

MICHIGAN LEGISLATURE

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Section 123.732

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

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. *we need odd membership*


(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.

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(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,

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

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.

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

July 5, 2022

To: Leelanau County Board of Commissioners

RE: Reorganize the Board of Public Works (BPW)

There is a need to disband the present BPW. There has not been any activity for the past several years. Listed below are some items that apply:

- Meetings waste clerical time at a cost.
- The present Road Commission members make up the BPW.
- The Drain Commissioner also is on the BPW.
- The last major activity was the Northport sewer...many years ago.
- Northport sewer is well on its way and does not need the BPW.
- The Treasurer can keep a 'remote eye' on Northport.
- Per Act 185, Section 123, the Drain Commission can be the legal representative.
- If something arises that needs a full BPW, it can be established at that time.
- Attached are copies of Act 185.

Recommendation/motion:

- The present make-up the BPW shall be changed and the Drain Commissioner is to assume all duties of the BPW, after Legal review.

Sincerely:

Garth Greenan

John Popa

Bob Joyce

Greg Mikowski

Jim Calhoun