

**17:2 COUNTY DEPARTMENT AND BOARD OF PUBLIC WORKS-ACT 185 OF 1957****17:2.1 Definitions**

**Members elect:** when applied to the County Board of Commissioners, both members elected and appointed.

**Acquire:** acquisition by purchase, construction, or any other method.

**Water supply system:** plants, works, equipment, and properties, used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water, or any portion or any combination thereof.

**Sewage disposal system:** sanitary sewers, storm sewers, combined sanitary and storm sewers, plants, works, equipment, and properties, used or useful in connection with the collection, treatment, or disposal of sewage including storm water, sanitary sewage, or industrial wastes, or any combination thereof.

**Refuse system:** disposal, including all equipment and facilities for storing, handling, processing, and disposing of refuse, including plants, works, equipment, and properties, used or useful in connection with the salvage or disposal of refuse.

**Refuse:** decomposable and non-decomposable solid wastes, except body wastes, and includes garbage, rubbish, incinerator ash, incinerator residue, street cleanings, and industrial wastes.

**Lake improvements:** any improvements, authorized by law made to any waters of the state.

**Erosion control:** installation of structures designed to control erosion or protect property adjacent to the great lakes or property affected by levels of the great lakes from erosion.

**Municipality:** a county, city, village, township, charter township, district, or authority existing under the laws of this state.

**Resolution:** a resolution or an ordinance.

**Governing body:** in the case of the County, the County Board of Commissioners; in the case of a city, the City Council; in the case of a village, the Village Council; in the case of a Township, the Township Board; in the case of a charter Township, the Township Board; in the case of a Drainage District, the Drain Commissioner or Drainage Board.

**17:2.2 Introduction**

Purpose of the Act is to authorize the incurring of contract obligations and the issuance and payment of bonds or notes; to provide for a pledge by a municipality of its full faith and credit; and to prescribe a procedure for special assessments and condemnation.

**17:2.3 Creation****(1) Resolution by Board of Commissioners (2/3 Vote)**

May establish a Department of Public Works (DPW) for the administration of the powers conferred upon the County by this Act.

**(2) Members**

The Board of public works shall consist of 5,7, or 9 members. Terms shall be staggered for not more than three years. The members shall be as follows: the County Drain Commissioner, four, six, or eight other members appointed by the County Board of Commissioners. The Board of Commissioners by a 2/3 vote of all its members may designate as the Board of public works, with all the authority, powers, and duties to the Board of County Road Commissioners, the County Drain Commissioner or the Public Works Commissioner.

**(3) Election of Officers**

The Board shall elect each year during the month of January from its own membership, a chairman, a vice chairman and a secretary. They can also elect a deputy secretary who may or may not be a member of the Board.

**17:2.4 Powers****(1) Water Supply Systems**

The Board may acquire a water supply system within one or more areas in the County and improve, enlarge, extend, operate, and maintain the system.

**(2) Sewage Disposal Systems**

The Board may acquire a sewage disposal system within one or more areas in the county and improve, enlarge, extend, operate, and maintain the system.

**(3) Refuse Systems**

The Board may acquire a refuse system within one or more areas in the County and improve, enlarge, extend, operate, and maintain the system.

**(4) Lake Improvements**

The Board may make lake improvements to one or more lakes in the County and improve, enlarge, extend, operate, and maintain improvements.

**(5) Erosion Control**

The Board may acquire an erosion control system within one or more areas in the County and improve, enlarge, extend, operate, and maintain the improvements.

**17:2.5 Financing****(1) Bonds**

Bonds issued under this Act need to be approved by the Board of public works by a resolution and adopted by the County Board of Commissioners. The Board of Commissioners by a 3/5 vote can pledge the full faith and credit of the County.

**(2) Moneys Advanced by County with Agreement**

Moneys may be advanced by the County operating under this Act with agreements with a municipality or municipalities for the repayment.

**(3) Moneys Advanced by Public or Private Corporations**

Any moneys advanced by a public or private corporation, prior to or during construction shall be reimbursed to the person, firm, or corporation, with interest or without interest if agreed, when funds are available.

**17:2.6 Assessments****(1) Service Charges**

Charges to users of the system or improvement.

**(2) Connection Charges**

Fees charged to connect to a system.

**(3) Special Assessment to Benefited Lands**

The Board can determine that the whole or part of the cost of any project shall be assessed against the properties benefited.

a) Plans-The Board shall have plans prepared by a professional engineer, showing the project.

b) Estimate of Costs-The plans prepared by the engineer also must show an estimate of the project cost.

c) District-The engineer shall draw a district, showing all properties that will be benefited by the project.

d) Notice-A notice of the public hearing shall be published in a newspaper circulating in the special assessment district, twice prior to the hearing, the first being at least ten days prior to the hearing. However, the local municipalities typically collect the assessments related to a project.

e) Public Hearing-The Board shall hear any objections to the improvement and to the special assessment district. The Board may revise, correct, amend or change the plans, the estimate of cost or the assessment district. If the estimated cost is increased more than 10%, or if property is added to the district, no final action can be taken a new hearing is held, giving the same notice as the first. Again, if the local municipality has agreed to pay for the project via collection of special assessments, then the municipality, and not the DPW, holds these hearings.

f) Confirmation of Roll-Before confirming the special assessment roll the Board shall conduct a public hearing. The date and time of the hearing shall be published twice in a newspaper circulating in the special assessment district. The first publication to be at least ten days prior to the hearing. Any person objecting to the assessment roll shall file their objection in writing before the close of the hearing or within such time as the Board may grant. After the roll is confirmed it shall be final and conclusive unless attacked in court within 30 days.

### **17:2.7 Condemnation**

#### **(1) Resolution to Institute**

If the Board decides it is necessary to take private property, it first must pass a resolution stating that certain private property is needed for the benefit of the public. The Board shall deliver to its attorney a certified copy of the resolution and the attorney shall prepare and file in the name of the County a petition along with the resolution with the court having jurisdiction. Upon filing the petition the court shall set a time for the hearing.

#### **(2) Publication**

A copy of the order shall be published once a week for three weeks in a newspaper circulated in the County. A copy shall be served on each person named in the petition by one of the following: by delivery of a true copy to the person to be served; or by leaving a true copy at the residence of the person to be served; or by mailing a true copy by certified or registered mail to the last known address of the person being served.

#### **(3) Court Commissioners**

On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared; and shall appoint three disinterested person as Court Commissioners whose duty it shall be to determine whether it is necessary to take for public uses or benefit the property described in the petition. The court shall fix the time and place for the first meeting of the Court Commissioners and require their attendance. A Court Commissioner may administer oaths to witnesses. The Court Commissioners shall view the premises described

in the petition and shall hear the proofs and allegations of the parties. The Court Commissioners shall determine whether it is necessary to take for public use or benefit the property described in the petition. The court shall fix the compensation of the Court Commissioners and determine the amount of their necessary expenses incurred in connection with such proceeding.

**(4) Court Orders**

May be served as follows:

- a) By delivery of a true copy to the person being served.
- b) By leaving a true copy at the residence of the person being served.
- c) By mailing a true copy by certified or registered mail to the last known post office address of the person served.

**(5) Uniform Condemnation Procedures Act**

Please note that the condemnation procedure found under this Act differs from the procedures under the Uniform Condemnation Procedures Act. It is advisable to ensure that all procedures of both Acts are followed.

## **SUMMARY OF STEPS FOR DPW PROJECT**

1. The Township, City or Village adopts the Initiating Resolution.
2. The DPW/BPW reviews and accepts the project and recommends that the Board of Commissioners approve the project and establish a district.
3. The Board of Commissioners approves the project.
4. The Township, City or Village approves a contract with the County to construct the project.
5. The DPW/BPW approves the form of contract prepared by bond attorney with the local unit and recommends the approval of form of bond resolution.
6. The Board of Commissioners approves the contract and bond resolution.
7. The contract is signed by the County and local unit.
8. Application to the Municipal Finance Division (MFD) of the Michigan Department of Treasury for approval (if applicable).
9. Approval from the MFD.
10. Set bond sale date.
11. An Official Statement is prepared.
12. An Official Notice of Sale is prepared.
13. Nearly Final Official Statement mailed out with Notice of Sale.
14. Bond Sale – Done by DPW/BPW, as DPW/BPW has authority to award bonds.
15. Bond delivery.

## QUESTIONS AND ANSWERS

**1: Who is the owner of a project performed under the County Department and Board of Public Works Act (DPW)?**

**A:** The DPW Board is actually the owner of the project, even though the only actual involvement the DPW may have is relative to financing. Typically, the DPW will make a contract with the Township so that the Township actually administrates the project.

**2: Who is responsible for the project?**

**A:** The DPW Board as owner, and the local municipality responsible for the administration and operation of the system, each have responsibilities involving the project. If there is a dispute during the project, the contract documents must be analyzed.

**3: When negotiating easements, who should be the grantee for the easement?**

**A:** Whoever will operate and maintain the system should take the easements in its name. Typically, this will be the local municipality. However, the easement should contain language that the easement may be transferred to the responsible governmental entity. However, if condemnation is necessary, the DPW has the condemnation powers under the Act.

**4: Whose contract documents should be used in a DPW project?**

**A:** Contract documents prepared by the County or a consultant approved by the County should be utilized. At a minimum, the DPW should review the general conditions and other contract documents to ensure that the interests of the County are met. As the County is pledging its full faith and credit for the financing of the project, it is in the County's best interest to carefully review all of the contract documents.