

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

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.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973.

*The People of the State of Michigan enact:*

CHAPTER 1  
GENERAL PROVISIONS

**123.731 Definitions.**

Sec. 1. As used in this act:

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

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

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

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

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

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

(g) "Lake improvements" means any improvements now or hereafter authorized by law to be made to any waters of the state by a municipality or any board or body which may be established by a municipality for that purpose, or any portion or any combination thereof.

(h) "Erosion control" means installation of structures designed to control erosion or protect property adjacent to the great lakes or property affected by levels of the great lakes from erosion.

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

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

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

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

**123.732 Establishment and control of department of public works; exception; board of public works; appointment, qualifications, terms, and removal of members; designation or removal as board; authority, powers, and duties of designee; board as agency of county; rules; compensation; status of department of public works in county organized under MCL 45.501 to 45.521; authority, powers, and duties of county executive or chief county**

**administrative officer; authority and powers of county board of commissioners.**

Sec. 2. (1) Except as provided by subsection (5), the county board of commissioners, by resolution adopted by a 2/3 vote of its elected members, may establish a department of public works for the administration of the powers conferred upon the county by this act. The department of public works shall be under the general control of the county board of commissioners and under the immediate control of a board of public works. Except as provided in this subsection and subsection (3), the board of public works shall consist of 5, 7, or 9 members. In a county with a population of more than 85,000 and less than 90,000 according to the latest federal decennial census, the board of public works may consist of 11, 13, or 15 members. The members shall be appointed or removed in the manner prescribed in this section.

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

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

(b) Except as otherwise provided in subdivision (c), 4, 6, or 8 other members appointed by the county board of commissioners, with the exception of a person named in subdivision (a). Members of the county board of commissioners may be appointed as members of the board of public works. Appointments of members of the county board of commissioners to the board of public works made before April 12, 1984, are valid.

(c) If the board of public works consists of 11, 13, or 15 members, 10, 12, or 14 other members appointed by the county board of commissioners, with the exception of a person named in subdivision (a). Members of the county board of commissioners may be appointed as members of the board of public works. In addition, the township supervisor of a township within the county or the township supervisor of a township that receives service by the department of public works may be appointed as a member of the board of public works. A township supervisor appointed as a member of the board of public works shall not be deemed to hold 2 or more incompatible offices at the same time.

(d) If a county does not have a drain commissioner, then the county board of commissioners shall appoint an additional member subject to the same appointment procedures provided in subdivisions (b), (c), and (e).

(e) If a county department of public works serves another county, or a portion of another county, each of the 4, 6, or 8 members, or 10, 12, or 14 members as provided in subdivision (c), shall be a resident of the geographic area served by the department of public works. If an area within a county does not utilize or is not otherwise serviced by the department of public works, a member of the board of public works shall not be a resident of the area not served. If a city, village, or township or a portion of a city, village, or township is located in another county, the chief elected official of the city, village, or township shall serve as an advisory board to the board of public works and shall consult with and advise the board of public works as to rate schedules, proposed expansion of services, and capital improvements.

(3) Except as provided by subsection (5), the county board of commissioners, by resolution adopted by a 2/3 vote of all its members, may designate as the board of public works or remove as the board of public works 1 of the following, and after the adoption of the resolution the person or body designated shall be the board of public works for that county with all the authority, powers, and duties conferred by law upon the board of public works:

(a) The board of county road commissioners.

(b) The drain commissioner.

(c) The public works commissioner designated or elected and holding office pursuant to section 21 of the drain code of 1956, 1956 PA 40, MCL 280.21.

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

(5) In any county organized under 1966 PA 293, MCL 45.501 to 45.521, a department of public works that is or was formed under this act and existing on the date the county charter is or was adopted and that has not been discontinued or terminated, or had its duties transferred by charter, and a department of public works established by charter shall be considered established pursuant to this act with all authority, powers, and duties conferred by this act upon a department of public works and be under the control of and administered

by the county executive or chief county administrative officer who shall have all the authority, powers, and duties conferred by this act upon the board of public works. The provisions of this act granting to a county board of commissioners authority over such a department of public works shall be subject to any county charter. All provisions of this act concerning actions by a board of public works shall require appropriate action only by the county executive or chief county administrative officer when this subsection applies. An action of the county executive or chief county administrative officer in regard to rate schedule changes, expansion or reduction of services, or proposed capital expenditures is not effective unless and until approved by a majority vote of the members of the county board of commissioners elected and serving. After submission by the county executive or chief county administrative officer, if the county board of commissioners fails to approve or reject within 45 days after the next regularly scheduled meeting of the county board of commissioners, the proposals are effective.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1959, Act 18, Eff. Mar. 19, 1960;—Am. 1961, Act 214, Eff. Sept. 8, 1961;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1972, Act 92, Imd. Eff. Mar. 20, 1972;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974;—Am. 1978, Act 580, Imd. Eff. Jan. 2, 1979;—Am. 1983, Act 33, Imd. Eff. May 9, 1983;—Am. 1984, Act 61, Imd. Eff. Apr. 12, 1984;—Am. 1987, Act 214, Imd. Eff. Dec. 22, 1987;—Am. 2011, Act 110, Imd. Eff. July 20, 2011.

### **123.733 Board of public works; officers.**

Sec. 3. The board of public works shall elect each year during the month of January from its own membership, a chairman, a vice-chairman and a secretary, and also at such time shall elect a deputy secretary who may or may not be a member of the board.

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

### **123.734 Board of public works; action by motion or resolution; record of proceedings; signature; availability of record or other writings to public; quorum; regular meetings; notice of special meeting; waiver of notice; conducting business at public meeting; public notice of meeting or hearing.**

Sec. 4. (1) An action taken by the board of public works shall be by motion or resolution adopted by the affirmative vote of a majority of the board's full membership. The board of public works shall keep a record of the proceedings taken at each meeting, which record shall be signed by the secretary or in case of the secretary's absence at a meeting by the deputy secretary or other person acting as secretary for the meeting. The record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A majority of the board's full membership shall be necessary for a quorum. Regular meetings may be held on a regularly scheduled basis as determined by the board, but shall be held at least 4 times a year. A special meeting may be called by the chairperson or any 2 members upon written notice served on each member or left at the member's place of residence, at least 24 hours before the meeting. A member may waive notice of a special meeting either before or after the holding of a meeting.

(2) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting or hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1977, Act 176, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 580, Imd. Eff. Jan. 2, 1979.

### **123.735 Expenses and expenditures of board of public works.**

Sec. 5. The county board of commissioners shall provide each year in its annual budget for the expenses of the department of public works. The board of public works shall be limited in its expenditures to the amount appropriated unless a further appropriation shall be made by the county board of commissioners.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

### **123.736 Board of public works; director; project costs; civil service.**

Sec. 6. The board of public works shall have authority to hire a director of public works, whose salary shall be fixed by the board of public works within the budget appropriation. The board of public works shall have power to employ such professional and lay personnel as it shall deem advisable, subject however to budget appropriations but no budget appropriation shall be necessary where services are employed in connection with acquiring any project and are to be included in the project cost and payable from the proceeds of bonds or

special assessments. The cost of any project and of operating and maintaining the same, shall include amounts sufficient to cover the general administrative costs pertaining thereto. The provisions of this section shall be subject to any applicable statutory provisions relating to civil service.

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

### **123.737 Powers of county; administration by board of public works.**

Sec. 7. A county establishing a department of public works shall have the following powers to be administered by the board of 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.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

### **123.738 Acquiring systems or making lake improvements outside corporate limits.**

Sec. 8. A county operating under this act may acquire outside its corporate limits any part of a water supply system which 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 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 refuse system or make lake improvements, or acquire erosion control systems in an adjoining county or counties upon the consent expressed by contract with or resolution of the governing body of the municipality or municipalities in such adjoining county or counties in which such part of the system or lake improvements is to be located or which is to be served by such part of the system. The exercise by any county of such powers outside its corporate limits shall be subject to all constitutional provisions relating thereto.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

### **123.739 Water supply and sewage disposal or refuse systems; service to municipalities and individual users.**

Sec. 9. No county shall have the power to furnish water service, sewage disposal service or refuse service to the individual users within any municipality without its consent. The foregoing shall not prevent the county from extending any sewage disposal system or refuse system into any municipality where in the opinion of a majority of the members elect of the board of supervisors the same is necessary to protect health or property in any adjacent municipality and from furnishing sewage disposal or refuse services to individual users therein. Any such extensions may be constructed along with the construction of the original system or thereafter.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1967, Act 63, Imd. Eff. June 20, 1967.

### **123.740 County water supply, sewage disposal or refuse system, lake improvements, or erosion control system; approval; plans and specifications; merger or combination of systems; resolution; contract.**

Sec. 10. The establishment of a county water supply, sewage disposal or refuse system or the making of county lake improvements or erosion control systems shall be approved by a majority of the members elect of the county board of commissioners. Prior to approval of lake improvements the county board of commissioners shall submit to the department of natural resources preliminary plans which provide for making the lake improvements for the department of natural resources' review and approval. Before approval of erosion control systems the county board of commissioners shall submit to the department of natural resources preliminary plans for the department's review and approval. Before construction of erosion control systems final plans and specifications shall be approved by the department. After the county board of commissioners' approval, the board of public works shall have power to acquire the system or make

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

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

**Compiler's note:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

### **123.741 Methods of financing systems or improvements.**

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

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

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

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

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

(2) Bonds issued under this act shall be authorized by an ordinance or a resolution approved by the board of public works and adopted by the county board of commissioners of the county operating under this act. The county board of commissioners is authorized by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds issued under subsection (1)(a). If it becomes necessary for the county operating under this act to advance any money, other than its share of the cost of the project, for the payment of principal and interest, then it shall be 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 faith and credit of the county is pledged for the payment of principal of and interest on any bonds issued under this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the funds from its general fund or levy taxes without limitation as to rate or amount in addition to any other taxes that the county is authorized to levy but not in excess of the rate or amount necessary to make up the deficiency. The bonds shall be issued in the name of the county and shall be executed by the chairperson of the county board of commissioners and its county clerk, who shall

also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued under this act are negotiable instruments and shall be serial bonds payable annually, with the first maturity due not more than 5 years and the last maturity not more than 40 years from the date of issue. This subsection shall apply to special assessment bonds as well as other bonds. Annual maturity payable after 5 years from the date of the bonds shall not be less than 1/4 of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from all taxation by this state or by any taxing authority within this state. The county board of commissioners may authorize the board of public works to sell the bonds in accordance with the laws of this state.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974;—Am. 1976, Act 64, Imd. Eff. Mar. 30, 1976;—Am. 2002, Act 407, Imd. Eff. June 3, 2002.

### **123.742 Contracts authorized; methods of paying contractual obligations; special assessments; exercise of powers; validation of contracts.**

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

(2) In the contract, each contracting municipality may pledge its full faith and credit for the payment of its obligations under the contract. If the municipality has taxing power, it may each year levy a tax in an amount that will be sufficient for the prompt payment of all or part of the contract obligations due before the following year's tax collection. 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 municipality may otherwise 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. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. For the payment of contractual obligations incurred under this act, a township shall levy a tax only on the taxable property in the unincorporated areas of the township 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 the capacity in the county system. If a contracting municipality at the time of its annual tax levy has on hand in cash 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, funds may be raised by a municipality by using 1 or more of the following methods:

- (a) By service charges to users of the system or lake improvements.
- (b) By special assessment upon lands benefited.
- (c) By the exaction of charges for the connection of properties, directly or indirectly, to the system or for the availability of the system to serve properties, directly or indirectly, or at a present or future time.
- (d) By setting aside any state collected funds disbursed to the municipality and usable therefor.
- (e) By setting aside any other available money.

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

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1959, Act 34, Imd. Eff. May 12, 1959;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974;—Am. 1979, Act 83, Imd. Eff. Aug. 1, 1979;—Am. 2002, Act 407, Imd. Eff. June 3, 2002.

### **123.743 Project special assessment district; municipal special assessments.**

Sec. 13. (1) If the board of public works determines to spread all or part of the cost of a project to a special

assessment district, it shall proceed as provided under chapter 2.

(2) If a municipality other than a county operating under this act elects to raise moneys to pay all or any portion of its share of the cost of a project by assessing the cost upon benefited lands, its governing body shall do so by resolution and fix the district for assessment.

(3) The governing body shall cause a special assessment roll to be prepared and the proceedings of 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 municipality, except that the total assessment may be divided into any number of installments not exceeding 40.

(4) Any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district established under this section.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 2006, Act 245, Imd. Eff. June 30, 2006.

#### **123.744 Methods of acquiring property; disposition of real property; condemnation procedure; use continued without resolution or contract.**

Sec. 14. A county operating under this act, by action of its board of public works, may acquire property for a water supply, an erosion control system, a sewage disposal or a refuse system or for lake improvements by purchase, construction, lease, gift, devise, or condemnation, either within or without its corporate limits and may hold, manage, control, sell, exchange, or lease the property. Real estate shall not be disposed of without the approval of the county board of commissioners. For the purpose of condemnation it may proceed as provided in chapter 3. If the property acquired by a county is already being used for water supply, sewage or refuse disposal or lake improvement purposes, such use may be continued by the county without a resolution of or contract with the municipality in which the property is located.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1967, Act 63, Imd. Eff. June 20, 1967;—Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

#### **123.744a Validation of certain bonds or notes; contest prohibited.**

Sec. 14a. All bonds or notes heretofore issued under this act, as amended, are validated. A county acting under this act, as amended, or any municipality, including the county, shall not contest the validity of any such bonds or notes or any contract which provides the security therefore, after they are sold and delivered and the county has received the consideration therefor.

**History:** Add. 1973, Act 89, Imd. Eff. Aug. 5, 1973.

#### **123.745 Water supply or sewage disposal or refuse systems; municipality service contract with county; county contracts.**

Sec. 15. Any 1 or more municipalities or other public corporations, either within or without the county, shall have authority to contract for the purchase of water or sewage or refuse services or transportation from a county operating under this act. Any charges specified in any such contract shall be subject to increase by such county at any time, if necessary, in order to provide funds to meet the obligations of the project involved. The county operating under this act may enter into contract with any public or private corporation, for the purchase by such county from or for the sale by the county to the corporation of water or sewage or refuse services, and for the right to transport sewage through the sewers of the county or of the corporation or to use the facilities of the other. Any contract authorized herein shall be for a period of not exceeding 50 years.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1967, Act 63, Imd. Eff. June 20, 1967.

#### **123.746 Water supply or sewage disposal or refuse systems; project costs.**

Sec. 16. There may be included as a part of the cost of any project, engineering and legal fees, administration expenses during the period of construction, financing costs, a reasonable amount for contingencies, interest on any bonds to be issued therefor for a period not exceeding the estimated construction period and 6 months thereafter, and any other costs incident to the acquisition and financing of the project.

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

#### **123.747 Failure to pay amounts required under contract or assessment; notice; deduction; other remedies for reimbursement; tax levy.**

Sec. 17. A contract or assessment made under this act may provide that if a municipality shall fail to pay to a county operating under this act any amount required to be paid under any contract or assessment when due, then the county treasurer shall notify the state treasurer, or other appropriate disbursing official, who is hereby

directed to deduct the amount from any moneys in his possession belonging to the municipality which are not pledged to the payment of debts, but the state treasurer or other official shall not withhold in any 1 year a sum greater than 25% of the total amount owed the county by the delinquent municipality as stated in the notice from the county treasurer. Nothing in this section shall permit the deduction of moneys in contravention of the constitution, but a municipality itself may authorize, in any contract with a county operating under this act, the deduction and transfer from moneys derived from unrestricted state funds returnable to the municipality. The right of deduction given by this act shall not operate to limit the county's right to pursue other legal remedies for the reimbursement of moneys paid by the county hereunder on behalf of a municipality other than the county and the county board of commissioners of a county which has paid any money on behalf of any other municipality and which was not reimbursed therefor, may order the municipality 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; and the municipality and its tax levying and collecting officials shall levy and collect the taxes and reimburse the county.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1964, Act 42, Eff. Aug. 28, 1964;—Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;—Am. 1974, Act 200, Imd. Eff. July 9, 1974.

## 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.

CHAPTER 3  
CONDEMNATION PROCEDURE

**123.771 Condemnation; authority.**

Sec. 41. A county operating under this act is hereby authorized to take private property necessary for any purpose within the scope of its powers under this act, for the use or benefit of the public and to institute and prosecute proceedings for that purpose.

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

**123.772 Condemnation; declaration of necessity.**

Sec. 42. Proceedings may be commenced and prosecuted under this chapter whenever the board of public works, acting as the agency of the county, shall have declared by resolution that it deems it necessary to take certain private property for a designated public improvement, and that such improvement is for the use or benefit of the public. It shall by resolution direct its attorney to institute the necessary proceedings in its behalf in the circuit court of the county where the private property sought to be taken is located.

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

**123.773 Petition; contents.**

Sec. 43. The board of public works shall make and deliver to its attorney a certified copy of the resolution and it shall be the duty of the attorney to prepare and file in the name of the county in the court having jurisdiction of the proceedings, a petition signed by him in his official capacity and duly verified by him, to which petition a certified copy of the resolution of the board of public works shall be annexed. The petition shall state among other things that it is made and filed pursuant to this chapter and the resolution as commencement of judicial proceedings by the county acting through its board of public works, to acquire the right to take the private property therein described for the use or benefit of the public, without the consent of the owners, for the designated public improvement, for a just compensation to be made. The petition shall set forth the names of all persons interested in said property insofar as they can be ascertained. The petition may state any other pertinent matter or matters and shall pray for the appointment of 3 special court commissioners to determine the necessity of taking for public use or benefit the property described in the petition and to appraise the damages to be paid as compensation for the taking of each piece or parcel of property.

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

**123.774 Petition; court order for hearing.**

Sec. 44. Upon filing of the petition the court shall make an order fixing a day for hearing on such petition which shall be not less than 25 days thereafter. The order shall recite the purpose of the petition and the description of the property to be taken and the names of the persons mentioned in the petition as parties interested therein. It shall order the persons to appear before the court at the time fixed therein for the hearing and show cause, if any they have, why the prayer in the petition should not be granted. If any person named in such petition shall be a minor or an insane or incompetent person who has no general guardian, then the court shall appoint a guardian ad litem for him.

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

**123.775 Petition; publication of order; service on named defendants.**

Sec. 45. A copy of the order shall be published once in each week for 3 weeks in some newspaper circulated in the county, to be designated by the court, the first publication to be not less than 3 weeks before the hearing. A copy of the order shall also be served on each person named in the petition interested in the land described therein in the manner provided in section 54. The publication shall constitute service of the order upon all non-residents of the county and upon all persons who are absent from the county or are unknown or are evading service or who for any other reason cannot be found. Proof of publication and service may be made by affidavit of any person having knowledge of the facts. The proof shall be filed with the court on or before the day of hearing and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein. Service of the order in any mode herein prescribed shall be sufficient notice of the proceeding to bind the parties in interest named therein and the property represented by them as described in the petition.

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

### **123.776 Court commissioners; appointment; discontinuance of proceedings.**

Sec. 46. On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared; and unless sufficient cause to the contrary be shown, shall appoint 3 disinterested persons as court commissioners whose duty it shall be to determine whether it is necessary to take for public use or benefit the property described in the petition and, if so, to appraise the damages to be paid as compensation for such taking. The commissioners shall not be residents of the area to be served by the improvement for which the property is to be taken. The court shall fix the time and place for the first meeting of the court commissioners and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than a day to be named, and shall fix the time for filing their report. After the appointment of court commissioners, no discontinuance shall be filed and no order of discontinuance may be entered, except upon payment by the county of the expenses of the proceeding and reasonable attorney fees of all parties in interest who have appeared in the proceedings under the order of the court.

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

### **123.777 Court commissioners; meetings; conducting business at public meeting; notice of meeting; adjournment; subpoenas; oaths; viewing premises; hearing proofs and allegations; availability of report and other writings to public.**

Sec. 47. The court commissioners shall meet at the time and place ordered by the court and shall be sworn to faithfully discharge their duties. The business which the commissioners may perform shall be conducted at a public meeting of the commissioners held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. If all commissioners do not then appear, a smaller number may adjourn to a time certain, but an adjournment shall not be made to a day later than the time allowed by the court. An adjournment shall be publicly announced. The court or the clerk of the court may issue subpoenas to compel the attendance of witnesses before the court or before the court commissioners. A court commissioner may administer oaths to witnesses. The court commissioners shall view the premises described in the petition and shall hear the proofs and allegations of the parties. The report and any other writing prepared, owned, used, in the possession of, or retained by the commissioners in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957;—Am. 1977, Act 176, Imd. Eff. Nov. 17, 1977.

### **123.778 Court commissioners; determination of necessity, damages, report.**

Sec. 48. The court commissioners shall determine whether it is necessary to take for public use or benefit the property described in the petition, and if so, shall appraise the damages to be paid as compensation for each piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for the court commissioners to report on all of the property at one time.

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

### **123.779 Multiple petitions; descriptions.**

Sec. 49. It shall not be necessary for the board of public works to include in 1 determination the descriptions of all of the property necessary to be taken for any single project or to include in 1 petition the descriptions of all of the property described in the determination upon which such petition is based.

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

### **123.780 Report of court commissioners; court orders.**

Sec. 50. Upon the filing of the report of the court commissioners, the court shall set a time for the consideration thereof and shall cause notice thereof to be given in the manner required by court rule in respect to the hearing of motions. At such time or at such other time to which it may adjourn the proceedings, the court on cause shown may set aside the report and refer it back to the court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; at any time, in its discretion, it may remove any or all of the commissioners for cause and fill the vacancy thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn the proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further accomplish the purpose thereof.

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

### **123.781 Report of court commissioners; confirmation, orders for payment of witness fees, attorney fees, damages.**

Sec. 51. After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the county to pay the several sums awarded for damages and it shall pay the same accordingly. The court may determine and include in the order an allowance to the persons, partnership or corporation from whom property is taken, for attorney fees and witness fees in an amount to be fixed by the court; such attorney fees and witness fees shall be paid in the same manner and at the same time as sums awarded for damages in such proceeding. It shall not be lawful for the court to make such order allowing witness and attorney fees to more than 1 title interest and such lien interests as are adverse thereto and to each other in any single parcel of real estate as set up and described in the determination of necessity on file. The payment shall be made in money or by an order drawn on the county treasurer to the several persons entitled thereto, and if refused, or if there is no person properly authorized to receive the same, or if the person entitled thereto is a non-resident of the county or cannot be found, it shall be deposited as directed by the court.

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

### **123.782 Compensation of court commissioners; expenses.**

Sec. 52. The court shall fix the compensation of the court commissioners and determine the amount of their necessary expenses incurred in connection with such proceeding.

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

### **123.783 Review by certiorari; procedure; time limitation.**

Sec. 53. Any proceeding taken under the provisions of this act shall be subject to review upon certiorari. The procedure therefor shall be the same as is required in case of certiorari to review judgment rendered by judges of the circuit courts. The application for certiorari must be filed within 20 days after the report of the court commissioners shall have been confirmed.

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

### **123.784 Court orders; service.**

Sec. 54. All court orders heretofore mentioned in this act, unless otherwise provided, may be served as follows:

- (a) By delivery of a true copy thereof to the person to be served; or
- (b) By leaving a true copy thereof at the residence of the person to be served; or
- (c) By mailing a true copy thereof by certified or registered mail to the last known post office address of the person to be served, so far as is known; or
- (d) If service upon any person is impossible by any of the above methods, then by posting a true copy thereof on the property of such person, which is sought to be taken in the proceedings.

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

### **123.785 Prima facie evidence of ownership.**

Sec. 55. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken under this act if the register or deputy register of deeds of the county shall testify in open court that he had examined the records in his office, and state who such records show are the owners of and

persons interested in such property, and the nature and extent of such ownership and interest. An abstract of the title of such property or any parcel thereof certified by the register or deputy shall also be prima facie evidence of ownership and persons having an interest in any such property and the extent and nature of such interest.

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

**123.786 Lis pendens; filing.**

Sec. 56. It shall be the duty of any attorney filing a petition under this chapter to file a lis pendens in the office of the register of deeds.

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

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