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:

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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

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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

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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

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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.

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(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

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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

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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.

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

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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.

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

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