

SENATE BILL No. 763

October 19, 2011, Introduced by Senators JANSEN and PAPPAGEORGE and referred to the Committee on Energy and Technology.

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 sections 1, 7, 8, 10, 11, 12, and 14 (MCL 123.731, 123.737, 123.738, 123.740, 123.741, 123.742, and 123.744), sections 11 and 12 as amended by 2002 PA 407.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Members elect" means when applied to the county board of commissioners, both members elected and appointed.

1 (b) "Acquire" means acquisition by purchase, construction, or
2 any other method.

3 (c) "Water supply system" means all plants, works,
4 instrumentalities, and properties, used or useful in connection
5 with obtaining a water supply, the treatment of water, or the
6 distribution of water, or any portion or any combination thereof.

7 (d) "Sewage disposal system" means all sanitary sewers, storm
8 sewers, combined sanitary and storm sewers, plants, works,
9 instrumentalities, and properties, used or useful in connection
10 with the collection, treatment, or disposal of sewage including
11 storm water, sanitary sewage, or industrial wastes, or any portion
12 or any combination thereof.

13 (e) "Refuse system" means disposal, including all equipment
14 and facilities for storing, handling, processing, and disposing of
15 refuse, including plants, works, instrumentalities, and properties,
16 used or useful in connection with the salvage or disposal of refuse
17 and used or useful in the creation, sale, or disposal of by-
18 products, including rock, sand, clay, gravel, or timber, or any
19 portion or any combination thereof.

20 (f) "Refuse" means putrescible and nonputrescible solid
21 wastes, except body wastes, and includes garbage, rubbish, ashes,
22 incinerator ash, incinerator residue, street cleanings, and
23 industrial wastes.

24 (g) "Lake improvements" means any improvements now or
25 hereafter authorized by law to be made to any waters of ~~the~~ **THIS**
26 state by a municipality or any board or body which may be
27 established by a municipality for that purpose, or any portion or

1 any combination thereof.

2 (h) "Erosion control" means installation of structures
3 designed to control erosion or protect property adjacent to the
4 ~~great lakes~~ **GREAT LAKES** or property affected by levels of the ~~great~~
5 ~~lakes~~ **GREAT LAKES** from erosion.

6 (i) "Municipality" means a county, city, village, township,
7 charter township, district, or authority existing under the laws of
8 this state.

9 (j) "Resolution" means a resolution or an ordinance, if the
10 governing body of a municipality chooses to act by ordinance rather
11 than by resolution.

12 (k) "Governing body" means, in the case of a county, the
13 county board of commissioners; in the case of a city, the council,
14 common council, commission, or other body having legislative
15 powers; in the case of a village, the council, common council,
16 commission, board of trustees, or other body having legislative
17 powers; in the case of a township, the township board; in the case
18 of a charter township, the township board; in the case of a
19 drainage district, the drain commissioner or the drainage board;
20 and in the case of another district or of an authority, the body in
21 which is lodged general governing powers.

22 (l) **"RENEWABLE ENERGY SYSTEM" MEANS THAT TERM AS DEFINED IN**
23 **SECTION 11 OF THE CLEAN, RENEWABLE, AND EFFICIENT ENERGY ACT, 2008**
24 **PA 295, MCL 460.1011.**

25 Sec. 7. A county establishing a department of public works
26 shall have the following powers to be administered by the board of
27 public works subject to any limitations thereon:

(a) To acquire a water supply system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(b) To acquire a sewage disposal system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(c) To acquire a refuse system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(d) To make lake improvements within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the improvements.

(e) To acquire an erosion control system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the improvements. **SYSTEM.**

(F) TO ACQUIRE A RENEWABLE ENERGY SYSTEM WITHIN 1 OR MORE AREAS IN THE COUNTY AND TO IMPROVE, ENLARGE, EXTEND, OPERATE, AND MAINTAIN THE SYSTEM.

Sec. 8. A county operating under this act may acquire outside its corporate limits any part of a water supply system ~~which~~ **THAT** is necessary for ~~the purpose of~~ securing a source of supply and may acquire outside its corporate limits any part of a sewage disposal system or refuse system ~~which~~ **THAT** is necessary for ~~the purpose of~~ disposing, including treatment or incineration, of its sewage or refuse. A county operating under this act may also acquire any part of a water supply system, a sewage disposal system, **A RENEWABLE ENERGY SYSTEM**, a refuse system or make lake improvements, or

1 acquire erosion control systems in an adjoining county or counties
2 upon the consent expressed by contract with or resolution of the
3 governing body of the municipality or municipalities in ~~such-THAT~~
4 adjoining county or counties in which ~~such-THAT~~ part of the system
5 or lake improvements is to be located or which is to be served by
6 ~~such-THAT~~ part of the system. The exercise by any county of ~~such~~
7 **THOSE** powers outside its corporate limits ~~shall be-ARE~~ subject to
8 all constitutional provisions relating thereto.

9 Sec. 10. The establishment of a county water supply **SYSTEM**,
10 sewage disposal **SYSTEM, RENEWABLE ENERGY SYSTEM**, or refuse system,
11 or the making of county lake improvements or erosion control
12 systems, shall be approved by a majority of the members elect of
13 the county board of commissioners. ~~Prior to-BEFORE~~ approval of lake
14 improvements, the county board of commissioners shall submit to the
15 department of natural resources preliminary plans ~~which-THAT~~
16 provide for making the lake improvements for the department of
17 natural resources' review and approval. Before approval of erosion
18 control systems, the county board of commissioners shall submit to
19 the department of natural resources preliminary plans for the
20 department's review and approval. Before construction of erosion
21 control systems, final plans and specifications shall be approved
22 by the department. After the county board of commissioners'
23 approval, the board of public works shall have power to acquire the
24 system or make improvements and to improve, enlarge, extend,
25 operate, and maintain the same, subject to any restrictions placed
26 thereon by the county board of commissioners in the resolution
27 establishing the same or by this act. Any 2 or more systems

1 established by a county and the areas served thereby may be merged
2 or combined by resolution adopted by a majority of the members
3 elect of its county board of commissioners after which the merged
4 or combined systems may be improved, enlarged, extended, operated,
5 and maintained under this act as a single system serving the total
6 areas of the systems but a merger or combination shall not affect
7 either the rights and obligations acquired by a municipality by any
8 contract with respect to an established system or the security of
9 any bonds or the prompt payment of principal or interest thereon. A
10 resolution adopted by the governing body of any city, village,
11 township, or charter township authorizing and approving a contract
12 with a county acting through its board of public works with respect
13 to the financing or location of or service from any sewage disposal
14 or refuse system constitutes, notwithstanding any statutory or
15 charter limitation to the contrary, a permit to acquire, improve,
16 enlarge, extend, operate, and maintain the sewage disposal or
17 refuse system within the corporate limits of the city, village,
18 township, or charter township, but no treatment or disposal plants,
19 incinerators, works, grounds, filter beds, or other similar sewage
20 or refuse disposal facilities, sanitary landfills, or dumps shall
21 actually be located in any municipality without a resolution and
22 contract.

23 Sec. 11. (1) The acquirement of a water supply **SYSTEM**, sewage
24 disposal **SYSTEM**, **RENEWABLE ENERGY SYSTEM**, or refuse system, or the
25 making of lake improvements or erosion control systems, or the
26 improvement, enlargement, or extension of any of these may be
27 financed by 1 or more of the following methods:

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

4 (b) By the issuance of bonds in anticipation of payments to
5 become due under contracts where 1 or more municipalities agree to
6 pay to the county operating under this act certain sums toward the
7 cost of the acquisition, improvement, enlargement, or extension of
8 a project that may be made under this act.

9 (c) By the issuance of bonds in anticipation of the payment of
10 special assessments made by the board of public works.

11 (d) By money advanced by a county operating under this act
12 under agreements with a municipality or municipalities for the
13 repayment of the money.

14 (e) By money advanced, from time to time, before or during
15 construction of a project by a public corporation, in which event
16 the county operating under this act shall reimburse the
17 corporation, with interest not to exceed 8% per annum or without
18 interest as may be agreed, when funds are available for that
19 purpose. The obligation of the county to make the reimbursement may
20 be evidenced by a contract or note, the contract or note may be
21 made payable out of the payments to be made by municipalities,
22 under contracts as described in section 12 or 15, or out of the
23 proceeds of bonds issued under this act by the county or out of any
24 other available funds. The contract or note is not subject to the
25 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
26 141.2821.

27 (2) Bonds issued under this act shall be authorized by an

1 ordinance or a resolution approved by the board of public works and
2 adopted by the county board of commissioners of the county
3 operating under this act. The county board of commissioners is
4 authorized by a 3/5 vote of its members elect, to pledge the full
5 faith and credit of the county for the prompt payment of the
6 principal of and interest on any bonds issued pursuant to this act.
7 The county's full faith and credit may be pledged to the payment of
8 principal and interest on revenue bonds issued under subsection
9 (1)(a). If it becomes necessary for the county operating under this
10 act to advance any money, other than its share of the cost of the
11 project, for the payment of principal and interest, then it shall
12 be entitled to reimbursement from any surplus from time to time
13 existing in the fund from which the principal and interest are
14 primarily payable. If the faith and credit of the county is pledged
15 for the payment of principal of and interest on any bonds issued
16 under this act, the county may, in the case of insufficiency of
17 funds primarily pledged for the payment, pay the funds from its
18 general fund or levy taxes without limitation as to rate or amount
19 in addition to any other taxes that the county is authorized to
20 levy but not in excess of the rate or amount necessary to make up
21 the deficiency. The bonds shall be issued in the name of the county
22 and shall be executed by the chairperson of the county board of
23 commissioners and its county clerk, who shall also cause their
24 facsimile signatures to be affixed to the interest coupons to be
25 attached to the bonds. The county clerk shall also affix to the
26 bonds the seal of the county. Bonds issued under this act are
27 negotiable instruments and shall be serial bonds payable annually,

1 with the first maturity due not more than 5 years and the last
2 maturity not more than 40 years from the date of issue. This
3 subsection shall apply to special assessment bonds as well as other
4 bonds. Annual maturity payable after 5 years from the date of the
5 bonds shall not be less than 1/4 of the amount of any subsequent
6 maturity on the same series of bonds. The bonds shall bear interest
7 at not more than the maximum rate permitted by the revised
8 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821,
9 payable semiannually except that the first coupon may be for any
10 number of months not exceeding 10. The bonds and coupons shall be
11 made payable in lawful money of the United States of America and
12 shall be exempt from all taxation by this state or by any taxing
13 authority within this state. The county board of commissioners may
14 authorize the board of public works to sell the bonds in accordance
15 with the laws of this state.

16 Sec. 12. (1) A county operating under this act and any 1 or
17 more municipalities including the county itself may enter into a
18 contract or contracts for the acquisition, improvement,
19 enlargement, or extension of a water supply **SYSTEM**, a sewage
20 disposal **SYSTEM**, **A RENEWABLE ENERGY SYSTEM**, or a refuse system, or
21 the making of lake improvements or erosion control systems and for
22 the payment of the costs by the contracting municipalities, with
23 interest, over a period not exceeding 40 years.

24 (2) In the contract, each contracting municipality may pledge
25 its full faith and credit for the payment of its obligations under
26 the contract. If the municipality has taxing power, it may each
27 year levy a tax in an amount that will be sufficient for the prompt

1 payment of all or part of the contract obligations due before the
2 following year's tax collection. If the contract or an unlimited
3 tax pledge in support of the contract has been approved by the
4 electors, the tax may be in addition to any tax that the
5 municipality may otherwise be authorized to levy and may be imposed
6 without limitation as to rate or amount but shall not be in excess
7 of the rate or amount necessary to pay the contract obligation. The
8 contract is not subject to the revised municipal finance act, 2001
9 PA 34, MCL 141.2101 to 141.2821. For the payment of contractual
10 obligations incurred under this act, a township shall levy a tax
11 only on the taxable property in the unincorporated areas of the
12 township unless the township and a village have agreed that a part
13 of the capacity in the county system allocated to the township by
14 contract pursuant to this act will be used to serve areas in a
15 village located wholly or partly within the township and the
16 village has not itself agreed to purchase the capacity in the
17 county system. If a contracting municipality at the time of its
18 annual tax levy has on hand in cash any amount pledged to the
19 payment of the current obligations for which the tax levy is to be
20 made, then the annual tax levy may be reduced by that amount. For
21 the purpose of obtaining the credit, funds may be raised by a
22 municipality by using 1 or more of the following methods:

23 (a) By service charges to users of the system or lake
24 improvements.

25 (b) By special assessment upon lands benefited.

26 (c) By the exaction of charges for the connection of
27 properties, directly or indirectly, to the system or for the

1 availability of the system to serve properties, directly or
2 indirectly, or at a present or future time.

3 (d) By setting aside any state collected funds disbursed to
4 the municipality and usable therefor.

5 (e) By setting aside any other available money.

6 (3) For the purpose of obtaining the credit, municipalities
7 contracting for the acquisition, improvement, enlargement, or
8 extension of an erosion control system shall levy special
9 assessments upon all lands benefited to cover not less than 3/4 of
10 the total project cost contracted for by the local unit. A
11 municipality may agree to raise all or any part of its contract
12 obligation by any of the methods provided in this section that are
13 available. The powers in this act granted to any municipality shall
14 be exercised by its governing body. A contract entered into before
15 May 12, 1959, which complies with this act, is validated.

16 Sec. 14. A county operating under this act, by action of its
17 board of public works, may acquire property for a water supply
18 **SYSTEM**, an erosion control system, **A RENEWABLE ENERGY SYSTEM**, a
19 sewage disposal **SYSTEM**, or a refuse system or for lake improvements
20 by purchase, construction, lease, gift, devise, or condemnation,
21 either within or without its corporate limits and may hold, manage,
22 control, sell, exchange, or lease the property. Real estate shall
23 not be disposed of without the approval of the county board of
24 commissioners. For the purpose of condemnation, it may proceed as
25 provided in chapter 3. If the property acquired by a county is
26 already being used for water supply, sewage or refuse disposal or
27 lake improvement purposes, ~~such~~**THAT** use may be continued by the

- 1 county without a resolution of or contract with the municipality in
- 2 which the property is located.