

**COUNTY DEPARTMENT AND BOARD OF PUBLIC WORKS (EXCERPT)**  
**Act 185 of 1957**

CHAPTER 2  
SPECIAL ASSESSMENT PROCEDURE

**123.751 Special assessments for project.**

Sec. 21. The board of public works shall have power to determine that the whole or any part of the cost of any project shall be defrayed by special assessments against the properties especially benefited thereby.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

**123.752 Special assessments; plans, estimate of costs, designation of district, hearing on objections, notice, additions.**

Sec. 22. The board of public works shall cause to be prepared by a registered engineer, plans showing the project and an estimate of the cost thereof. Upon receipt of such plans and estimate the board of public works shall order the same to be filed with the director of public works and if it shall desire to proceed with the said project, it shall by resolution tentatively so declare and also tentatively designate the special assessment district against which the cost of the project is to be assessed. The board of public works shall then fix a time and place when and where it will meet and hear any objections to the improvement and to the special assessment district therefor, and shall cause notice of the hearing to be given by the publication thereof twice prior to the hearing in a newspaper circulating in the special assessment district, the first publication to be at least 10 days prior to the time of the hearing. The notice shall state that the plans and estimate are on file with the director of public works for public examination and shall contain a description of the proposed special assessment district. At the time of the hearing, or at any adjournment thereof which may be without further notice, the board of public works shall hear any objections to the improvement and to the special assessment district. The board of public works may revise, correct, amend or change the plans, the estimate of cost or the special assessment district. No final action shall be taken in respect to the addition of any property to the district or to increasing the estimated cost in excess of 10% of the original estimate, until after a new hearing upon notice given as above provided.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

**123.753 Special assessments; final determination of district; special assessment roll.**

Sec. 23. After the completion of the hearing provided for in section 22, the board of public works, if it desires to proceed with the project, shall by resolution so determine and shall approve the plans and estimate of cost as originally presented or as revised, corrected, amended or changed, and shall finally determine the special assessment district. The board of public works shall then cause a special assessment roll to be prepared by the director of public works in which shall be entered and described all parcels of land to be assessed, with the names of the respective owners thereof, if known, and the amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against the special assessment district as the benefit to the parcel of land bears to the total benefits to all parcels of land in the special assessment district. When the director of public works shall have completed the assessment roll, he shall affix thereto his certificate stating that it was made pursuant to the resolution of the board of public works ordering its preparation and that in making such assessment roll he has according to his best judgment, conformed in all respects to the directions contained in such resolution and the statutes of the state.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

**123.754 Special assessments; confirmation of roll.**

Sec. 24. When any special assessment roll shall have been made the same shall be filed in the office of the director of public works. Before confirming the assessment roll the board of public works shall fix a time and place when it will meet and review the same and hear any objections thereto, and shall cause notice of the hearing and of the filing of the assessment roll, to be published twice prior to the hearing in a newspaper circulating in the special assessment district, the first publication to be at least 10 days before the hearing. The hearing may be adjourned from time to time without further notice. Any person objecting to the assessment roll shall file his objection thereto in writing with the director of public works before the close of the hearing or within such further time as the board may grant. After the hearing the board of public works may confirm the special assessment roll as reported to it or corrected by it, or may refer it back for revision, or may annul it and direct a new roll to be made. When a special assessment roll shall have been confirmed the secretary of the board shall indorse thereon the date of confirmation. After the confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction

within 30 days after the date of confirmation.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

**Constitutionality:** This section fails to provide a proper method of notice in violation of Const 1963, art 1, § 17, and US Const, amend. XIV, § 1. *Ridenour v County of Bay*, 366 Mich 225; 114 NW2d 172 (1962).

### **123.755 Special assessments; annual installments; interest on unpaid installments; spreading installments on tax rolls; advance payment; issuance of bonds subject to revised municipal finance act.**

Sec. 25. (1) The board of public works may provide that the assessments made on any roll shall be payable in 1 or more annual installments, not exceeding 40. The board may vary the principal amount of each installment but an installment shall not be less than 1/4 of the amount of a subsequent installment. Annual installments need not be extended upon the special assessment roll until after confirmation.

(2) All unpaid installments shall bear interest from the date fixed by the board of public works, payable annually, at a rate to be set by the board at the time the special assessment is established, which shall not exceed any of the following:

(a) If bonds are not issued, 8% per annum.

(b) If bonds are issued, the maximum rate permitted to be charged under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Installments of special assessments shall be spread as provided in this act, 1 each year, upon the tax rolls upon which county taxes are spread. The board of public works shall specify the first year of this spread, which shall not be later than the year following that in which the roll was confirmed. The board may provide the times and conditions upon which installments of special assessments may be paid in advance of their due dates.

(4) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1978, Act 68, Imd. Eff. Mar. 21, 1978;—Am. 2002, Act 407, Imd. Eff. June 3, 2002;—Am. 2006, Act 245, Imd. Eff. June 30, 2006.

### **123.756 Special assessments; certification of amounts to be spread.**

Sec. 26. The director of public works shall certify annually to the county clerk, on or before the first day of the annual meeting of the board of supervisors, the amount due on the special assessment installment against each parcel of land in the district, which is to be spread upon the tax rolls of that year, and the interest upon all unpaid installments computed to March 1 following. The certificate shall be divided as between the several townships and cities in which the assessed lands are located. The board of supervisors shall order the amounts so certified to be spread upon the tax rolls of the cities and townships in which the properties are located. The county clerk shall certify to each assessing officer the several amounts to be spread as ordered by the board of supervisors and it shall be his duty to spread upon the tax rolls of that year, separately and immediately following the proper land descriptions, in a column marked "County Assessment Roll Number", the amount so certified to him by the county clerk.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

### **123.757 Special assessments; collection.**

Sec. 27. All assessments spread under the provisions of this act shall be subject to the same interest, collection and penalty charges and shall be collected in the same manner, as county taxes. All collecting officers are hereby vested with the same power and authority in the collection of such assessments as are or may be conferred upon them by law for collecting general county taxes. All collections of special assessments made by city and township treasurers shall be turned over to the county treasurer. All provisions of law in respect to the return of uncollected county taxes by the treasurers of cities and townships shall apply to the return of uncollected special assessments spread upon the tax rolls under the provisions of this act, and all provisions of law in respect to the sale of lands for the nonpayment of taxes and the redemption thereof, shall likewise apply in case of the nonpayment of special assessments.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

### **123.758 Special assessments; lien.**

Sec. 28. Special assessments, including all installments thereof, contained in any special assessment roll, shall from the date of confirmation of the roll, constitute a lien upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for county taxes and shall include accrued interest, collection charges and penalties. No judgment or decree or any act of the board of public works

vacating a special assessment shall destroy or impair the lien upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

#### **123.759 Special assessments; apportionment on division of parcels.**

Sec. 29. Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the board of public works may require the director of public works to apportion the uncollected amounts between the several divisions thereof and the report of the apportionment when confirmed by the board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then, before the confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

#### **123.760 Special assessments; prorated deficiency or surplus of collection.**

Sec. 30. Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the board of public works shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount collected on the assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next installment of the special assessment, or if there are no unpaid installments then it shall be refunded to the persons who are the record owners of the properties on the date of the passage of the resolution ordering the refund. Any surplus of 5% or less shall be retained by the county for use by the board of public works.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

#### **123.761 Special assessments; curative proceedings.**

Sec. 31. Whenever any special assessment, in the opinion of the board, shall be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge the assessment to be illegal, the board, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, shall have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on the reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessments and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

#### **123.762 Special assessments; exempted lands; agreement to pay assessment.**

Sec. 32. Any person, firm or corporation, public or private, whose lands are exempt by law from the payment of special assessments, may agree in writing to pay any special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957.

#### **123.763 Delinquent special assessments; advancement by municipality; reimbursement; reassessment.**

Sec. 33. Whenever lands in any municipality are assessed by the board of public works for all or any part of the cost of a project, the governing body of the municipality by resolution adopted by 3/5 of its members elect may agree that in the event of delinquency in the collection of assessments against lands within the municipality, it will advance the amount of the delinquency to the extent necessary to pay principal and interest on any bonds issued in anticipation of the assessments, as the same mature. If moneys are so advanced by any municipality, then it shall be reimbursed therefor from the collection of the delinquent assessments and if collections from special assessments are not sufficient to reimburse any municipality making such advancements, within a 5-year period from the date of advancement, then the board of public works shall reassess the district as in the first instance in order to provide for the payment of the sum so advanced.

**History:** Add. 1964, Act 42, Eff. Aug. 28, 1964.