lines, and disposal facilities therefor. For such purposes the agency of the county hereinafter designated shall locate, acquire, purchase, construct, own, maintain, or operate water mains, trunks, and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds and facilities, as shall be described in maps, plans, and specifications therefor and be approved by the county board of commissioners or contract with any unit of government, or any duly authorized and established combination thereof for the purchase of water and for the use of their sewers and sewage disposal plants and garbage or rubbish collection and disposal facilities and services. A county may establish, construct, administer, coordinate, and

regulate systems for water, sewer, and sewage disposal improvements and services within or between, and garbage and rubbish collection and disposal facilities and services for, such units of government.

(2) As used in this act:

(a) “Sewers” means interceptor sewers for the transportation of sewage or storm water or both, storm sewers, sanitary sewers, combined sanitary and storm sewers and all instrumentalities, facilities, and properties used or useful in connection with the collection of sewage or storm water.

(b) “Garbage” and “rubbish collection and disposal facilities” mean incinerators, disposal grounds, and all instrumentalities, facilities, and properties used or useful in connection with the collection and disposal of garbage and rubbish.

(c) “Unit of government” means a city, village, township, charter township, and any duly authorized and established combinations thereof, within or without the county establishing any of the improvements, facilities, or services authorized under this act.

(d) “Improvements”, “facilities”, and “services” mean any of the improvements, facilities, and services authorized under the provisions of subsection (1).

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.171 ;-- Am. 1952, Act 74, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.171a County public improvements; short title.

Sec. 1a. This act shall be known and may be cited as the “County Public Improvement Act of 1939”.

History: Add. 1963, Act 1, Imd. Eff. Feb. 26, 1963

46.172 County public improvements; contracts with governmental units, loans.

Sec. 2. Any county having determined to establish and provide any of the improvements, facilities and services authorized under the provisions of section 1 hereof, is further authorized to extend by laterals and connections, and to improve, repair, manage and/or operate any such improvements, facilities and service of and situated within any units of government by terms of agreements therefor to be entered into between such county and said units of government, and subject to the conditions hereinafter provided.

Such county may loan money to such units of government for said purposes and obtain repayment thereof by agreement therefor and subject to the conditions hereinafter provided.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- CL 1948, 46.172 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953

46.173 County agency; designation; powers and duties.

Sec. 3. Whenever the county board of commissioners of a county determines to establish and provide any of the improvements, facilities, or services hereinbefore authorized, it shall designate the "county agency" therefor which shall be the board of county road commissioners, the drain commissioner, or the board of public works of the county as may be determined by resolution of the county board of commissioners. Before commencing the improvements, facilities, or services, or entering into a contract with any other unit of government for supply or use of the improvements, facilities, and services, the county agency shall prepare or obtain from competent sources and file with the county board of commissioners, maps, plans, designs, specifications, and estimates of the proposed improvements or facilities. The county agency shall have supervision and control of the management and operation of all improvements, facilities, and services established pursuant to this act and further shall have the following duties and powers: To make and execute proposed alterations, changes, and extensions of the improvements, facilities, or services authorized herein; to locate, acquire, purchase, construct, alter, repair, maintain, and operate the improvements, facilities, and services authorized herein and enter into and execute

contracts therefor; to obtain or prepare data for and determine rates, charges, and assessments to be imposed and collected for any improvements, facilities, and services authorized herein; to review and make adjustments of rates, charges, and assessments where the same are deemed excessive or inadequate; to engage consultants, assistants, attorneys, and employees; to act as the applicant, agents, or sponsor for the county in the borrowing or loaning of money, issuing of notes or bonds and receiving of any gift or grant of funds or property for the purposes authorized herein; to enter into and execute agreements with units of government, for the use of any such improvements, facilities, or services and the collection of rates, charges, and assessments; and to make all necessary rules governing the use and operation of such improvements, facilities, or services.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.173 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1961, Act 213, Eff. Sept. 8, 1961 ;-- Am. 1973, Act 152, Imd. Eff. Nov. 28, 1973

46.174 Establishment of rates, charges, or assessments.

Sec. 4. When the county board of commissioners of a county has authorized and directed the establishment of any of the improvements, facilities, or services authorized by this act, the county agency shall establish just, equitable, and uniform rates, charges, or assessments to be paid to the county for the services rendered thereby. The complete and actual cost of improvements and financing thereof may be included in the amounts fixed for rates, charges, or assessments for services rendered by the county. Where the improvements or facilities are to be acquired, constructed, and financed pursuant to the provisions of sections 5a, 5b, and 5c, the rates, charges, or assessments for services rendered by the improvements or facilities shall be set and thereafter changed in the amount and manner provided by contract between the county and the unit or units of government.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.174 ;-- Am. 1952, Act 74, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.174a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 4a. A petition under section 5b or 16, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 202, Eff. Mar. 23, 1999

46.175 Agreements; rates, charges, or assessments as lien.

Sec. 5. The county agency and a unit of government may enter into agreements for a term up to but not exceeding 40 years whereby the unit of government shall pay the county for the services provided by any improvements and facilities authorized by this act, including the cost of construction and maintenance of the same, from funds collected as rates, charges, or assessments from the users and beneficiaries of the improvements, facilities, and services, or from any other fund available which may be validly used for such purposes. Any contracting unit of government may raise the amounts required to be paid under such agreements by collecting connection charges, and rates, charges, or assessments from the users and beneficiaries of the improvements, facilities, and services within that unit of government, or by levy upon the taxable property of any contracting unit of government having the power to tax in accordance with the same procedure as provided under the general tax laws of the state. The county agency may also enter into agreements with units of government providing that the county agency shall collect the connection charges, and rates, charges, or assessments for the services furnished, directly from the users and beneficiaries thereof. The county agency may enter into similar agreements with the county drain commissioner on behalf of any drain district, or with the drainage board on behalf of any inter-county drainage district, for the connection of any drain with any county sewer or sewage disposal system and for the collection by the county of connection charges, rates, and charges for the services of such county system from the users or

beneficiaries thereof through connection with such drain. The county agency or such units of government in accordance with the agreements shall have the right to shut off the services and deny the use of the improvements or facilities to any user or beneficiary thereof failing to pay any of the rates, charges, or assessments as fixed. The rates, charges, or assessments for water, sewage, and sewage disposal services may be fixed in accordance with the amount of water used as measured by water meter readings or by such other methods as may be deemed equitable. Any rates, charges, or assessments shall constitute a lien on the premises served, effective immediately upon the rendering of services thereto and the official records of the agency charged with the collection thereof constitute notice of the pendency of the lien. Any rates, charges, or assessments remaining unpaid and delinquent for a period of 6 months or more may be certified by the agency charged with the collection thereof to the tax assessing officer or agency of the taxing district wherein the lands served are located and shall then be entered upon the county tax rolls against the premises to which such services shall have been rendered. The same shall be collected and the lien shall be enforced in accordance with the provisions of the general tax laws of the state.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.175 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1961, Act 213, Eff. Sept. 8, 1961 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.175a Contracts authorized; methods of raising funds.

Sec. 5a. As an additional or alternative method of acquiring and constructing any of the improvements or facilities authorized by this act, the county, acting through its county agency, and any unit of government may enter into contracts providing for the acquisition, construction, and financing of improvements or facilities in the manner authorized in this act. The contracts shall provide for the allocation and payment of the share of the total cost to be borne by each unit of government in annual installments for a period of not exceeding 40 years, and each contracting unit of government is authorized to pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contracts. A contract described in this section is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. For the purpose of making payment of its pledged share of the cost of the

improvements or facilities, any contracting unit of government may use any, or all, or any combination of the following methods of raising funds:

(a) The levy of a tax on taxable property by a unit of government having the power to tax, which tax may be imposed without limitation as to rate or amount and in addition to any taxes that the unit of government may be authorized to levy but not more than the rate or amount sufficient for those purposes.

(b) The levy of special assessments on property benefited by the improvements, the procedures relative to the making and collection of the special assessments to conform as near as may be to applicable charter or statutory provisions.

(c) The levy and collection of rates or charges to users and beneficiaries of the service furnished by the improvement.

(d) From money received or to be received derived from the imposition of taxes by this state, except as the use of the money for that purpose is expressly prohibited by the state constitution of 1963.

(e) From any other funds that may be validly used for that purpose. The contracts may provide for any and all matters relating to the acquisition, construction, and financing of the improvements or facilities as are considered necessary, including the authority to the county agency to issue bonds secured by the full faith and credit contractual pledges of the contracting unit of government, as authorized by section 5c. The contracts may provide for appropriate remedies in case of default, including, but not limited to, the right of the contracting unit of government to authorize the state treasurer or other official charged with the disbursement of unrestricted state funds returnable to the governmental units under the state constitution of 1963, to withhold sufficient funds to make up any default or deficiency in funds.

History: Add. 1952, Act 74, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1961, Act 213, Eff. Sept. 8, 1961 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974 ;-- Am. 2002, Act 199, Imd. Eff. Apr. 29, 2002

46.175b Resolution authorizing execution of contract; notice; approval of contract; petition for referendum; special election; verification of signatures; refunding of outstanding bonds.

Sec. 5b. (1) A unit of government desiring to enter into a contract under the provisions of section 5a shall authorize, by resolution of its governing body, the execution of the contract. Subsequent to the adoption of the resolution a notice thereof shall be published in a newspaper of general publication in the unit of government which notice shall state:

- (a) That the governing body has adopted a resolution authorizing execution of the contract.
- (b) The purpose thereof.
- (c) The source of payment of unit of government is contractual obligation.
- (d) The right of referendum thereon.
- (e) Such other information as the governing body shall determine to be necessary to adequately inform all interested persons of the nature of the obligation.

The contract may be executed and delivered by the unit of government upon approval by its governing body without a vote of the electors thereon, but the contract shall not become effective until the expiration of 45 days after the date of publication of such notice. If within the 45-day period a petition signed by at least 10% or 15,000, whichever is the lesser, of the registered electors residing within the limits of the unit of government is filed with the clerk thereof requesting a referendum upon the contract, the same shall not become effective until approved by the vote of a majority of the electors of the unit of government qualified to vote and voting thereon at a general or special election. Where a unit of government has, prior to the effective date of this 1974 amendment, published a resolution authorizing the execution of a contract hereunder in substantial compliance with this section, as amended, and the

referendum period formerly provided by this section has expired, but the bonds have not been issued, the resolution and the publication thereof are hereby validated and, if no petition for a referendum on execution of the contract has been or is signed and filed within the time period formerly provided by this section, the contract may be executed and shall thereupon become effective without submitting the proposition for approval thereof to the electors, or if a petition has been or is so signed and filed, the contract may be executed and thereupon become effective if approved at an election as above provided. When any such contract is to be entered into by any township only on behalf of the unincorporated area of the township, only the registered electors residing within the unincorporated area of the township shall be qualified to sign the petition and vote at the election.

(2) Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the unit of government shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any unit of government shall be determined by the unit of government registration books.

(3) Where a contracting unit of government has outstanding any revenue bonds issued under the provisions of Act. No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws, for the type of improvements or facilities to be constructed pursuant to this act and the contract, such contract may provide for the refunding of the outstanding bonds and the inclusion, in the total financing required for the construction of the improvements or facilities contemplated by this act of an amount sufficient to provide for the refunding, including such call premiums as may be required in the ordinance authorizing their issuance. Nothing herein contained shall be construed as authorizing the refunding of noncallable unmatured bonds without the consent of the holder or holders thereof. Where the refunding

is provided for by the contract, any bonds issued pursuant to section 5c may be issued and sold in a sufficient amount to provide additional funds over and above acquisition and construction costs of the new improvements or facilities to enable the contracting unit of government to retire the outstanding revenue bonds.

History: Add. 1952, Act 74, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.175c Bonds generally.

Sec. 5c. (1) For the purpose of obtaining funds for the acquisition and construction of the improvements or facilities authorized by this act, the county after the execution of the contract or contracts authorized by sections 5a and 5b, upon resolution adopted by its county board of commissioners, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting unit of government pursuant to authorization contained in this act and the contract or contracts entered into pursuant to sections 5a and 5b. The bonds shall not be delivered until the contract or contracts become effective as provided in section 5b. The bonds shall be issued in the name of the county and shall be executed in such manner as provided in the resolution authorizing the bonds. Bonds issued under this act shall mature in a period not to exceed 40 years. The bonds and coupons shall taxation by be exempt from all this state or by any taxing authority within this state. The bonds shall not pledge the full faith and credit of the issuing county except as otherwise provided in this section. As additional security for the payment of the principal of and interest on any bonds issued under this section, any issuing county may, upon proper resolution adopted by a majority vote of the members-elect of its county board of commissioners, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds. In the event the county is required to advance any money by reason of a pledge on account of the delinquency of any contracting unit of government and if provided in the contract, the county treasurer shall notify the state treasurer to deduct the amount of money advanced by the county from any unrestricted money in the state treasurer's possession belonging to the unit of government and to pay the amount to the county. The money shall be paid into the general fund of the county. The right of deduction to receive payment from the state

treasurer given to the county by this statute shall not operate to limit the county's right to pursue any other legal remedies for the reimbursement of money advanced under this section. The board of commissioners of any county that has advanced any money and that has not been reimbursed may order a unit of government having taxing power and its officers to levy upon its next tax roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent and the unit of government and its tax levying and collecting officials shall levy and collect the taxes and reimburse the county. The resolution authorizing the issuance of the bonds shall contain the terms of the contract or contracts authorized by sections 5a and 5b. Sections 5a, 5b, and 5c shall be construed as an additional and alternative method for the acquisition, construction, and financing of the improvements or facilities contemplated by this act, and shall not affect the other provisions of this act relating to the acquisition, construction, or financing of improvements or facilities. Any improvements and facilities contemplated by this act may be acquired, constructed, and financed in part under the provisions of sections 5a, 5b, and 5c and in part under other sections of this act. This act shall not validate any drain orders or bonds issued prior to April 30, 1954.

(2) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1952, Act 74, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1954, Act 161, Imd. Eff. Apr. 30, 1954 ;-- Am. 1957, Act 138, Imd. Eff. May 28, 1957 ;-- Am. 1963, Act 1, Imd. Eff. Feb. 26, 1963 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974 ;-- Am. 1983, Act 183, Imd. Eff. Oct. 25, 1983 ;-- Am. 2002, Act 199, Imd. Eff. Apr. 29, 2002

46.176 Board of review; designation by board of supervisors; hearing, review, and adjustment of rates, charges and assessments; meetings, time and place, notice.

Sec. 6. The board of supervisors shall designate either a committee selected from its membership or the board of auditors, in counties having boards of auditors, to be constituted a board of review for the purpose of hearing and reviewing rates, charges and/or assessments. At the request of any unit of government, person, firm or corporation, charged for

services rendered by any county acting under the provisions hereof, and on sufficient cause being shown, or upon information presented to or obtained by said board of review of the respective county, the action of the county agency in fixing or adjusting charges and/or assessments shall be reviewed and finally determined by said board of review: Provided, That such charges and/or assessments shall in all cases be sufficient to pay operating expenses of the system and to meet sinking fund and interest requirements on bonds and to meet principal and interest payments on notes if any, and any other requirements under which such bonds or notes may be issued. The board of review shall adjust and correct rates, charges and/or assessments in order that the same shall be just and equitable. The board of review shall meet at the room of the board of supervisors in the county building on the second Monday in May and September of each year, at 3:00 o'clock in the afternoon and continue in session during the day until 5:00 o'clock in the afternoon thereof and during the same hours of the 2 days following. Additional time for hearings may be granted by the board of review. Notice of hearings to be held by the board of review shall be prepared by such board and posted at 2 public places in each municipality where rates, charges and/or assessments are charged or assessed in pursuance hereof, at least 7 days prior to the second Monday in May and September.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.176 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953

46.177 Self-liquidating revenue bonds.

Sec. 7. For the purpose of obtaining money for locating, acquiring, purchasing, establishing, constructing, extending, improving, or repairing any of the improvements, facilities, or services authorized by this act, the county may issue self-liquidating revenue bonds, and may issue refunding bonds for the payment or retirement of any such bonds previously issued by it for any such purposes, under the provisions of Act No. 94 of the Public Acts of 1933, as amended. As additional security for the payment of the bonds, any issuing county, by a majority vote of the members-elect of its county board of commissioners, may include as part of the ordinance authorizing the issuance of the bonds a pledge of its full faith and credit for payment of the principal of and interest on the bonds, and if such a pledge is made, then in event of the

insufficiency of the revenues therefor, the county may pay the amount of the insufficiency from its general fund or levy taxes therefor without limitation as to rate or amount and in addition to any other taxes it may be authorized to levy but not in an amount a rate in excess of that necessary to make up the insufficiency.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.177 ;-- Am. 1949, Act 221, Eff. Sept. 23, 1949 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1961, Act 213, Eff. Sept. 8, 1961 ;-- Am. 1963, Act 1, Imd. Eff. Feb. 26, 1963 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.178 Administrative expenses; revolving fund.

Sec. 8. The county board of commissioners of any county operating under the provisions of this act, may by a 2/3 vote of its members-elect appropriate and there shall be paid from its general funds such sums as are determined by the board to be necessary for administrative expenses incurred by the county agency in the performance of its duties and powers authorized by this act and for purposes of obtaining maps, plans, designs, specifications, and cost estimates of proposed improvements or facilities. The county board of commissioners of a county operating under this act may by a 2/3 vote of its members-elect make appropriations from the general fund of such county to be segregated as a revolving fund which may be used to finance and pay for such improvements or facilities as are authorized herein to be disbursed and expended by the county agency.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.178 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.179 Advancements and loans to governmental units; conditions, provision for payment; maximum.

Sec. 9. In the event that the board of supervisors of any county having established any of the improvements or facilities authorized by this act determines that any city, village, township or township improvement district is in need of extensions, improvements or repairs to such improvements and facilities of and within such units of government, such board of supervisors by a two-thirds majority vote of its members

elect is authorized to appropriate, advance and loan to and by agreement with such unit of government from the general funds of the county, such sums as are necessary to provide such extensions, improvements or repairs. The board of supervisors may, by resolution adopted by a two-thirds majority vote of its members elect, make such advance and loan on condition that the legislative body of the unit of government borrowing and receiving said sum shall enter into an agreement therefor and approve such advance and loan by a two-thirds vote of its members elect. Any sum to be borrowed for the benefit of a township improvement district shall be authorized by action of the township board in the township where said district is situated. No such loan shall be made by the board of supervisors without there first being irrevocably pledged to the payment thereof current or delinquent taxes evidenced by promissory notes paying interest at not to exceed 5 per cent per annum and maturing within a period of 10 years: Provided, The total sum advanced and loaned to any such unit of government for 1 or more of the improvements or facilities authorized herein shall not, in total amount, exceed 10 per cent of its current taxes and 80 per cent of all its delinquent taxes, and current and/or delinquent taxes pledged shall not exceed said amount. Such advances and loans are authorized irrespective of the amount of tax delinquency of the unit of government borrowing money for the purpose herein provided, and shall not require the approval of the state loan board, the public debt commission or any other state authority.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.179 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953

46.180 Audit of financial records and accounts; disbursement of funds.

Sec. 10. The board of auditors shall audit the financial records and accounts for the construction or acquisition of any improvements or facilities by the county authorized herein. All funds for the purchase of land, construction, acquisition, maintenance, and operation of improvements or facilities authorized by the county board of commissioners shall be disbursed by direction of the county agency and paid by the county treasurer. In counties not having a board of auditors,

the county board of commissioners shall perform the duties designated herein for the board of auditors.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.180 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.181 Collection service charge; enforcement.

Sec. 11. The collection service charge authorized herein in terms of rates, charges or assessments to be fixed and collected by the county, and notes for money advanced and loaned by the county may be enforced by such county in case of default in payment thereof as herein provided, and/or by action in mandamus, assumpsit or any other remedy prescribed by law.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- CL 1948, 46.181

46.182 Public improvements; permit from city or village legislative body not required.

Sec. 12. The construction or acquisition of any improvements or facilities in accordance with the provisions of this act, shall not be subject to the requirements and provisions of Act No. 261, Public Acts of Michigan, 1927.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- CL 1948, 46.182 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953

46.183 Construction of act.

Sec. 13. This act being necessary for and to secure the public health, safety, and welfare of the counties, cities, villages, townships, and charter townships shall be liberally construed to effect the provisions hereof.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- CL 1948, 46.183 ;-- Am. 1974, Act 46, Imd. Eff. Mar. 19, 1974

46.184 County agency; purchase, acceptance or condemnation of property; provisions applicable.

Sec. 14. The county agency of any county, for purposes of exercising the authority herein granted to such county, may purchase, accept as a gift, or condemn private property determined by said county agency to be necessary therefor and for the public use. If by condemnation the provisions of Act No. 149 of the Public Acts of Michigan of the year 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein," or such other appropriate provisions therefor as exists or shall be made by law may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 353, Eff. Jan. 10, 1942 ;-- CL 1948, 46.184 ;-- Am. 1953, Act 186, Imd. Eff. June 9, 1953

46.185 Authority of act additional.

Sec. 15. The authority hereby given shall be in addition to and not in derogation of any power existing in any of the counties, cities, villages and townships under any statutory or charter provisions which they may now have or may hereafter adopt.

History: 1939, Act 342, Eff. Sept. 29, 1939 ;-- CL 1948, 46.185

46.186 Township board; action on behalf of partially incorporated city, effect.

Sec. 16. Whenever all or any part of a township has been incorporated as a city and the incorporation of such city has not been completed by the adoption of a charter therefor, then the township board may act hereunder on behalf of both the city and the remainder of the township, either jointly or severally, and for the purposes of this act shall be deemed to be the governing body of such city as well as that of the township. Pending the adoption of such charter, any duty imposed by the provisions of this act upon an officer or governing body of the city, shall be performed by the corresponding officer or governing body of the township, and all papers, documents and notices may be served upon the township clerk. In event of a referendum upon a contract entered into by the township board solely on behalf of such a city, then only the

registered electors residing within the city incorporated territory shall be qualified to sign the petition therefor and to vote at the election. The township registration records shall be used unless there shall have been a previous registration of electors in the city. In the event that the city incorporated territory should revert to the township status by reason of the failure to adopt a charter for said city, then any action taken by the township board on behalf of such city shall be binding upon the township.

History: Add. 1956, Act 49, Imd. Eff. Apr. 2, 1956

46.187 Joint action by adjoining counties; administrative agency, establishment, powers and duties; issuance of bonds.

Sec. 17. Any 2 or more adjoining counties which have, by resolution of their respective boards of supervisors, authorized and directed the establishment of any of the improvements, facilities or services authorized by this act, may contract for the joint establishment, operation or maintenance of any such improvements, facilities or services, or any portion thereof. Such contract shall provide for the establishment of an administrative agency to be composed from the membership of the respective county agencies, and such administrative agency shall have and exercise all the powers and duties conferred upon a county agency under the provisions of this act, except as the same may be specifically limited by the provisions of said contract.

Any bonds issued to finance the construction of improvements under such contract shall be the joint obligation of all participating counties.

History: Add. 1956, Act 49, Imd. Eff. Apr. 2, 1956

46.188 Validation of prior actions and bonds.

Sec. 18. Actions heretofore taken by the county or any unit of government and all bonds heretofore issued under this act as originally adopted or subsequently amended are hereby validated. A county acting under this act as originally adopted or subsequently amended, or any unit of government, shall not contest the validity of any such bonds or any contract which provides the security therefor or any action taken by the

county or unit of government after the bonds have been sold and delivered and the county has received the consideration therefor.

History: Add. 1974, Act 46, Imd. Eff. Mar. 19, 1974

THE GENERAL LAW VILLAGE ACT (EXCERPT)

Act 3 of 1895

Chapter XI

WATER WORKS.

71.1 Water works; establishment; maintenance.

Sec. 1. Any village may purchase or construct and may maintain water works to provide the village with pure water.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2890 ;-- CL 1915, 2764 ;-- Am. 1917, Act 43, Eff. Aug. 10, 1917 ;-- Am. 1917, Act 94, Imd. Eff. Apr. 17, 1917 ;-- CL 1929, 1673 ;-- Am. 1937, Act 349, Imd. Eff. Aug. 5, 1937 ;-- CL 1948, 71.1 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.2 Water works or filtration plant; authorized acquisitions, construction, and maintenance.

Sec. 2. The village may acquire, purchase, erect, and maintain the reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes, and other apparatus, appurtenances, and machinery, and may acquire, purchase, appropriate, and own such grounds, real estate, rights, and privileges that are necessary and proper for securing, constructing, rebuilding, repairing, extending, and maintenance of those water works or filtration plants.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2891 ;-- Am. 1915, Act 158, Imd. Eff. May 7, 1915 ;-- CL 1915, 2765 ;-- Am. 1917, Act 94, Imd. Eff. Apr. 17, 1917 ;-- CL 1929, 1674 ;-- CL 1948, 71.2 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.3 Borrowing; purpose; limitations.

Sec. 3. It shall be lawful for any village, subject to the provisions of this act, to borrow any sum of money, that will not make the total indebtedness of such village greater than the limitations imposed in chapter 9, to be used exclusively for the purpose of purchasing,

constructing, repairing, rebuilding, extending and maintaining water works, or filtration plants as provided in the 2 preceding sections, and for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2892 ;-- Am. 1915, Act 158, Imd. Eff. May 7, 1915 ;-- CL 1915, 2766 ;-- Am. 1917, Act 94, Imd. Eff. Apr. 17, 1917 ;-- Am. 1925, Act 105, Imd. Eff. Apr. 30, 1925 ;-- CL 1929, 1675 ;-- CL 1948, 71.3 ;-- Am. 1974, Act 4, Imd. Eff. Jan. 30, 1974

71.4 Estimate of expense; specially assessing cost of certain water improvements.

Sec. 4. Before any money shall be borrowed, appropriated, raised, or expended for the purchase, construction, repairing, rebuilding, or extending of water works or filtration plants in any village, or for the payment of any indebtedness incurred by the village, in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants, the council shall cause to be made an estimate of the expense thereof. The council may determine to specially assess any portion of the cost of water improvements to property especially benefited thereby pursuant to chapter 8.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- Am. 1897, Act 63, Eff. Aug. 30, 1897 ;-- CL 1897, 2893 ;-- Am. 1915, Act 158, Imd. Eff. May 7, 1915 ;-- CL 1915, 2767 ;-- Am. 1917, Act 94, Imd. Eff. Apr. 17, 1917 ;-- CL 1929, 1676 ;-- CL 1948, 71.4 ;-- Am. 1969, Act 65, Eff. Mar. 20, 1970 ;-- Am. 1974, Act 4, Imd. Eff. Jan. 30, 1974

71.5 Private connections; manner; permit; repairs at owner's expense.

Sec. 5. The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be connected with the main pipe until a permit is obtained from the village. Connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2894 ;-- CL 1915, 2768 ;-- CL 1929, 1677 ;-- CL 1948, 71.5 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.6 Water rates; ordinance; terms.

Sec. 6. The council shall establish just and equitable water rates to be charged and paid for water supply. The council shall periodically either modify, amend, increase, or diminish the water rates. The council may prescribe by ordinance when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment of the water rates, including, but not limited to, notice to persons who fail to pay the rates that their supply of water may be shut off, and may provide, in case of nonpayment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make payment.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2895 ;-- CL 1915, 2769 ;-- CL 1929, 1678 ;-- CL 1948, 71.6 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.7 Water works; ordinances.

Sec. 7. The council may enact such ordinances, and adopt such resolutions, as may be necessary for the care, protection, preservation, and control of the water works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the construction, management and control of such water works.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2896 ;-- CL 1915, 2770 ;-- CL 1929, 1679 ;-- CL 1948, 71.7

71.8 Water works; location outside corporate limits; control by council.

Sec. 8. If the council considers it in the public interest, the village may purchase or construct and may maintain a water works beyond the corporate limits of the village. In such case the council may enforce beyond the corporate limits of the village, have control over the buildings, machinery, and other property belonging to and connected with the water works, in the same manner and to the same extent as if located within the village, and adopt and enforce ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control of the water works. However, nothing in this

section prohibits another local governmental unit from enforcing its ordinances within its limits.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2897 ;-- CL 1915, 2771 ;-- CL 1929, 1680 ;-- CL 1948, 71.8 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.9 Water works; use of street or highway.

Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village may, after obtaining appropriate rights as provided by law, use the ground or soil under any street, highway, or road for the purpose of introducing water into and through any and all portions of the village, and repairing and relaying water pipes.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2898 ;-- CL 1915, 2772 ;-- CL 1929, 1681 ;-- CL 1948, 71.9 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.10 Water works; condemnation.

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, maintenance, or operation of water works, the right to occupy and hold the same and the ownership or easement rights may be acquired by the village in the manner provided by the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2899 ;-- CL 1915, 2773 ;-- CL 1929, 1682 ;-- CL 1948, 71.10 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.11 Water supply contract; use of streets, wharves, and public grounds.

Sec. 11. The council may contract from year to year, or for a period not exceeding 10 years, with a person to supply the village with water and may grant to the person the right to the use of the streets, alleys, wharves, and public grounds of the village as necessary to construct, maintain, and operate proper works for the supply of water for the village upon terms and conditions specified in the contract.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2900 ;-- CL 1915, 2774 ;-- CL 1929, 1683 ;-- CL 1948, 71.11 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

71.12 Street administrator; duties.

Sec. 12. Unless otherwise provided by ordinance adopted under section 8 of chapter V, as directed by the council, the street administrator designated under section 13 of 1951 PA 51, MCL 247.663, shall perform, or cause to be performed under his or her supervision, labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds, and parks within the village.

History: Add. 1998, Act 254, Imd. Eff. July 13, 1998

71.13 Street administrator; report.

Sec. 13. The street administrator shall provide the council, in writing and on oath once in each month, an exact report of all labor performed by the street administrator, or under his or her supervision, and the charges therefor; the amount of material used, and the expense thereof; the street or other place where the material was used, or labor performed; and the items and purpose of all expenses incurred since his or her last preceding report.

History: Add. 1998, Act 254, Imd. Eff. July 13, 1998

71.14 Department of public works; performance of duties of administrator; director.

Sec. 14. The council by ordinance may establish a department of public works to perform the duties of the street administrator and other duties authorized by this act or by the council. The ordinance shall provide that the president shall nominate and the council shall appoint a director of public works. The council may designate the village manager as director of public works in an ordinance enacted pursuant to section 8 of chapter V.

History: Add. 1998, Act 254, Imd. Eff. July 13, 1998

THE HOME RULE VILLAGE ACT (EXCERPT)
Act 278 of 1909

78.24c Acquisition of land for disposal of sewage or protection of water supply.

Sec. 24c. A village may acquire land outside its corporate limits necessary for the disposal of sewage or the obtaining or protection of a water supply for the village or the inhabitants of the village by purchase or, if the proposed use will not materially injure the health or safety of the persons living adjacent to the land, by condemnation pursuant to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

History: Add. 1993, Act 32, Imd. Eff. Apr. 23, 1993

78.25b Recreational trailway; posting of ordinance; prohibited violation of ordinance as municipal civil infraction; penalty.

Sec. 25b. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that section 25a prohibits an ordinance from designating as a municipal civil infraction.

History: Add. 1994, Act 86, Eff. Oct. 1, 1994

THE GENERAL LAW VILLAGE ACT (EXCERPT)
Act 3 of 1895

69.22 Raising additional amounts by tax or loan; approval of electors; limitation on taxation and indebtedness; exclusions from limitation; validation of prior bonds or obligations.

Sec. 22. (1) Should any greater amount be required in any year for any lawful purpose than can otherwise be raised by the council under this chapter, the amount may be raised by tax or loan, or partly by tax and partly by loan. If approved by a majority vote of the electors at an annual or special village election, the council may levy a tax which, in any year, shall not exceed 2% of the assessed valuation of the real and personal property within the village, as shown by the last preceding assessment roll of the village.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, shall not exceed 10% of the assessed valuation of the real and personal property within the village subject to taxation as shown by the last preceding assessment roll of the village. Bonds issued in anticipation of the collection of special assessments even though the bonds are a general obligation of the village, motor vehicle highway fund bonds even though they are a general obligation of the village, revenue bonds, or bonds issued or contract or assessment obligations incurred to comply with an order of the department of environmental quality or a court of competent jurisdiction, even though they are a general obligation of the village and bonds issued or contract or assessment obligations incurred for water supply, sewage, drainage, or refuse disposal necessary to protect the public health by abating pollution even though they are a general obligation of the village, are not included in this limitation. Money on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of the indebtedness to that extent. In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the village, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the council may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the taxable valuation of the village, notwithstanding that the

loan may increase the indebtedness of the village beyond the limitations fixed by this section. If a village is authorized to acquire or operate a public utility, the village may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by this section. The mortgage bonds issued beyond the limit of general indebtedness prescribed by this section shall not impose any liability upon the village, but shall be secured only upon the property and revenues of the public utility, including its franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility; which franchise shall not extend for a period of more than 20 years from the date of the sale of the utility and franchise on foreclosure. All bonds issued, or contract or assessment obligations incurred, before January 30, 1974 are validated.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895 ;-- CL 1897, 2873 ;-- CL 1915, 2747 ;-- CL 1929, 1656 ;-- CL 1948, 69.22 ;-- Am. 1952, Act 168, Eff. Sept. 18, 1952 ;-- Am. 1969, Act 65, Eff. Mar. 20, 1970 ;-- Am. 1974, Act 4, Imd. Eff. Jan. 30, 1974 ;-- Am. 1998, Act 254, Imd. Eff. July 13, 1998

**THE HOME RULE CITY ACT
(EXCERPTS)
Act 279 of 1909**

AN ACT to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates.

History: 1909, Act 279, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 203, Eff. Aug. 1, 1911 ;-- Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913 ;-- Am. 1973, Act 81, Imd. Eff. July 31, 1973 ;-- Am. 1981, Act 175, Imd. Eff. Dec. 14, 1981 ;-- Am. 1986, Act 64, Imd. Eff. Mar. 31, 1986 ;-- Am. 1998, Act 150, Eff. Mar. 23, 1999

117.4a Borrowing money and issuing bonds; net indebtedness; limitation; computation; borrowing in case of fire, flood, or other calamity; incurring obligation for construction, renovation, or

modernization of hospital; bonds as obligation of special assessment district and city; validation of bonds issued and obligations incurred before July 31, 1973.

Sec. 4a. (1) Each city in its charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, for any purpose within the scope of the powers of the city.

(2) Notwithstanding a charter provision to the contrary, the net indebtedness incurred for all public purposes shall not exceed the greater of the following:

(a) Ten percent of the assessed value of all the real and personal property in the city.

(b) Fifteen percent of the assessed value of all the real and personal property in the city if that portion of the total amount of indebtedness incurred which exceeds 10% is or has been used solely for the construction or renovation of hospital facilities.

(3) In case of fire, flood, or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed $\frac{3}{8}$ of 1% of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if the loan would cause the indebtedness of the city to exceed the limit established by this section.

(4) In computing the net indebtedness, all of the following shall be excluded:

(a) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city.

(b) Mortgage bonds that are secured only by a mortgage on the property or franchise of a public utility.

(c) Bonds issued to refund money advanced or paid on special assessments for water main extensions.

- (d) Motor vehicle highway fund bonds, even though they are also a general obligation of the city.
- (e) Revenue bonds.
- (f) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction.
- (g) Obligations incurred before January 9, 1973 for water supply, sewage, drainage, or refuse disposal, or resource recovery projects, or incurred after January 8, 1973 for projects necessary to protect the public health by abating pollution. A certification by the county, district, or state health department shall be sufficient proof that the project is necessary to protect the public health by abating pollution.
- (h) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.
- (i) Obligations entered into under an intergovernmental self-insurance contract section 5 of 1951 PA 35, MCL 124.5, or issued to pay premiums or to establish funds to self-insure for losses under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.
- (j) Bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:
 - (i) “Combined sewer overflow” means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.
 - (ii) “Combined sewer overflow abatement facility” means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(iii) “Combined sewer system” means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(iv) “Construction” means any action taken in the designing or building of a combined sewer overflow abatement facility. This term includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) City supervision of the project activities described in sub-subparagraphs (A) to (F).

(v) “Improvement” means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(vi) “Replacement” means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

- (5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the indebtedness.
- (6) An obligation for the construction, renovation, or modernization of a hospital under subsection (2)(b) shall not be incurred after July 1, 1978 unless the construction, renovation, or modernization has been approved in accordance with any applicable act or unless the obligation is to refinance a previous obligation.
- (7) Each city may provide in its charter for the borrowing of money and issuing bonds for the borrowing of money in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.
- (8) Bonds issued and obligations incurred before July 31, 1973 are validated.
- (9) In computing the net indebtedness for the purposes of subsection (2), there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:
- (a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The department of treasury shall certify the amount upon request.
- (b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

History: Add. 1921, Act 353, Eff. Aug. 18, 1921 ;-- Am. 1927, Act 351, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2231 ;-- Am. 1932, 1st Ex. Sess., Act 14, Imd. Eff. Apr. 29, 1932 ;-- CL 1948, 117.4a ;-- Am. 1972, Act 374, Imd. Eff. Jan. 9, 1973 ;-- Am. 1973, Act 81, Imd. Eff. July 31, 1973 ;-- Am. 1977, Act 263, Imd. Eff. Dec. 8, 1977 ;-- Am. 1978, Act 634, Imd. Eff. Jan. 8, 1979 ;-- Am. 1988, Act 268, Imd. Eff. July 15, 1988 ;-- Am. 1992, Act 256, Imd. Eff. Dec. 7, 1992 ;-- Am. 1994, Act 324, Imd. Eff. Oct. 12, 1994 ;-- Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002

117.4b Refunds; bonds; sewers; waterworks; lighting; permissible charter provisions.

Sec. 4-b. Each city may in its charter provide:

(1) For refunding money advanced or paid on special assessments imposed, for water main extensions; for borrowing money through its legislative body on the faith and credit of the city, to provide for such refunding from time to time as buildings shall be connected with such water main extensions; and for the issuance of bonds therefor due in not more than 30 years in an amount and at the rate of interest limited by the charter of such city;

(2) For the installation and connection of sewers and waterworks on and to property within the city; for assessing the cost thereof to the several properties and making the same a lien thereon; and for the borrowing of money and issuing bonds in anticipation of the collection of such special assessments;

(3) For the installation and connection of conduits for the service of municipally owned and operated electric lighting plants; and for the borrowing of money and issuing the bonds of the city therefor, for the purpose of providing the first cost of such installation and connection.

History: Add. 1927, Act 209, Imd. Eff. May 20, 1927 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2232 ;-- CL 1948, 117.4b

117.4c Permissible charter provisions.

Sec. 4-c. Each city which is authorized to acquire, own, purchase, construct or operate any public utility, may provide in its charter for the issuance of mortgage bonds therefor beyond the general limit of the bonded indebtedness prescribed by law, provided that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure. Such mortgage bonds shall be sold to yield not to exceed 6 per centum per annum. The charter shall also provide for the creation of a sinking fund in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

History: Add. 1927, Act 287, Imd. Eff. May 31, 1927 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2233 ;-- CL 1948, 117.4c

117.4d Permissible charter provisions; assessing costs of public improvement and boulevard lighting system; definitions.

Sec. 4d. (1) Each city may in its charter provide:

(a) For assessing and reassessing the costs, or a portion of the costs, of a public improvement to a special district.

(b) For assessing the cost, or a portion of the costs, of installing a boulevard lighting system on a street upon the lands abutting the street. A city shall not establish a special assessment district for a boulevard lighting system if the district includes the entire city, unless the special assessments against the real property within the district are levied on other than an ad valorem basis.

(2) As used in this section:

(a) "Boulevard lighting system" means any design or method of providing light to a street.

(b) "Cost" includes necessary condemnation cost and necessary expenses incurred for engineering, financial, legal, or administrative services; operation and maintenance of a boulevard lighting system, whether that service is provided directly by the city or is provided by an investor-owned utility; and other services of a similar kind involved in the making and financing of the improvement and in the levying and collecting of the special assessments for the improvement. If the service is rendered by city employees, the city may include the fair and reasonable cost of rendering the service. The inclusion of a cost specified in this subdivision as part of the cost of an improvement for which special assessments have been levied before the effective date of the 1987 amendatory act amending this section is validated.

(c) "Street" means a public avenue, street, highway, road, path, boulevard, or alley or other access used for travel by the public.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2234 ;-- CL 1948, 117.4d ;-- Am. 1961, Act 124, Eff. Sept. 8, 1961 ;-- Am. 1964, Act 27, Imd. Eff. Apr. 29, 1964 ;-- Am. 1988, Act 201, Imd. Eff. June 29, 1988

117.4e Public property; condemnation of private property; permissible charter provisions.

Sec. 4e. Each city may in its charter provide:

(1) For the acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees and embankments, watch-houses, city prisons and work houses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems,

sewage disposal plants and systems, market houses and market places, office buildings for city officers and employees, public works, and public buildings of all kinds; and for the costs and expenses thereof;

(2) For the acquisition by purchase, gift, condemnation, lease or otherwise of private property, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property outside the corporate limits of such city, such condemnation proceedings may be brought under the provisions of Act No. 149 of the Public Acts of 1911, as amended or as may be amended, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporations', 'state agencies' and 'private property' as used herein," being sections 353 to 373 inclusive of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law;

(3) For the maintenance, development, operation, of its property and upon the discontinuance thereof to lease, sell or dispose of the same subject to any restrictions placed thereupon by law: Provided, That on the sale of any capital asset of a municipally owned utility the money received shall be used in procuring a similar capital asset, or placed in the sinking fund to retire bonds issued for said utility.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2235 ;-- CL 1948, 117.4e ;-- Am. 1949, Act 207, Eff. Sept. 23, 1949

Compiler's Notes: For provisions of Act 149 of 1911, referred to in subdivision (2), see MCL 213.21 et seq.

117.4f Permissible city charter provisions.

Sec. 4f. Each city may in its charter provide for any of the following:

(a) For the purchase or condemnation of franchises, if any exist, and of the property used in the operation of companies or individuals engaged in the road, cemetery, hospital, almshouse, electric light, gas, heat, water,

and power business, and in cities having more than 25,000 inhabitants, for the purchase of the franchise, if any exist, and the property of street railway and tram railway companies. A city may in its charter allow for a contract, upon the terms, including terms of present or deferred payment, and upon the conditions and in the manner as the city considers proper, to purchase, operate, and maintain any existing public utility property for supplying water, heat, light, power, or transportation to the city and the city's inhabitants. The contract does not bind the city unless the proposition for the contract receives the affirmative vote of 3/5 of the electors voting at a regular or special election. For the purchase of a transportation utility, the charter amendment and the contract to purchase may provide for a sinking fund, into which shall be paid, from the earnings of the utility, sums sufficient to purchase the utility and perform the obligations of the contract. Within a reasonable time after the acquisition of a public transportation utility, a system of civil service for the selection and retention of its employees shall be established. If a vote is taken to amend a city charter to allow an acquisition under this subdivision, a vote may also be taken at the same election to approve a particular contract. The vote upon the charter amendment and upon the purchase contract shall be by separate ballots. If a transportation utility is acquired under this subdivision, state taxes and local taxes on any portion of the property lying outside of the city limits shall be paid as if privately owned. The powers under this subdivision are in addition to any other powers provided for under this section.

(b) For owning, constructing, and operating transportation facilities within the city limits, and its adjacent and adjoining suburbs within a distance of 10 miles from any portion of the city limits.

(c) For the purchase and condemnation of private property for any public use or purpose within the scope of its powers; for the acquirement, ownership, establishment, construction, and operation, either within or outside its corporate limits, of public utilities for supplying water, light, heat, power, and transportation to the city and the city's inhabitants, for domestic, commercial, and municipal purposes; for the sale of heat, power, and light outside its corporate limits in an amount as determined by the governing body of the utility supplying the heat, power, or light

except that electric delivery service is limited to the area of any village or township that was contiguous to the city as of June 20, 1974, and to the area of any other village or township being served as of June 20, 1974 and retail sales of electric generation service are limited to the area of any city, village, or township that was contiguous to the city, village, or township as of June 20, 1974, and to the area of any other city, village, or township being served as of June 20, 1974 unless the municipal utility is in compliance with section 10y(4) of 1939 PA 3, MCL 460.10y; for the sale and delivery of water outside of its corporate limits in the amount as may be determined by the legislative body of the city; and for the operation of transportation lines outside the city and within 10 miles from its corporate limits. A city shall not render electric delivery service for heat, power, or light to customers outside its corporate limits already receiving that service from another utility unless that utility consents in writing, and shall not render retail electric generation service to customers outside its corporate limits receiving that service from another supplier except in compliance with section 10y of 1939 PA 3, MCL 460.10y. The acquirement of a utility together with all properties, franchises, and rights necessary for its establishment, ownership, construction, operation, improvement, extension, and maintenance, whether the properties, franchises, and rights are situated within or outside the corporate limits of the city, may be either by purchase or condemnation. If the acquirement is by condemnation, 1911 PA 149, MCL 213.21 to 213.25, may be used for instituting and prosecuting the condemnation proceedings. A public utility is not acquired unless the proposition to do so first receives the affirmative vote of 3/5 of the electors of the city voting at a regular or special municipal election. For purposes of this subdivision:

- (i) "Electric delivery service" has the same meaning as "delivery service" under section 10y of 1939 PA 3, MCL 460.10y.
- (ii) "Electric generation service" means the sale of electric power and related ancillary services.
- (d) For the acquiring, establishment, operation, extension, and maintenance of sewage disposal systems, sewers, and plants, either

within or outside the corporate limits of the city, as a utility, including the right to acquire necessary property by purchase, gift, or condemnation, and including the fixing and collecting of charges exclusively for service covering the cost of the service. This subdivision allows a return on the fair value of the property devoted to the service, excluding the valuations of the portions of the system that were paid for by special assessment, which may be made as a lien upon the property served and if not paid when due, collected in the same manner as other city taxes.

History: Add. 1927, Act 367, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2236 ;-- CL 1948, 117.4f ;-- Am. 1955, Act 26, Eff. Oct. 14, 1955 ;-- Am. 1965, Act 116, Imd. Eff. July 2, 1965 ;-- Am. 1974, Act 18, Imd. Eff. Feb. 15, 1974 ;-- Am. 1975, Act 296, Imd. Eff. Dec. 11, 1975 ;-- Am. 2000, Act 156, Imd. Eff. June 14, 2000

117.4g Rapid transit system; permissible charter provisions.

Sec. 4-g. Each city may in its charter provide:

(1) For the acquisition by construction, condemnation or purchase and for the ownership, equipment, possession, leasing, operation and maintenance of a rapid transit system consisting of a tunnel, subway, surface or elevated system or any combination and qualification of these, in and through said city, and for a distance of not more than 10 miles beyond its limits, for the purpose of furnishing transportation facilities to the municipality and to the people thereof; for the preparation and publication of plans for such construction, equipment and maintenance in accordance with charter provisions adopted hereunder; for the operation of such facilities independently or in connection with other transportation facilities, or transportation system, owned, operated or controlled by such city or existing therein, or in the territory in which any such rapid transit system is established; for the appropriate designation of such facilities; for the taking of the fee of or easement or right of way on, under, above and through any property for the purposes thereof, by gift, grant and purchase, and by condemnation proceedings in accordance with any law of the state of Michigan providing therefor; and for the management of such facilities, for the purposes for which the same are or may be acquired or constructed. Provision may also be made

for the execution of contracts incidental to the carrying out of the purposes hereby contemplated. In the event that property is taken by condemnation under any statute pertaining thereto, the actual benefits accruing to or received by a remainder of any such parcel on account of the construction of the improvement shall be taken into account in determining the damages to be awarded by way of compensation to the owner or owners of such property. The charter shall also provide for the proper financing of the acquisition and construction of any such system and facilities by direct taxation, special assessments on the basis of benefits actually and exclusively received by property affected by any such improvement, or by borrowing money and issuing bonds or other evidence of indebtedness therefor, or by a combination of such methods; and for the defraying of the cost of maintenance, operation and management of such facilities and for payment of interest on and a sinking fund to retire any bonds issued under this subsection, from the revenues received as a result of the operation thereof by the city. Bonds executed and sold for the purpose of raising money to cover the cost of such acquisition and construction may be issued on the faith and credit of the city or same may be secured by mortgage on the property and revenues of the utility established pursuant hereto. The aggregate amount of bonds issued on the faith and credit of the city under this subsection shall not exceed 2 per cent of the assessed valuation of the taxable property within said city for the preceding fiscal year; and in computing the total indebtedness of the city for the purpose of determining whether any other limitation prescribed by law has been exceeded, such bonds shall not be included. Except as is in this subsection otherwise specifically provided, all bonds issued by a city for the purposes hereby contemplated shall be subject to the restrictions and conditions prescribed in section 4-a of this act. In case provision is made in the charter for raising money by direct taxation for the purposes hereof, the amount of such tax levied and assessed in any year shall not exceed 1/6 of 1 per cent of the assessed valuation of the city for such year; and the amount of any such tax shall not be subject to any other limitations prescribed by law, or considered in determining whether any such limitation has been exceeded. In no case shall more than 60 per cent of the total estimated cost of acquiring or constructing any such rapid transit system or portion of extension thereof, be raised by direct

taxation, and by the issuance of bonds on the faith and credit of the city. As incidental to the authority hereby granted, provision may be made in any city charter for the exercise of powers incidental to the accomplishment of the purposes hereof, and reasonably calculated and designed to facilitate the furnishing of adequate transportation facilities by the means aforesaid to the municipality and the people thereof. No charter amendment or amendments, contemplating and providing for the exercise of the powers referred to in this subsection, shall be submitted to a vote of the electors unless and until the same shall have been published pursuant to the direction of the legislative body of the city, in at least 1 newspaper having a general circulation in such city at least once each week for 3 weeks in succession during the 30 day period immediately preceding the date of the election; and no plan for construction and operation of any rapid transit system shall be put into effect unless the same shall first have been submitted to the qualified electors of the city and approved thereby. Such submission of plan shall be made subsequent to the enactment of said charter amendments either at a general election or a special election called for that purpose by the legislative body of the city. Such contemplated plan shall, before its submission, and as a condition prerequisite thereto, be published once each week for 6 weeks in succession in some daily newspaper having a general circulation within the city, during the 60-day period immediately preceding the date of submission to the electors; and the contemplated plan as so published shall specify the route or routes of the proposed rapid transit system, the type of construction proposed for the various sections or parts thereof, the method or methods for financing the improvement, the order in which the various sections or parts are to be constructed or acquired, the system of management to be adopted, the estimated cost of the various sections or parts of the system, and such other matters as the legislative body of the city shall require: Provided, however, That the financial plan so submitted shall not permit special assessments against any property in excess of actual benefits, meaning increased value, accruing exclusively as a result of said improvement; and the payment of such special assessments made under this subsection, shall be prorated over a period of not less than 10 years.

(2) For negotiating, executing and performing contracts with any other municipality or municipalities, duly authorized and empowered to that end, with reference to the construction, equipment, operation, maintenance and management of a rapid transit system and facilities, and for the financing of any obligations, assumed under or imposed by any such contract. The grants, limitations and restrictions set forth in the preceding subsection of this section shall be deemed applicable to, and shall be observed in the adoption of, charter provisions and amendments hereunder and in the exercise of the authority hereby granted.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2237 ;-- CL 1948, 117.4g

117.4h Public ways; permissible charter provisions.

Sec. 4-h. Each city may in its charter provide:

- (1) For the use, regulation, improvement and control of the surface of its streets, alleys and public ways, and of the space above and beneath them;
- (2) For the use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;
- (3) For a plan of streets and alleys within and for a distance of not more than 3 miles beyond its limits;
- (4) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the law or action thereunder where a navigable stream is bridged or dammed; or with riparian or littoral rights without their corporate limits;
- (5) For securing by condemnation, by agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable stream an elevated structure of 1 or more levels for use as vehicular or pedestrian passageway, or for any other municipal purpose;

(6) For the acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

(7) For the acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of pleasure water crafts and/or hydroplanes within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2238 ;-- Am. 1931, Act 295, Imd. Eff. June 8, 1931 ;-- CL 1948, 117.4h

117.5e Municipal water or sewage system; annual audit; public hearing before proposed rate increase.

Sec. 5e. A municipal water or sewage system established by a city incorporated under this act which serves more than 40% of the population of the state shall:

(a) Be audited annually by an independent auditor designated by the legislative auditor general. No charter provision shall require an annual local audit for the same period. The auditor shall be paid by the system. The results of the annual audit shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The annual audit shall be submitted to the governing body of each city, village, or township served by the system and to the legislature before December 1 of each year. Each city, village or township served by the system shall be audited annually by an independent auditor. The auditor shall be paid by that city, village, or township served by the system. The results shall be made available to the public.

(b) Hold at least 1 public hearing at least 120 days before a proposed rate increase is scheduled to take effect. Each hearing shall be conducted in

compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Notice of the time, date, and place of each hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976, shall be prominently printed in a daily newspaper of general circulation within the area, and shall be mailed to each city, village, or township served by the system not less than 30 days before each hearing. A final vote by the governing body of the city to implement a proposed rate increase shall not be taken until the hearings provided for in this subdivision are concluded and the results of those hearings are considered by the city's governing body. This section shall not be construed to impair the obligations of a contract. A city shall not be required to hold a public hearing before the establishment of a water or sewer rate which is necessary for debt retirement under outstanding bond obligations.

History: Add. 1978, Act 383, Imd. Eff. July 27, 1978

117.5g Flood control project.

Sec. 5g. The legislative body of a city may provide by resolution for a flood control project financed in any manner that is authorized by statute or charter.

History: Add. 1986, Act 64, Imd. Eff. Mar. 31, 1986

117.5j Sewer separation; authorization; ordinance; special assessment.

Sec. 5j. A city, in order to protect the public health, may adopt an ordinance to provide for the separation of storm water drainage and footing drains from sanitary sewers on privately owned property. The legislative body of a city may determine that the sewer separation authorized by this section is for a public purpose and is a public improvement and may also determine that the whole or any part of the expense of these public improvements may be defrayed by special assessment upon lands benefited by the public improvement or by any other lawful charge. A special assessment authorized by this section shall be considered to benefit only lands where the separation of storm water drainage and footing drains from sanitary sewers occurs.

History: Add. 2002, Act 315, Imd. Eff. May 14, 2002

117.35 Acquisition of property; condemnation or purchase proceedings.

Sec. 35. Any city may acquire by purchase or condemnation proceedings any lands within or without its corporate limits necessary for disposing of sewage or for obtaining or protecting a water supply for the city and the inhabitants thereof, and may acquire by purchase or condemnation proceedings when authorized by the electors of such city any public utility and any water power and water rights for the use of such city within the corporate limits of said city. The jury in condemnation proceedings shall consist of 12 freeholders drawn from the body of the county and if they find the necessity for such use exists and, in case of sewage that the use proposed will not materially injure the health or safety of persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law authorizing cities and villages to take or hold land or property outside of their corporate limit as contained in chapter 90 of the Compiled Laws of 1897, or any other appropriate act now or hereafter existing.

History: 1909, Act 279, Eff. Sept. 1, 1909 ;-- Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913 ;-- CL 1915, 3338 ;-- CL 1929, 2271 ;-- CL 1948, 117.35

Compiler's Notes: Chapter 90, referred to in the last sentence, was repealed by Act 120 of 1967. See now MCL 213.21 et seq.

**THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909**

117.5 Prohibited powers.

Sec. 5. A city does not have power:

(a) To increase the rate of taxation now fixed by law, unless the authority to do so is given by a majority of the electors of the city voting at the election at which the proposition is submitted, but the increase in any case shall not be in an amount as to cause the rate to exceed 2%, except as provided by law, of the assessed value of the real and personal property in the city.

(b) To submit to the electors a charter more often than once in every 2 years, nor unless the charter is filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities that may be incorporated under this act until they shall have first adopted a charter. Where a city submits to the electors a charter and the charter is adopted by the electors, and the city has operated under the charter, which charter has not, at the time it is adopted, been on file with the city clerk 60 days, then the legislative body of the city, upon its giving the notice of election as provided in the charter, may resubmit to the electors, at a special or general election, the charter, which, if adopted by the electors, shall be considered operative and effective as of the date of the first submission and adoption. The charter shall not be resubmitted unless 60 days have elapsed between the date of the filing of the charter and the date of the election at which the charter is resubmitted.

(c) To call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters of cities that may be incorporated under this act until they have first adopted a charter, and does not apply to elections that may be held in the resubmission of a charter once adopted as provided in subdivision (b).

(d) To decrease the salary of a municipal judge after his or her election or appointment, or during the judge's term of office, notwithstanding any charter provision to the contrary. The term of a public official shall not be shortened or extended beyond the period for which the official is elected or appointed, unless he or she resigns or is removed for cause, if the office is held for a fixed term.

(e) To adopt a charter or an amendment to the charter unless approved by a majority of the electors voting on the question; to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city; to engage in a business enterprise requiring an investment of money in excess of 10 cents per capita; or to authorize an issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or

for which an appropriation has been made; bonds that the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law; special assessment bonds; bonds for the city's portion of local improvements; refunding bonds; emergency bonds as defined by this act; and bonds that the legislative body is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the question at a general or special election. In addition, a city that now has, or may subsequently have, a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the ad valorem taxes levied for the same year, exclusive of debt service taxes or taxes levied pursuant to other laws, will not exceed 2-1/2% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. For the purposes of this subdivision only, the assessed value of real and personal property in any city shall include the assessed value equivalent of money received during the city's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The assessed value equivalent shall be calculated by dividing the money received by the city's millage rate for the fiscal year. Notwithstanding the former provisions of this subdivision requiring approval by 3/5 of the electors voting on the question as a prerequisite to the exercise of certain powers, these powers may be exercised if approved by a majority of the electors voting on the question at a general or special election held on or after April 1, 1966.

(f) To make a contract with, or give an official position to, one who is in default to the city.

(g) To issue bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g(1), but sinking funds shall not be required in the case of serial bonds that fall due annually. Bonds, whether authorized under this act or any other act, except refunding bonds, revenue bonds, motor vehicle highway fund bonds, rehabilitation

bonds, judgment bonds, bonds or other obligations issued to fund an operating deficit of a city, bonds or other obligations to pay premiums or to establish funds to self-insure for losses as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, bonds the issuance of which has been approved by the voters, and bonds issued to comply with an order of a court of competent jurisdiction shall not be issued by a city unless notice of the issuance of the bonds is published once in a newspaper of general circulation in the city at least 45 days before the issuance of the bonds, within which period a petition may be filed with the legislative body signed by not less than 10% or 15,000 of the registered electors in the city, whichever is less, in which event the legislative body shall submit the question of the issuance of the bonds to the electors of the city, at a regular or special election in the city. The bonds shall not be issued unless a majority vote of the electors voting on the issuance vote in favor of issuing the bonds. The notice of intent to issue bonds shall state the maximum amount of the bond issue, the purpose of the bond issuance, source of payment, right of referendum on the issuance of the bonds, and other information as the legislative body determines to be necessary to adequately inform the electors and all other interested persons of the nature of the issue and of their rights with respect to the issue.

(h) To repudiate a debt by a change in its charter or by consolidation with any other municipality.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, is paid in advance to the city treasurer by the grantee in the franchise.

History: 1909, Act 279, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 203, Eff. Aug. 1, 1911 ;-- CL 1915, 3308 ;-- Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917 ;-- Am. 1919, Act 240, Eff. Aug. 14, 1919 ;-- Am. 1923, Act 119, Imd. Eff. May 2, 1923 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2241 ;-- Am. 1935, Act 239, Imd. Eff. June 8, 1935 ;-- Am. 1941, Act 60, Eff. Jan. 10, 1942 ;-- Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948 ;-- CL 1948, 117.5 ;-- Am. 1949, Act 207, Eff. Sept. 23, 1949 ;-- Am. 1965, Act 65, Eff. Mar. 31, 1966 ;-- Am. 1966, Act 32, Imd. Eff. May 17, 1966 ;-- Am. 1966, Act 350, Imd. Eff. Dec. 21, 1966 ;-- Am. 1969, Act 41, Imd. Eff. July 17, 1969 ;-- Am. 1972, Act 8, Imd. Eff. Feb. 17, 1972 ;-- Am. 1973, Act 81, Imd. Eff. July 31, 1973 ;-- Am. 1976, Act 178, Imd. Eff. June 30, 1976 ;-- Am. 1981, Act 81, Imd. Eff. July 1,

1981 ;-- Am. 1988, Act 268, Imd. Eff. July 15, 1988 ;-- Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002

Compiler's Notes: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1. The 1911 amendment reads as follows: "Sec. 5. No city shall have power:“(a) To lay and collect taxes in a sum in excess of two per centum per annum of the assessed value of the real and personal property in such city;“(b) To submit to the electors a charter or to resubmit any amendment thereto oftener than once in every two years, nor unless it shall be filed with the city or village clerk ninety days before the election: Provided, however, That this provision shall not apply to the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;“(c) To call more than two special elections within one year: Provided, however, That this prohibition shall not apply to elections which may be held in the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;“(d) To change the salary or emoluments of any public official after his election or appointment or during his term of office;“(e) To adopt a charter or any amendment thereto, unless approved by a majority of the electors voting thereon; to sell any property of a value in excess of ten cents per capita according to the last preceding United States census, or any park, cemetery, or any real estate used in carrying on a public utility, or any part thereof, or any property bordering on a water front, or vacate any street or public place leading to a water front, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, or authorize any issue of bonds except special assessment bonds, refunding bonds, and emergency bonds as defined by this act and bonds that it is annually authorized to issue, unless approved by three-fifths of the electors voting thereon at any general or special election;“(f) To make any contract with, or give any official position to one who is in default to the city;“(g) To issue any bonds without providing a sinking fund, to pay them at maturity, but no sinking fund shall be required in the case of serial bonds which fall due annually;“(h) To repudiate any debt by any change in its charter or by consolidation with any other municipality;“(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, shall be paid in advance by the grantee in said franchise to the city treasurer.”

***** ACT 234 OF 1925 THIS ACT IS SUBJECT TO CONDITIONAL REPEAL: See (2) of 120.130 *****

PORT DISTRICTS
Act 234 of 1925

AN ACT to provide for the creation and establishment of port districts; to prescribe their rights, powers, duties and privileges; to prescribe their powers of regulation in certain cases; to prescribe their powers in respect

to acquiring, improving, enlarging, extending, operating, maintaining and financing various projects and the conditions upon which certain of said projects may extend into another state or county.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955

The People of the State of Michigan enact:

120.1 Port districts; incorporation, exercise of powers.

Sec. 1. Port districts are hereby authorized to be created in the various counties of this state, as in this act provided. Such districts whether heretofore or hereafter created, shall be bodies corporate and have a corporate seal, and may sue and be sued and may contract and be contracted with. Port districts shall have all the powers specifically granted to them and any powers implied or necessary for the exercise of the powers specifically granted. Whenever in this act any power is granted to a port district, it shall be exercised by the port commission unless otherwise provided herein, and whenever in this act any power is granted to a port commission it shall be deemed to be granted to the port district but to be exercised by such port commission.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2290 ;-- CL 1948, 120.1 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.2 Referendum petition; filing, examination, certification; resolution of board of supervisors.

Sec. 2. At any general election or at any special election which may be called for that purpose, the board of county supervisors of any county in this state, may or on petition of 10 per cent of the qualified electors of such county based on the total vote cast in the last county election shall, by resolution, submit to the voters of such county the proposition of creating a port district which will be coextensive with the limits of such county as now or hereafter established. Such petition shall be filed with the county clerk, who shall, within 15 days, examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county clerk shall have access to all registration books

in the possession of the officers of any incorporated city or town in such proposed port district.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2291 ;-- CL 1948, 120.2

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.3 Insufficient petitions; certification of sufficiency; submission of proposition at election.

Sec. 3. If such petition be found to be insufficient, it shall be returned to the person or persons filing the same, who may, within 10 days thereafter, amend or add names thereto, when the same shall be returned to the county clerk who shall have an additional 15 days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county clerk. Whenever such petition shall be certified to as sufficient, the county clerk shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the board of county supervisors, who shall submit such proposition at the next general election, or the board of county supervisors may at their first meeting after the date of such certificate, by resolution call a special election to be held not less than 30 days nor more than 60 days from the date of such certificate.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2292 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.3

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.4 Election; notice, form of ballot.

Sec. 4. The notice of the election shall state the boundaries of the proposed port district and the object of such election. In submitting the said question to the voters for their approval or rejection, the proposition shall be expressed on said ballot substantially in the following terms: "Port of, Yes" (giving the name of the principal port city within such proposed port district, or if there be more than 1 city within such district, such name as may be determined by the board of county supervisors). "Port of, No" (giving the name of the principal port city within such proposed port district, or if there be more than 1

city of the same class within such district, such name as may be determined by the board of county supervisors).

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2293 ;-- CL 1948, 120.4

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.5 Formation; procedure, referendum, effective date of creation.

Sec. 5. Any city or township, or any 2 or more whole contiguous cities or townships, or any combination thereof, by resolution of their respective governing bodies, approved by a majority vote of the electors may form a port district. The resolution shall designate the name of the port district and the cities or townships to be included in the port district. The proposition to create the port district shall be submitted at a general or special election held simultaneously in each city or township having indicated its desire to become a part of the port district, and the date of such election shall be set forth in the resolution. The procedures relative to conducting the election shall be as nearly as may be in the same form as provided herein for the formation of a port district coterminous with a county and when not so provided in conformity with the general election laws or the charter of each city. The creation of the port district shall become effective upon the filing with the secretary of state and county clerk of the county in which the cities or townships are located, of certified copies of each resolution, each election notice, and each official canvass of votes showing that in each city or township the proposition was approved by a majority of the electors voting on the proposition.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2294 ;-- CL 1948, 120.5 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.6 Formation of district comprising more than 1 county; limitation; lesser port districts.

Sec. 6. A port district may be comprised of more than 1 whole county if the electors in such counties so elect, and the same procedure shall be followed as is prescribed in this act for the formation of a port district coextensive with a county, except that the board of county supervisors of the respective counties composing the proposed district shall each act in the submission of the proposition and have charge of the elections in

their respective counties. No lesser port district shall ever be created within the limits in whole or in part of any port district. No port district shall consist of more than 5 whole contiguous counties.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2295 ;-- CL 1948, 120.6 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.7 Formation of district; canvass and declaration of election results; three-fifths vote.

Sec. 7. Within 5 days after such election the board of supervisors shall canvass the returns and if at such election 3/5 of the voters voting upon such proposition shall vote in favor of the formation of such district, the board of county supervisors shall so declare in its canvass of the returns of such election and such voting district shall then be and become a municipal corporation of the state of Michigan and the name of such port district shall be "port of" (inserting the name appearing on the ballot).

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2296 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.7

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.8 Formation of district; election and survey expense.

Sec. 8. All the expenses of elections for the formation of such port districts shall be paid by the county or counties holding election, and such expenditure is hereby declared to be for county purposes. Prior to the adoption of a resolution by the board of supervisors to submit the question of establishing a port district to the electors, said board may expend not to exceed 5,000 dollars for purposes of making a survey and study of a port district plan.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2297 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.8

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.9 Port commission, appointment, term, vacancies.

Sec. 9. The control and management of the port district shall be exercised through a port commission consisting of 5 members who shall

be appointed by the boards of supervisors. In port districts the boundaries of which are coterminous with a single county at least 2 members shall be residents of the city constituting the seat of the county in which the port district lies. In any port district located in more than 1 county, representation on the port commission from each county covered by the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The terms of office of the persons appointed shall be so arranged and designated at the time of their appointment that the term of 2 members shall expire in 3 years, 2 in 2 years, and 1 in 1 year, from July 1 following the appointment. Annually thereafter the boards of supervisors shall appoint the member or members to serve for 3 years as the term of any member or members appointed by them shall expire; any vacancy occurring among the commissioners shall be filled for the unexpired term by the board of supervisors. In any port district, the boundaries of which are coterminous with a city or township or coterminous with 1 or more whole cities or coterminous with 1 or more whole townships, the appointment of members of the port commission shall be made by the governing body of the city or township or cities or townships in which the port district is located, and such members shall hold office and be appointed in the same manner for the same term and subject to the same conditions as members of port districts appointed by the boards of supervisors.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2298 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.9 ;-- Am. 1952, Act 184, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 32, Eff. Oct. 2, 1953 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.10 Port commission; service of member; quorum; passage of resolution; transaction of business; eligibility to hold office; financial interest prohibited; waiver; vacancy; removal; oath.

Sec. 10. A member of the commission shall continue to serve until a successor is appointed and qualified. A majority of the port commissioners constitutes a quorum for the transaction of business and the concurrence of the majority of the commissioners shall be necessary for the passage of a resolution. The business of the commission shall not

be transacted unless there are in office at least a majority of the full number of commissioners fixed by law. A person shall not be eligible to hold the office of port commissioner unless the person is a qualified voter, a property owner within the port district, and is and has been a resident in the port district for at least 3 years. A member of a port commission shall not have a financial interest in the profits of a contract or business transaction with the port district. This prohibition shall not apply if the commission declares, on the record, and it is found by unanimous vote of the members present not having a financial interest, that the best interests of the district are to be served by the waiving of the prohibition in a particular case, and then only if competitive purchasing and contracting are used in the case, or if the members of the commission not having an interest, unanimously determine that competitive purchasing or contracting is not feasible in that particular case. A vacancy in the office of port commissioner may occur by death, resignation, or removal as provided in this section, by conviction of a felony, by statutory disqualification, or by a permanent disability preventing the proper discharge of the duties of a commissioner. The county board of commissioners may remove a port commissioner for habitual misconduct, misfeasance, habitual or wilful neglect of duty, or when the board is satisfied that the officer is incompetent to properly execute the duties of the office. A member of a port district appointed by the governing body of a city or township or cities or townships as provided in section 9, may be removed by the governing body for any of the reasons set forth in this section. A commissioner, within 20 days after the commission receives notice of appointment, shall qualify by taking and subscribing the constitutional oath of office.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2299 ;-- CL 1948, 120.10 ;-- Am. 1952, Act 184, Eff. Sept. 18, 1952 ;-- Am. 1953, Act 32, Eff. Oct. 2, 1953 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1978, Act 248, Imd. Eff. June 20, 1978
Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.10a Conducting business at public meeting; notice.

Sec. 10a. The business which the commission or a board or committee created pursuant to this act may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan

Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: Add. 1978, Act 248, Imd. Eff. June 20, 1978

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.11 Port commission; submission of propositions at elections, canvass of votes.

Sec. 11. At any general state election propositions may be submitted to the electors on such subjects as the port commission of a port district may by resolution prescribe subject to the limitations and pursuant to the requirements of this act. At the request of the port commission the governing body of the cities or townships or the county or counties comprising the port district shall call a special election for the submission of propositions and the expenses of such elections shall be paid by the port district. It shall be the duty of the election officials of the cities or townships or the county or counties in a port district to prepare the ballots or voting machines for general or special elections so that questions submitted by the port commission shall be submitted to the electors. The canvass of votes on such questions shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of all such elections and the qualifications of electors.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2300 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.11 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.12 Port commission; commissioners, compensation; mileage, expenses.

Sec. 12. Port commissioners shall receive such compensation as shall be determined and fixed by resolution of the governing body of the cities or townships or the board of supervisors of the county or counties in which the port district is located. Port commissioners, while actually engaged in the performance of their duties, outside the area of the port, shall also be paid their actual traveling expenses, both said traveling expenses and

mileage to be submitted in writing to the port commission, and to be audited and approved in writing by said port commission before payment.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2301 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- Am. 1939, Act 153, Imd. Eff. May 26, 1939 ;-- Am. 1941, Act 290, Imd. Eff. June 17, 1941 ;-- CL 1948, 120.12 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.13 Port commission; acquisition of property.

Sec. 13. Each port commission shall have power to acquire by purchase or condemnation, or both, all lands, property, property rights, leases or easements necessary for the purposes of the port districts and to exercise domain in the acquirement or damaging of all land, property, property rights, leases or easements. Such right of domain shall be exercised in the same manner and by the same procedure as is and may be provided by law for the taking of private property by the board of county supervisors in this state, except insofar as such may be inconsistent with the provisions of this act, and the duties devolving upon the county treasurer under such law shall be and the same are hereby imposed upon the county treasurer for the county in which such property is located for the purposes of this act.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2302 ;-- CL 1948, 120.13 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.13a Port commission; acceptance of gifts, grants or loan; approval.

Sec. 13a. Each port commission may accept gifts, grants, loans or contributions from the United States of America, this state, local municipalities, foundations, any public or private agency or any individual. In port districts coterminous with a county or counties, such authority shall not be exercised without first obtaining the approval therefor by a majority vote of the members elect of the board of supervisors of each county wherein the port district is situated.

History: Add. 1964, Act 95, Eff. Aug. 28, 1964

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.14 Port districts; powers.

Sec. 14. Each port district shall have power to lay out, construct, condemn, purchase, acquire, improve, enlarge, extend, maintain, conduct and operate, seawall jetties, piers, wharves, docks, boat landings, warehouses, storehouses, elevators, grain bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, bridges, seaways, tramways, cableways, conveyors, modern appliances for the economical handling, storing and transporting of freight and handling of passengers traffic and other harbor improvements, and rail and water transfer and terminal facilities, (the foregoing being sometimes hereinafter referred to as "public improvements") and in connection with the operation of the port district to perform all customary services including the receiving, delivering, handling, weighing, measuring and reconditioning of all commodities received, and the advertisement of the business of the port district. No such public improvement shall be acquired without first obtaining the approval thereof by a 2/3 vote of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. In addition to the foregoing powers each port commission shall have the following powers:

(b) Subject to the paramount authority of the federal government and the state or any municipality thereof, to regulate the construction of structures in navigable waters including the establishment of harbor lines, pierhead lines and bulkhead lines.

(c) To require within the area designated as the port area by the comprehensive port plan the repair, rebuilding, or in the alternative the removal, by the owners, of private marine facilities when said private marine facilities are determined by the port commission to constitute a hazard to navigation. The determination of the port commission shall be made in the manner and in accordance with the standards prescribed in the building and safety code of the municipality wherein said private facility is located.

(d) The powers granted in subsections (b) and (c) above shall be exercised by the port commission in accordance with such rules and regulations as shall be adopted by a majority vote of the port commission

and approved by a majority vote of the members elect of the board of supervisors. If within 180 days after submission to said board such board fails to disapprove such rules and regulations, it shall be thereupon presumed that such board has approved the same. Appeals from determinations of the port commission shall be had in the same manner as appeals on "contested cases" as provided in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(e) To represent the port district before all federal, state and local agencies.

(f) To cooperate with other public agencies and with industry and business in port improvement matters.

(g) To lay out, construct, condemn, purchase, acquire, operate, lease, sell and convey planned industrial districts within the confines of the area designated as the port area by the comprehensive port plan and adjacent to existing port facilities and improvements.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2303 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.14 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1961, Act 10, Imd. Eff. May 3, 1961 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967 ;-- Am. 1968, Act 250, Imd. Eff. July 1, 1968

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.15 Port district public improvement; issue of evidence of indebtedness.

Sec. 15. Whenever in order to carry out the purposes of this act it becomes necessary to acquire property which cannot be wholly paid for out of any funds which may be available to the commission under the provisions of section 24, the commission is authorized and empowered to issue notes, bonds or other evidences of indebtedness which shall be a lien upon the property to be acquired for such purposes, which lien may be secured by a mortgage, trust deed, or other form of indenture, and is also authorized and empowered to, in the name of the port district, guarantee the payment in whole or in part of any and all such notes, bonds or other evidences of indebtedness according to the terms thereof,

or of any mortgage, trust deed or other security issued in connection therewith.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2304 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.15 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.16 Port district public improvements; bonds for public improvement, revenue, full faith and credit, approvals.

Sec. 16. In lieu of the bonds authorized in section 15, any port district may issue revenue bonds as provided in Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or as may be provided in any other appropriate statute of this state, for the purpose of financing the whole or any part of the cost of acquiring, improving, enlarging, extending or repairing any of the public improvements mentioned in section 14 and in such case any such public improvements shall be deemed to be a "public improvement" under said act, and the port district shall be governed by the provisions of said act in all matters covered thereby. No such bonds shall be issued without first obtaining the approval therefor by a majority vote of the governing body of each of the cities, townships or counties that are member units of the port districts. Revenue bonds which pledge the faith and credit of the port district shall be controlled by the general revenue limitations of section 24. No bonds, which pledge the faith and credit of the county or counties wherein the port district is situated, shall be issued without first obtaining the approval of the electors.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2305 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.16 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.17 Port district public improvements; lands, leases and easements.

Sec. 17. Each port commission shall have power to own and control lands, leases, and all easements in land necessary for the purposes of the port district.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2306 ;-- CL 1948, 120.17

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.18 Port district public improvements; streams.

Sec. 18. Each port commission shall have power to improve navigable and nonnavigable streams of the United States and the state of Michigan within the port district.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2307 ;-- CL 1948, 120.18

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.19 Port district public improvements; waterways, creation.

Sec. 19. Each port commission shall have power to create and improve for harbor purposes any waterways within the port district; to regulate and control all such waters and all natural or artificial waterways within the limits of such port district so far and to the full extent that this state can grant the same and remove obstructions therefrom.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2308 ;-- CL 1948, 120.19

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.20 Public improvements; income producing; payment in lieu of taxes.

Sec. 20. Any port district owning and operating an income-producing public improvement shall pay from such income annual sums in lieu of taxes to the county, city, school district or other taxing unit of the state, with respect to any real or personal property held by it and which constitutes a part of such improvement. The amount so paid to each taxing unit in each year shall be equivalent to the taxes which would have been paid if such property were not exempt from taxation. The port district shall have the same right of appeal as is provided by law to any other taxpayer insofar as any levy or assessment of such taxes is concerned.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2309 ;-- CL 1948, 120.20 ;--

Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.21 Commodities; tolls, fees, rents; approval.

Sec. 21. Each port district shall have power to fix and collect tolls, fees, rents and other charges for the use of the services, property, facilities and commodities furnished by it, subject to review and approval of a majority of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. The tolls, fees, rents and other charges shall at no time be less than necessary to satisfy the requirements of any statute, ordinance or resolution under which revenue bonds then outstanding shall have been issued by the port district.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2310 ;-- CL 1948, 120.21 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967
Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.22 Lease of property; maximum term, bond.

Sec. 22. Each port commission shall have power to lease under such covenants and conditions as the commission may prescribe, all storage facilities, wharves, piers, bulkheads, docks, sheds, warehouses, industrial locations and other property owned and controlled by said port district upon such terms as the port commission may deem proper: Provided, That no lease shall be executed for longer than a period of 50 years and every such lease shall be secured by a bond with surety satisfactory to or approved by the port commission.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2311 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.22 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.23 Sale of property; approval.

Sec. 23. Each port commission shall have power to sell and convey any property in anywise acquired and owned by the port district whenever the port commission of such district shall have by resolution declared such property to be no longer needed for the purpose of the port district: Provided, That the power herein granted to the commission shall not be exercised without first obtaining the approval therefor by a 2/3 vote of the members elect of the board of supervisors of the county or counties in which such property is located.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2312 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.23 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.24 Port commission; taxes, special assessments; allocation of millage.

Sec. 24. Each port commission shall have power to raise revenue by a tax to be levied on all taxable property within such port district, not exceeding 2 mills in any one year on each dollar of the assessed valuation of the taxable property in such port district. The tax shall be for such number of years as approved by the electors of the cities or townships or of the county or counties and shall be levied and collected in the same manner now provided for the levy of state and county taxes under the general tax law, and shall be paid to the county treasurer having custody of the port district fund, to the credit of such fund, and such tax shall not exceed \$1,500,000.00 in any one year. If the port commission is authorized under any present or future law of the state to establish special assessment zones and to raise revenue through the medium of special assessments for benefits within such zones, taxes so assessed shall be in excess of such 2 mill limitation. This act shall not authorize a county allocation board to allocate millage within the 15 mill limitation for capital construction purposes, except to meet any deficiency in the payments of principal or interest upon bonds regularly issued with the approval of the electors. Funds may be appropriated from regular millage for operating purposes only in an amount to be established by the board of supervisors, and the board of supervisors may also appropriate for any purposes moneys obtained as revenues from the operation of the port.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2313 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.24 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1964, Act 24, Imd. Eff. Apr. 29, 1964 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.24a, 120.24b Repealed. 1958, Act 178, Imd. Eff. Apr. 18, 1958.

Compiler's Notes: The repealed sections provided for port districts' estimates and reports of amounts necessary to be raised by general tax.

120.25 Port commission; bond issues, limit, approval by governing bodies or electors.

Sec. 25. Each port commission shall have power to borrow money and issue bonds to an amount not greater in any one year than $\frac{1}{5}$ of 1% of the total assessed valuation of such port district, nor to a total amount including all outstanding bonded indebtedness of such district exceeding 2% of the assessed valuation of such district and at a rate of interest not to exceed 6% after a resolution to that effect is passed by the majority of the board of commissioners and approved by a $\frac{3}{5}$ majority of the members elect of the governing body of the cities or townships or of the board of supervisors of the county or counties of the port district, and the question shall be submitted to a vote of the electors of the district at a general election and 51% of the electors voting on such resolution shall vote in favor thereof. The election officials of the cities or townships or of the county or counties in the port district shall prepare the ballots or voting machines. The canvass of votes on such question shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of the vote and qualifications of electors. In any port district having an assessed valuation of \$50,000,000.00 or less, the commission shall have power to borrow money and issue bonds to an amount not greater in any one year than $1\frac{1}{2}\%$ of the total assessed valuation of such district. General bonds for any such district may be issued for any period not exceeding 30 years. No bond or evidence of indebtedness shall be negotiated at less than par and the accrued interest. The question of a bond issue may be submitted to the electors at the same time that the question of the creation of a port district is submitted to them, but a vote authorizing a bond issue shall be invalid unless the creation of the district is also authorized by the electors voting thereon. In such case the expense of the elections shall be paid by the cities or townships or the county or counties and the question of the bond issue shall be submitted in substantially the following form: "Shall the port

commission, if authority be given for its creation at this election, have the power to issue in bonds for port improvements?"

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2314 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- Am. 1937, Act 12, Imd. Eff. Apr. 24, 1937 ;-- CL 1948, 120.25 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1964, Act 96, Eff. Aug. 28, 1964

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.26 Port commission; assistants and employees.

Sec. 26. Each port commission shall have power to employ such assistants, clerks, inspectors, engineers, legal counsel or other employees for carrying out the purposes of the port commission, and fix the salaries, compensation and bonds of such employees as it may by resolution provide, subject, however, to the provisions of section 34 hereof.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.26

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.27 Port commission; expenditures, authority, bids.

Sec. 27. No port district coterminous with a county, or comprising an area greater than a county, shall be empowered to make any expenditure or any commitment for the expenditure of funds, arising from any source whatsoever, except to the extent that the same shall have been first duly authorized by the port district budget committee if there be one and specific appropriations made by the board or boards of supervisors of such county or counties: Provided, That nothing in this act contained shall be construed as preventing a port district from making any expenditure or commitment, or performing any act, required by any statute or by the terms of any ordinance or resolution pertaining to the issuance of revenue bonds, if such issuance was approved by the board or boards of supervisors as required in section 16 of this act. In all cases involving the expenditure of \$1,000.00, or more, each port commission shall enter into contract with the lowest competent and reliable bidder for all work to be done and for the purchase of all supplies and materials required by the port district.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2316 ;-- CL 1948, 120.27 ;--

Am. 1955, Act 190, Imd. Eff. June 14, 1955 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.28 Port commission; lease of harbor area, rents.

Sec. 28. The port commission of each port district shall have full power and authority to lease the harbor area belonging to the state of Michigan situated within such port district, to the highest bidder upon such terms and conditions as shall conform to the provisions of this act and to the comprehensive scheme of harbor improvement as herein later provided. Every such lease shall provide that the rental thereunder shall be payable to the county treasurer wherein such port district is situated for the use of such port district and to go into a special fund hereinafter provided for: Provided, That where the port district covers 2 or more counties such rents shall be paid to the county treasurer designated by the port commission.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2317 ;-- CL 1948, 120.28 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.29 Port commission; election and powers of officers; rules; seal; recording proceedings of board; disposition and disbursement of funds of port district; office; access to maps, charts, plans, and documents.

Sec. 29. The port commission shall elect from among its members a chairperson, vice-chairperson, and secretary. The officers selected shall possess and exercise the powers granted to them by the commission. The port commission, by resolution, shall adopt rules governing the transaction of its business and shall adopt an official seal. Proceedings of the board of commissioners shall be by resolution recorded in a book kept for that purpose. The funds of the port district shall be paid to the county treasurer, of the county in which the port district is situated, or if it consists of 2 or more whole counties, then to the county treasurer designated by the commission. Disbursements shall be made by the officer on warrants drawn by the county auditor, or, in port districts not having a county auditor, on warrants drawn by the county clerk, on order of, or vouchers approved by, the port commission. The port commission

shall have an office in which they shall keep maps, charts, plans, and documents relating to the land and waters and all matters for which the commission is responsible. The commission shall have access to other maps, charts, plans, and documents relating to port district in the office or custody of a public board, commission, or officer.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2318 ;-- Am. 1937, Act 277, Imd. Eff. July 22, 1937 ;-- CL 1948, 120.29 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1978, Act 248, Imd. Eff. June 20, 1978

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.29a Availability of writings to public.

Sec. 29a. A writing prepared, owned, used, in the possession of, or retained by the commission or a board or committee created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1978, Act 248, Imd. Eff. June 20, 1978

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.30 Comprehensive port plan of harbor improvements; notice, hearing, approval by municipalities, restrictions.

Sec. 30. It shall be the duty of the port commission of any port district, before creating any improvements hereunder, to adopt a comprehensive port plan of harbor improvement in such port district after a public hearing thereon, of which at least 10 days' notice shall be published in a daily newspaper of general circulation in such port district. Such comprehensive port plan shall include an indication of the relationship of the area designated as the port area by the comprehensive port plan to land transportation and other land uses related to port activities. The port commission shall submit to the legislative body of any city, village or township, for its approval, that portion of the comprehensive plan which includes territory lying within the boundaries of the said city, village or township. Such submission shall be made by delivering the said portion of the comprehensive port plan to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to

disapprove such portion of the plan as shall have been submitted, it shall be thereupon presumed that such city, village or township has approved the same and such portion of the plan shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or altered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescribed in said plan to be made in the other part or parts of the port district. The port commission shall have the power to amend or alter the comprehensive port plan: Provided, however, That wherever such amendments or alterations of the comprehensive port plan include any area or territory lying within a city, village or township, that portion of the amendment or alteration shall be submitted to the legislative body of said city, village or township for its approval. Such submission shall be made by delivering the said portion of the comprehensive port plan, as amended or altered, to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to disapprove that portion of the amendment or alteration of the comprehensive plan, it shall be thereupon presumed that such city, village or township has approved the same, and such portion of the comprehensive plan, as amended or altered, shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or altered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescribed in such amendment or alteration of the port plan to be made in the other part or parts of the port district. Wherever the legislative body of any city, village or township has approved that portion of the comprehensive port plan which includes the area or territory of such city, village or township, it shall be the duty of the port commission to recommend the zoning district classifications for the area to said legislative body: Provided, however, That nothing herein contained shall be construed as conferring, directly or indirectly, upon said port district, or port district commission or authority, power or powers to acquire, own, maintain or operate the Detroit, Michigan—Windsor, Ontario, Canada tunnel or international

bridge: And provided further, That where any language in said act is in conflict with this prohibition, then and in that event any such language shall be deemed to be void and of no force or effect.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2319 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- CL 1948, 120.30 ;-- Am. 1955, Act 190, Imd. Eff. June 14, 1955
Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.31 Property rights in improvements; cooperation between port district and certain other public bodies.

Sec. 31. No improvements shall be acquired or constructed by the port district unless such improvements shall, when completed, be the property of such port district, the county in which such port district is located, any commercial waterway district created within its boundaries, any city within such port district, the state of Michigan, or the United States of America, and the funds of such port district may be expended in the acquirement or construction of any harbor improvement embraced in such general plan adopted as in this act provided, in conjunction with the county in which such port district is located, any commercial waterway district created within its boundaries, any city in such port district, the state of Michigan, or the United States of America, or any or all of them.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2320 ;-- Am. 1931, Act 299, Eff. Sept. 18, 1931 ;-- CL 1948, 120.31
Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.32 Power to borrow in anticipation of tax.

Sec. 32. (1) A port commission is hereby authorized, prior to the receipt of taxes raised by a levy, to borrow money or issue the warrants of the district in anticipation of the revenues to be derived by the district from the levy of taxes for the purpose described in this act. The warrants shall be redeemed from the first money available from the levy of taxes when collected.

(2) Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2321 ;-- CL 1948, 120.32 ;--

Am. 2002, Act 447, Imd. Eff. June 17, 2002

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.33 Fund created; special funds; disbursement.

Sec. 33. The county treasurer of the county in which the port district is located, or in the event that the district covers 2 or more whole counties, then the county treasurer designated by the port commission shall create a fund to be known as the "Port of Fund," into which shall be paid all money received by him from the collection of taxes in behalf of such port district, and no money shall be disbursed therefrom except upon warrants of the county auditor, or upon order of or vouchers approved by the port commission. The county treasurer shall also maintain such other special funds as may be prescribed by the port commission, into which shall be placed such moneys as the port commission may by its resolution direct, and from which disbursements shall be made upon proper warrants of the county auditor or county clerk issued against the same by authority of the port commission.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2322 ;-- CL 1948, 120.33 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.34 Annual reports; budgets; budget committee.

Sec. 34. The commission shall on or before September 1 of each year submit a written report to the governor, the legislature, the public service commission, and the governing body of the cities or townships or the board of supervisors of the county or counties of the port district, which report shall contain a statement of the doings of the port commission during the preceding calendar year and such recommendations as to legislation as in the opinion of the commission may be necessary or expedient to enable the commission better to administer the affairs of the port district and to carry out the purposes for which the port district was enacted. In port districts coterminous with a county the commission shall also file with the board of supervisors of the county on or before September 1 of each year a budget setting out in detail its program for the ensuing year, together with the several amounts estimated by the commission to be necessary for the purposes indicated therein. The board of supervisors may decrease the budget proposed by the

commission and also eliminate specific items. In port districts coterminous with 2 or more counties, the boards of supervisors of the counties included in the port district shall appoint a port district budget committee composed of not more than 15 members of the boards of supervisors. Representation on the port district budget committee from each county in the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The port district budget committee shall review the budget request of the commission and recommend to the boards of supervisors of the counties in the port district the budget for the port district. The boards of supervisors may decrease the budget recommended by the port district budget committee and also eliminate specific items. The budget shall be approved by boards of supervisors with 66-2/3% of the state equalized value of the total port district and the budget as approved shall be reported to the port district budget committee and port commissions, and shall become final and binding on the boards of supervisors of all the counties in the port district, and the boards of supervisors shall appropriate their proportionate share of the total budget for the port district. The budget shall be apportioned between the counties in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. No money shall be expended by the commission for any purpose not included in the budget as approved by the port district budget committee and the boards of supervisors of the county or counties in the district. In port districts coterminous with a county, all disbursements shall be made by the county treasurer on warrants drawn by the board of county auditors, or in port districts having no board of county auditors on warrants drawn by the county clerk, upon order of vouchers approved by the port commission. In port districts of 2 or more counties, disbursements shall be made by the county treasurer designated by the commission subject to the same conditions imposed on the county treasurer of a port district coterminous with 1 county. Port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body and local officers where applicable for the board of supervisors and county officials, and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in

the same manner follow the procedure as near as may be and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2323 ;-- Am. 1933, Act 67, Imd. Eff. May 1, 1933 ;-- CL 1948, 120.34 ;-- Am. 1958, Act 178, Imd. Eff. Apr. 18, 1958 ;-- Am. 1966, Act 318, Eff. Mar. 10, 1967

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.34a Port districts coterminous with cities and townships; powers of local governing bodies.

Sec. 34a. In construing this act, port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body and local officers where applicable for the board of supervisors and county officials, shall enjoy the same powers and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in the same manner follow the same procedure, as near as may be, shall enjoy the same powers and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

History: Add. 1960, Act 40, Eff. Aug. 17, 1960

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.35 Construction of act.

Sec. 35. This act shall not be construed to repeal, amend, or modify any law heretofore enacted, providing a method of harbor improvement, regulation or control in this state, but shall be held to be an additional and concurrent method providing for such purpose and except by agreement between the port commission and the parties at interest, shall not be construed to include within its terms any property now or hereafter devoted to public use, owned, operated or controlled by any person, municipality or private corporation.

History: 1925, Act 234, Eff. Aug. 27, 1925 ;-- CL 1929, 2324 ;-- CL 1948, 120.35

Compiler's Notes: For repeal of act, see MCL 120.130 and Compiler's note thereto.

120.36 Repealed. 1966, Act 318, Eff. Mar. 10, 1967.

Compiler's Notes: The repealed section provided that nothing in port district act deemed to constitute a grant of state land.

**HERTEL-LAW-T. STOPCZYNSKI PORT AUTHORITY ACT
Act 639 of 1978**

AN ACT to authorize the establishing of port authorities in cities and counties; to prescribe the powers and duties of port authorities, cities, and counties; to authorize the incurrence of contract obligations and the issuance and payment of bonds or other evidences of indebtedness; to provide for a pledge by a city or county of its full faith and credit for the payment of contract obligations entered into under this act and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; to provide for the adoption of a port facilities plan; to provide for the financing of the operating budget of port authorities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1998, Act 188, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

120.101 Short title.

Sec. 1. This act shall be known and may be cited as the "Hertel-Law-T. Stopczynski port authority act".

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.102 Definitions.

Sec. 2. As used in this act:

(a) "Authority" means a port authority created under this act and may also include the area within the jurisdiction of an authority.

(b) “Constituent unit” means a city or county requesting the incorporation of an authority.

(c) “Governing body of the city” means the city council or city commission of a city requesting incorporation of an authority created under this act.

(d) “Governing body of the county” means the county board of commissioners of a county participating in an authority created under this act.

(e) “Port facilities” means those facilities owned by the port authority such as: seawall jetties; piers; wharves; docks; boat landings; marinas; warehouses; storehouses; elevators; grain bins; cold storage plants; terminal icing plants; bunkers; oil tanks; ferries; canals; locks; bridges; tunnels; seaways; conveyors; modern appliances for the economical handling, storage, and transportation of freight and handling of passenger traffic; transfer and terminal facilities required for the efficient operation and development of ports and harbors; other harbor improvements; or improvements, enlargements, remodeling, or extensions of any of these buildings or structures.

(f) “Project” means the acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, improvement, enlargement, repair, condemnation, maintenance, or operation of port facilities.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.103 Port authority; exercise of powers and duties; jurisdiction.

Sec. 3. An authority may exercise and apply any or all of its powers and duties as prescribed and set forth in this act, within the respective boundaries of the county or counties creating a port authority under this act, including jurisdiction over commercially navigable water lying therein.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.104 Port authority; incorporation; recommendations; articles of incorporation; body corporate and politic; public purpose.

Sec. 4. (1) A city and county, a combination of counties or a combination consisting of at least 1 city and 1 county, by joint resolution of their respective governing bodies, may request the governor to authorize the incorporation of an authority. The governor shall consider the recommendations of the department of state highways and transportation and the department of commerce in authorizing the authority. The initial articles of incorporation shall be approved by the governor and may thereafter be amended by resolution of the authority, subject to approval by the governor. After approval by the governor, the articles of incorporation and any amendments to those articles shall be effective upon filing with the secretary of state.

(2) An authority created under this act shall be a body corporate and politic.

(3) The exercise by an authority of the powers conferred by this act shall be considered and held to be an essential governmental function and a benefit to, and a legitimate public purpose of the state, the authority, and the constituent units.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.105 Port authority; appointment and terms of members; vacancy; reappointment; chairperson, vice-chairperson, and secretary-treasurer; quorum; voting; expenses; liability.

Sec. 5. (1) Except as provided in subsection (5), an authority shall consist of 5 or 7 members as follows:

(a) One member shall be appointed by the governor.

(b) The remaining members shall be appointed by the governing body of each city and the governing body of each county that requested the incorporation of the authority. The representation on, and the number of members of, the authority shall be determined by agreement among the

incorporating units and included within the joint resolution requesting incorporation of the authority.

(2) The members first appointed shall serve staggered terms. After the first appointment, each member shall serve a term of 4 years, except that a person appointed to fill a vacancy shall be appointed for the balance of the unexpired term. A member shall be eligible for reappointment.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson, shall designate the terms of office of those officers, and shall appoint a secretary-treasurer who need not be a member. A majority of the members of the authority shall constitute a quorum. The affirmative vote of a majority of the members shall be necessary for any action taken by the authority.

(4) The members shall serve without compensation but shall be reimbursed for all necessary travel and other expenses incurred in the discharge of their duties.

(5) An authority that is established in a county having a population of 1,500,000 or more shall consist of 5 members as follows:

(a) One member shall be appointed by the governor.

(b) Two members shall be appointed by a majority of all the members of the county board of commissioners of the county. The members appointed shall be nominated by the commissioners on the board who do not reside within the political boundaries of a city having a population of 750,000 or more.

(c) Two members shall be appointed by the mayor of a city having a population of 750,000 or more that is located in the county.

(6) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a member of the authority appointed under this section who exercises the powers contained in this act in good faith is immune from civil or administrative liability arising from that

conduct, unless the conduct was gross negligence or willful and wanton misconduct.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 2001, Act 244, Imd. Eff. Jan. 8, 2002

Compiler's Notes: See Compiler's note to MCL 120.130.

120.106 Bond of secretary-treasurer.

Sec. 6. Before the issuance of any bonds, notes, or other evidences of indebtedness under this act, the secretary-treasurer of an authority shall execute a bond in the penal sum of \$100,000.00, conditioned upon the faithful performance of the duties of the office and executed by a surety company authorized to transact business in this state as surety. The bond shall be filed in the office of the secretary of state. The premium of the bond shall be a current expense of the authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.107 Advisory committees and councils.

Sec. 7. An authority may organize and create advisory committees and councils to serve at the pleasure of the authority for terms and purposes considered to be in the best interest of furthering the intent and purpose of this act. The committees and councils shall be made up of persons especially skilled, knowledgeable, or experienced in international trade, finance, commerce, transportation, or labor. Members of the committees or councils shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.108 Port authority; powers generally.

Sec. 8. An authority may:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued on the same basis as the state; and adopt and register with the secretary of state an official seal and alter that seal at its pleasure.

(c) Maintain offices at a place or places, either within or without its jurisdiction as it may determine.

(d) Acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair, or operate port facilities within its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land therefor. An authority may operate a leased facility, owned by the authority, if the lessee defaults and a new lease is negotiated or competitively bid.

(e) Designate the location and character of the port facilities which the authority may hold or own or over which it is authorized to act and regulate all matters related to the location and character of those port facilities.

(f) Acquire, hold, and dispose of real and personal property.

(g) Make directly, or through the hiring of expert consultants, investigations and surveys of whatever nature, including studies of business conditions, freight rates, port services, physical surveys of the conditions of channels and structures, and the necessity for additional port facilities for the development and improvement of commerce and recreation and for the more expeditious handling of that commerce and recreation, and make studies, surveys, and estimates, as necessary for the execution of its powers under this act.

(h) Promulgate all necessary rules to fulfill the purposes of this act.

(i) Issue its bonds, notes, or other evidences of indebtedness as provided in this act.

(j) Fix and revise from time to time and charge and collect rates, fees, rentals, or other charges for the use of a facility owned by the authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.109 Port authority; additional powers.

Sec. 9. An authority may:

(a) Appear in its own behalf before boards, commissions, departments, or other agencies of the federal government or of any state or international conferences and before committees of the congress of the United States and the state legislature in all matters relating to the design, establishment, construction, extension, operation, improvement, repair, or maintenance of a project operated and maintained by the authority under this act, and appear before any federal or state agencies in matters relating to transportation rates, port services and charges, demurrage, switching, wharfage, towage, pilotage, differentials, discriminations, labor relations, trade practices, river and harbor improvements, aids to navigation, permits for structures in navigable waters, and all other matters affecting the physical development of, and the business interest of, the authority and those it serves.

(b) Make application for, receive and accept from any federal, state, or municipal agency, foundation, public or private agency, or individual, a grant or loan for, or in aid of, the planning, construction, operation, or financing of a port facility; and receive and accept contributions from any source of money, property, labor, or other things of value, to be held, used, and applied for the purposes for which the grant or contribution may be made.

(c) Appoint an executive director who shall be the chief administrative officer of the authority, and to whom the authority may delegate any of its administrative powers and authorizations. During employment the executive director shall not have a financial interest in port facilities or projects over which the authority has jurisdiction or power or authorization to act.

(d) Employ personnel as is necessary and employ the services of private consultants and engineers, legal counsel, accountants, construction and financial experts, and other agents for rendering professional and

technical assistance and advice as may be necessary, and whose compensation, including the executive director, shall be determined by the authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.110 Port authority; additional powers.

Sec. 10. An authority may:

(a) Subject to the authority of the federal government and the state and with the agreement of the constituent units, provide for the preservation of navigation within its territorial jurisdiction, including the establishment by regulation of lines beyond which piers, bulkheads, wharves, pilings, structures, obstructions, or extensions of any character may not be built, erected, constructed, or extended; provide by regulation for the stationing, anchoring, and movement of vessels or other watercraft; adopt rules to prevent material, refuse, or matter of any kind from being thrown into, deposited, or placed where it may fall, or be washed, into navigable waters under its jurisdiction; ascertain the depth and course of the channels of those navigable waters; erect and maintain, authorize the erection and maintenance of, and make rules respecting wharves, bulkheads, piers, and piling, and the keeping of the same in repair, to prevent injury to navigation or health; regulate the use of wharves, docks, piers, bulkheads, or pilings owned by it; lease or rent the same, and impose and collect dockage from vessels and watercraft lying at, or using the same; and collect wharfage and other charges upon goods, wares, merchandise or other articles landed at, shipped from, stored on, or passed over the same.

(b) Make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

(c) Lay out, construct, acquire, operate, lease, sell, and convey planned industrial districts as a part of port facilities within its jurisdiction, subject to the restrictions contained in this act upon operation and ownership of port facilities.

(d) Do all acts and things necessary or convenient to promote and increase commerce and recreation within its territorial jurisdiction and carry out the powers expressly granted and any powers implied or necessary for the exercise of the powers expressly granted in this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.111 Port authority; liability.

Sec. 11. Except with respect to docks or wharves owned, controlled, or operated by, the authority, this act shall not be construed to impose a duty upon an authority to a person using its waters in regard to the safety thereof, or to render an authority liable for loss of life or injury or damage to person or property, by reason of an obstruction in, or unsafe condition of, any part of its waters, nor shall this act be construed to render the authority liable in damages or otherwise for an omission to pass or enforce a rule or resolution made under this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.112 Acquisition of property by purchase, lease, or condemnation; sale or removal of structures; sale or lease of property.

Sec. 12. (1) An authority may acquire by purchase or lease, when it considers the purchase or lease expedient, lands, structures, property, rights, rights of way, franchises, easements, and other interests in lands as it considers necessary or convenient for the construction or operation of a project, upon terms and at a price as considered reasonable and agreed upon between the authority and the owner thereof.

(2) An authority may acquire by condemnation lands, property rights, rights of way, franchises, easements, and other property, or parts thereof or rights therein, of a person, partnership, association, or corporation considered by the authority to be necessary for the construction or efficient operation of a project. However, a facility currently operated as a port facility by a terminal operator or a facility owned or operated by and for the exclusive use of the owner or operator and a facility owned or

operated by a common carrier or public utility shall be exempt from this subsection. The condemnation shall be made in the manner provided by Act No. 295 of the Public Acts of 1966, as amended, being sections 213.361 to 213.391 of the Michigan Compiled Laws, except where that procedure may be inconsistent with this act.

(3) An authority may sell or remove the buildings or other structures upon lands taken by the authority, and may sell or lease lands or rights or interest in lands or other property taken or purchased for the purposes of this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.113 Contracts for acquisition, improvement, enlargement, or extension of port facilities; payment of cost; pledge of full faith and credit; tax levy; methods of raising funds; assessment of costs.

Sec. 13. (1) An authority and 1 or more constituent units may enter into a contract or contracts for the acquisition, improvement, enlargement, or extension of port facilities and for the payment of the cost thereof by the contracting constituent units, with interest, over a period of not more than 40 years.

(2) Each contracting constituent unit shall pledge its full faith and credit for the payment of its obligations under the contract. If the constituent unit has taxing power, each year it shall levy a tax upon all real and personal property within the constituent unit, which may be imposed without limitation as to rate or amount, to the extent necessary for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. The tax shall be in addition to any tax which the contracting constituent unit may otherwise be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contract obligation. If any contracting constituent unit at the time of its annual tax levy has on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose

of obtaining the credit, funds may be raised by a contracting constituent unit in 1 or more of the following methods:

(a) By service charge to users of the facilities owned by the port authority.

(b) By setting aside state collected funds disbursed to the contracting constituent unit.

(c) By special assessment upon lands benefited.

(d) By setting aside any other available money.

(3) A contracting constituent unit may agree to raise all or any part of its contract obligation by 1 or more of the methods enumerated in subsection (2) which may be available. The various powers granted in this act to a constituent unit shall be exercised by its governing body.

(4) If a constituent unit, other than a county, operating under this act elects to raise money to pay all or a portion of its share of the cost of a project by assessing the costs upon benefited lands, its governing body shall so determine by resolution and fix the district therefor. The governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments on the roll, shall be in accordance with the provisions of the statute or charter governing special assessments in the constituent unit, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.114 Revenue bonds; applicability of revenue bond act; revenue bonds payable solely from revenues or income.

Sec. 14. (1) An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of providing funds for paying the cost of port facilities, or for paying the cost of an extension, enlargement, or improvement of a project then under the control of the authority. The bonds issued under this section shall mature at a time or times, not exceeding 40 years after their date of issuance, as the authority may provide.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Revenue bonds issued pursuant to this section shall not be considered to constitute a debt of this state, a political subdivision of this state, the authority, or any constituent unit, or a pledge of the faith and credit of this state or a political subdivision of this state or of the authority or any constituent unit, but shall be payable solely from the revenues or income to be derived from the projects. The revenue bonds shall contain on their face a statement to the effect that the bonds and attached coupons are payable solely from revenues and are not a general obligation of this state, a political subdivision of this state, the authority, or a constituent unit, and neither the faith and credit nor the taxing power of this state, a political subdivision of this state, the authority, or a constituent unit, is pledged to the payment of the principal of or the interest on the bonds.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983 ;-- Am. 2002, Act 412, Imd. Eff. June 3, 2002

Compiler's Notes: See Compiler's note to MCL 120.130.

120.114a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 14a. A petition under section 14, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 188, Eff. Mar. 23, 1999

120.115 Revenue bonds; form; date; denomination; place of payment; redemption; validity of signature or facsimile; issuance in coupon or registered form; registration, reconversion, and interchange of bonds.

Sec. 15. An authority shall determine the form of the bonds of each series issued pursuant to section 14, including any interest coupons to be attached thereto, the date of the bonds, the denomination of the bonds, and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds of each series may be made redeemable before their maturity or maturities at the option of the authority, at a price and under the terms and conditions as may be fixed by the authority before issuance of the bonds. If an officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.116 Revenue bonds; trust agreement.

Sec. 16. Revenue bonds issued pursuant to this act shall be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within or without the state. The trust agreement may pledge or assign the rentals and other revenues of the authority, but shall not convey or mortgage part or all of a project. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in

relation to the acquisition or construction of a project and the extension, enlargement, improvement, maintenance, operation, repair, and insurance of a project and the custody, safeguarding, and application of all money and may contain provisions for the employment of consulting engineers in connection with the construction and operation of a project. The trust agreement shall set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by the bondholders and may contain any other provisions the authority may consider reasonable and proper for the security of the bondholders.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.117 Bonds as securities; investment; deposit.

Sec. 17. (1) Bonds issued under this act are securities in which all public officers and public agencies of the state and its political subdivisions and all banks, trust companies, savings and loan associations, investment companies, and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them.

(2) Bonds issued under this act are securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.118 Additional bonds for acquisition of port facilities; authorization; resolution; issuance and execution of bonds; seal; negotiable instruments; maturities; payment; tax exemption; issuance of bonds or notes subject to revised municipal finance act.

Sec. 18. (1) In addition to the bonds authorized in section 14, bonds may be issued for the purpose of acquiring port facilities, as follows:

(a) By the issuance of bonds in anticipation of payments to become due under contracts by which 1 or more constituent units agree to pay to an authority operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act. Contracts are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(b) By money advanced by an authority operating under this act under agreements with a constituent unit or other municipality for the repayment of the money.

(c) By money advanced, from time to time, before or during construction of a project, by a public corporation, for which an authority operating under this act shall reimburse the corporation with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for reimbursement. The obligation of an authority to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by constituent units under contracts made pursuant to subdivision (b), or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds.

(2) Bonds issued under this section shall be authorized by a resolution adopted by the authority. The bonds shall be issued in the name of the authority and shall be executed by the chairperson and secretary-treasurer of the authority, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The authority shall adopt a seal that shall be affixed to the bonds. Bonds issued under this section shall be negotiable instruments and shall mature not more than 40 years after the date of issuance. The bonds and coupons shall be made payable in lawful money of the United States and shall be exempt from all taxation whatsoever by this state or by any taxing authority within this state.

(3) Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983 ;-- Am. 2002, Act 412, Imd. Eff. June 3, 2002

Compiler's Notes: See Compiler's note to MCL 120.130.

120.119 Validation of bonds or notes; contesting validity.

Sec. 19. Bonds or notes issued under this act by an authority are validated. An authority acting under this act or any constituent unit, including the county, shall not contest the validity of bonds or notes issued under this act or any contract which provides the security therefor, after the bonds are sold and delivered and the authority has received the consideration therefor.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.120 Contract for use of port facilities; increase in charges; duration of contract.

Sec. 20. Any 1 or more municipalities or other public corporations, either within or without an authority, may contract for the use of port facilities from an authority operating under this act. The charges specified in a contract shall be subject to increase by the authority at any time in order to provide funds to meet the obligations of the project involved. A contract authorized pursuant to this section shall be for a period of not more than 50 years.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.121 Dock, waterfront, or riparian property; transfer, possession, or control.

Sec. 21. The governing bodies of constituent units may, by majority vote, and with or without consideration, transfer or cause to be transferred to the authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee,

any dock, waterfront, or riparian property owned or controlled by a constituent unit.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.122 Tax exemption.

Sec. 22. (1) An authority created under this act shall be exempt from and shall not be required to pay taxes on property, both real and personal, belonging to the authority, which is used exclusively for a public purpose. However, the exemption shall not apply to property belonging to an authority while a private enterprise is a lessee of the property under a written lease. The bonds, notes, or other evidences of indebtedness, or their transfer, issued by an authority as authorized in this act, the interest thereon, the income derived, and the profit from a sale, shall be exempt from taxation, other than inheritance and estate taxes, within this state.

(2) This section constitutes a covenant and agreement with the holders of bonds, notes, or other evidences of indebtedness issued by an authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.123 Plan for future development, construction, and improvement of port and facilities; notice; comments; hearing; adoption; modification, amendment, or extension; plans for specific projects.

Sec. 23. (1) An authority created on or after May 1, 1984 shall within 2 years after its creation prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including the maps, profiles, and other data and descriptions necessary to set forth the location and character of the work to be undertaken by the authority. An authority in existence before May 1, 1984 shall prepare or cause to be prepared the plan provided for in this subsection not later than September 30, 1985. The authority shall notify the legislature on April 15, 1985, as to the progress of the plan. The authority shall cause notice by publication to be given upon the completion of the plan in a daily newspaper of general circulation in the

area under the jurisdiction of the authority. The notice shall fix the time and place for hearing on the plan, which shall be not less than 30 nor more than 60 days after publication of the notice. Any interested person may file written comments to the plan, if those comments are filed with the secretary-treasurer of the authority not less than 5 days before the date fixed for the hearing. After the hearing, the authority may adopt the plan, with any modifications or amendments, as the official plan of the authority. The authority, after adoption of the plan, may modify, amend, or extend the plan after notice and hearing in the manner prescribed in this subsection.

(2) The plan and any modification, amendment, or extension, when adopted by the authority after notice and hearing, shall be conclusive except that plans for specific projects, to be undertaken in execution of the official plan, shall not be adopted by the authority without prior individual approval by the governing bodies of its constituent units, the state transportation department, and the department of commerce.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1984, Act 256, Imd. Eff. Nov. 30, 1984

Compiler's Notes: See Compiler's note to MCL 120.130.

120.124 Operating budget.

Sec. 24. (1) The authority shall submit in writing a detailed estimate of the budget required for the business and conduct of an authority's affairs, initially, for a 2-year period, and annually thereafter to the governing bodies of its constituent units, the department of commerce, and the department of state highways and transportation for approval. The state shall provide 50% of the operating budget of the authority, to be included in the department of state highways and transportation budget which shall be subject to legislative approval. Fifty percent of the operating budget of an authority in which not more than 1 county and not more than 1 city participate shall be funded equally by the participating county and city.

(2) A city or county creating or participating in an authority may appropriate for the use of the authority, and include in its levy for general fund purposes, an amount considered proper. However, the total amount

permitted by law to be levied by a city or county for general fund purposes shall not be considered increased by this section.

(3) As used in this section, “operating budget” means solely operation and maintenance expenses of an authority not included in the cost of a specific project, and interest on notes, but excludes amounts for debt service on bonds and amounts for acquisition, construction, enlargement, improvement, or extension of port facilities.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.125 Surplus of unencumbered funds; disposition.

Sec. 25. If at the end of a fiscal year a surplus of unencumbered funds remains after providing for the operating expenses of an authority, the authority may pay that surplus into the general funds of the state and of its constituent units in the same proportion which the appropriations made by each to the authority bear to each other.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.126 Entry on lands, waters, and premises; purpose; reimbursement for actual damages.

Sec. 26. For the purpose of making surveys, soundings, drillings, examinations, and investigations as it considers necessary or convenient for the purposes of this act, an authority and its authorized agents and employees may enter upon the lands, waters, and premises in the authority and that entry shall not be considered a trespass; nor shall an entry for these purposes be considered an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for actual damages resulting to the lands, waters, or premises as a result of these activities.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.127 Employees of port authority; transfer and payment of sick leave and annual leave; salary rate; job seniority and pension rights.

Sec. 27. (1) The employees of an authority, existing on the effective date of this act, of a city or county which creates or participates in an authority created under this act shall become the employees of that succeeding authority.

(2) Each employee at his or her option may transfer all or part of accumulated sick leave and shall be paid 1/2 of all unused accumulated sick leave not transferred. The employee also may transfer all or part of accumulated annual leave not to exceed more than 27 days and shall be paid for all unused accumulated annual leave not transferred.

(3) The transferred employee shall continue at his or her present salary rate, and if greater than that paid in the constituent unit for similar work, shall remain at the current level until matched by that constituent unit.

(4) Job seniority and pension rights shall be credited as if first employed by the constituent unit.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.128 Annual report; audit.

Sec. 28. An authority shall make an annual report of its activities within 3 months after the close of its fiscal year to the governor and to the governing body of each constituent unit. The report shall include a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant, with the cost to be treated as an operation expense.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.129 Liberal construction; powers cumulative.

Sec. 29. This act, being necessary for the welfare of the state and its inhabitants shall be liberally construed to effect its purposes. Powers

granted in this act shall be cumulative and not exclusive of one another and may be exercised notwithstanding that bonds, notes, or other evidences of indebtedness are not issued.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to MCL 120.130.

120.130 Repeal of MCL 120.1 to 120.35; effective date of subsection (1).

Sec. 30. (1) Act No. 234 of the Public Acts of 1925, as amended, being sections 120.1 to 120.35 of the Compiled Laws of 1970, is repealed.

(2) Subsection (1) shall not take effect until the constituent bodies of each port authority created pursuant to Act No. 234 of the Public Acts of 1925 and in existence on the effective date of this act participate in the creation of an authority pursuant to this act and the membership of the commission governing that authority is appointed.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: The Monroe Port Authority has not created an authority under this act, and continues to operate under, and derive its power from, Act 234 of 1925, being MCL 120.1 to 120.35 of the Michigan Compiled Laws.

DISPOSAL PLANTS

Act 261 of 1927

AN ACT to prevent the acquisition, construction, operation, maintenance or building of garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter in certain cities and villages without having first procured permission from said cities or villages; to provide for the enforcement of this act; to declare such acquisition, construction, operation, maintenance, or building, a nuisance, in certain cases; to provide a manner in which the consent of said cities and villages may be granted, and to provide a penalty for the violation of this act.

History: 1927, Act 261, Eff. Sept. 5, 1927

The People of the State of Michigan enact:

123.271 Disposal plants; power to prevent construction.

Sec. 1. All incorporated cities and villages of this state shall have the power to prevent any other municipal or public corporation from acquiring, erecting, owning, operating, maintaining, managing, controlling or building garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of such cities or villages.

History: 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2482 ;-- CL 1948, 123.271

123.272 Required permit.

Sec. 2. It shall be unlawful for any individual, firm, private, public or municipal corporation to acquire, erect, own, operate, maintain, manage, control or build garbage disposal plants, sewage disposal plants, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of any other city or village, without first obtaining a permit from said city or village in accordance with the provisions of this act.

History: 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2483 ;-- CL 1948, 123.272

123.273 Required permit; procedure to procure; disposal of sewage by municipality; members of municipality authority.

Sec. 3. Any public or municipal corporation desiring such permit shall make application for the granting thereof unto the legislative body of any city or village in which said work or plant is proposed to be located. Such application shall state the exact property within the city limits to be devoted to said plant and shall state the kind of work or plan contemplated and the size and capacity thereof and shall render such other information to the said legislative body as the latter may require. The proposal shall, in manner and form as said body may provide, be submitted to a vote of the electors of said city or village at the next general or special election, and if the granting of the permit be approved by a majority of the electors voting therefor, then the permit shall be granted: Provided, however, That nothing in this act shall prevent any

city or village from disposing of its own sewage matter within its own corporate limits or in territory outside thereof which is not within the limits of any other incorporated city or village without obtaining a permit therefor as in this act required, or in any such plants and works actually in operation at the time of the passage of this act or enlargements thereto: Provided further, That nothing in this act shall prevent any city or village which is a member of an authority incorporated under Act No. 179 of the Public Acts of 1947, being sections 123.301 to 123.310, inclusive, of the Compiled Laws of 1948, for the purpose of the collection or disposal, or both, of garbage or rubbish, or both, from acquiring, erecting, owning, operating, maintaining, managing, controlling or building the equipment, trucks, buildings and plants by such authority which are necessary for the purposes of its incorporation, within the corporate limits of such city or village member, without obtaining a permit therefor as in this act required: Provided further, That nothing in this act shall be construed as authority to violate the provisions of any local zoning ordinance.

History: 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2484 ;-- CL 1948, 123.273 ;-- Am. 1952, Act 33, Imd. Eff. Mar. 31, 1952

123.274 Declaration of nuisance; action.

Sec. 4. Any building, plant or work erected, constructed or carried on in violation of any the provisions of this act is hereby declared to be a nuisance and an action for the abatement of such nuisance may be brought in the name of the people of the state of Michigan, by the attorney general of the state of Michigan, or by any one or more of the property owners within the city or village in which said building, plant, or work is attempted to be placed in violation of this act.

History: 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2485 ;-- CL 1948, 123.274

Compiler's Notes: The word "of" between "any" and "the provisions," near the beginning of this section, appears to have been omitted.

123.275 Application of act.

Sec. 5. Nothing in this act shall in any way impair, impeach, or in any way affect any right of action in law or in equity that may now exist in addition to the provisions of this act for the prevention of building plants or works, named in this act, nor shall this act in any way affect the right

of any city or village to enact ordinances for their protection against such building plants or works in this act named. This act shall not apply to sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter, where the same are located within the confines of any city or village whose sewage constitutes part of the total sewage entering such a facility.

History: 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2486 ;-- CL 1948, 123.275 ;-- Am. 1962, Act 21, Imd. Eff. Apr. 9, 1962

123.276 Resolution as permit.

Sec. 6. Notwithstanding any other provision in this act, a resolution adopted by the legislative body of an incorporated city or village in this state authorizing and approving a contract with any other municipal or public corporation of this state with respect to the financing or location of or service from a garbage disposal plant, or garbage reduction plant in the corporate limits of the city or village constitutes a permit to acquire, improve, enlarge, extend, operate, and maintain the plant within the corporate limits of the city or village.

History: Add. 1989, Act 187, Imd. Eff. Aug. 24, 1989

**BUILDING AUTHORITIES
Act 31 of 1948 (1st Ex. Sess.)**

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries,

or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995 ;-- Am. 1998, Act 190, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

123.951 Local building authorities; incorporation; purposes.

Sec. 1. A county, city, village, or township may incorporate, as provided in this act, 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefore, together with appurtenant properties and facilities necessary or convenient for the effective use of the facilities, for use for any legitimate public purpose of the county, city, village, or township. For purposes of this act, the development of a qualified facility pursuant to the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, or the federal data facility act, is considered a legitimate public purpose of a county or city

if that county or city makes a determination that such a facility would result in economic development in that county or city.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.951 ;-- Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954 ;-- Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 121, Imd. Eff. July 20, 1993

123.952 Joint buildings and parking lots; authorities; incorporation; purposes.

Sec. 2. Any combination of 2 or more counties, cities, townships, or villages may incorporate 1 or more joint authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the incorporating units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.952 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.952a Joint buildings and parking lots of school districts and municipalities; authorities; incorporation; acquisition; operation; maintenance; use.

Sec. 2a. A school district and a city, village, or township wholly or partially within the district's boundaries, or a school district and any combination of 2 or more cities, villages, and townships wholly or partially within the district's boundaries, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of the local units.

History: Add. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.952b Public buildings used for disabled, retarded, or mentally disturbed children; constituent school districts with intermediate school districts; purpose; contract.

Sec. 2b. An intermediate school district and a constituent school district or districts wholly or partially within the intermediate school district's boundaries may incorporate an authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining a building or buildings as a facility for disabled, retarded, or mentally disturbed children, and the necessary site or sites therefor, for the use of the intermediate school district and a constituent school district or districts pursuant to a contract between such intermediate school district and constituent school district or districts.

History: Add. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1998, Act 25, Imd. Eff. Mar. 12, 1998

123.953 Incorporating unit; definition.

Sec. 3. The term "incorporating unit" as used in this act shall be deemed to mean a county, city, village, township, intermediate school district or other school district incorporating an authority or joining in such incorporation.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.953 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968

123.954 Incorporation of authority; procedure.

Sec. 4. The incorporation of such an authority shall be accomplished by the adoption of articles of incorporation by the legislative body of each incorporating unit. For such adoption, the affirmative vote of the majority of the members elect of each such legislative body shall be required. The articles of incorporation shall be executed, for and on behalf of each incorporating unit by the following officers, to-wit: For the county, by the chairman of the board of commissioners and county clerk; for the city, by its mayor and city clerk; for the village, by its

president and clerk; for the township, by its supervisor and clerk; and for the school district or intermediate school district, by the president and secretary of the board of education. The clerk or secretary of each incorporating unit shall also affix to the articles of incorporation following the signatures thereto, a certificate in form substantially as follows:

“The foregoing articles of incorporation were adopted by the of the of County, Michigan, at a meeting duly held on the day of, 19

Dated:, 19

.....

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.954 ;-- Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.955 County and municipal building authority; articles of incorporation; contents; eligibility of governing body member for membership or appointment.

Sec. 5. (1) The articles of incorporation shall set forth all of the following:

- (a) The name of the authority.
- (b) The name or names of the unit or units incorporating the authority.
- (c) The purpose for which the authority is incorporated.
- (d) The number, terms, and manner of selection of the officers of the authority including its governing body, which shall be known as the “commission”.
- (e) The powers and duties of the authority and of its officers.

- (f) The date upon which the authority shall become effective.
 - (g) The officer required to publish the articles of incorporation and the name of the newspaper in which the articles of incorporation shall be published.
 - (h) The county with whose clerk the articles of incorporation shall be filed, which shall be a county that is an incorporating unit or in which an incorporating unit is located.
 - (i) Any other matters considered expedient.
- (2) A member of the governing body of an incorporating unit of an authority is not eligible for membership or appointment to the authority.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.955 ;-- Am. 1955, Act 143, Eff. Oct. 14, 1955 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.955a Joint building authority; commissioners; election and terms of members; chairperson; secretary; bylaws and rules of procedure; elected official as member; conducting business at public meeting; notice of meeting.

Sec. 5a. (1) A joint building authority under section 2 incorporated by a county and a city, township, or village shall be directed and governed by a commission of 3 members, 1 to be elected by the county board of commissioners of the county, 1 to be elected by the legislative body of the city, township, or village, and 1 to be elected by the joint action of the county board of commissioners of the county and the legislative body of the city, township, or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days after the election of the first member, then the third member shall be appointed by the governor.

- (2) A joint building authority under section 2 not described by subsection (1) shall be directed and governed by a commission consisting of 1 member elected by the legislative body of each incorporating unit and such other members as may be provided by the articles of incorporation.

(3) The commissioners of a joint building authority under section 2 shall serve for 4-year terms.

(4) The commission shall designate 1 member as chairperson and 1 as secretary, and shall adopt bylaws and rules of procedure. A member of the commission of a joint building authority shall not be an elected official of the county, city, township, or village.

(5) The business that the commission of any building authority performs shall be conducted at a public meeting of the board of commissioners held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.955a ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1977, Act 181, Imd. Eff. Nov. 17, 1977 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.955b Board of commissioners; compensation, per diem, mileage.

Sec. 5b. Members of the commission may be paid such compensation, and such per diem and mileage for attending meetings, as may be provided by the commission with the approval of the incorporating unit or units.

History: Add. 1968, Act 96, Imd. Eff. June 6, 1968

123.956 Articles of incorporation; publication; statement; filing; effective date; presumption.

Sec. 6. (1) The officer designated in the articles of incorporation shall cause a copy of the articles of incorporation or a summary of the articles to be published once in a newspaper designated in the articles of incorporation and circulating within the incorporating units accompanied by a statement that the right exists to question the incorporation in court as provided in this section. The officer shall file with the county clerk of the county designated under section 5(1)(h) and the secretary of state a certified copy of the articles of incorporation with a certificate of the date

and newspaper of publication. The officer shall file with the recording officer of the authority, when selected, the original articles of incorporation with a certificate of the date and newspaper of publication.

(2) The authority shall become effective at the time provided in the articles of incorporation.

(3) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.956 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.957 Building authority; body corporate; powers.

Sec. 7. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.957

123.958 Contracts to acquire property; leases and subleases; acquisitions constituting public purpose; stadiums.

Sec. 8. The authority and its incorporating unit or units may only enter into a contract or contracts under which the authority will acquire property contemplated by the terms of this act and lease the same to the incorporating unit or units for a period not to exceed 50 years or, if the authority issues refunding bonds pursuant to section 11k, the authority may enter into a contract or contracts under which the authority will own or continue to own the property acquired, in part or in whole, from the sale of the bonds to be refunded and will lease the same to the incorporating unit or units for a period not to exceed 50 years from the date of issuance of the refunding bonds. Any incorporating unit or units to which the property is leased, may sublease the property or any part of

the property to any 1 or more persons, firms, or corporations or may contract for the use of the property or any part of the property by any 1 or more persons, firms, or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the incorporating unit or units. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision. The acquisition of any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities by any authority and the contracting for the lease of that property by any incorporating unit or units, constitutes a benefit to and a legitimate public purpose of the authority and the incorporating unit or units. Where any stadium with appurtenant properties and facilities is acquired by an authority and leased to any incorporating unit or units, for the purpose of providing facilities for sports, recreational, and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations, whether amateur or professional, to utilize the facilities for games, contests, and other performances and attractions, the subleasing of the property to, or the contracting for the use of the property by, any sports, entertainment, or similar organization or by any owner of a franchise in any professional sports or athletic league or association, in consideration of the agreement of the organization or owner and, if necessary, the league or association to hold, conduct, or produce games, contests, and other performances and attractions in the stadium, with or without admission charges, constitutes a benefit to a legitimate public purpose of the incorporating unit or units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.958 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

123.958a Agreement in contract of lease to pay cash rental, costs, and expenses; general obligations; tax levy; other funds; setoff or abatement of cash rentals.

Sec. 8a. (1) The incorporating unit or units contracting under this act shall in the contract of lease agree to pay to the authority, as cash rental for the property, periodic amounts or their designated shares of periodic amounts that are sufficient to enable the authority to pay the principal of and the interest on the authorized bonds when due either at maturity of the bonds, or, in the case of term bonds, by the required prior redemption or maturity of the bonds. The incorporating unit or units may also agree to pay the costs and expenses of operation and maintenance of the property and the operating expenses of the authority including expenses incidental to the issuance and payment of the bonds. The obligations set forth in this subsection shall, unless specifically stated to the contrary in the contract of lease, be general obligations of the incorporating unit or units.

(2) If bonds are issued by the authority in anticipation of a full faith and credit contractual general obligation of the incorporating unit or units to pay the cash rental, as provided in this section, then the incorporating unit or units shall levy each year ad valorem taxes that are necessary for the payment of the cash rental in anticipation of which bonds are issued. These taxes may be levied without limitation as to rate or amount and shall be in addition to any other taxes that the incorporating unit or units may otherwise be authorized to levy, but not in an amount or at a rate exceeding that necessary to pay the contractual obligation. If the incorporating unit or units, at the time prescribed by law for the making of a tax levy, have other funds on hand that have been set aside and earmarked for payment of its obligations for which a tax levy would otherwise have to be made, then the tax levy shall be reduced by the amount of the other funds.

(3) The incorporating unit or units may raise and provide other funds from any lawful source, including but not limited to money received from the state or other governmental entity for use to pay rental to the authority, from the sublease or contract for the use of the property by any person, firm, or corporation, or from revenues earned by the incorporating unit from operation of the property. The contract of lease may provide the obligation of the incorporating unit for the payment of the cash rental shall not be subject to setoff by the incorporating unit nor

shall there be an abatement of the cash rentals for any cause including, but not limited to, casualty that results in the property being untenable.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1978, Act 365, Imd. Eff. July 22, 1978 ;-- Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992

123.958b Contract of lease; full faith and credit general obligation; resolution submitting contract to vote of electors; effective date; notice of intention; referendum petition; election.

Sec. 8b. (1) The governing body of an incorporating unit may, by a majority vote of its members, authorize the execution of a full faith and credit general obligation contract of lease with an authority.

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not less than 70 days after the date of the resolution or at a special election to be held not less than 70 days after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the

incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body thereof to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed thereto and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule cities act, Act No. 279 of the Public Acts of 1909, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

(4) An election under this section shall not be included in any statutory or charter limitation on the number of special elections to be called within a particular period of time.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

123.958c Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 8c. A petition under section 8b, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties

prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 190, Eff. Mar. 23, 1999

123.959 Building authority; acquisition of property, condemnation.

Sec. 9. For the purpose of accomplishing the objects of its incorporation the authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

The legislative body of any incorporating unit, by a majority vote of the members thereof, may transfer any real property except cemetery property owned by the incorporating unit to an authority established pursuant to this act.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.959 ;-- Am. 1962, Act 14, Imd. Eff. Mar. 14, 1962 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968

123.960 Amendment of articles of incorporation.

Sec. 10. Amendments may be made to articles of incorporation if adopted by the legislative body of each incorporating unit: Provided, That no such amendment shall impair the obligation of any bond or other contract. Any city or village which is the county seat of a county incorporating an authority under the provisions of this act, may become an incorporating unit of the authority by amendment to the articles of incorporation adopted by the legislative body of such city or village and by the legislative body of the county. Any such city or village shall thereafter be deemed to be an incorporating unit. Each amendment shall be adopted, executed and published, and certified printed copies filed, in the same manner as above specified for the original articles of incorporation, in so far as applicable.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.960

123.961 Building authority bonds or building authority refunding bonds; purpose; prerequisites to issuance.

Sec. 11. For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, furnishing and equipping the same, or refunding outstanding bonds as provided in section 11k, the authority, after execution and delivery of a full faith and credit general obligation contract of lease, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from the payments for payment of bonds and interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and until the contract of lease is fully effective. The bonds shall be called building authority bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority refunding bonds.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.961 ;-- Am. 1965, Act 5, Imd. Eff. Mar. 30, 1965 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

123.961a Building authority revenue bonds or building authority revenue refunding bonds; purpose; prerequisites of issuance.

Sec. 11a. For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property; furnishing and equipping the same; or refunding outstanding bonds as provided in section 11k, the authority, after execution of a contract of lease which is not a full faith and credit general obligation, as provided in this act, and pursuant to ordinance or resolution duly adopted by a

majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from those payments for payment of the bonds and the interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and no maturity shall in any event be more than 40 years from the date of the bonds. The bonds shall be called building authority revenue bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority revenue refunding bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

123.961b Ordinance or resolution authorizing issuance of bonds; adoption; contents.

Sec. 11b. The ordinance or resolution authorizing issuance of bonds shall become effective upon its adoption unless otherwise specified in the ordinance or resolution and shall be recorded in the minutes of the commission as soon as practicable after its passage. The provisions of this section shall constitute the sole requirements with respect to the adoption of any such ordinance or resolution. The ordinance or resolution authorizing the bonds shall set forth a brief description of the contract of lease, the contemplated project, the estimated cost of the contemplated project, the estimated period of usefulness of the contemplated project, and the amount and maximum rate of interest and time of payment of the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

123.961c Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's Notes: The repealed section pertained to payment, redemption, execution, and tax exemption of serial and term bonds.

123.961d Bonds; statutory lien.

Sec. 11d. There shall be created in the authorizing ordinance or resolution a lien by this act made a statutory lien upon the cash rental payments required to be paid by the contract of lease which are pledged to the payment of the principal of and interest on the bonds to and in favor of the holders of the bonds and the interest coupons pertaining thereto. The amounts so pledged shall be and remain subject to the statutory lien until the payment in full of the principal of and interest on the bonds. The holder or holders of bonds representing in the aggregate not less than 20% of the entire issue then outstanding may by suit, action, or other proceedings protect and enforce such statutory lien and enforce and compel the performance of all duties of the officials of the authority, including, but not limited to, compelling the incorporating unit or units by proceedings in a court of competent jurisdiction or other appropriate forum to make the cash rental payments required to be made by the contract of lease, and requiring the incorporating unit or units to certify, levy, and collect appropriate taxes as herein authorized and as may be required by the contract of lease to be so certified, levied, and collected by the incorporating unit or units for the payment of the cash rental required to be paid by the contract of lease.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.961e Bonds; use and disposition of proceeds.

Sec. 11e. All moneys received from the sale of bonds shall be used solely for the purpose for which the bonds were authorized including any engineering, architectural, legal, and other expenses incident thereto and to the issuance of the bonds and including also the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and an amount required for the project for operation and maintenance, if appropriate, prior to the receipt of the first revenues from the operation of the project by the incorporating unit or units. Any unexpended balance of the proceeds of sale of the bonds remaining after completion of the project for which issued may be used for the improvements or enlargement of the project for which issued or for other projects of the authority leased to the incorporating unit or units if such use is approved by the department of treasury and the

incorporating unit or units. Any remaining balance shall be paid into the bond and interest redemption fund of the authority for the bonds in which event the incorporating unit or units may be provided a credit against the cash rental payments next due under contract of lease to the extent of the moneys so deposited in the manner provided in the ordinance or resolution authorizing the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1983, Act 29, Imd. Eff. May 6, 1983

123.961f Additional bonds.

Sec. 11f. The commission in the ordinance or resolution authorizing the bonds may provide for issuance of 1 or more series of additional bonds to complete the project for which the bonds are issued or to make improvements or additions thereto under the terms and conditions as shall be prescribed in the ordinance or resolution authorizing the bonds, one of which shall be a requirement of a sufficient increase in the cash rentals required to be paid under the contract of lease to permit payment of the principal and interest on the additional bonds. The additional bonds when sold and delivered shall have equal standing with those issued in the first instance. The provisions of this act providing for annual installments and the amount thereof and the due date of the first installment for serial bonds shall not be controlling as to additional series of bonds. The bonds issued in the original instance, any additional bonds of equal standing then outstanding, and the proposed additional bonds shall be treated as a single issue for purposes of complying with the requirements of this act for the due date of the first installment and for annual installments with respect to serial bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.961g Bond and interest redemption fund.

Sec. 11g. The ordinance or resolution authorizing the bonds shall establish a bond and interest redemption fund into which shall be paid all cash rentals required to be paid by the incorporating unit or units under the contract of lease which are pledged for the payment of bonds issued under this act and such other sums as shall be required by the ordinance or resolution to be paid therein and shall establish such other funds and

accounts and provide for deposits thereto as the governing body shall prescribe in the ordinance or resolution authorizing the bonds. All moneys in the funds and accounts established by the ordinance or resolution authorizing the bonds, including the proceeds of sale of the bonds, shall be deposited with 1 or more banks designated by the commission. Moneys in the bond and interest redemption fund shall be kept in a separate depository account kept with 1 or more of the banks or trust companies where the principal of and interest on the bonds are payable. Moneys in the several funds and accounts may be invested in United States government obligations or obligations the principal of and interest on which are guaranteed by the United States government or in interest bearing time deposits as shall be determined by the commission in the ordinance or resolution authorizing the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.961h Redemption of bonds prior to maturity.

Sec. 11h. The commission may make provision in the ordinance or resolution authorizing the bonds for the redemption thereof prior to maturity.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.961i Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's Notes: The repealed section pertained to issuance of bonds by municipal finance commission or successor agency.

123.961j Bonds subject to revised municipal finance act; tax exemption.

Sec. 11j. (1) All bonds authorized under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The principal and interest on bonds issued under this act are exempt from taxation by this state and by any other taxing authority within this state.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1978, Act 365, Imd. Eff. July 22, 1978 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980 ;-- Am. 1983, Act 29, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 306, Imd. Eff. May 13, 2002

123.961k Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's Notes: The repealed section pertained to bonds issued to refund outstanding bonds.

123.962 Tax exemption for property.

Sec. 12. All property owned by any authority shall be exempt from taxation by the state or any taxing unit therein.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.962

123.963 Bonds; retirement; conveyance of title to property.

Sec. 13. When all bonds issued pursuant to the provisions of this act shall have been retired, then the authority shall convey the title to the property acquired hereunder to the incorporating unit or units in accordance with the provisions therefor contained in the articles of incorporation, or contract of lease, or, if there be no such provisions, then in accordance with the directions of the governing body of the incorporating unit or any agreement adopted by the respective governing bodies of the incorporating units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.963 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

123.964 Construction of act.

Sec. 14. The powers herein granted shall be in addition to those granted by any statute or charter.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.964

123.965 Validation of prior authorities, actions, and bonds.

Sec. 15. All authorities heretofore incorporated, all actions heretofore taken, and all bonds heretofore issued under this act, as originally adopted or subsequently amended, and which incorporation actions and

bonds do not violate the provisions of this act as amended by the 1968 or any subsequent amendatory act, are validated. No authority incorporated under this act, as originally adopted or subsequently amended, nor any incorporating unit or units thereof, shall contest the validity of any such bonds or any lease or contract which provides the security therefor after they have been sold and delivered and the authority has received the consideration therefor.

History: Add. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

MUNICIPAL SEWAGE AND WATER SUPPLY SYSTEMS Act 233 of 1955

AN ACT to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 1998, Act 182, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

124.281 Definitions.

Sec. 1. As used in this act:

(a) "Sewage disposal system," includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes.

(b) “Water supply system,” includes all plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water.

(c) “Solid waste management system” includes all plants, works, instrumentalities, and properties used or useful in connection with the collection, transportation, processing, or disposal of discarded or waste materials of any sort, including access roads and facilities for resource recovery. “Solid waste management system” does not include the storage or disposal of toxic materials.

(d) “Municipality,” includes each county, township, city, or village.

(e) “Constituent municipality” or “constituent municipalities” includes all of the municipalities which signed or became signatories of articles of incorporation of any authority incorporated under this act, except if the authority is incorporated by 2 or more counties, in which event each municipality within the respective territorial limits of the counties as are either original incorporators or subsequently become a constituent part of the authorities under section 6, shall be considered to be a constituent municipality for the purposes of this act.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.282 Incorporation of authority by municipalities; purpose; adoption of articles of incorporation; endorsement; territory; publishing and filing articles of incorporation; effective date; presumption of validity.

Sec. 2. (1) Any 2 or more municipalities may incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending, and operating a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by the adoption of articles of incorporation by the legislative body of each of the municipalities. The fact of the adoption shall be endorsed on such articles of incorporation by the chairperson of the county board of commissioners and the county clerk in case of a county; the mayor and clerk in case of a city; the president and clerk in case of a village; and the

supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing articles of incorporation were adopted by the of the of County Michigan, at a meeting duly held on the day of, 19....
.....
..... of said
.....
..... of said
....."

(2) The authority shall be comprised of the territory lying within the incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in the articles and having general circulation within the territory encompassed by the authority. One printed copy of the articles of incorporation certified as a true copy by the person or persons designated for the certification, with the date and place of the publication, shall be filed with the secretary of state and the clerk of the county within which the territory or the major portion of the territory is located. The authority shall become effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.283 Joint authority; articles of incorporation, contents.

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitation of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are

charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

History: 1955, Act 233, Eff. Oct. 14, 1955

124.284 Authority as municipal authority and public body corporate; powers generally.

Sec. 4. (1) An authority shall be a municipal authority and shall be a public body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers of this act shall not be construed as a limitation upon an authority's general powers.

(2) An authority may do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the seal at pleasure.

(c) Maintain an office at such place or places within the state as it may designate.

(d) Sue and be sued in its own name, plead and be impleaded.

(e) Determine the location of any project constructed by it under the provisions of this act, and to determine, in its discretion and without reference to any other provisions of this act or any other law, the design, standards, and the materials of construction, and construct, maintain, repair, and operate the project. However, the functions, powers, and duties of the state department of public health and the department of

natural resources in connection with any such public improvements shall remain unaffected by this act.

(f) Issue bonds of the authority for any of its corporate purposes under such means as may be provided in this act. If revenue bonds are issued under the provisions of section 12 or sections 12b and 12c, the revenue bonds shall be payable solely from the revenues pledged for their payment, as provided in this act.

(g) Adopt and promulgate rules and regulations for the use of any project constructed by it under the provisions of this act.

(h) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1985, Act 178, Imd. Eff. Dec. 6, 1985

124.284a Rules and regulations; adoption by resolution; notice; effective date; summary.

Sec. 4a. The authority shall adopt rules and regulations by resolution of its governing body and with concurrence by resolution of constituent municipalities. After adoption of the resolution and concurrence by the constituent municipalities, a notice of adoption of the resolution and the rules and regulations, or a summary of those rules and regulations, shall be published in a newspaper of general circulation within the territory encompassed by the authority and within the territory furnished service by the authority by contract pursuant to section 10. The rules and regulations shall become effective 30 days after the date of publication of the notice and the rules and regulations or the summary of the rules and regulations. If a summary of rules and regulations is published, the summary shall be written in clear and nontechnical language and the authority shall designate in the publication the location where a full copy of the rules and regulations can be inspected or obtained.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2008, Act 172, Imd. Eff. July 2, 2008

124.284b Violation of rule or regulation; civil fine.

Sec. 4b. Except as otherwise provided in this act, the authority may prescribe a civil fine not to exceed \$1,000.00 for the violation of a rule or regulation adopted and promulgated under this act. If a civil fine is prescribed, it shall be prescribed in the rule or regulation. A fine assessed under this section shall be distributed pursuant to section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2000, Act 24, Eff. July 1, 2000

124.284c Prohibitions and penalties.

Sec. 4c. The authority may provide in its rules and regulations either or both of the following prohibitions and penalties:

(a) A person who knowingly submits or prepares for submission to the authority a false statement, representation, or certification is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

(b) A person who knowingly tampers with or alters a monitoring device or process, causing inaccurate readings or results, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985

124.284d Enforcement of rules and regulations; issuance of citation or appearance ticket; exercise and scope of enforcement powers.

Sec. 4d. (1) Subject to subsections (2) and (3), rules and regulations adopted and promulgated under this act are enforceable by the authority, its constituent municipalities, and municipalities that have contracted with the authority for the furnishing of service pursuant to section 10. A person charged with enforcement of those rules and regulations may issue a citation or an appearance ticket to any person who is reasonably believed to have violated a rule or regulation adopted and promulgated under this act.

- (2) The authority shall exercise its enforcement powers under this act against a violator within a municipality.
- (3) A municipality may exercise its enforcement powers under this act against a violator in territory under its jurisdiction.
- (4) For the purposes of this section, enforcement powers include the power to bring an action in a court of competent jurisdiction to enjoin the violation of a rule or regulation adopted and promulgated under this act, to bring an action to recover actual damages sustained due to violation of a rule or regulation adopted and promulgated under this act, and to be awarded costs and fees in those actions as provided in sections 2401 to 2461 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2401 to 600.2461 of the Michigan Compiled Laws.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985

124.284e Discontinuance and restoration of service.

Sec. 4e. (1) The authority may authorize the discontinuance of service to a user who violates a rule or regulation adopted and promulgated under this act if the authority determines that discontinuance of service to that user is necessary to protect the integrity of the affected system.

(2) The authority shall authorize restoration of service to that user when the authority determines that the threat to the affected system no longer exists and that the cause of or events resulting in the violation will not recur.

(3) The municipality that maintains and operates the affected system or part of that system, or the authority, pursuant to that municipality's authorization, shall effect discontinuance of service as authorized under subsection (1) and shall effect restoration of service as authorized under subsection (2).

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985

124.285 Acquiring and holding, managing, controlling, selling, exchanging, or leasing property for system or combination of systems; condemnation.

Sec. 5. The authority may acquire property for a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by purchase, construction, lease, gift, or devise, either within or without its corporate limits, and may hold, manage, control, sell, exchange, or lease the property. For the purpose of condemnation, the authority may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.286 Joint authority; subsequent addition of other municipalities; amendment of articles.

Sec. 6. Any municipality which did not join in the incorporation of an authority may become a constituent part thereof by amendment to the articles of incorporation adopted by the legislative body of such municipality and by the legislative body of each municipality of which such authority is composed. Other amendments may be made to the articles of incorporation if adopted by the legislative body of each municipality of which the authority is composed. Any such amendment shall be indorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957

Compiler's Notes: In the first sentence of this section, "constituent" evidently should read "constituent."

124.287 Contracts between authority and constituent municipalities; purpose; pledging full faith and credit for payment of obligation;

taxes; additional methods of raising other funds; permissible contract provisions.

Sec. 7. (1) The authority and any of its constituent municipalities may enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement, extension, operation, and financing of a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems, which contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each contracting municipality in annual installments for a period of not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract or contracts, in which event each contracting municipality may include in its annual tax levy an amount sufficient so that the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of a municipality, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, then credit for those funds may be taken upon the annual levy for the payment of the obligation. Other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods:

(a) The levy of special assessments on property benefited by a sewage disposal system, water supply system, or a combination of systems, the procedures relative to the levying and collection of the special assessments to conform as near as is applicable to charter or statutory provisions for the levying and collection, except that a petition shall not be required from property owners.

(b) The levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(c) The exaction of connection charges to be paid by owners of land directly or indirectly connected with the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(d) The receipt of money derived from the imposition of taxes by this state, except as the use of the money for the purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for the purpose.

(2) The contract or contracts may provide for any and all matters relating to the acquisition, construction, operation, and financing of the sewage disposal system, water supply system, solid waste management system, or combination of systems as are considered necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9. The contract or contracts may provide for appropriate remedy or remedies in case of default.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002

124.288 Municipality desiring to contract with authority; authorization; resolution; notice; contents; execution and delivery of contract; effective date; petition requesting referendum upon contract; voting; effect of action taken prior to effective date of subsection (2); special election; verification of petition signatures; number of registered electors.

Sec. 8. (1) A municipality desiring to enter into a contract with the authority under section 7 shall authorize, by resolution of its governing body, the execution of the contract. After the adoption of the resolution,

a notice of the resolution shall be published in a newspaper of general publication in the municipality, which notice shall state:

- (a) That the governing body has adopted a resolution authorizing execution of the contract.
- (b) The purpose of the contract.
- (c) The source of payment for the contractual obligation.
- (d) The right of referendum on the contract.
- (e) Other information as the governing body determines to be necessary to adequately inform all interested persons of the nature of the obligation.

(2) The contract may be executed and delivered by the municipality upon approval by its governing body without a vote of the electors on the contract, but the contract shall not become effective until the expiration of 45 days after the date of publication of the notice. If within the 45-day period a petition signed by not less than 10% or 15,000, whichever is less, of the registered electors residing within the limits of the municipality is filed with the clerk of the municipality requesting a referendum upon the contract, the contract shall not become effective until approved by the vote of a majority of the electors of the municipality qualified to vote and voting on the question at a general or special election. If a municipality has, before the effective date of this subsection, published a resolution authorizing the execution of a contract under this section in substantial compliance with this section before this subsection takes effect, and the referendum period formerly provided by this section has expired, but the bonds have not been issued, the resolution and the publication of the resolution are valid and, if a petition for a referendum on execution of the contract has not been or is not signed and filed within the time period formerly provided by this section, the contract may be executed and shall become effective without submitting the proposition for approval to the electors, or if a petition has been or is so signed and filed, the contract may be executed and become

effective if approved at an election as formerly provided in this section. A special election called for the purpose provided in this section shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on the petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed to the petition, and the clerk of the municipality shall have the same power to reject signatures as city clerks under section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of the petition.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.288a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 8a. A petition under section 8, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 182, Eff. Mar. 23, 1999

124.289 Issuance of negotiable bonds; maturity; use of money; conditions for issuance or refunding of bonds; bonds issued, sold, and subject to MCL 141.2101 to 141.2821.

Sec. 9. (1) To obtain funds for the acquisition, construction, improvement, enlargement, or extension of the sewage disposal system, water supply system, solid waste management system, or combination of systems authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8, upon ordinance or resolution adopted by the authority, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting

municipality pursuant to authorization contained in this act and the contract or contracts entered into pursuant to sections 7 and 8. The bonds shall mature over not more than 40 years from the date of issuance, and may provide for the use of money received from the sale of the bonds to pay operation and maintenance costs of a sewage disposal system, water supply system, solid waste management system, or combination of systems before receipt of the first revenues from the bonds.

(2) Except as otherwise provided in this act, bonds issued pursuant to this section shall be issued and sold and subject to all other applicable provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 1994, Act 36, Imd. Eff. Mar. 7, 1994 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002

124.290 Contract with municipality for furnishing certain services; charges or rates; contract with public corporation for services or use of facilities; lump sum payment; financing; duration of contract; contract as general obligation.

Sec. 10. The authority and any constituent or nonconstituent municipality of the authority may contract for the furnishing of water, sewage disposal, or waste management services, or a combination of the services by the authority to the municipality. The charges or rates specified in a contract shall be subject to change by the authority, if necessary to meet its obligations. The charges or rates to a nonconstituent municipality may be greater than those to constituent municipalities. The authority and any other public corporation may contract for the furnishing of water, sewage disposal, or solid waste management system services, or a combination of services by the other public corporation to the authority or may contract for the use by the authority of any of the facilities of the water supply system; sewage disposal system, including sewers; solid waste management systems; or a combination of systems of the other public corporation. Any lump sum payment for those uses may be considered as a part of the cost of the authority system and may be financed the same as other capital costs are financed under this act. Each contract authorized in this section shall be

for a period not exceeding 40 years. Each contract authorized in this section shall be a general obligation of the municipality.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.291 Change in jurisdiction over territory in contracting municipality; effect on contract obligations; generator of waste not precluded from arranging for use of recyclable waste materials.

Sec. 11. (1) A change in the jurisdiction over territory in a municipality which has contracted with the authority for the acquisition, construction, and financing of a sewage disposal system, water supply system, solid waste management system, or a combination of systems under this act, or has contracted with the authority for sewage disposal, water, or solid waste management services, or a combination of services shall not impair the obligations of the contract. In event of a change in jurisdiction over territory, the contract shall be carried out insofar as the territory is concerned by the authority and the municipality as shall have jurisdiction to furnish water, sewage disposal, or solid waste management services, or a combination of services to the territory, unless that requirement would operate to impair a contract obligation, in which case the contracting municipality shall retain jurisdiction over the territory for the purpose of carrying out its contractual obligations. A change in municipal jurisdiction over territory within an authority shall not in any manner affect the authority or its boundaries.

(2) A generator of waste shall not be precluded by an ordinance, rule, regulation, policy or practice from arranging for the use of the generator's recyclable waste materials.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.292 Financing project by issuance of revenue bonds; charges and rates.

Sec. 12. Instead of the provisions in sections 7, 8, and 9 in respect to the acquisition, construction, improvement, enlargement, extension, or financing of a sewage disposal system, water supply system, solid waste

management system, or a combination of systems, the authority may elect to proceed under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws, or any other act authorizing the issuance of revenue bonds, by which the financing of a project would be consummated by the issuance of revenue bonds payable from the revenues of the system or systems, if the charges and rates for service in any contract entered into under the provisions of section 10 are sufficient to satisfy the provisions of the act under which revenue bonds shall be issued. A project may be financed in part under the provisions of sections 7, 8, and 9 and in part as permitted under this section.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.292a Additional security for payment of municipality's contractual obligations; pledging full faith and credit and state sales tax moneys; resolution.

Sec. 12a. A municipality contracting with the authority, either under section 7, section 10, or section 12, as additional security for the payment of its contractual obligations, may by resolution of its governing body, irrevocably pledge its full faith and credit, and may further irrevocably pledge not to exceed 25% of the money derived from the state sales tax levied pursuant to law, and from time to time returned to it under section 10 of article 9 of the state constitution of 1963, to the payment of its contractual obligations. The resolution may also authorize and direct the county treasurer or other official charged with the disbursement of those funds, to withhold and pay over to the authority sufficient of the money to make up any deficiency in funds to meet its contractual obligations.

History: Add. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.292b Acquisition of water systems; projects over \$50,000,000, financing; costs; project revenue bonds; payment; terms and conditions of additional bonds; tax exemption; approval.

Sec. 12b. (1) As an additional or alternative method of financing a water supply system or sewage disposal system, hereinafter generally referred to in this section and section 12c as the “project”, any authority proposing a project to cost a sum of \$50,000,000.00 or more for such purposes, is authorized to proceed under the provisions of this section and section 12c. In such event the authority is hereby authorized by resolution or resolutions of its governing body to provide for the issuance of revenue bonds for the purpose of paying all or any portion of the cost of the project, or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. The term “cost of the project” includes all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period of construction of the project and for a period of not to exceed 1 year thereafter, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of the project and the placing of the project in operation, including the repayment of any moneys advanced by constituent municipalities of the authority for any of the above purposes. The authority may enter into such contracts for financial, fiscal agents, legal or engineering services in connection with the financing and construction of the project as it deems necessary and advisable. The authority shall not contract for the payment of stand-by bids or finders' fees.

(2) Principal of and interest and redemption premiums on the bonds issued under this section shall be payable solely from the revenues of the project, except that payments may also be made from the proceeds of refunding bonds issued under this section. The term “revenues of the project” as used in this section and section 12c means revenues derived from contracts with municipalities entered into pursuant to the provisions of section 10 of this act, and all other sources of revenue of the authority derived from the operation of the project. The bonds may be either serial bonds or term bonds, or any combination thereof. Any serial bonds shall have annual or semiannual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any bonds shall be

redeemable commencing with an interest payment date to be determined at such prices and upon such terms and conditions as prescribed by the authorizing resolution of the governing body of the authority, and recited upon the face of the bonds. The bonds shall mature not more than 40 years from their date, shall be coupon bonds bearing interest at not more than 6% per annum, payable semiannually, except as to the first coupon, which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such places within or without the state, and shall otherwise have such other details as may be fixed by resolution of the governing body of the authority. The resolution of the governing body of the authority may provide the terms and conditions under which additional revenue bonds may be issued, having parity of lien with those issued and outstanding for the purpose of completing the project or providing for additions, extensions and improvements thereto. All bonds issued under the provisions of this section shall contain a statement on their face that they are payable solely and only from the revenues of the authority specifically pledged for their payment, and that the authority is authorized to pay such bonds and interest only from the revenues pledged thereto under the provisions of this section. If any official whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes with like effect as though the person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. The bonds shall be exempt from all taxation by the state or any of its political subdivisions, and may be sold by the governing body of the authority in such manner as it, in its sole discretion, determines to be in the best interest of the authority, but no sale shall be made at a price that will result in an interest cost of more than 6% per annum. The issuance and sale of bonds shall not be subject to the approval or authorization of any other agency of government, whether federal, state or local, but shall be entirely within the discretion and judgment of the governing body of the authority. Prior to the preparation

of definitive bonds, the governing body of the authority may provide for the issuance of temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

History: Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958

124.292c Bonds secured by trust indenture; provisions in resolution or trust indenture; annual audit; pledging eligible marketable securities as collateral security for deposits; expenses; construction of 1958 amendments.

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part of the project. Either the resolution providing for the issuance of bonds or the trust indenture may contain the provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth the following:

- (a) The duties of the authority in relationship to the construction, maintenance, operation, repair, and insurance of the project.
- (b) The pledge of revenues of the project or any part of the project.
- (c) Limitations on the amount of money derived from the operation of the project that may be expended for operating, administrative, or other specified expenses of the authority.
- (d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of

the bonds, all of which may be deposited in as received and paid out by those banks as provided in the resolution or indenture.

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect to the project deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to the approval by the purchasers or holders of the bonds as provided in the resolution or indenture.

(f) Rights and remedies of the bondholders and the trustee, if any, and the restrictions thereon as may be considered advisable.

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in the resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

(3) Any bank or trust company designated as trustee or as depository for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or

remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in this state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences that constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers, and duties arising upon the breach by the authority of any of its duties and obligations.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

History: Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1983, Act 30, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002

124.293 Authorization to raise or pay money for administrative expenses or other purposes; direct taxing power.

Sec. 13. The legislative body of each municipality which is a member of the authority is authorized to raise by tax or pay from its general funds, any money required to be paid by the articles of incorporation for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications, and cost estimates of a proposed sewage disposal system, water supply system, or waste management system. The authority shall not have direct taxing power.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.294 Constituent municipalities; additional powers.

Sec. 14. The powers herein granted shall be in addition to those granted by any charter or other statute.

History: 1955, Act 233, Eff. Oct. 14, 1955

**METROPOLITAN TRANSPORTATION AUTHORITIES
ACT OF 1967
Act 204 of 1967**

AN ACT to create metropolitan transportation authorities; to define their powers and duties, including the creation of transportation districts; to provide for the withdrawal of counties from the authorities; to require the state to guarantee payment of certain claims against certain transportation authorities and to give the state a lien in satisfaction of payment; to permit the creation of certain councils; and to prescribe penalties and provide remedies.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1976, Act 266, Eff. Apr. 15, 1977 ;-- Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978 ;-- Am. 1979, Act 68, Imd. Eff. July 25, 1979 ;-- Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988 ;-- Am. 1998, Act 183, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

124.401 Metropolitan transportation authorities; short title.

Sec. 1. This act shall be known and may be cited as the “metropolitan transportation authorities act of 1967”.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.402 Definitions.

Sec. 2. As used in this act:

- (a) “Authority” means an authority created by or pursuant to this act.
- (b) “Board” means the governing and administrative body of an authority.

(c) “Chief executive officer” means, with respect to a city, the mayor of the city and, with respect to a county, either the county executive of the county or, for a county not having a county executive, the chairperson of the county board of commissioners.

(d) “Constituent unit” means each of the counties comprising a part of an authority or a council and each city having a population of 750,000 or more within such a county.

(e) “Council” means a regional transit coordinating council formed pursuant to section 4a.

(f) “Governor” means the governor of the state.

(g) “Metropolitan area” means an area conforming in general to a consolidated metropolitan statistical area as defined by the United States office of management and budget or 2 or more counties which form a generally recognized urban complex. However, for the purposes of this act, Lapeer county shall not be considered part of a consolidated metropolitan statistical area.

(h) “Public transportation facility” means all property, real and personal, public or private, so long as used or useful for general or special transportation service to the public, including, but not limited to, street railways, motor bus, tramlines, subways, monorails, rail rapid transit, and the movement of people thereby together with tunnel, bridge, and parking facilities used in connection with these transportation services of the authority, but shall not include taxis, limousines, highways, ports, airports, charter or sightseeing services, or transportation which is exclusively used for school purposes.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1976, Act 266, Eff. Apr. 15, 1977 ;-- Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.403 Authorities; powers.

Sec. 3. Authorities created under this act shall plan, acquire, construct, operate, maintain, replace, improve, extend and contract for public

transportation facilities. An authority is a public benefit agency and instrumentality of the state with all the powers of a public corporation, for the purpose of planning, acquiring, constructing, operating, maintaining, improving and extending public transportation facilities, and for controlling, operating, administering and exercising the franchise of such transportation facilities, if any, including charter operations as acquired.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.404 Regional transportation authorities; establishment; resolution of withdrawal; veto.

Sec. 4. (1) Regional transportation authorities in major metropolitan areas of the state may be established as 1 or more contiguous counties elect by majority vote of the county boards of commissioners to establish or participate in an authority.

(2) A county which becomes a part of an authority created under this act may withdraw from the authority within 1 year after the county becomes a part of the authority by a resolution of withdrawal approved by a majority vote of the members elected to and serving on its county board of commissioners or may withdraw at any time after 1 year after the county becomes a part of the authority by a resolution of withdrawal approved by a 2/3 vote of the members elected to and serving on its county board of commissioners. However, if the county has an elected county executive pursuant to Act No. 139 of the Public Acts of 1973, as amended, being sections 45.551 to 45.573 of the Michigan Compiled Laws, the county executive may veto the resolution. A veto may be overridden by a 2/3 vote of the members elected to and serving on the county board of commissioners.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1979, Act 68, Imd. Eff. July 25, 1979

124.404a Regional transit coordinating council; formation; purpose; collective representation of Livingston, Monroe, St. Clair, and Washtenaw counties; council as authority; receipt of transportation operating and capital assistance grants; powers and duties of

council; articles of incorporation; council as “designated recipient” of federal and state transportation funds; designation of subrecipient; supplemental agreement; application for grant funds; distribution; actions and meetings of council; conducting business at public meeting; notice; establishment and report of advisory committee; financial audit as condition to distribution of state and federal funds.

Sec. 4a. (1) The chief executive officer of each city having a population of 750,000 or more within a metropolitan area, of each county in which such a city is located, and of all other counties immediately contiguous to such a city shall form a corporation, subject to the limitations of this act, to be known as the regional transit coordinating council for the purpose of establishing and directing public transportation policy within a metropolitan area. The counties of Livingston, Monroe, St. Clair, and Washtenaw shall be collectively represented on the council by 1 member, without vote, from 1 of the counties and shall determine their representative member on the council in a manner to be determined by the counties. The county from which the representative member is to be selected shall rotate among the counties at least every 2 years and the member shall be a resident of the county from which the member is to be selected. If 1 or more of the counties of Livingston, Monroe, St. Clair, and Washtenaw withdraw from the authority, the member shall rotate between, and be selected from, the remaining counties.

(2) A council formed under this section shall be considered an authority organized pursuant to this act for the sole purpose of receiving transportation operating and capital assistance grants. A council may not exercise any rights, duties, or powers provided to an authority organized pursuant to this act except as is necessary to receive transportation operating and capital assistance grants.

(3) The council may adopt public transportation plans for its metropolitan area. The council shall coordinate service overlap, rates, routing, scheduling, and like functions between operators of public transportation. The council shall not have power to employ operating personnel, negotiate collective bargaining agreements with operating

personnel, or own operating assets of a public transportation service within the metropolitan area.

(4) The articles of incorporation forming the council shall provide for the conduct of the affairs of the council, including provision for the appointment of a general secretary to the council and the allocation between the city and any authority representing the counties of any grants applied for by the council.

(5) The council shall be a “designated recipient” for purposes of the former federal urban mass transportation act of 1964, Public Law 88-365, and the regulations promulgated under that act, to apply for federal and state transportation operating and capital assistance grants, but the council may designate a city with a population of more than 750,000 and the authority representing the counties each as a subrecipient of federal and state transportation funds. To the extent required by the federal urban mass transportation act of 1964 and the regulations thereunder, the council and a city with a population over 750,000 and the authority representing the counties shall execute a supplemental agreement conferring on a city with a population over 750,000 and the authority representing the counties the right to receive and dispense grant funds and containing such other provisions as are required by federal law and regulation. The general secretary shall submit in a timely manner the council's application for such funds to the responsible federal and state agencies. The application shall designate the distribution of all capital and operating funds which shall be paid directly to a city with a population over 750,000 and the authority representing the counties. If the council is the recipient, the general secretary, as soon as possible, but not more than 10 business days after receipt of the funds by the general secretary, shall remit to a city with a population over 750,000 and the authority representing the counties their designated distribution of the funds.

(6) The council shall act by a unanimous vote of its membership entitled to vote and shall meet regularly but not less than quarterly. A council member shall not designate another representative to serve in his or her place on the council.

(7) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) An advisory committee comprised of riders who are senior citizens or persons with disabilities, or both, and who live within the southeastern Michigan transportation authority shall be established and shall report their concerns to the council on a regularly scheduled basis.

(9) Before any state or federal funds are distributed to any of the eligible authorities or eligible governmental agencies coordinated by the council, a financial audit of the transit operations for the fiscal year immediately previous to the most recently completed fiscal year shall be provided to the state transportation department in accordance with section 10h(2) of 1951 PA 51, MCL 247.660h. The state transportation department may waive this requirement on a temporary basis. Each audit shall be in accordance with sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. Each financial audit shall also be in accordance with generally accepted accounting standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

History: Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988 ;-- Am. 1998, Act 75, Imd. Eff. May 4, 1998

124.404b Regional transit coordinating council; articles of incorporation; development and purpose of long-range plan.

Sec. 4b. (1) Incorporation of a council shall be accomplished by adoption of articles of incorporation by the incorporators authorized to so act. Articles of incorporation so adopted shall be published by the person or persons designated in the articles at least once in a newspaper designated in the articles and circulated within the area proposed to be served. One printed copy of the articles of incorporation shall be filed with the secretary of state, the clerk of each county within the area of the council, and the director of the state transportation department by the person

designated to do so by the articles. The council shall become operative and the articles of incorporation effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the publication of the articles of incorporation.

(2) The articles of incorporation shall state the name of the council; the purposes for which it is formed; the constituent units of and the metropolitan area, or portions thereof, comprising the council; the person or persons charged with the responsibility of causing the articles of incorporation to be published and filed as provided in subsection (1); the method of amending the articles of incorporation; and any other matters which the incorporators consider advisable.

(3) The council, in conjunction with the state transportation department, shall develop a long-range plan to bring the authorities coordinated by the council into conformity with the state fiscal year.

History: Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.405 Southeastern Michigan transportation authority; establishment; resolution of withdrawal; veto; effect of withdrawal; cessation of operation or dissolution; state guaranteed payment of claims; lien of state; citizens planning and advisory councils.

Sec. 5. (1) The southeastern Michigan transportation authority which shall include the counties of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne is established, but a county choosing not to participate in the authority may withdraw by a resolution of withdrawal approved by a majority vote of its elected county board of commissioners within 1 year after the establishment of the authority and by a 2/3 vote of the members elected to and serving on the county board of commissioners at any time thereafter. However, if the county has an elected county executive pursuant to Act No. 139 of the Public Acts of 1973, as amended, the county executive may veto the resolution. A veto may be overridden by a 2/3 vote of the members elected to and serving on the county board of commissioners. A county that withdraws from the

southeastern Michigan transportation authority and whose chief executive officer is or was required to form a corporation pursuant to section 4a, shall lose its seat on the council, shall not retain any assets of the authority, and shall not contract for public transportation services with the authority.

(2) If a county whose chief executive officer is not required to form a corporation pursuant to section 4a elects to withdraw from the authority within 12 months after the effective date of the 1988 amendatory act that added this subsection, the authority shall convey to that county and to any local authority that has a service area within that county all assets and liabilities utilized by or attributable to that county or local authority. The state transportation department shall reduce the level of state funding to the authority by the amount attributable to that county or local authority and transmit these funds directly to the county or local authority that has a service area within the county that elected to withdraw.

(3) If the southeastern Michigan transportation authority ceases to operate or is dissolved and a successor agency is not created to assume its assets and liabilities, and perform its functions, and if the southeastern Michigan transportation authority is authorized to secure the payment of compensation under section 611(1)(a) of Act No. 317 of the Public Acts of 1969, as amended, being section 418.611 of the Michigan Compiled Laws, then the state guarantees the payment of claims for benefits arising under Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, against the southeastern Michigan transportation authority during the time they were approved as a self-insured employer. The state shall be entitled to a lien which shall take precedence over all other liens on its portion of the assets of the southeastern Michigan transportation authority in satisfaction of the payment of claims for benefits under Act No. 317 of the Public Acts of 1969, as amended.

(4) A community or group of communities in the southeastern Michigan transportation authority region may create citizens planning and advisory councils to relate their particular concerns to the board on a regularly

scheduled basis. These councils shall have memberships representative of the various neighborhoods within those cities.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1976, Act 266, Eff. Apr. 15, 1977 ;-- Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978 ;-- Am. 1979, Act 68, Imd. Eff. July 25, 1979 ;-- Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.405a Authority; dissolution; diminishment of powers.

Sec. 5a. An authority created under this act shall not be dissolved nor shall its powers be diminished, except in a manner provided in this act.

History: Add. 1979, Act 68, Imd. Eff. July 25, 1979

124.405b Southeastern Michigan transportation authority; allocation and conveyance of assets and liabilities by board; comprehensive audit; approval of fund allocations.

Sec. 5b. (1) At the earliest practicable date after the effective date of this section, the board of the southeastern Michigan transportation authority shall allocate and convey to a city with a population of 750,000 or more all assets and liabilities utilized by or attributable to the city in its transportation activities at that date located within the city's service area and not pertaining presently to the transportation activities of any other entity within the authority's service area, including without limitation contract rights respecting real or personal property. All other assets and liabilities not utilized by or attributable to the city shall remain the property of the southeastern Michigan transportation authority.

(2) Before any conveyance may be completed, the council shall authorize and subsequently approve a comprehensive audit of all assets and liabilities. Copies of the audit shall be provided to the department of transportation and the auditor general. The audit shall be made in accordance with Act No. 2 of the Public Acts of 1968, being sections 141.426 to 141.440a of the Michigan Compiled Laws.

(3) Except as provided in section 10(2)(f), prior to the approval of the audit, fund allocations made by the board of the authority shall be subject to the approval of the council.

History: Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.406 Authorities; additional powers and duties.

Sec. 6. Any authority, in addition to its other powers and duties, may:

(a) Adopt rules to accomplish the purposes of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) Plan, acquire, construct, operate, maintain, replace, improve, extend and contract for transportation facilities within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of the authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance.

(c) Acquire and hold, by purchase, lease, grant, gift, devise, bequest, condemnation or other legal means, real and personal property, including franchises, easements or rights of way on, under or above any property within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of any authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance that may be necessary or convenient for carrying out the intent and purposes for which it is established: Provided, however, That the 10 mile extra-territorial distance shall apply only to areas located geographically within the state of Michigan. The authority shall have the right to use space and areas over, under and upon the public streets and highways to carry out its duties subject to reasonable use. In acquiring any private bus company pursuant to section 24, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority: Provided, however, That this act shall apply to bus companies operating solely within the jurisdiction of the authority or whose major portion of bus passengers are within the jurisdiction of the authority: Provided, further, That the authority can,

through mutual agreement of the parties involved, acquire a portion of any bus company if that portion falls within the jurisdiction of the authority whether or not that bus company is subject to the provisions of this act.

(d) Institute condemnation proceedings, but not highway procedure, under the laws of this state which are applicable to the acquisition of private property for public use subject to the provisions of section 24.

(e) Apply for and accept grants, loans or contributions from the federal government or any of its agencies, the state or other public or private agencies to be used for any of the purposes herein and to do any and all things within its express or implied powers necessary or desirable to secure such financial or other aid or cooperation in the carrying out of any of the purposes of this act.

(f) Sell, lease or use any property acquired for the purposes of this act but not needed thereof, and lease advertising space and grant concessions for the sale of newspapers and other articles and for services on or in any portion of the property under the jurisdiction of the authority.

(g) Grant to utilities, public or privately owned, the right to use the property or any part of the property of the transportation facilities. In like manner it may grant to any other transportation facility the right to use for station purposes, or otherwise, any part of the property of the transportation facilities.

(h) Contract, if necessary or advisable, with any other unit of government or private enterprise for service contracts, joint use contracts or contracts for the construction or operation of any part of the transportation facilities within the limits of the unit of government.

(i) Exercise all other powers incidental, necessary or convenient for the exercise of the powers herein granted.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.407 Rates and charges; services; public service commission; jurisdiction; appeals; injunctions.

Sec. 7. Any authority may fix rates, fares, tolls, rents and other charges for the use of the transportation facilities owned and operated for all intraregional travel within the jurisdiction of the authority as well as the services to be rendered by the authority. The authority shall determine by itself exclusively, after appropriate public hearing, the transportation facilities to be operated by it, the services to be available to the public and the rates to be charged therefor. Where the authority has acquired, constructed or initiated a system which includes routes or service which originates in, terminates in or passes through areas not included in the authority then those routes, service and maintenance of service as well as the rates therefor shall be under the jurisdiction of the public service commission in the same manner and to the same degree as any other common motor carrier of passengers for hire operating outside the authority area. If the counties in which these areas are situate become part of the authority the jurisdiction of the public service commission as to the routes, service maintenance of service and rates of the authority in that county shall terminate. Any person aggrieved by any rate or service or change of service fixed by the authority may bring an appeal against the authority in the proper court in any county in the metropolitan area in which the charge, service or change of service is applicable, for the purpose of protesting against any such charge, service or change of service. The grounds for such appeals shall be restricted to an abuse of discretion or an error of law; otherwise, all such actions by the authority are final. Whenever 2 or more appeals are brought against the same action of the authority, exclusive jurisdiction for the determination thereof shall be vested in the first court to receive an appeal, and all other courts receiving subsequent appeals against the same action shall transfer the appeals to the first court. Upon the finding of an error of law or a manifest and flagrant abuse of discretion, the court shall issue an order setting forth the abuse or error and returning the matter to the authority for such further action as is not inconsistent with the findings of the court. No cause of action shall exist on behalf of any person directly or indirectly, under which any court shall have jurisdiction or power to issue or grant any temporary or preliminary injunction or restraining order to prevent or suspend the operation of any order or rule of the

authority which fixes rates, fares, tolls, rents or other charges for the use of or which changes any services of the transportation facilities under the jurisdiction of the authority.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.408 Repealed. 1988, Act 481, Imd. Eff. Dec. 28, 1988.

Compiler's Notes: The repealed section pertained to powers and duties of southeastern Michigan transportation authority.

124.409 Authority exempt from motor carrier act, motor bus transportation act, and public service act.

Sec. 9. In the exercise of its powers within its geographical boundaries, an authority is exempt from the motor carrier act, Act No. 254 of the Public Acts of 1933, being sections 475.1 to 479.20 of the Michigan Compiled Laws; the motor bus transportation act, Act No. 432 of the Public Acts of 1982, being sections 474.101 to 474.141 of the Michigan Compiled Laws; and the public service act.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.410 Provisions applicable only to authorities other than southeastern Michigan transportation authority; provisions applicable only to southeastern Michigan transportation authority.

Sec. 10. (1) The following subdivisions shall apply only to authorities other than the southeastern Michigan transportation authority:

(a) Authorities shall be governed by a board consisting of 9 members. The term of office of the members of the board shall be 3 years, except that of the members first appointed 3 shall be for 1 year, 3 for 2 years, and 3 for 3 years. All terms shall expire on June 30 except that members shall serve until their successors are appointed. The members of the board may be removed by the appointing authority for cause. Any vacancy in office shall be filled by the governor for the remainder of the unexpired term. The members shall annually elect a chairman and vice-chairman from among their members. The board shall hold regular

monthly meetings and special meetings as necessary at times as it determines, and shall designate the time and place of those meetings. It shall adopt its own rules of procedure and shall keep a record of its proceedings. Five members constitute a quorum for the transaction of business and the affirmative vote of a majority of all the members shall be necessary for the adoption of a motion or resolution. The members of a board shall be residents of the counties included in the authority.

(b) A county choosing not to participate in an authority may withdraw by a majority vote of its elected county board of commissioners within 1 year after the establishment of the authority and by a 2/3 vote of the board of commissioners at any time thereafter. If a county withdraws from an authority pursuant to this section, the term of a member of the board from the county which withdraws shall expire at the time of the county's withdrawal.

(c) Each member of the board shall receive reimbursement for expenses incurred in the discharge of his duties as a board member. Each member of the board may receive compensation of not more than \$35.00 for each meeting of the board the member attends, not exceeding 4 meetings per month. The chairman of the board may receive compensation of not more than \$45.00 for each meeting of the board the chairman attends, not exceeding 4 meetings per month. A copy of the proceedings of each board meeting shall be available for public inspection during normal working hours at the offices of the board.

(d) Six members of the board shall be appointed by the governor with the advice and consent of the senate, from lists of 3 or more names each submitted by the county boards of commissioners of member counties and the mayor of cities within the authority with a population of more than 500,000. Three members shall be appointed directly by the governor with the advice and consent of the senate.

(e) An authority shall hold a public hearing on its annual operating and capital budget, financial audits, and construction plans.

(f) An authority shall also maintain close working and coordinating relationships with the state, local, and federal agencies or other agencies to the end that duplication of effort is minimized and that the planning and implementation functions work together in the public interest to carry out the purposes of this act.

(2) The following subdivisions shall apply only to the southeastern Michigan transportation authority:

(a) The board of the southeastern Michigan transportation authority shall be composed of the chief executive officers of each county in which a city having a population of 750,000 or more is located within the area served by the southeastern Michigan transportation authority and of all other counties immediately contiguous to such city, and the representative of each such chief executive officer to be designated in the sole discretion of, and serve at the sole pleasure of, that chief executive officer. A chief executive officer may designate an alternate to serve in his or her place on the board. The counties of Livingston, Monroe, St. Clair, and Washtenaw shall be collectively represented on the board by 1 person from these counties. The counties shall determine their representative member on the board in a manner to be determined by the counties. The county from which the representative member is to be selected shall rotate among the counties at least every 2 years and the member shall be a resident of the county from which the member is to be selected. If 1 or more of the counties of Livingston, Monroe, St. Clair, and Washtenaw withdraw from the authority, the member shall rotate among, and be selected from, the remaining counties.

(b) The board by a majority vote shall adopt bylaws and rules of procedure governing its meetings. A majority vote for the adoption of bylaws and rules of procedure and for the transaction of business shall not be effective unless it includes at least 1 vote from each county in which a city having a population of 750,000 or more is located, and at least 1 vote from each county immediately contiguous to such city.

(c) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings

act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(d) The board shall do the following:

(i) Obtain an annual audit in accordance with sections 6 to 13 of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being sections 141.426 to 141.440a of the Michigan Compiled Laws. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements. A copy of the annual audit shall be filed with the state treasurer in accordance with section 4(2) of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, and a copy shall be filed with the state transportation department in accordance with section 10h(2) of Act No. 51 of the Public Acts of 1951, being section 247.660h of the Michigan Compiled Laws.

(ii) Prepare budgets and appropriations acts in accordance with sections 14, 15(1)(a) to (g), 15(1)(i), 15(2), 16, 17, 18, and 19 of the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being sections 141.434 to 141.439 of the Michigan Compiled Laws.

(iii) If ending a fiscal year in a deficit condition, file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of Act No. 140 of the Public Acts of 1971, being section 141.921 of the Michigan Compiled Laws. A copy of the financial plan shall also be filed with the state transportation department.

(e) The board may change the name of the authority by a majority vote of the members as described in subdivision (b). The board shall notify the state transportation commission within 10 days after a name change is adopted.

(f) The board shall guarantee each of the counties of Livingston, Monroe, St. Clair, and Washtenaw, as long as they remain members of the authority, the average percentage of state transportation funds allocated to the authority that each county received in the last 5 fiscal years before the effective date of this subdivision. The state transportation department shall be responsible for determining these percentages.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1968, Act 233, Imd. Eff. June 26, 1968 ;-- Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970 ;-- Am. 1976, Act 266, Eff. Apr. 15, 1977 ;-- Am. 1988, Act 481, Imd. Eff. Dec. 28, 1988

124.411 Governing boards; general manager; policies, annual audits.
Sec. 11. The board shall:

- (a) Employ a general manager of the authority.
- (b) Establish broad policies covering all major operations of the authority.
- (c) Employ an independent certified public accounting firm to provide annual financial audits.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.412 Governing boards; general manager; appointment, powers, duties, term.

Sec. 12. Before engaging in transportation operations, or at such time as the board deems appropriate and necessary, the board shall appoint a general manager who shall be the chief executive and operating officer of the authority. The general manager shall have management of the properties and business of the authority and the employees thereof. He shall direct the enforcement of all resolutions, rules and regulations of the board, and shall enter into contracts as necessary under the general control of the board. The general manager shall serve at the pleasure of the board.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.413 Governing boards; officers, employees, agents; appointment, classification, merit rating; collective bargaining; assumed wage, hour, and other benefit obligations; returning servicemen.

Sec. 13. (1) The general manager shall have the authority to appoint such officers, employees and agents as necessary to carry out the purposes of the authority under the general policy direction of the board. At such time as the authority operates transportation facilities, the general manager shall classify all the offices, positions and grades of regular employment required under a merit rating system; except that a maximum of 5% of the employees and officers shall be exempt from the provisions of the merit rating system. The authority shall have the right to bargain collectively and enter into agreements with labor organizations, and shall be bound by existing labor union agreements with public or privately owned entities that are acquired, purchased or condemned by the authority. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The board shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees.

(2) No employee of any acquired transportation system who is transferred to a position with the authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired transportation system.

(3) Employees who left the employ of such transportation system to enter the military service of the United States shall have the same rights as to the authority, under the provisions of the service men's employment tenure act approved July 17, 1941, as they would have had thereunder as to such transportation system.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.414 Taxation; methods of financing.

Sec. 14. The authority may not levy taxes nor may it pledge the credit or taxing power of the state or any political subdivision except for the pledging of receipts of taxes, special assessments or charges collected by the state or a political subdivision and returnable or payable by law or by contract to the authority and except for the pledge by a political subdivision of the state of its full faith and credit in support of its contractual obligations to the authority as authorized by law. Transportation facilities shall be financed, in addition to other methods of financing provided by law, as follows:

(a) By fares, rates, tolls and rents.

(b) By other income or revenues from whatever source available, including appropriations or contributions of whatever nature or other revenues of the participating counties and political subdivisions within the geographical boundaries of the authority.

(c) By grants, loans or contributions from federal, state or other governmental units and grants, contributions, gifts, devises or bequests from public or private sources.

(d) By proceeds of taxes, special assessments or charges imposed pursuant to law and collected by the state or a political subdivision and returned or paid to the authority pursuant to law or contract.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970

124.415 Annual operating and capital budget; review, approval; five-year capital program budgets, annual revision; financial audits; construction programs.

Sec. 15. (1) The general manager shall prepare and the board shall approve a separate operating and capital budget for each fiscal year. These budgets shall be approved at least 30 days prior to the beginning of each new fiscal year. In addition, capital program budgets shall be prepared to cover periods of 5 years. The first of these annual capital

program budgets shall be submitted no later than 3 years after the initial formation of the authority. These shall be revised and updated annually prior to submission to the board.

(2) The authority shall submit its annual operating and capital budget, financial audits and construction plans to a regional governmental and coordinating agency where one exists in the region for review and comment a reasonable time prior to final approval by the authority board of directors.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.416 Bonds; contractual obligations; issuance and sale; advancing money or delivering property to authority; resolution authorizing execution of contract; petition; referendum; approval of certain bonds or notes; subway; notes not subject to revised municipal finance act.

Sec. 16. (1) The authority may borrow money and issue bonds to finance and to carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 14 or elsewhere in this act or as may be provided by law. A political subdivision within the geographical boundaries of the authority may contract to make payments, appropriations, or contributions to the authority of the proceeds of taxes, special assessments, or charges imposed and collected by the political subdivision or out of any other funds legally available and may pledge its full faith and credit in support of its contractual obligation to the authority. The contractual obligation shall not constitute an indebtedness of a political subdivision within a statutory or charter debt limitation. If the authority has issued bonds in anticipation of payments, appropriations, or contributions to be made to the authority pursuant to contract by a political subdivision having the power to levy and collect ad valorem taxes, the political subdivision may obligate itself by the contract, and thereupon may levy a tax on all taxable property in the political subdivision, which tax as to rate or amount will be as provided in section 6 of article IX of the state constitution of 1963 for

contract obligations in anticipation of which bonds are issued, to provide sufficient money to fulfill its contractual obligation to the authority.

(2) The bonds of the authority shall be issued and sold in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that the bonds may be issued for any period of years, not exceeding 40 years.

(3) A public corporation may advance money or deliver property to the authority to finance or to carry out its powers and duties. The authority may agree to repay the advances or pay for the property within a period not exceeding 10 years, from the proceeds of its bonds or from other funds legally available for that purpose, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the authority to make the repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the authority.

(4) A political subdivision desiring to enter into a contract under subsection (1) shall authorize, by resolution of its governing body, the execution of the contract, which resolution shall be published in a newspaper of general circulation within the political subdivision, and the contract may be executed without a vote of the electors on the contract upon the expiration of 90 days after the date of the publication unless, within the 90-day period, a petition signed by not less than 5% of the registered electors residing within the limits of the political subdivision is filed with the clerk of the political subdivision requesting a referendum upon the execution of the contract, and in that event the contract shall not be executed until approved by the vote of a majority of the electors of the political subdivision qualified to vote and voting on the contract at a general or special election to be held not more than 90 days after the filing of the petition.

(5) If the bonds or notes sold by the authority involve the pledge or use of state collected or administered funds, the authority shall seek the approval of the state transportation commission.

(6) Notwithstanding any other provision of this section, an authority shall not issue bonds, nor use the revenues of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution by the legislature.

(7) Notes issued and contracts entered into under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970 ;-- Am. 1976, Act 266, Eff. Apr. 15, 1977 ;-- Am. 1978, Act 479, Imd. Eff. Oct. 23, 1978 ;-- Am. 1983, Act 31, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 328, Imd. Eff. May 23, 2002

124.416a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 16a. A petition under section 16, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 183, Eff. Mar. 23, 1999

Compiler's Notes: Former MCL 124.416a, which pertained to transportation districts, was repealed by Act 481 of 1988, Imd. Eff. Dec. 28, 1998.

124.417 Competitive bids; procedure; written price quotations; procurement procedures; waiver; savings to be used for construction of bus shelter.

Sec. 17. (1) Except in the purchase of unique articles or articles which, for any other reason, cannot be obtained in the open market and except as otherwise provided in this section and in section 24, competitive bids shall be secured before any purchase or sale, by contract or otherwise is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs, or maintenance or for rendering any services to the authority other than professional services; and the

purchase shall be made from or the contract shall be awarded to the lowest responsive and responsible bidder; or a sale to the highest responsive and responsible bidder. The authority may reject any and all such bids or proposals. A purchase of any unique article or other articles which cannot be obtained in the open market shall not be made without express approval of the board where the amount involved is in excess of \$25,000.00.

(2) All purchases and sales in excess of \$25,000.00 shall be awarded after advertising in a local newspaper of general circulation in the metropolitan area at least 2 weeks before the bid opening. Bids shall be publicly opened and read aloud at a date, time, and place designated in the invitation to bid. Invitations to bid shall be sent at least 1 week before the bid opening to at least 3 potential bidders who are qualified technically and financially to submit bids, or a memorandum shall be kept on file showing that less than 3 potential bidders who are so qualified exist in the market area within which it is practicable to obtain bids.

(3) Except as otherwise provided in this section, written price quotations from at least 3 qualified and responsible vendors shall be obtained for all purchases and sales of \$25,000.00 or less but over \$5,000.00, or a memorandum shall be kept on file showing that less than 3 vendors so qualified exist in the market area within which it is practicable to obtain quotations.

(4) Purchases or sales under \$5,000.00 may be negotiated with or without competitive bidding under procurement procedures as promulgated and established by the general manager.

(5) Competitive bidding requirements may be waived if it is determined by the general manager, or in such other manner as the board may provide, by regulation, that an emergency directly and immediately affecting service, or public health, safety, or welfare requires immediate delivery of supplies, materials, equipment, or services.

(6) Savings achieved by the 1993 amendatory act that added this subsection shall be used as 1 funding source for funds to construct bus shelters at SMART bus stops. In the case of a state trunkline highway, a bus shelter constructed by SMART may include advertising on the shelter. This project shall be competitively bid and shall be completed within 12 months.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970 ;-- Am. 1993, Act 350, Imd. Eff. Jan. 11, 1994

124.418 Concessions; award, procedure.

Sec. 18. All concessions granted by the authority for the sale of products or the rendition of services for a consideration on authority property shall be awarded only pursuant to written specifications after competitive bidding and to the highest responsible bidder in a manner similar to that required by section 17 relating to contracts for procurement involving an expenditure of more than \$5,000.00. This requirement for competitive bidding shall not apply to any concession involving the estimated receipt by the authority of less than \$1,000.00 over the period for which the concession is granted.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.419 Transportation authority claims; notice, allowance, jurisdiction over actions against authority.

Sec. 19. All claims that may arise in connection with the transportation authority shall be presented as ordinary claims against a common carrier of passengers for hire: Provided, That written notice of any claim based upon injury to persons or property shall be served upon the authority no later than 60 days from the occurrence through which such injury is sustained and the disposition thereof shall rest in the discretion of the authority and all claims that may be allowed and final judgment obtained shall be liquidated from funds of the authority: Provided, further, That only the courts situated in the counties in which the authority principally carries on its function are the proper counties in which to commence and try action against the authority.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.420 Assistance from political subdivisions and public and private agencies.

Sec. 20. All counties, other political subdivisions and agencies, public or private, may assist, cooperate with, and contribute services, money or property in aid of such authorities and their purposes.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.421 Liberal construction of act.

Sec. 21. This act, being necessary for the public peace, health, safety and welfare, shall be liberally construed to effect the purposes hereof which are declared to be public purposes.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.422 Tax exemption of property.

Sec. 22. Authorities and their property, real, personal and mixed, are exempt from assessment, levy and collection of all general and special taxes of the state or any governmental unit.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.423 Annual public report and financial statement.

Sec. 23. The authority shall prepare and publish a detailed public report and financial statement of its operations at the end of each fiscal year.

History: 1967, Act 204, Imd. Eff. July 10, 1967

124.424 Acquisition of transportation operating facilities; negotiation; condemnation or arbitration, election; competition with common carriers.

Sec. 24. The authority shall endeavor to acquire facilities, assets and rights of existing and operating private or public transportation systems, however no liability other than for equipment and facilities shall be assumed or contracted for, by good faith negotiation and contract and in so doing shall not be required to comply with any statutory or charter limitations or prerequisites to such acquisition. If such contract provides only for operation of the transportation system by the authority or for acquisition without consideration, the transaction shall not be deemed to

be a sale of a public utility within any constitutional, statutory or charter limitation or any revenue bond ordinance. In the event that negotiation does not result in a settlement, the authorities shall request in writing to the party owning such facilities and such party shall elect in writing within 15 days of such request between condemnation under the provisions of this act or binding final arbitration under the rules and procedures of the American arbitration association. Such election shall be limited to condemnation or arbitration and shall be final. Until such time as the authority shall have acquired the routes of a common carrier of persons certified by the Michigan public service commission and which common carrier is subject to the provisions of this act and not exempt under the provisions of section 6(c) the authority shall not operate competitive service over the same routes with such common carrier, except for existing competing service which is operated by a company acquired by the authority.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1970, Act 250, Imd. Eff. Dec. 31, 1970

124.425 Availability of records and other writings to public; conducting business at public meeting; notice of meeting.

Sec. 25. Records and any other writings prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be available to the public during normal business hours in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The business which a board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1967, Act 204, Imd. Eff. July 10, 1967 ;-- Am. 1978, Act 70, Imd. Eff. Mar. 21, 1978

124.426 Emergency financial manager.

Sec. 26. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections

141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to an authority established by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

History: Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988

SAFE DRINKING WATER FINANCIAL ASSISTANCE ACT
Act 147 of 2000

AN ACT to authorize certain governmental units to issue notes or bonds for planning for the acquisition, construction, improvement, or installation of safe drinking water facilities; to provide security for the payment of the principal of and interest on the notes or bonds; and to prescribe the powers and duties of certain governmental units.

History: 2000, Act 147, Eff. Oct. 1, 2000

The People of the State of Michigan enact:

141.1451 Short title.

Sec. 1. This act shall be known and may be cited as the “safe drinking water financial assistance act”.

History: 2000, Act 147, Eff. Oct. 1, 2000

141.1452 Definitions.

Sec. 2. As used in this act:

(a) “Assistance” means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(b) “Community water supply” means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(c) “Department” means the department of environmental quality.

(d) “Governmental unit” means a governmental unit as defined in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053, that is eligible for reimbursement of project planning costs under section 5404(3)(b) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5404.

(e) “Noncommunity water supply” means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(f) “Water supplier” means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

History: 2000, Act 147, Eff. Oct. 1, 2000

141.1453 Notes or bonds; issuance; use; limitation; sale to Michigan municipal bond authority.

Sec. 3. Subject to this act, a governmental unit may issue notes or bonds and use the proceeds of the notes or bonds for planning for the acquisition, construction, improvement, or installation of real or personal property comprising all or a portion of a community water supply or noncommunity water supply. For any governmental unit, the aggregate principal amount of all notes and bonds issued under this act less the principal amount used by the governmental unit to purchase notes or bonds issued by another governmental unit under this act shall not exceed \$100,000.00. The notes or bonds issued under this act shall be sold to the Michigan municipal bond authority or to another governmental unit if the other governmental unit purchases the notes or bonds with proceeds of notes or bonds issued under this act and sold to the Michigan municipal bond authority. The notes or bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Each governmental unit is authorized to use proceeds of notes or bonds issued by it under this act and sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

History: 2000, Act 147, Eff. Oct. 1, 2000 ;-- Am. 2002, Act 289, Imd. Eff. May 9, 2002

141.1454 Notes or bonds; issuance; authorization by resolution; provisions.

Sec. 4. Notes or bonds issued under this act shall be authorized by a resolution of the governing body of the governmental unit, which may pledge the full faith and credit of the governmental unit to the payment of the principal of and interest on the notes or bonds. The resolution of the governing body of the governmental unit authorizing the issuance of notes or bonds under this act may authorize the governmental unit to enter into loan agreements, security agreements, pledge agreements, including, but not limited to, the pledge of water supply revenues, mortgages, assignments, or other agreements determined to be necessary to the issuance of the notes or bonds and may authorize the governmental unit to use proceeds of the notes or bonds sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

History: 2000, Act 147, Eff. Oct. 1, 2000 ;-- Am. 2002, Act 289, Imd. Eff. May 9, 2002

141.1455 Construction of act; purpose; restriction.

Sec. 5. This act shall be construed as cumulative authority for the exercise of the powers granted under this act. The purpose of this act is to create full and complete additional and alternate methods for the exercise of these powers, and the powers conferred by this act shall not be affected or limited by any other statute or by any charter or incorporating document, except as otherwise provided in this act. However, this act does not authorize the governing body of any governmental unit to levy taxes in excess of constitutional, statutory, or charter limitations without the approval of its electors, as provided by law.

History: 2000, Act 147, Eff. Oct. 1, 2000

PUBLIC HIGHWAYS AND PRIVATE ROADS (EXCERPT)
Act 283 of 1909

220.1 Highways and private roads; establishment and maintenance; authority of municipalities; highway officials, duties.

Sec. 1. Public highways and private roads may be established, opened, improved and maintained within this state under the provisions of this act, and the counties, townships, cities, villages and districts of this state shall possess the authority herein prescribed for the building, repairing and preservation of bridges and culverts; the draining of highways, cutting of weeds and brush in the improvement of highways and the duties of state, county, township, city, village and district highway officials shall be as defined in this act.

History: 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4287 ;-- CL 1929, 3916 ;-- CL 1948, 220.1

**NATURAL RESOURCES AND ENVIRONMENTAL
PROTECTION ACT (EXCERPT)**

Act 451 of 1994

Part 41

SEWERAGE SYSTEMS

324.4101 Definitions.

Sec. 4101. As used in this part:

(a) "Conventional gravity sewer extension" means the installation of a new gravity sewer and connection to an existing collection system to provide sewer service to new areas previously not served by the public sewer system.

(b) "Expedited review" means an expedited review of an application for a construction permit under section 4112.

(c) "Fund" means the infrastructure construction fund created in section 4113.

(d) "Governmental agencies" means local units of government, metropolitan districts, or other units of government or the officers of the units of government authorized to own, construct, or operate sewerage systems to serve the public.

(e) "Licensed professional engineer" means a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(f) "Plans and specifications" means a true description or representation of the entire sewerage system and parts of a system as the sewerage system exists or is to be constructed, and also a full and fair statement of how the system is to be operated.

(g) "Project" means a proposal to install within 1 general area a new wastewater collection system. Systems proposed for construction on separate land parcels shall be considered separate projects.

(h) "Sewerage system" means a system of pipes and structures including pipes, channels, conduits, manholes, pumping stations, sewage or waste treatment works, diversion and regulatory devices, outfall structures, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting, conveying, transporting, treating, or otherwise handling sanitary sewage or other industrial liquid wastes that are capable of adversely affecting the public health.

(i) "Simple pumping station and force main" means the installation of a duplex pumping station and a force main with only 1 high point and of length of no more than 2,000 feet that is to be connected to an existing gravity collection system to provide sewer service to new areas previously not served by the public sewer system.

(j) "Small diameter pressure sewer and grinder pumping station" means a single project that includes the installation of new pressure sewers totaling not more than 5,000 feet and not more than 25 grinder pumping stations with each grinder pumping station serving not more than 5 separate owners and that is to be connected to an existing gravity

collection system to provide sewer service to new areas previously not served by the public sewer system.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2006, Act 602, Imd. Eff. Jan. 3, 2007

Popular Name: Act 451

Popular Name: NREPA

324.4102 Department of natural resources; powers.

Sec. 4102. The department is given power and control as limited in this part over persons engaged in furnishing sewerage or sewage treatment service, or both, and over sewerage systems.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Environmental Assistance Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled MCL 324.99901 of the Michigan Compiled Laws. For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 342.99901 of the Michigan Compiled Laws.

Popular Name: Act 451

Popular Name: NREPA

324.4103 Sewerage systems; inspection by department.

Sec. 4103. The department may enter at reasonable times the sewerage systems and other property of a person for the purpose of inspecting a sewerage system and carrying out the authority vested in the department by this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4104 Sewerage systems; rules; classification of sewage treatment works; examinations; issuance and revocation of certificates; supervision by certified operator.

Sec. 4104. The department may promulgate and enforce rules as the department considers necessary governing and providing a method of conducting and operating all or a part of sewerage systems including

sewage treatment works. The department shall classify sewage treatment works with regard to size, type, location, and other physical conditions affecting those works and according to the skill, knowledge, experience, and character that the person who is in charge of the active operation of the sewage treatment works has to possess in order to successfully operate the works, to prevent the discharge of deleterious matter capable of being injurious to the health of the people, or to other public interests. The department shall examine or provide for the examination of persons as to their qualifications to operate sewage treatment works. The department shall promulgate rules regarding the classification of sewage treatment works, the examinations for certification of operators for those works, and the issuance and revocation of certificates, and shall issue and revoke certificates in accordance with those rules. Every sewage treatment works subject to this part shall be under the supervision of a properly certified operator, except that this section does not require the employment of a certified operator in a waste treatment works that receives only wastes that are not potentially prejudicial to the public health.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

Admin Rule: R 299.2901 et seq. and R 299.2903 et seq. of the Michigan Administrative Code.

324.4105 Sewerage systems; plans and specifications; rules; permit for construction; minor modifications; misdemeanor.

Sec. 4105. (1) The mayor of each city, the president of each village, the township supervisor of each township, the responsible executive officer of a governmental agency, and all other persons operating sewerage systems in this state shall file with the department a true copy of the plans and specifications of the entire sewerage system owned or operated by that person, including any filtration or other purification plant or treatment works as may be operated in connection with the sewerage system, and also plans and specifications of all alterations, additions, or improvements to the systems that may be made. The plans and specifications shall, in addition to all other requirements, show all the sources through or from which water is or may be at any time pumped or

otherwise permitted to enter into the sewerage system, and the drain, watercourse, river, or lake into which sewage is to be discharged. The plans and specifications shall be certified by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person that operates the sewerage system, as well as by the engineer, if any are employed by any such operator. The department may promulgate and enforce rules regarding the preparation and submission of plans and specifications and for the issuance and period of validity of construction permits for the work.

(2) A person shall not construct a sewerage system or any filtration or other purification plant or treatment works in connection with a sewerage system except as authorized by a construction permit issued by the department pursuant to part 13. An application for a permit shall be submitted by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person proposing the construction. If eligible, a person may request an expedited review of an application for a construction permit under section 4112. An application for a permit shall include plans and specifications as described in subsection (1). If considered appropriate by the department, the department may issue a permit with conditions to correct minor design problems.

(3) The department may verbally approve minor modifications of a construction permit issued by the department as a result of unforeseen site conditions that become apparent during construction. Minor modifications include, but are not limited to, a minor change of location of the sewer or location of manholes. The person making the request for a modification shall provide to the department all relevant information pursuant to R 299.2931 to R 299.2945 of the Michigan administrative code and the application form provided by the department related to the requested modification. Written approval from the department shall be obtained for all modifications except when the department provides verbal approval for a minor modification as provided for in this subsection. The person receiving a written or verbal approval from the

department shall submit revised plans or specifications to the department within 10 days from the date of approval.

(4) If a person seeks confirmation of the department's verbal approval of a minor modification under subsection (3), the person shall notify the department electronically, at an address specified by the department, with a detailed description of the request for the modification. The department shall make reasonable efforts to respond within 2 business days, confirming whether the request has been approved or not approved. If the department has not responded within 2 business days after the department receives the detailed description, the verbal approval shall be considered confirmed.

(5) A municipal officer or an officer or agent of a person who permits or allows construction to proceed on a sewerage works without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004 ;-- Am. 2006, Act 602, Imd. Eff. Jan. 3, 2007

Popular Name: Act 451

Popular Name: NREPA

Admin Rule: R 299.2901 et seq. of the Michigan Administrative Code.

324.4106 Sewage treatment works; reports; false statement; penalty.

Sec. 4106. (1) A person who operates a sewage treatment works shall file with the department reports under oath as required by the department. The reports shall be sworn to by a responsible officer or person acquainted with the facts and employed by the person required to report under this part.

(2) A person making a false statement in a report under subsection (1) is guilty of perjury and subject to the penalty for that offense.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4107 Inspection of plans and specifications; inspection of sewerage systems; recommendations or orders; compliance.

Sec. 4107. (1) The department on receipt of plans and specifications for a sewerage system shall inspect them with reference to their adequacy to protect the public health, and if the public water supply of the city or village is impure and dangerous to individuals or to the public generally, he or she shall inspect the sewerage systems or any parts of the sewerage system and the manner of its operation. If upon inspection the department finds the plans and specifications or the sewerage systems are inadequate or operated in a manner that does not adequately protect the public health, he or she may order the person owning or operating the sewerage system to make alterations in the plans and specifications or in the sewerage systems or the method of operation of the sewerage system as may be required or advisable in his or her opinion, in order that the sewage is not potentially prejudicial to the public health.

(2) The recommendations or orders of the department shall be served in writing upon the owner or operator of the sewerage system and the owner and operator shall comply with the recommendations or orders.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4108 Sewerage system; planning, construction and operation; cooperation; compliance; "private, investor-owned wastewater utility" defined.

Sec. 4108. (1) The department shall exercise due care to see that sewerage systems are properly planned, constructed, and operated to prevent unlawful pollution of the streams, lakes, and other water resources of the state. The department shall cooperate with appropriate federal or state agencies in the determination of grants of assistance for the preparation of plans or for the construction of waterworks systems, sewerage systems, or waste treatment projects, or both.

(2) The activities of a private, investor-owned wastewater utility shall comply with all applicable provisions of this act, local zoning and other ordinances, and the construction and operation requirements of the federal water pollution control act and the national environmental policy act of 1969, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

(3) As used in this section, "private, investor-owned wastewater utility" means a utility that delivers wastewater treatment services through a sewerage system and the physical assets of which are wholly owned by an individual or group of individual shareholders.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- 2005, Act 191, Imd. Eff. Nov. 7, 2005

Popular Name: Act 451

Popular Name: NREPA

324.4109 Engineers and other assistants; employment.

Sec. 4109. The department may employ engineers and other assistants as may be necessary to administer this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4110 Commencement of civil action by attorney general; jurisdiction; additional relief; violation as misdemeanor; penalty; appearance ticket; enforcement; "minor offense" defined.

Sec. 4110. (1) The department may request that the attorney general commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a provision of a permit or order issued under this part or a rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance.

(2) In addition to any other relief granted under subsection (1), a person who violates this part is subject to the following:

(a) If the person fails to obtain a permit required under this part, the court shall impose a civil fine of not less than \$1,500.00 or greater than \$2,500.00 for the first violation, not less than \$2,500.00 or greater than \$10,000.00 for the second violation, and not less than \$10,000.00 or greater than \$25,000.00 for each subsequent violation.

(b) If the person violates this part or a provision of a permit or order issued under this part or rule promulgated under this part other than by failure to obtain a permit, the court shall impose a civil fine of not less than \$500.00 or greater than \$2,500.00 for the first violation, not less than \$1,000.00 or greater than \$5,000.00 for the second violation, and not less than \$2,500.00 or greater than \$10,000.00 for each subsequent violation. For the purposes of this subdivision, all violations of a specific construction permit are treated as a single violation.

(3) Subject to section 4105(5), a person who violates this part or a written order of the department is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and payment of the costs of prosecution.

(4) A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g.

(5) The attorney general shall enforce this part.

(6) As used in this section, "minor offense" means a violation of a permit issued under this part that does not functionally impair the operation or capacity of a sewerage system.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2006, Act 602, Imd. Eff. Jan. 3, 2007

Popular Name: Act 451

Popular Name: NREPA

324.4111 Actions brought by department.

Sec. 4111. The department may bring an appropriate action in the name of the people of this state as may be necessary to carry out this part and to enforce any and all laws, rules, and regulations relating to this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4112 Construction permit applications; expedited review process.

Sec. 4112. (1) Not later than October 1, 2007, the department shall establish an expedited review process for construction permit applications for projects described in subsection (2) that are located in a county with a population of between 750,000 and 1,000,000 and any contiguous county with a population greater than 160,000. The expedited review process shall be available through September 30, 2010. To be eligible for expedited review, an applicant shall submit all of the items under subsection (4) not later than September 30, 2010.

(2) Subject to subsection (3), the following projects are eligible for expedited review:

(a) A conventional gravity sewer extension of 10,000 feet or less of sewer line.

(b) A simple pumping station and force main.

(c) A small diameter pressure sewer and grinder pumping station.

(3) An expedited review shall not be conducted for a project that is being funded by the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(4) A person requesting an expedited review shall do all of the following:

(a) At least 10 business days prior to submitting an application under subdivision (b), notify the department electronically, in accordance with the instructions provided on the department's website, of his or her intent to request expedited review.

(b) Submit electronically a complete application for a construction permit including a request for expedited review and including, via credit card, the appropriate fee under subsection (5).

(c) Provide a written copy of the construction plans and specifications for the project that has been prepared, signed, and sealed by a licensed professional engineer to the department postmarked not later than the same date that the application is submitted electronically.

(d) For nongovernmental entities, provide certification to the department that all necessary contractual service agreements and financial plans are in place.

(5) Except as provided in subsection (7), the fee for an expedited review is as follows:

(a) For a conventional gravity sewer extension less than 2,000 feet, \$1,000.00.

(b) For a conventional gravity sewer extension equal to or greater than 2,000 feet but less than 4,000 feet of sewer line, \$1,500.00, and for each incremental increase of up to 2,000 feet of sewer line, an additional \$500.00.

(c) For a simple pumping station and force main, \$2,000.00.

(d) For a small diameter pressure sewer and grinder pumping station consisting of not more than 2,000 feet of sewer line and not more than 10 grinder pumping stations, \$2,000.00.

(e) For small diameter pressure sewer and grinder pumping station projects not covered by subdivision (d) and not more than 5,000 feet of sewer line and not more than 25 grinder pumping stations, \$4,000.00.

(6) Except as provided in subsection (8), if an applicant does not comply with subsection (4), the department shall not conduct an expedited review and any submitted fee shall not be refunded. Within 10 business days after receipt of the application, the department shall notify the applicant of the reasons why the department's review of the application will not be expedited. Upon receipt of this notification, a person may correct the deficiencies and resubmit an application and request for an expedited review with the appropriate fee specified under subsection (7). The department shall not reject a resubmitted application and request for expedited review solely because of deficiencies that the department failed to fully identify in the original application.

(7) For a second submission of an application that originally failed to meet the requirements specified in subsection (6), the applicant shall instead include a fee equal to 10% of the fee specified in subsection (5). However, if the deficiency included failure to pay the appropriate fee, the second submission shall include the balance of the appropriate fee plus 10% of the appropriate fee. If the applicant makes additional changes other than those items identified by the department as being deficient, the applicant shall instead include an additional fee equal to the fee specified in subsection (5). For the third and each subsequent submittal of an application that failed to meet the requirements specified in subsection (6), the applicant shall include an additional fee equal to the fee specified in subsection (5).

(8) If an applicant fails to sign the application, submits construction plans and specifications that have not been prepared, signed, and sealed by a licensed professional engineer, or submits an insufficient fee, the department shall notify the applicant within 5 business days of the deficiency. The application shall not be processed until the deficient items are addressed. If the applicant does not provide the deficient items within 5 business days after notification by the department, the application shall be handled as provided in subsection (6).

(9) The department shall review and make a decision on complete applications submitted with a request for expedited review pursuant to the following schedule:

(a) Until September 30, 2008, a permit decision shall be made within 20 business days of receipt by the department of the complete application.

(b) From October 1, 2008 through September 30, 2009, a permit decision shall be made within 15 business days of receipt by the department of the complete application.

(c) From October 1, 2009 through September 30, 2010, a permit decision shall be made within 10 business days of receipt by the department of the complete application.

(10) If the department fails to meet the deadlines specified in subsection (9), the department shall continue to expedite the application review process for an application submitted under this section. However, the fee for an expedited review required under this section shall be refunded if the department fails to meet the deadlines established in subsection (9).

(11) The department shall transmit fees collected under this section to the state treasurer for deposit into the fund.

(12) As used in this section, "complete application" means that a department-provided application form is completed, all requested information has been provided, and the application can be processed without additional information.

History: Add. 2006, Act 602, Imd. Eff. Jan. 3, 2007

Popular Name: Act 451

Popular Name: NREPA

324.4113 Infrastructure construction fund; administration of expedited review process; reports.

Sec. 4113. (1) The infrastructure construction fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to administer this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of the following:

(a) Maintenance of program data.

(b) Development of program-related databases and software.

(c) Compliance assistance, education, and training directly related to this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(d) Program administration activities.

(5) By January 1, 2009 and by January 1 of each year thereafter until January 1, 2011, the department shall prepare and submit to the governor, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the department's administration of the expedited review process under section 4112 and the expedited review process under section 4a of the safe drinking water act, 1976 PA 399, MCL 325.1004a, in the previous fiscal year. This report shall include, at a minimum, all of the following as itemized for each expedited review process:

- (a) The number of requests for expedited review received by the department.
- (b) The percentage and number of requests for expedited review that were properly submitted.
- (c) The percentage and number of requests for expedited review that were reviewed for completeness within statutory time frames.
- (d) The percentage and number of requests for expedited review for which a final action was taken by the department within statutory time frames. The type of final action shall be indicated.
- (e) The amount of revenue in the fund at the end of the fiscal year.
- (6) For the first 3 years of the expedited review process, the department shall submit quarterly summary reports of items under subsection (5)(a) to (d) to the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department.

History: Add. 2006, Act 602, Imd. Eff. Jan. 3, 2007

Popular Name: Act 451

Popular Name: NREPA

Part 43

WATERWORKS SYSTEMS, SEWERS, AND DISPOSAL PLANTS

324.4301 Waterworks systems, sewers, and disposal plants; acquisition, construction, equipping, operation, and maintenance; acquisition of land; powers of local units of government.

Sec. 4301. A local unit of government in this state, either individually or jointly by agreement with another local unit of government, may own, acquire, construct, equip, operate, and maintain, either within or outside of the statutory or corporate limits of the local unit or units of

government, intercepting sewers, other sanitary and storm sewers, pumping stations, and a plant or plants for the treatment, processing, purification, and disposal in a sanitary manner approved by the department, of the liquid and solid wastes, refuse, sewage and night soil, storm water, and garbage of the local unit or units of government. A local unit of government, either individually or jointly by agreement with another local unit of government, may own, acquire, construct, equip, operate, and maintain either within or outside of the statutory or corporate limits of the local unit or units of government waterworks systems approved by the department of public health, including such facilities as water mains, treatment works, source facilities, pumping stations, reservoirs, storage tanks, and other appurtenances for the purpose of obtaining, treating, and delivering pure and wholesome water in adequate quantity to the local unit or units of government. They may acquire by gift, grant, purchase, or condemnation necessary lands either within or outside of the statutory or corporate limits of the local unit or units of government. However, a township shall not condemn land outside its corporate limits. For the purpose of acquiring property for the uses described in this part, the local unit of government has all the rights, powers, and privileges granted to public corporations under Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.25 of the Michigan Compiled Laws. These powers are in addition to any powers granted to the local unit of government by statute or charter.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular Name: Act 451

Popular Name: NREPA

324.4302 Waterworks systems, sewers, and disposal plants; mortgage bonds.

Sec. 4302. (1) The waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system, are public utilities within the meaning of any constitutional or statutory provisions for the

purpose of acquiring, purchasing, owning, operating, constructing, equipping, and maintaining the waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system. A local unit of government may issue full faith and credit bonds or mortgage bonds for the purposes described in this part beyond the general limits of the bonded indebtedness prescribed by law except as provided in this section. The mortgage bonds as provided in this section shall not impose any general liability upon the local unit of government but shall be secured only on the property and revenues of the utility as provided in this section, including a franchise, stating the terms upon which the purchaser may operate the utility in case of foreclosure. The franchise shall not extend for a longer period than 20 years from the date of the sale on foreclosure. The total amount of mortgage bonds shall not exceed 60% of the original cost of the utility except as provided in this section. Bonds shall not be issued as general obligations of the local unit of government except upon a 3/5 affirmative vote of the qualified electors of the local unit of government and except as provided in this section, not in excess of 3% of the assessed valuation of the real and personal property of the local unit of government as shown by the last preceding tax roll. Bonds shall not be issued as full faith and credit bonds or mortgage bonds of the utility except upon a 3/5 affirmative vote of the legislative body of the local unit of government.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Except for revenue bonds described in subsection (2), all other bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2002, Act 327, Imd. Eff. May 23, 2002

Popular Name: Act 451

Popular Name: NREPA

324.4303 Waterworks systems, sewers, and disposal plants; supervision and control by local units of government; rules; establishment, certification, and assessment of rates or charges.

Sec. 4303. The legislative body of a local unit of government or the respective legislative bodies of the local units of government who have agreed to jointly own and operate waterworks systems, intercepting sewers, or sewage treatment plants, may create a separate board or may designate certain officials of the local unit or units of government to have the supervision and control of the waterworks systems, intercepting sewers, transfer stations, or sewage and refuse and garbage processing or disposal plants. The legislative body, respective legislative bodies, or the board may make all necessary rules governing the use, operation, and control of the facilities and systems. The legislative body or respective legislative bodies may establish just and equitable rates or charges to be paid to them for the use of the waterworks system or disposal or processing plant and system by each person whose premises are served, and the rates or charges may be certified to the tax assessor and assessed against the premises served and collected or returned in the same manner as other county or municipal taxes are certified, assessed, collected, and returned.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4304 Mortgage bonds; manner of payment; sinking fund.

Sec. 4304. Bonds that are issued and secured by a mortgage on the utility as provided in this part shall not be a general obligation of the local unit of government, but shall be paid only out of revenues received from the service charges as provided in section 4303 or from a sale of the property and franchises under a foreclosure of the mortgage. If a service rate is charged, a sufficient portion shall be set aside as a sinking fund for the payment of the interest on the bonds and the principal of the bonds at maturity.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4305 Sewers and disposal plants; granting franchise to private corporation.

Sec. 4305. Instead of owning and operating a sewer system and sewage disposal plant, transfer station, garbage or refuse collection, processing, and disposal plant or system as provided in section 4301, a local unit of government may grant a franchise for a period not to exceed 30 years to a private corporation organized under, or authorized by, the laws of this state to engage in such business, to build, construct, own, and operate a sewage or garbage and refuse processing or disposal system for the purpose of receiving and treating sewage and night soil, refuse, and garbage from the local unit or units of government. The franchise may authorize the corporation to charge each person owning property, from which the sewage, refuse, or garbage is received, a fee determined to be reasonable by the public service commission of this state, upon proper application made either by the corporation or local unit or units of government, and after holding a public hearing. The franchise may also grant to the corporation the right and privilege to provide collection services and to lay all intercepting and other sewers and connecting pipes in the streets and public alleys of the local unit or units of government as are necessary to receive, transfer, and conduct the sewage, garbage, or refuse to the processing or disposal plant and under reasonable rules, regulations, and supervision as are established by the local unit or units of government. The franchise is void unless approved by 3/5 of the electors of the local unit or units of government voting at a general or special election. This franchise shall not duplicate existing private solid waste management services or facilities that have been developed under part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4306 Contract to receive, treat, transfer, and process sewage, night soil, garbage, and refuse; charges.

Sec. 4306. The local unit or units of government may enter into a contract with a person to receive, treat, transfer, and process in the manner provided in this part, the sewage, night soil, garbage, and refuse of the local unit or units of government. The contract may authorize the

person to charge the owners of the premises served a service rate determined by the local unit or units of government to be just and reasonable, or the local unit or units of government may contract to pay a flat rate for the service, paid out of their general fund or funds, or assess the owners of the property served a reasonable charge to be collected as provided in this part and paid into a fund to be used to defray the contract charges.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4307 Sewage system, solid waste facility, or waterworks system; bonds generally.

Sec. 4307. (1) In accordance with and to the extent authorized by law, when the department, the department of public health, or a court of competent jurisdiction in this state has ordered, or when the department has issued a permit for, the installation, construction, alteration, improvement, or operation of a sewage system, solid waste facility, or waterworks system in a local unit of government, and the plans for the facility or system have been prepared and approved by the state department or commission having the authority by law to grant the approval, the legislative body or the respective legislative bodies of the local unit or units of government may issue and sell the necessary bonds for the construction, installation, alteration, operation, or improvement, including the treatment works, and other facilities as may be ordered or set forth in the permit as being necessary to provide for the effective operation of the system. This provision shall be construed to allow a local unit of government the option of selling bonds under a department order or permit, or of taking or permitting the matter to go into court and selling bonds under a court order. The legislative body or the respective legislative bodies shall determine the denomination of the bonds and the date, time, and manner of payment. The amount of the bonds either issued or outstanding shall not be included in the amount of bonds that the local unit or units of government are authorized to issue under any statutes of this state or charters. Local units of government issuing bonds under this section may raise a sum annually by taxation as the legislative body or respective legislative bodies consider necessary to pay interest

on the bonds, and to pay the principal as it falls due. The annual amount may be in excess of the authorized annual tax rate fixed by statute or charter.

(2) Except as otherwise provided in this part, all bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Court ordered bonds do not require approval of the electors and are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5, as to publication of notice, petition, and referendum. Bonds other than court ordered bonds issued under this part require approval of the electors at a general or special election only if an appropriate petition is filed as provided by law.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2002, Act 213, Imd. Eff. Apr. 29, 2002

Popular Name: Act 451

Popular Name: NREPA

324.4308 Waterworks systems, sewers, or disposal systems; court order; plans and specifications; authorization and issuance of bonds.

Sec. 4308. If an order is made by a court of competent jurisdiction pursuant to this part, the fact that the order was issued shall be recited in the official minutes of the legislative body or the respective legislative bodies. The body or bodies shall require that plans and specifications be prepared for a waterworks, sewage, garbage, or refuse transfer, processing, or disposal system, including the necessary other facilities. After the plans are approved by the legislative body or respective legislative bodies, they shall be submitted to the department of public health or the department for approval. If the plans are approved, the legislative body or respective legislative bodies shall authorize the issuance and sale of the necessary bonds to construct the proposed system or facilities in accordance with the approved plans.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4309 Construction of part.

Sec. 4309. The authority given by this part is in addition to and not in derogation of any power existing in any of the local units of government under any statutory or charter provisions which they may now have or may adopt.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4310 Waterworks systems, sewers, or disposal plants; court proceedings.

Sec. 4310. Proceedings under this part shall be taken only in a court of competent jurisdiction in the county in which the proposed waterworks system, interceptors, sewage, garbage, or refuse transfer, processing, or disposal plants are to be constructed.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4311 Waterworks systems, sewers, or disposal plants; agreements between local units of government and municipalities as to bonds.

Sec. 4311. If considered expedient for the safety and health of the people, local units of government may enter into agreement with each other to raise money and issue bonds to erect and maintain waterworks systems, intercepting sewers, sewage treatment plants, or garbage or refuse transfer, processing, or disposal systems.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4312 Local units of government; contract power; approval.

Sec. 4312. If local units of government desire to act under this part, the relationship established between such local units of government shall be fixed by contract and such contracts may be made by local units of government under this part in a manner and to the extent that natural persons might make contracts for like purposes. Such contracts before

becoming operative shall be approved by a vote of the majority of the members elect of each of the respective legislative bodies of the local units of government operating under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

**MICHIGAN ENERGY EMPLOYMENT ACT OF 1976
(EXCERPT)
Act 448 of 1976**

460.831 Joint agency; formation; creation; purpose; determination of best interest.

Sec. 31. A joint agency is formed when the governing bodies of 2 or more municipalities by resolution determine that it is in the best interest of the municipalities in accomplishing the purposes of this act to create a joint agency for the purpose of undertaking the planning, financing, development, acquisition, construction, reconstruction, improvement, enlargement, betterment, operation, or maintenance of a project or projects to supply electric power and energy for their present or future needs as an alternative or supplemental method of obtaining the benefits and assuming the responsibilities of ownership in a project. In determining whether the creation of a joint agency for this purpose is in the best interest of a municipality, the governing body of each municipality shall consider, but shall not be limited to, the following:

- (a) Whether a separate entity may be able to finance the cost of projects in a more economic and efficient manner.

- (b) Whether financial market acceptance may be enhanced if 1 entity is responsible for issuing and selling all of the bonds required for a project or projects in a timely and orderly manner and with a uniform credit rating, instead of multiple entities marketing their separate issues of bonds.

(c) Whether savings and other advantages may be obtained by providing a separate entity responsible for the acquisition, construction, ownership, and operation of a project or projects.

(d) Whether the existence of a separate entity will foster the continuation of joint planning and undertaking of projects, and the resulting economies and efficiencies to be realized from the joint planning and undertaking will serve the interests of the residents of the municipality. The determination made by the governing body of a municipality hereunder shall be conclusive.

History: 1976, Act 448, Imd. Eff. Jan. 13, 1977 ;-- Am. 2008, Act 21, Imd. Eff. Mar. 7, 2008