

Act No. 83
Public Acts of 1989
Approved by the Governor
June 19, 1989
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**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Senators Cropsey, V. Smith, Geo. Hart, Binsfeld, Welborn, Posthumus, Carl, Shinkle, Dillingham, N. Smith, Schwarz, Barcia, Fessler and Irwin

ENROLLED SENATE BILL No. 107

AN ACT to amend the title and sections 1, 2, 3, 4, 5, 5a, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of Act No. 107 of the Public Acts of 1941, entitled as amended "An act to authorize township boards to contract with cities or villages for the furnishing of water to township water supply districts for fire protection and other purposes; to provide for installation of water mains and financing of same on voluntary payment basis; to authorize township boards to promulgate and adopt plans for financing, installation, maintenance and control of township water mains; to prescribe the powers and duties of township boards in such cases; to provide for exclusive control of such water mains and use thereof by the township board, and to bring within the provisions of this act certain existing township water mains; and to authorize township water supply and sewage disposal systems, and the issuance of revenue bonds or notes therefor, and to authorize purchases thereof," being sections 41.331, 41.332, 41.333, 41.334, 41.335, 41.335a, 41.336, 41.337, 41.338, 41.339, 41.340, 41.341, 41.342, 41.343, 41.344, 41.345, 41.346, 41.347, 41.348, 41.349, and 41.350 of the Michigan Compiled Laws; to add sections 20a, 20b, 20c, 20d, 20e, 20f, 20g, 20h, 20i, 20j, 20k, 20l, 20m, 20n, 20o, 20p, 20q, 20r, 20s, and 20t; to repeal certain parts of the act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 2, 3, 4, 5, 5a, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of Act No. 107 of the Public Acts of 1941, being sections 41.331, 41.332, 41.333, 41.334, 41.335, 41.335a, 41.336, 41.337, 41.338, 41.339, 41.340, 41.341, 41.342, 41.343, 41.344, 41.345, 41.346, 41.347, 41.348, 41.349, and 41.350 of the Michigan Compiled Laws, are amended and sections 20a, 20b, 20c, 20d, 20e, 20f, 20g, 20h, 20i, 20j, 20k, 20l, 20m, 20n, 20o, 20p, 20q, 20r, 20s, and 20t are added to read as follows:

TITLE

An act to authorize township water supply and sewage disposal services and facilities; to provide for financing of those services and facilities; and to prescribe the powers and duties of township boards with respect to those services and facilities.

Sec. 1. Upon filing with the township clerk of petitions, verified both as to signature and ownership, signed by 60% of the record owners of the land to be made into a township water supply district, the township board in the township may contract with another township or a city, village, or authority for the furnishing of water to the water supply district for fire protection and domestic purposes under terms and conditions agreed upon between the township board and the board or other representative body of the township, city, village, or authority.

Sec. 2. For the purpose of distributing the water to be furnished in pursuance of a contract authorized by section 1, the township board may purchase and lay necessary water mains and fittings and maintain and control their use, either along public highways or upon private property for which the right to lay the pipe has been obtained.

Sec. 3. Not more than 75% of the net cost, exclusive of money, materials, and labor that are supplied by a federal agency, of purchasing and laying the mains and fittings of a water supply system shall be paid out of the contingent fund of the township. On resolving to make and install the improvement, the township board shall determine by resolution the net cost and the share of the net cost not exceeding 75% that the contingent fund of the township shall bear. However, no part of the cost of a water supply system acquired or created under sections 1 to 20a shall be levied or collected as a tax or assessment, whether general or special, upon property located in a village or school district or located in a water supply district in the township, including an area of the township served by a water system owned or operated by a city, if the village, school district, or water supply district has a water supply system that was originally acquired and is operated by or for the village, school district, or water supply district without any expense to the township at large. A water supply system, so separately financed and operated, shall not be taken, as to ownership or control, except by due process of law as provided by the general laws of this state. After determining the amount of money to be appropriated at any time from the township's contingent fund for purposes authorized in this section, the township board may set apart from that amount when appropriated a proportionate part of that amount for the benefit of the separately operated water supply system in the same ratio to the whole amount appropriated as the population of the separate district bears to the total population of the township, as determined by the board. This proportionate part shall be applied for the betterment of the separate water supply system as and when authorized by the board. The township board shall prepare and keep on file a map defining the boundaries of a water supply district served by the separately financed and operated water supply system separate from a township water system.

Sec. 4. The percentage of the net cost remaining after application of section 3 shall be raised by payment, in accordance with sections 5 and 5a from property owners in the township water supply district.

Sec. 5. A person or property owner shall not tap or make a connection with the mains of a water supply district established under section 1 without having paid for the privilege. On compliance with the provisions of section 3, the township board shall promulgate and adopt, by resolution, a plan for financing, maintenance, and control of the improvement. The plan shall provide all of the following:

(a) The minimum payment for the privilege of tapping and making of each private connection with the mains.

(b) A specified date by which all minimum payments shall be made to the township treasurer. The date shall be not less than 30 nor more than 60 days after completion of the publication required by section 6.

(c) The amount payable to the township treasurer after the date specified pursuant to subdivision (b) for the privilege of tapping and making of each private connection with the mains. This amount shall be not more than 50% nor less than 20% greater than the minimum payment specified pursuant to subdivision (a).

(d) Rules and regulations designed to vest exclusive governing control of the mains and fittings in the township board and to maintain and preserve adequate water pressure throughout the mains. The rules and regulations shall conform to the contract made under section 1. The rules and regulations shall include a provision limiting the number of private connections that may be purchased and made with the mains; a provision limiting the length of all private connections with the mains; provisions declaring the maximum size of pipe that may be used by all persons and property owners in making and maintaining private connections with the mains; a provision for minimum distance, on either or both sides of the mains, between taps for all private connections; and general provisions governing use and control of the mains, assessment of water rates, collection and payment of water rates, and suitable penalties for nonpayment of the rates.

Sec. 5a. The township board may include, in its plan under section 5, rules and regulations for the establishment of a township water board and for loans to the water board from private parties of money necessary to aid in the financing of the project petitioned for under section 1. The loans shall be retired only out of excess money as defined in section 9 and other direct revenues, if any, to be derived from the project. A water board established in accordance with this section shall exercise under direction of the township board all of the powers of maintenance and control that are granted by sections 1 to 20a to the township board.

Sec. 6. Immediately following adoption of the plan under section 5, it shall be published at full length by the township board once each week for 3 successive weeks in a newspaper circulating within the township in which the improvement petitioned for under section 1 is to be made. Proof of the publication shall be made and filed

with the township clerk before installation of the improvement commences. The publication is the sole notice of the improvement and of the provisions of the plan that interested persons and property owners are entitled to receive.

Sec. 7. If the percentage of the net cost remaining after application of section 3 is not, in pursuance of the plan under section 5, fully paid in to the township treasurer, by paid for connection rights as provided for in the plan or loans made in accordance with section 5a, or both, by the date specified pursuant to section 5(b), the improvement petitioned for under section 1 shall not be commenced and all money previously deposited with the township treasurer in pursuance of the plan shall be refunded immediately by the township treasurer to the respective depositors of the money.

Sec. 8. If a sufficient number of private connection rights are timely paid for in accordance with the terms of the plan provided for by section 5, the township board shall immediately proceed to make and install the improvement petitioned for under section 1 and may, by resolution, do what is necessary to accomplish the purposes of the plan. The board may borrow all or part of the amount to be appropriated from the contingent fund under section 3 if, in the judgment of the board, the contingent fund will, by such appropriation, be depleted to such extent as may hamper general township operations. The loan shall conform to the provisions of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws.

Sec. 9. Money that is paid in to the township treasurer for private connection rights under section 5 on or before the date specified pursuant to section 5(b) which creates an excess over the percentage of the net cost remaining after application of section 3 and money that is paid into the township treasurer for the rights after that date is excess money and shall be deposited in the contingent fund. This section applies to all money received by the township treasurer after May 19, 1941, in cases in which water mains, prior to May 20, 1941, were extended or installed in accordance with a plan substantially similar to that contemplated by section 5.

Sec. 10. The township board has exclusive governing control over the maintenance and use of the mains and fittings of a water supply district established under section 1 and shall exercise this control in accordance with the terms of sections 1 to 20a and the rules and regulations that are required by and conform to section 5(d). The rules and regulations may be amended by the township board only after notice of its intention to do so, specifying the date, hour, and place of meeting of the board for this purpose, is published for 3 successive weeks in a newspaper circulating within the township.

Sec. 11. If water mains have been extended or installed in accordance with a plan substantially similar to that contemplated by section 5, the township board, subject to provisions of any contract that has been made with another township or a city, village, or authority for furnishing water through the mains, has exclusive governing control over the mains and fittings and their maintenance and use. In such cases, the township board may promulgate and adopt, by resolution, rules and regulations conforming substantially with section 5(d). The rules and regulations become effective on completion of their publication, at full length, once each week for 3 successive weeks in a newspaper circulating within the township in which the improvement has been made. After the rules and regulations become effective, they may be amended or altered by the township board only after notice of its intention to do so, specifying the date, hour, and place of meeting of the board for this purpose, is published for 3 successive weeks in a newspaper circulating within the township.

Sec. 12. As used in sections 1 to 20a:

(a) "Township water supply district" means the portion of the township described in the petition required by section 1.

(b) "Private connection" means the tapping of a main and the connection of the main with a nonpublic building or premises as distinguished from a connection with a public building or premises and from an extension of such a main, lateral or otherwise, that the township board, in accordance with altered or amended rules and regulations, authorizes in and along a public highway.

(c) "Corporation" includes foreign and domestic corporations lawfully doing business in this state.

Sec. 13. A corporation proposing to locate and construct, in a township having no sewage disposal system and a water supply system installed before June 14, 1951 under the terms of sections 1 to 12 that is inadequate for domestic and proposed industrial or commercial requirements, a business or plant requiring the facilities of a modern and sufficient public water supply and sewage disposal system may loan to the township money sufficient to provide for the acquisition and construction of an adequate township water supply and sewage disposal system and for the refunding of revenue bonds or revenue notes then outstanding and constituting a lien upon the revenues of the existing water supply system. Without complying with section 1, the township may

borrow money from the corporation for these purposes; execute revenue bonds and mortgages securing the loan; pledge the net revenues of the proposed water supply and sewage disposal system to the repayment of the loan; acquire, construct, or improve the works; and refund the bonds or notes. A bond issued under the provisions of this section is a valid and subsisting obligation of the township.

Sec. 14. A township borrowing pursuant to section 13 may enter into a contract with the corporation described in section 13 for the issuance and delivery to the corporation or its assigns of self-liquidating and fully negotiable revenue bonds for the repayment of the loan with interest on the bonds not exceeding the legal rate, according to terms and conditions consistent with sections 1 to 20a and agreed upon between the township board and the lending corporation.

Sec. 15. The power conferred on a township by sections 13 and 14 shall be exercised by means of an ordinance adopted by the township board according to the procedure set forth in Act No. 191 of the Public Acts of 1939, being sections 41.191 to 41.192 of the Michigan Compiled Laws, and the contract agreed upon with the corporation as provided in section 14 shall be incorporated in and published as a part of the ordinance.

Sec. 16. There shall be created in an ordinance required by section 15 a lien, by this act made a statutory lien, upon the net revenues of the water supply and sewage disposal project authorized by section 13. The authorizing ordinance shall pledge the net revenues to the payment of the principal of and interest upon the bonds issued under section 13 to and in favor of the holders of the bonds and the interest coupons pertaining to the bonds and each of the holders. The lien shall be a first lien upon the net revenues. The net revenues shall constitute trust funds for the purposes expressed in this section.

Sec. 17. The net revenues pledged pursuant to section 13 remain subject to the statutory lien required by section 16 until payment in full of the principal of and interest upon the revenue bonds issued under section 13. The holder or holders of the bonds representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, protect and enforce the statutory lien and enforce and compel the performance of duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues, and the proper application of revenues. However, the statutory lien does not give a holder or owner of a bond or coupon authority to compel the sale of the water supply and sewage disposal system, the revenues of which are pledged pursuant to section 13.

Sec. 18. If there is a default in the payment of the principal of or interest upon a bond issued under section 13, a court having jurisdiction in a proper action may appoint a receiver to do 1 or more of the following:

(a) Administer and operate on behalf of the township, under the direction of the court, the water supply and sewage disposal system authorized by section 13, the revenues of which are pledged to the payment of the principal and interest.

(b) With the approval of the court, fix and charge rates and collect revenues sufficient to provide for the payment of bonds or other obligations outstanding against the revenues of the water supply and sewage disposal system authorized by section 13 and for the payment of expenses of operating and maintaining the system.

(c) With the approval of the court, apply the income and revenues of the water supply and sewage disposal system in conformity with sections 1 to 20a and the ordinance required by section 15 providing for the issuance of the bonds and in accordance with the court's orders.

Sec. 19. The principal of and interest upon the bonds issued under section 13 are payable solely from net revenues derived from the operation of the water supply and sewage disposal system purchased, acquired, constructed, improved, enlarged, extended, or repaired from the proceeds of the bonds that are pledged in the authorizing ordinance, which may include, if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions, or repairs to the water supply and sewage disposal system. A bond or coupon issued pursuant to section 13 is not a general obligation of the borrower and does not constitute an indebtedness of the borrower within the meaning of a state constitutional provision or statutory limitation. Such a bond may be registered as to principal under the terms and conditions determined by the township board.

Sec. 20. A township that borrows money under section 13 may appropriate and use revenues from a source other than the operation of the public improvement authorized by section 13 to pay expenses of operation or maintenance of the public improvement.

Sec. 20a. Sections 1 to 20 constitute a new and independent authority for the exercise of the powers granted in those sections. The powers conferred by sections 1 to 20 are not affected or limited by any other statute, except as expressly provided in those sections. Sections 1 to 20 create a full and complete additional and alternate method for the exercise of the powers conferred in those sections.

Sec. 20b. In a township where there are lands serviced by a water system financed by revenue bonds issued under the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.140 of the Michigan Compiled Laws, or by bonds issued under the county public improvement act of 1939, Act No. 342 of the Public Acts of 1939, being sections 46.171 to 46.188 of the Michigan Compiled Laws; Act No. 185 of the Public Acts of 1957, being sections 123.731 to 123.786 of the Michigan Compiled Laws; or Act No. 233 of the Public Acts of 1955, being sections 124.281 to 124.294 of the Michigan Compiled Laws, having water service available for fire protection through fire hydrants and water mains, the township board may determine by resolution that the reasonable cost and value of the water service for fire protection within the district served by the water system shall be borne by a special assessment levied annually, while bonds are outstanding, against all of the real property located within the district, which shall constitute a special assessment district. A special assessment under this section shall not be levied against any property in 1 year in excess of 1/5 of 1% of the state equalized valuation of the property unless a special hearing is held.

Sec. 20c. A resolution of the township board shall designate the boundaries of the special assessment district authorized by section 20b, estimate and determine the reasonable annual cost and value of the water service available for fire protection through fire hydrants and mains, and determine what portion of this annual fire protection cost should be paid for by special assessment because of benefits and what portion, if any, should be paid by the township out of general funds.

Sec. 20d. The township board may use unappropriated money in its general fund to pay for a portion of the annual fire protection cost described in section 20c, including money received under the provisions of sections 8 and 10 of article IX of the state constitution of 1963.

Sec. 20e. The township board shall fix a date for a public hearing upon the establishment of a special assessment district authorized by section 20b, the properties to be included in the district, the estimate of the reasonable cost and value of the fire protection afforded annually, and the assessments to be levied against the respective lots within the district.

Sec. 20f. After fixing a date for a public hearing pursuant to section 20e, the township board shall direct that the assessment authorized by section 20b be prepared by the township supervisor, who shall levy the total sum estimated of fire protection benefit apportioned in accordance with benefits against all of the property located within the special assessment district benefited by the fire protection water service. The township supervisor shall then report the assessment to the township board. The report shall be made before the date of the hearing.

Sec. 20g. The assessment authorized by section 20b may be made either on a special assessment roll or in a column provided for this purpose on the regular township tax roll. After the assessment has been confirmed, it shall become due and collected when other township taxes fall due and are collected and shall be returned for nonpayment in the same manner as other township taxes.

Sec. 20h. The business that the township board performs pursuant to sections 20b to 20k shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The township board shall give public notice of a meeting and the time, date, place, and purpose of the meeting in the manner required by Act No. 267 of the Public Acts of 1976 and by publishing a notice in a newspaper of general circulation in the district proposed to be assessed. If a newspaper is not circulated in the district, then notice shall be posted in at least 3 of the most public and conspicuous places in the district.

Sec. 20i. The township board shall hold the public hearing required by section 20e and hear and consider all objections relative to the establishment of the special assessment district authorized by section 20b, the boundaries of the district, the properties to be included in the district, the total amount so proposed to be assessed, and the respective individual assessments so proposed on the individual properties of the district. After the hearing, the township board shall determine whether or not the district shall be established and the assessments levied. The township board may change the district authorized by section 20b or the special assessments of the district as it considers equitable in accordance with the fire protection benefits conferred.

Sec. 20j. If the township board approves the establishment of a special assessment district authorized by section 20b, it shall review, correct, and confirm the assessment roll and direct that it be collected immediately in the same manner as township taxes.

Sec. 20k. After the creation of a special assessment district authorized by section 20b and while bonds are still outstanding, the township board may annually determine the amount to be assessed in the district and then levy that amount of annual assessments as special assessments against the benefited properties within the district. Further hearings shall not be held unless a change in the amount of annual assessment against an individual property is contemplated or attempted.

Sec. 20l. The township board of a township may contract with another township or a city or village for the supplying of water to the township for fire protection and domestic purposes under terms and conditions agreed upon between the township board and the legislative body of the other municipality.

Sec. 20m. Subject to prior approval under the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, a township board may borrow money and issue notes for money necessary for acquisition and installation by the township of water supply facilities, including water mains and elevated water tanks, which are required of the township by the terms of a water supply contract authorized by section 20l.

Sec. 20n. A transaction authorized by section 20m is subject to the following provisions:

(a) A note shall be payable in annual installments the aggregate of which does not exceed 10 and the first of which is due not later than August 1 after the calendar year in which the note is issued. Subsequent maturity dates, if any, shall likewise be August 1. The note shall bear interest at a rate not exceeding 4% per year, payable semiannually, and may be made subject to redemption on an interest payment date before maturity at par plus accrued interest on terms and conditions provided in the authorizing resolution.

(b) The amount of a loan authorized by section 20m shall not, when payable, exceed the following percentage of the total aggregate revenues derived from sales tax money received by the township for the preceding 5 calendar years:

(i) For a loan payable in 10 installments	40%.
(ii) For a loan payable in 9 installments	36%.
(iii) For a loan payable in 8 installments	32%.
(iv) For a loan payable in 7 installments	28%.
(v) For a loan payable in 6 installments	24%.
(vi) For a loan payable in 5 installments	20%.
(vii) For a loan payable in 4 installments	16%.
(viii) For a loan payable in 3 installments	12%.
(ix) For a loan payable in 2 installments	8%.
(x) For a loan payable in 1 installment	4%.

(c) The resolution authorizing the borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest from the money to be derived from state collected sales tax returned to the township. After the borrowing is authorized, the township treasurer shall set aside in a separate fund from the money received in each year an amount sufficient for the payment of the principal and interest of the loan maturing on August 1 of the next calendar year. The full faith and credit of the township shall not be pledged.

Sec. 20o. The requirement of section 20m for obtaining prior approval under the municipal finance act before borrowing money and issuing a note is subject to sections 10 and 11 of chapter III of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 133.10 and 133.11 of the Michigan Compiled Laws. The department of treasury has the same authority as provided by section 11 of chapter III of Act No. 202 of the Public Acts of 1943 to issue an order providing or denying an exception from the prior approval required by section 20m for notes authorized by section 20m. Unless an exception from prior approval is available, the department of treasury may in its discretion approve or deny, in whole or in part, the borrowing and the issuing of notes under section 20m. A note authorized under section 20m shall be advertised and sold as provided by section 2 of chapter III of Act No. 202 of the Public Acts of 1943, being section 133.2 of the Michigan Compiled Laws.

Sec. 20p. To secure repayment of a loan authorized by section 20m, the township board may pledge, by ordinance as provided in sections 20q to 20s, all or any specified portion of sales tax money to be received by the township under sections 8 and 10 of article IX of the state constitution of 1963 during the period the loan remains outstanding.

Sec. 20q. An ordinance pledging sales tax money pursuant to section 20p may provide that the official charged with disbursement of sales tax money returnable to the township pursuant to sections 8 and 10 of article IX of the state constitution of 1963 shall withhold and pay to the lending person, firm, corporation, bank, or trust company such of the constitutionally allocated money of the township as may be necessary to fulfill the pledge.

Sec. 20r. By the affirmative vote of 2/3 of its members, the township board may adopt an ordinance relating to the exercise of the powers granted in sections 20l to 20t and to any other matter necessary or desirable to effectuate the full intent and purpose of sections 20l to 20t, including provisions for control and maintenance of a water supply facility, charges for rights of connection with a facility for water service, charges for water delivered by means of a facility, and other provisions to ensure the proper and adequate operation of a facility. An ordinance adopted pursuant to this section becomes effective at the expiration of 30 days after the date of its publication unless a referendum is required as provided in section 20s. An ordinance adopted pursuant to this section shall be recorded in the minutes of the meeting of the township board as soon as practicable after its adoption. The record shall be authenticated by the signatures of the supervisor and clerk of the township. The ordinance shall be published promptly after its adoption in a newspaper of general circulation within the township. The ordinance may be so published as a part of the minutes of the meeting at which it was adopted. Except as otherwise provided in sections 20l to 20t, the provisions of this section are the sole requirements concerning the adoption and publication of the ordinance and are not limited by other statutory provisions.

Sec. 20s. If, within 30 days after the date of publication of an ordinance authorized by section 20r, a petition signed by not less than 10% of the registered electors residing within the limits of the township is filed with the township clerk requesting a referendum upon the effectiveness of the ordinance, then the ordinance does not become effective until approved by vote of a majority of the electors of the township qualified to vote and voting on the ordinance at an election. Signatures on the petition shall be verified by some person or persons under oath as the actual signatures of persons whose names are signed, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in the township shall be determined by the township clerk from the township registration books.

Sec. 20t. The powers granted to townships in sections 20l to 20s are granted in addition to those granted by other statutes.

Section 2. The following acts and parts of acts are repealed:

- (a) Section 21 of Act No. 107 of the Public Acts of 1941, being section 41.a351 of the Michigan Compiled Laws.
- (b) Act No. 47 of the Public Acts of 1941, being sections 41.351 to 41.356 of the Michigan Compiled Laws.
- (c) Act No. 88 of the Public Acts of 1919, being sections 41.391 to 41.398 of the Michigan Compiled Laws.
- (d) Act No. 96 of the Public Acts of 1951, being sections 41.831 to 41.840 of the Michigan Compiled Laws.
- (e) Act No. 207 of the Public Acts of 1953, being sections 41.871 to 41.878 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.