COUNTY DEPARTMENT OF SOLID WASTE MANAGEMENT ACT
Act 186 of 1989

AN ACT to provide for the establishment of a department of solid waste management in certain counties; to prescribe the powers and duties of certain public corporations; to provide for the incurring of certain contract obligations and the issuance and payment of certain bonds and notes by certain public corporations; to provide for a public corporation to pledge its full faith and credit and to levy taxes; and to prescribe a procedure for condemnation.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

The People of the State of Michigan enact:

45.581 Short title.

Sec. 1. This act shall be known and may be cited as the "county department of solid waste management act".

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.582 Definitions.

Sec. 2. As used in this act:

(a) "Acquire" means acquisition by any method described in section 12 or by any other method permitted by law.

(b) "County" means a county organized under Act No. 139 of the Public Acts of 1973, being sections 45.551 to 45.573 of the Michigan Compiled Laws, except where the context provides otherwise.

(c) "Department of solid waste management" means the department of solid waste management provided for in section 3.

(d) "Governing body" means, for a county, the county board of commissioners; for a city, the council, commission, or other body having legislative powers; for a village, the council, commission board of trustees, or other body having legislative powers; for a general law or charter township, the township board; and for a district or an authority, the body having general governing powers.

(e) "Public corporation" means any county however organized, a city, village, township, charter township, district, or authority existing under the laws of this state.

(f) "Solid waste system" or "system" means all plants, works, instrumentalities, properties, rights, processes, and contracts used or useful in connection with the collection, transportation, recycling, processing, storing, or disposing, by treatment, incineration, or otherwise, of solid waste, or as may be provided in a solid waste management plan or update of a solid waste management plan approved for a county pursuant to part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws.

(g) "Solid waste" means putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, commercial and industrial wastes, and any other wastes described in a solid waste management plan or an update of a solid waste management plan approved pursuant to part 115 of Act No. 451 of the Public Acts of 1994, for a county.

(h) "Solid waste management plan" means the solid waste management plan of a county provided for in part 115 of Act No. 451 of the Public Acts of 1994.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989;—Am. 1996, Act 39, Imd. Eff. Feb. 26, 1996.

45.583 Department of solid waste management; establishment; function; control; annual budget; appointment of director.

Sec. 3. (1) The county board of commissioners of a county may establish a department of solid waste management as an additional department pursuant to section 14 of Act No. 139 of the Public Acts of 1973, being section 45.564 of the Michigan Compiled Laws. The department of solid waste management shall function as provided in section 13 of Act No. 139 of the Public Acts of 1973, being section 45.563 of the Michigan Compiled Laws, and as provided in and subject to the resolution of the county board of commissioners establishing a solid waste system as provided in this act. The department of solid waste management is under the control of the county manager or the elected county executive in the same manner and extent as other departments of the county.

(2) The county manager or elected county executive shall prepare an annual budget for the department of solid waste management and shall submit this budget to the county board of commissioners for approval.

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(3) The county manager or the elected county executive shall appoint a director of the department of solid waste management in accordance with section 8(1) of Act No. 139 of the Public Acts of 1973, being section 45.558 of the Michigan Compiled Laws.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.584 Solid waste system; acquisition, construction, improvement, enlargement, or extension; operation and maintenance; acquisitions outside corporate boundaries; consent; contract.

Sec. 4. (1) A county that establishes a department of solid waste management under this act may acquire, construct, improve, enlarge, or extend a solid waste system within 1 or more areas of the county, and may operate and maintain the system. A county and a public or private corporation may contract for the construction, operation, and maintenance of a solid waste system by the corporation on behalf of the county.

(2) A county may acquire outside its corporate boundaries any part of a solid waste system that is determined by the board of commissioners to be necessary for the purpose of collecting, transporting, recycling, processing, storing, or disposing, by treatment, incineration, or otherwise, of the county's solid waste, but only if the acquisition is consistent with the solid waste management plan for the county in which the portion of the solid waste management system being acquired is located.

(3) A county may acquire, for the purpose of providing solid waste disposal services, any part of a solid waste system in 1 or more public corporations outside its corporate boundaries. However, the acquisition shall be consistent with the solid waste management plan of the county in which the portion of the solid waste system being acquired is located. Before making an acquisition under this subsection, a county shall obtain the consent of each public corporation in the county where part of the system is to be located or that is to be served by part of the system through resolution of the governing body of the public corporation or through a contract with the public corporation.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.585 Solid waste service; consent of public corporation.

Sec. 5. A county shall not furnish solid waste service to any users within a public corporation without the consent of the public corporation.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.586 Financing and contracts; resolution; merger.

Sec. 6. For a public corporation that is a county, the establishment of a solid waste system, the method of financing the system, and all contracts relating to the financing, acquisition, operation, maintenance, and administration of the system, including all contracts between the county and a public corporation, including itself, relating to the system, shall be approved by a resolution adopted by a majority of the members elect of the county board of commissioners. The department of solid waste management may, as provided in the resolution of the county board of commissioners, acquire the system or make improvements and improve, enlarge, extend, operate, and maintain the system, subject to any restrictions placed on the department by the county board of commissioners in a resolution or by this act. A county may merge 2 or more systems established by that county by resolution adopted by a majority of the members elect of its county board of commissioners. After such a resolution is adopted, the merged system may be improved, enlarged, extended, operated, and maintained under this section as a single system serving the total areas of the separate systems. However, a merger under this subsection does not affect either the rights or obligations acquired by a public corporation under contract with respect to an established system or the security of bonds or the prompt payment of the principal of or the interest on the bonds.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.587 Methods of financing.

Sec. 7. The acquisition, improvement, enlargement, or extension of a solid waste system under this act may be financed by 1 or more of the following methods:

(a) The issuance of revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(b) The issuance of bonds in anticipation of payments to become due under 1 or more contracts whereby 1 or more public corporations, including the county itself, agree to pay to the county certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a system instituted under this act.

(c) Through money advanced by a county under agreements with 1 or more public corporations for the repayment of the money.

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(d) Through money advanced, periodically, before or during construction of a system, by a public corporation, in which event the county shall reimburse the corporation, with interest not to exceed 10% per annum or without interest as may be agreed, when funds are available. The obligation of the county to make this reimbursement may be evidenced by a contract or note that may be made payable out of the payments to be made by public corporations under a contract described in section 9 or 13, out of the proceeds of bonds issued pursuant to this act by the county, or out of any other available money. However, the contract or note shall not be considered an obligation within the meaning of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989;—Am. 2002, Act 238, Imd. Eff. Apr. 29, 2002.

45.588 Bonds generally.

Sec. 8. Bonds issued under this act shall be authorized by a resolution or ordinance adopted by the county board of commissioners. The county board of commissioners may, by a majority vote of its members elect, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds, including revenue bonds, issued pursuant to this act. If it becomes necessary for the county to advance money, other than its share of the cost of the project for the payment of principal and interest, then the county is entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. If the full faith and credit of the county are pledged for the payment of principal of and interest on any bonds issued pursuant to this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the principal and interest from its general fund or levy taxes, but not in excess of the rate or amount necessary to make up the deficiency and not in excess of, or contrary to, constitutional limitations. The bonds shall be issued in the name of the county and shall be executed by the manual or facsimile signatures of the chairperson of the county board of commissioners and the county clerk, and the seal of the county shall be impressed or imprinted on the bonds. The bonds issued under this act shall be negotiable instruments and shall have a last maturity date of not more than 40 years. The bonds shall be issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and in all cases where required by article IX of the constitution of 1963, shall be subject to a vote of the people. Bonds issued under this act are exempt from all taxation by this state or by any taxing authority within the state.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989;—Am. 2002, Act 238, Imd. Eff. Apr. 29, 2002.

45.589 Contract between county and public corporation; purpose; payment of obligations; tax levy; methods of raising money; pledge; powers.

Sec. 9. (1) A county may contract with 1 or more public corporations, including the county itself, for the acquisition, improvement, enlargement, or extension of a solid waste system and for the payment of the cost of the system by the contracting public corporations, with interest, over a period not exceeding 40 years.

(2) In a contract entered into under subsection (1), each contracting public corporation shall pledge its full faith and credit for the payment of its obligations under the contract. If the public corporation has taxing power, it may each year levy a tax in an amount that is sufficient for the prompt payment of all or part of the contract obligations due before 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, the tax may be in addition to any tax that the public corporation otherwise may 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. For the payment of contractual obligations incurred pursuant to this section, a township shall levy a tax only on the taxable property of the township not incorporated as a village unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase that capacity in the county system. If a contracting public corporation at the time of its annual tax levy has on hand in cash or has budgeted 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, money may be raised by a public corporation by 1 or more of the following methods:

(a) Service or availability charges to users or customers of the system in an amount no greater than that needed to pay the current operating costs of the system.

(b) Special assessments upon lands benefited, directly or indirectly or at a present or future time.

(c) Setting aside state collected money disbursed to the public corporation and usable for this purpose.

(d) Setting aside other available money.

(3) Money raised or to be raised by a public corporation by a method described in subsection (2) may be

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pledged to secure the payment of its obligations under a contract entered into under subsection (1).

(4) A public corporation may agree to raise all or any part of its contract obligation by a method provided in this section or by another legally available method. The governing body of a public corporation shall exercise the powers granted to the public corporation under this act.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989;—Am. 2002, Act 238, Imd. Eff. Apr. 29, 2002.

45.590 Special assessment roll; objection to special assessment district.

Sec. 10. If a public corporation other than a county that has established a department of solid waste management under this act elects to raise money to pay all or any portion of its share of the cost of a system by assessing the cost of the system upon benefited lands, its governing body shall make this determination by resolution and fix the district for the assessment. 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 shall be in accordance with the provisions of the statute or charter governing special assessments in the public corporation. However, the total assessment may be divided into any number of installments not exceeding 30. A person assessed has the right at the hearing upon the special assessment roll to object to the special assessment district previously established, and due consideration shall be given to the objections.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.591 Validity of bonds or notes.

Sec. 11. A county or a public corporation, including the county, shall not contest the validity of bonds or notes issued by the county under this act or a contract that provides the security for the bonds or notes after the bonds or notes have been sold and delivered and the county has received the consideration for the bonds or notes.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.592 Acquisition of tangible or intangible property, rights, or processes.

Sec. 12. (1) A county may acquire tangible or intangible property, rights, or processes, within its corporate limits, for a solid waste system by purchase, grant, assignment, construction, lease, gift, devise, or condemnation and may hold, manage, control, sell, grant, assign, exchange, or lease the property, rights, or processes. For the purpose of condemnation, the county may proceed as provided in section 16.

(2) A county may acquire tangible or intangible property, rights, or processes outside its corporate limits for a solid waste system by purchase, grant, assignment, construction, lease, gift, or devise, but only if the acquisition is consistent with the solid waste management plan of the county in which the property, rights, or processes are located. Following the acquisition, the county may hold, manage, control, sell, grant, assign, exchange, or lease the property, rights, or processes.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.593 Contract for furnishing solid waste services to public corporation; charges subject to increase; contract for purchase or sale of solid waste services or acquisition, operation, management, or use of solid waste systems; term of contract; contract as general obligation of public corporation.

Sec. 13. A county and 1 or more public corporations, either within or outside of the county, may contract for the furnishing of solid waste services by the county to the public corporation or corporations. Charges specified in a contract entered into under this section are subject to increase by the county for the purposes, in the manner, and at the time or times set forth in the contract. A county and a public or private corporation may enter into a contract for the purchase by the county from or for the sale by the county to the corporation of solid waste services or for any aspect of the acquisition, operation, management, or use of 1 or more solid waste systems. A contract authorized under this section shall be for a period not to exceed 50 years. A contract authorized under this section is a general obligation of the public corporation, and each public corporation may raise money to pay its obligations under the contract by any method provided in section 9(2).

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.594 Cost of system.

Sec. 14. The following may be included as part of the cost of a system funded under this act:

(a) Engineering fees.

(b) Legal fees.

(c) Administration expenses before and during the period of construction.

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(d) Feasibility study costs.
(e) Grant application costs.
(f) Financing costs.
(g) A reasonable amount for contingencies or reserves, or both.
(h) Interest on bonds to be issued.
(i) Expenses of operation and management.
(j) Other costs incident to the acquisition and financing of the project.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.595 Failure to pay county; notice; deduction or transfer of money; legal remedies for reimbursement.

Sec. 15. (1) A contract made under this act may provide that if a public corporation fails to pay to a county an amount required to be paid under the contract when due, then the county treasurer shall notify the state treasurer, or other appropriate disbursing official, who shall deduct the amount from money in the treasurer's possession belonging to the public corporation that is not pledged to the payment of debts. Upon the giving of notice in writing to the state treasurer, a public corporation itself may authorize, in a contract with a county, the deduction and transfer of money derived from unrestricted state funds returnable to the public corporation.

(2) The right of deduction given by this act does not limit the county's right to pursue other legal remedies for the reimbursement of money paid by the county under this act on behalf of a public corporation other than the county. The county board of commissioners of a county that pays money on behalf of a public corporation under this act and that is not reimbursed for the payment may order the public corporation 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. The public corporation and its tax levying and collecting officials shall levy and collect the taxes that are ordered and reimburse the county.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

45.596 Proceedings to take private property.

Sec. 16. (1) A county may take private property within its corporate boundaries that is necessary for a purpose within the scope of this act for the use or benefit of the public and may institute proceedings for that purpose.

(2) Proceedings to take private property under subsection (1) shall be commenced under 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, whenever the county, by resolution of its board of commissioners, determines that it is necessary to take certain private property for a designated public improvement and that the improvement is for the use or benefit of the public.

History: 1989, Act 186, Imd. Eff. Aug. 24, 1989.

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