

HOUSE BILL No. 4418

March 15, 2011, Introduced by Rep. Wayne Schmidt and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1957 PA 185, entitled

"An act to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of any municipality subject to the provisions of this act; 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 the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; and to prescribe a procedure for special assessments and condemnation,"

by amending section 2 (MCL 123.732), as amended by 1987 PA 214.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided by subsection (5), the county
2 board of commissioners, by resolution adopted by a 2/3 vote of its
3 elected members, may establish a department of public works for the
4 administration of the powers conferred upon the county by this act.
5 The department of public works shall be under the general control
6 of the county board of commissioners and under the immediate

1 control of a board of public works. Except as provided in **THIS**
2 **SUBSECTION AND** subsection (3), the board of public works shall
3 consist of 5, 7, or 9 members. **IN A COUNTY WITH A POPULATION OF**
4 **MORE THAN 85,000 AND LESS THAN 90,000 ACCORDING TO THE LATEST**
5 **FEDERAL DECENNIAL CENSUS, THE BOARD OF PUBLIC WORKS MAY CONSIST OF**
6 **11, 13, OR 15 MEMBERS.** The members shall be appointed or removed in
7 the manner prescribed in this section.

8 (2) The initial terms of the appointed members shall be
9 staggered for terms of not more than 3 years as prescribed by the
10 county board of commissioners. Membership on the board of public
11 works shall include the following:

12 (a) The county drain commissioner of the county in which the
13 department of public works is established, if any.

14 (b) ~~Four,~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), 4,**
15 **6, or 8** other members appointed by the county board of
16 commissioners, with the exception of a person named in subdivision
17 (a). Members of the county board of commissioners may be appointed
18 as members of the board of public works. Appointments of members of
19 the county board of commissioners to the board of public works made
20 before April 12, 1984, are valid.

21 **(C) IF THE BOARD OF PUBLIC WORKS CONSISTS OF 11, 13, OR 15**
22 **MEMBERS, 10, 12, OR 14 OTHER MEMBERS APPOINTED BY THE COUNTY BOARD**
23 **OF COMMISSIONERS, WITH THE EXCEPTION OF A PERSON NAMED IN**
24 **SUBDIVISION (A). MEMBERS OF THE COUNTY BOARD OF COMMISSIONERS MAY**
25 **BE APPOINTED AS MEMBERS OF THE BOARD OF PUBLIC WORKS. IN ADDITION,**
26 **THE TOWNSHIP SUPERVISOR OF A TOWNSHIP WITHIN THE COUNTY OR THE**
27 **TOWNSHIP SUPERVISOR OF A TOWNSHIP THAT RECEIVES SERVICE BY THE**

1 DEPARTMENT OF PUBLIC WORKS MAY BE APPOINTED AS A MEMBER OF THE
2 BOARD OF PUBLIC WORKS. A TOWNSHIP SUPERVISOR APPOINTED AS A MEMBER
3 OF THE BOARD OF PUBLIC WORKS SHALL NOT BE DEEMED TO HOLD 2 OR MORE
4 INCOMPATIBLE OFFICES AT THE SAME TIME.

5 (D) ~~(e)~~—If a county does not have a drain commissioner, then
6 the county board of commissioners shall appoint an additional
7 member subject to the same appointment procedures provided in
8 subdivisions (b), (C), and ~~(d)~~—(E).

9 (E) ~~(d)~~—If a county department of public works serves another
10 county, or a portion of another county, each of the 4, 6, or 8
11 members, OR 10, 12, OR 14 MEMBERS AS PROVIDED IN SUBDIVISION (C),
12 shall be a resident of the geographic area served by the department
13 of public works. If an area within a county does not utilize or is
14 not otherwise serviced by the department of public works, a member
15 of the board of public works shall not be a resident of the area
16 not served. If a city, village, or township or a portion of a city,
17 village, or township is located in another county, the chief
18 elected official of the city, village, or township shall serve as
19 an advisory board to the board of public works and shall consult
20 with and advise the board of public works as to rate schedules,
21 proposed expansion of services, and capital improvements.

22 (3) Except as provided by subsection (5), the county board of
23 commissioners, by resolution adopted by a 2/3 vote of all its
24 members, may designate as the board of public works or remove as
25 the board of public works 1 of the following, and after the
26 adoption of the resolution the person or body designated shall be
27 the board of public works for that county with all the authority,

1 powers, and duties conferred by law upon the board of public works:

2 (a) The board of county road commissioners.

3 (b) The drain commissioner.

4 (c) The public works commissioner designated or elected and
5 holding office pursuant to section 21 of the drain code of 1956,
6 ~~Act No. 40 of the Public Acts of 1956, as amended, being section~~
7 ~~280.21 of the Michigan Compiled Laws 1956 PA 40, MCL 280.21.~~

8 (4) The board of public works shall be considered an agency of
9 the county. The county board of commissioners shall make rules in
10 respect to the department of public works which it considers
11 advisable and as permitted by law. The members of the board of
12 public works shall not be full-time officers of the county. The
13 duties of the county drain commissioner, any county road
14 commissioner, or any member of the county board of commissioners
15 who serves on the board of public works are declared to be
16 additional and separate duties not compensated for by the
17 established salary or per diem of the commissioner. The
18 compensation of members shall be fixed by the county board of
19 commissioners.

20 (5) In any county organized under ~~Act No. 293 of the Public~~
21 ~~Acts of 1966, being sections 45.501 to 45.521 of the Michigan~~
22 ~~Compiled Laws 1966 PA 293, MCL 45.501 TO 45.521~~, a department of
23 public works that is or was formed under this act and existing on
24 the date the county charter is or was adopted and that has not been
25 discontinued or terminated, or had its duties transferred by
26 charter, and a department of public works established by charter
27 shall be considered established pursuant to this act with all

1 authority, powers, and duties conferred by this act upon a
2 department of public works and be under the control of and
3 administered by the county executive or chief county administrative
4 officer who shall have all the authority, powers, and duties
5 conferred by this act upon the board of public works. The
6 provisions of this act granting to a county board of commissioners
7 authority over such a department of public works shall be subject
8 to any county charter. All provisions of this act concerning
9 actions by a board of public works shall require appropriate action
10 only by the county executive or chief county administrative officer
11 when this subsection applies. An action of the county executive or
12 chief county administrative officer in regard to rate schedule
13 changes, expansion or reduction of services, or proposed capital
14 expenditures is not effective unless and until approved by a
15 majority vote of the members of the county board of commissioners
16 elected and serving. After submission by the county executive or
17 chief county administrative officer, if the county board of
18 commissioners fails to approve or reject within 45 days after the
19 next regularly scheduled meeting of the county board of
20 commissioners, the proposals are effective.