

HOUSE BILL No. 5865

June 7, 1990, Introduced by Rep. Gnodtke and referred to the Committee on Towns and Counties.

A bill to amend the title and sections 2, 3, 4, 5, 8, 10, 11, 12, 14, 15, 16, 16a, 17, 18, 21, 22, 23, and 24 of Act No. 146 of the Public Acts of 1961, entitled "Inland lake level act of 1961," being sections 281.62, 281.63, 281.64, 281.65, 281.68, 281.70, 281.71, 281.72, 281.74, 281.75, 281.76, 281.76a, 281.77, 281.78, 281.81, 281.82, 281.83, and 281.84 of the Michigan Compiled Laws; to add sections 3a, 17a, 17b, 17c, and 25; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 3, 4, 5, 8, 10, 11,
2 12, 14, 15, 16, 16a, 17, 18, 21, 22, 23, and 24 of Act No. 146 of
3 the Public Acts of 1961, being sections 281.62, 281.63, 281.64,
4 281.65, 281.68, 281.70, 281.71, 281.72, 281.74, 281.75, 281.76,
5 281.76a, 281.77, 281.78, 281.81, 281.82, 281.83, and 281.84 of

1 the Michigan Compiled Laws, are amended and sections 3a, 17a,
2 17b, 17c, and 25 are added to read as follows:

3 TITLE

4 An act to provide for the determination, ESTABLISHMENT, and
5 maintenance of the normal ~~height and level~~ LEVELS of the
6 ~~waters in~~ inland lakes of this state ~~—~~ for the protection of
7 the public health, safety, and welfare and the conservation of
8 the natural resources of this state; to authorize the building
9 and maintenance of dams ~~and embankments~~ to accomplish ~~such~~
10 THOSE purposes; to authorize the acquisition of lands and other
11 property by gift, grant, purchase, or condemnation proceedings;
12 to authorize the acceptance of gifts and grants of funds for the
13 construction and maintenance of such dams; ~~and embankments;~~ to
14 authorize the raising of money by taxation and by special assess-
15 ments for the purposes of this act; to prescribe ~~the~~ CERTAIN
16 duties and powers of COUNTY boards of ~~supervisors~~
17 COMMISSIONERS, the ~~conservation~~ department of ~~Michigan and~~
18 NATURAL RESOURCES, county drain commissioners, AND CERTAIN COUNTY
19 ROAD COMMISSIONS; ~~with reference hereto;~~ and to repeal certain
20 acts and parts of acts.

21 Sec. 2. As used in this act:

22 ~~(a) Normal water level of any inland lake, natural or arti-~~
23 ~~ficial, is such a level as, considering the height above sea~~
24 ~~level, established by government surveys; the high water line as~~
25 ~~disclosed by old surveys; testimony of old inhabitants; the~~
26 ~~extent to which drainage and other artificial causes have~~
27 ~~decreased the natural ground water table of the areas; the extent~~

~~1 to which natural causes have either decreased or increased the
2 natural ground water table, and all other pertinent surrounding
3 facts and circumstances, will provide the most benefit to the
4 public and best protect the public health, welfare and safety and
5 which will best preserve the natural resources of the state, and
6 preserve and protect the values of properties developed around
7 said lake as a result of the creation of the normal level.~~

~~8 (b) Dams mean dams, embankments, dikes, pumps, weirs, locks,
9 gates, tubes, ditches or any other devices or construction to
10 keep and maintain the waters in lakes at normal height and
11 level.~~

~~12 (c) A public inland lake is any lake which is accessible to
13 the public via public owned lands, waters or highways contiguous
14 thereto, or via the bed of a navigable stream and which may be
15 used for navigation, fishing, hunting or other lawful purpose and
16 reasonably capable of supporting a beneficial public interest,
17 except the Great Lakes and connecting waters.~~

~~18 (d) A private inland lake is any inland lake other than a
19 public inland lake. (e) Department~~

20 (A) "COMMISSIONER" means the county drain commissioner or
21 the county road commission in counties not having a drain commis-
22 sioner, and, if more than 1 county is involved, the combined
23 drain commissioners or drain commissioner and road commission in
24 counties having no drain commissioner.

25 (B) "COUNTY BOARD" MEANS THE COUNTY BOARD OF COMMISSIONERS,
26 AND IF MORE THAN 1 COUNTY IS INVOLVED, THE COMBINED BOARDS OF
27 COMMISSIONERS OF THOSE COUNTIES.

1 (C) "COURT" MEANS A CIRCUIT COURT, AND IF MORE THAN 1
2 JUDICIAL CIRCUIT IS INVOLVED, THE CIRCUIT COURT DESIGNATED BY THE
3 COUNTY BOARD OR OTHERWISE AUTHORIZED BY LAW TO PRESIDE OVER AN
4 ACTION.

5 (D) "DAM" MEANS AN ARTIFICIAL BARRIER, STRUCTURE, OR FACILI-
6 TY, AND APPURTENANT WORKS, USED TO REGULATE OR MAINTAIN THE LEVEL
7 OF AN INLAND LAKE.

8 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

9 (F) "INLAND LAKE" MEANS A NATURAL OR ARTIFICIAL LAKE, POND,
10 IMPOUNDMENT, OR A PART OF 1 OF THOSE BODIES OF WATER. INLAND
11 LAKE DOES NOT INCLUDE THE GREAT LAKES OR LAKE ST. CLAIR.

12 (G) ~~(f)~~ "Interested person" ~~is any~~ MEANS A person who
13 has a record interest in the title to, right of ingress to, or
14 reversionary right to ~~a piece or parcel of~~ land which would be
15 affected by a permanent change in the natural or normal ~~mean~~
16 level of ~~a natural or artificial public or private~~ AN inland
17 lake; ~~, and in all cases, whether having such interest or not,~~
18 ~~the Michigan~~ AND THE department. ~~of conservation shall be an~~
19 ~~interested person.~~

20 ~~(g) Conservation department is the state conservation~~
21 ~~department.~~

22 (H) "NORMAL LEVEL" MEANS THE LEVEL OR LEVELS OF THE WATER OF
23 AN INLAND LAKE THAT PROVIDE THE MOST BENEFIT TO THE PUBLIC; THAT
24 BEST PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE; THAT BEST
25 PRESERVE THE NATURAL RESOURCES OF THE STATE; AND THAT BEST PRE-
26 SERVE AND PROTECT THE VALUE OF PROPERTY AROUND THE LAKE. A

1 NORMAL LEVEL SHALL BE MEASURED AND DESCRIBED AS AN ELEVATION
2 BASED ON NATIONAL GEODETIC VERTICAL DATUM.

3 Sec. 3. (1) The COUNTY board ~~of supervisors of any~~ A
4 county in which ~~the whole or any part of the waters of any~~ AN
5 inland lake is ~~situated~~ LOCATED may upon ~~its~~ THE BOARD'S own
6 motion, or shall within 90 days following receipt of a petition
7 to the board of 2/3 of the ~~freeholders owning~~ OWNERS OF lands
8 abutting the INLAND lake, cause to be determined the normal
9 ~~height and~~ level of ~~the waters in~~ the inland lake. ~~for the~~
10 ~~protection of the public health, welfare and safety and the con-~~
11 ~~servation of the natural resources of this state, or to preserve~~
12 ~~property values around a lake. When~~

13 (2) IF a court determined ~~lake~~ NORMAL level is established
14 PURSUANT TO THIS ACT, the COUNTY board ~~of supervisors~~ of the
15 county or counties in which the ~~waters are situated~~ LAKE IS
16 LOCATED shall ~~proceed with the necessary steps to construct or~~
17 ~~maintain , or both, sufficient dams to keep and maintain the~~
18 ~~water in the lake at its~~ THAT normal ~~height and~~ level. ~~The~~
19 ~~board may drill wells to supply a lake with additional water in~~
20 ~~order to raise the level thereof or pump water from some other~~
21 ~~source, or in case it is necessary to lower the level thereof may~~
22 ~~arrange for the pumping of water from the lake.~~

23 SEC. 3A. EXCEPT IF REQUIRED TO ACT BY RESOLUTION, THE
24 COUNTY BOARD MAY DELEGATE POWERS AND DUTIES UNDER THIS ACT TO
25 THAT COUNTY'S COMMISSIONER.

26 Sec. 4. (1) BEFORE PROCEEDING ON A MOTION MADE OR A
27 PETITION FILED UNDER SECTION 3, THE COUNTY BOARD SHALL CAUSE A

1 PRELIMINARY STUDY TO BE CONDUCTED BY A LICENSED PROFESSIONAL
2 ENGINEER. The COUNTY board, ~~of supervisors,~~ by resolution, may
3 require a cash ~~deposit~~ PAYMENT FROM THE PETITIONERS sufficient
4 to cover the ACTUAL preliminary STUDY costs ~~when a petition is~~
5 ~~received from freeholders before further proceedings are under-~~
6 ~~taken pursuant to the petition~~ OR \$5,000.00, WHICHEVER IS LESS.

7 (2) A PRELIMINARY STUDY SHALL INCLUDE ALL OF THE FOLLOWING:

8 (A) THE FEASIBILITY OF A PROJECT TO ESTABLISH AND MAINTAIN A
9 NORMAL LEVEL OF THE INLAND LAKE.

10 (B) THE EXPEDIENCY OF THE NORMAL LEVEL PROJECT.

11 (C) THE ESTIMATED COSTS OF CONSTRUCTION AND MAINTENANCE OF
12 THE NORMAL LEVEL PROJECT.

13 (D) A METHOD OF FINANCING INITIAL COSTS.

14 (E) THE NECESSITY OF A SPECIAL ASSESSMENT DISTRICT AND THE
15 TENTATIVE BOUNDARIES AND SPECIAL ASSESSMENT ROLL IF A DISTRICT IS
16 NECESSARY.

17 (F) OTHER INFORMATION WHICH THE COUNTY BOARD RESOLVES IS
18 NECESSARY.

19 Sec. 5. (1) ~~Whenever~~ IF the COUNTY board, ~~of~~
20 ~~supervisors of any county deems~~ BASED ON THE PRELIMINARY
21 STUDY, FINDS it expedient AND RESOLVES to have determined and
22 established the normal ~~height and~~ level of ~~the waters in any~~
23 AN inland lake, ~~natural or artificial, situated in the county,~~
24 ~~the board, by resolution, shall determine the expediency of and~~
25 ~~the method of financing the initial costs and maintenance of any~~
26 ~~project at a regular or special meeting, and direct the~~
27 ~~department to establish a special assessment district if~~

1 ~~required.~~ ~~(2) The~~ THE COUNTY board shall ~~also~~ direct the
2 prosecuting attorney OR OTHER LEGAL COUNSEL of the county to
3 ~~institute~~ INITIATE by proper petition in the ~~circuit~~ court of
4 ~~the~~ THAT county a proceeding for determination OF THE NORMAL
5 LEVEL FOR THAT INLAND LAKE AND FOR ESTABLISHING A SPECIAL ASSESS-
6 MENT DISTRICT IF THE COUNTY BOARD DETERMINES BY RESOLUTION THAT
7 ONE IS NECESSARY AS PROVIDED IN SECTION 15.

8 (2) ~~When~~ IF the waters of ~~any~~ AN inland lake are
9 ~~situated~~ LOCATED in 2 or more counties, the normal ~~height and~~
10 level of the ~~waters of such lakes~~ LAKE may be determined in the
11 same manner if the COUNTY boards ~~of supervisors~~ of all counties
12 involved, ~~determine it to be expedient and~~ by resolution, ~~may~~
13 direct the ~~department and~~ prosecuting attorney OR OTHER LEGAL
14 COUNSEL of 1 or more OF THE counties to institute proceedings.
15 ALL COUNTIES MAY MAKE A SINGLE PRELIMINARY STUDY.

16 (3) THE DEPARTMENT MAY JOIN A PROCEEDING INITIATED UNDER
17 THIS SECTION.

18 Sec. 8. If the ~~conservation~~ department ~~deems~~ FINDS it
19 expedient to have the normal ~~height and~~ level of ~~any~~ AN
20 inland lake determined, the ~~conservation commission shall by~~
21 ~~resolution authorize the~~ director ~~to institute~~ OF THE DEPART-
22 MENT MAY INITIATE by proper petition on behalf of the state, in
23 the ~~circuit~~ court of any county in which the lake ~~or any part~~
24 is ~~situated~~ LOCATED, a proceeding for determination OF THE
25 NORMAL LEVEL. ~~The conservation department may likewise join~~
26 ~~with the board of supervisors of any counties of the state in~~

~~1 instituting proceedings for determination as set forth in this~~
~~2 act.~~

3 Sec. 10. (1) Upon receipt of petitions filed under this act
4 the court shall fix a day of hearing. ~~shall direct the~~ THE
5 prosecuting attorney OR OTHER LEGAL COUNSEL OF THE COUNTY OR
6 COUNTIES or the department ~~of natural resources to~~ SHALL give
7 notice ~~thereof~~ OF THE HEARING by publication in 1 or more news-
8 papers of general circulation in the county ~~and~~, and, if the
9 waters of the inland lake are situated in 2 or more counties, in
10 1 or more newspapers ~~in~~ OF general circulation in each of the
11 counties in which the INLAND lake ~~or any part thereof~~ is
12 ~~situated~~ LOCATED. The notice shall be published at least once
13 each week for ~~6~~ 3 successive weeks ~~prior to~~ BEFORE the date
14 fixed for the hearing. ~~The court shall direct that copies~~

15 (2) THE COMMISSIONER SHALL SERVE A COPY of the published
16 notice of hearing ~~shall be served~~ by ~~certified~~ FIRST CLASS
17 mail at least 3 weeks prior to the date set for hearing to each
18 person whose name appears upon the latest city or township tax
19 assessment roll as owning ~~lands~~ LAND within ~~the~~ A TENTATIVE
20 special assessment district INCLUDED IN THE PRELIMINARY STUDY, at
21 the address shown on the roll; TO THE GOVERNING BODY OF EACH
22 POLITICAL SUBDIVISION OF THE STATE IN WHICH THE LAKE IS LOCATED;
23 AND TO THE GOVERNING BODY OF EACH AFFECTED POLITICAL SUBDIVISION
24 OF THE STATE. If ~~no~~ AN address ~~appears thereon~~ DOES NOT
25 APPEAR ON THE ROLL, then ~~no~~ A notice need NOT be mailed to the
26 person. The ~~department~~ COMMISSIONER shall make an affidavit of
27 mailing. The failure to receive ~~any~~ A notice properly mailed

1 shall not constitute a jurisdictional defect invalidating
2 proceedings under this act.

3 (3) The prosecuting attorney OR THE LEGAL COUNSEL OF THE
4 COUNTY shall ~~also~~ serve notice on the department ~~of natural~~
5 ~~resources. The court shall hear proofs and allegations of all~~
6 ~~parties interested.~~ AT LEAST 21 DAYS PRIOR TO THE DATE OF THE
7 HEARING.

8 (4) IN A DETERMINATION OF THE NORMAL LEVEL OF AN INLAND
9 LAKE, THE COURT SHALL CONSIDER ALL OF THE FOLLOWING:

10 (A) GOVERNMENT SURVEYS AND REPORTS.

11 (B) THE LOCATION OF SEPTIC TANKS, DRAIN FIELDS, SEA WALLS,
12 DOCKS, AND OTHER PERTINENT PHYSICAL FEATURES.

13 (C) FISHERIES AND WILDLIFE HABITAT PROTECTION AND
14 ENHANCEMENT.

15 (D) PAST LAKE LEVEL RECORDS, INCLUDING THE ORDINARY HIGH
16 WATER MARK AND SEASONAL FLUCTUATIONS.

17 (E) TESTIMONY AND EVIDENCE OFFERED BY ALL INTERESTED
18 PERSONS.

19 (F) THE HYDROLOGY OF THE WATERSHED.

20 (G) DOWNSTREAM FLOW REQUIREMENTS.

21 (H) OTHER PERTINENT FACTS AND CIRCUMSTANCES.

22 (5) The court shall determine the NORMAL level to be estab-
23 lished and maintained, ~~and~~ shall have continuing jurisdiction,
24 and may provide for departure from the normal level as ~~may be~~
25 necessary to accomplish the purposes of this act. ~~The court~~
26 ~~shall confirm the special assessment district boundaries within~~

1 ~~60 days following the lake level determination.~~ THE COURT MAY
2 DETERMINE THAT THE NORMAL LEVEL SHALL VARY SEASONALLY.

3 Sec. 11. (1) ~~The~~ AFTER THE COURT DETERMINES THE NORMAL
4 LEVEL OF AN INLAND LAKE IN A PROCEEDING INITIATED BY THE COUNTY,
5 THE COUNTY board ~~of supervisors~~ of any county OR COUNTIES in
6 which ~~the whole or any portion of the waters of any~~ THE inland
7 lake ~~are situated~~ IS LOCATED SHALL PROVIDE FOR AND MAINTAIN
8 THAT NORMAL LEVEL.

9 (2) A COUNTY may acquire, in the name of the county ~~—~~ by
10 gift, grant, purchase, or ~~by~~ condemnation proceedings, ~~any~~ AN
11 existing dam which may affect the NORMAL level of ~~the waters in~~
12 the INLAND lake, ~~and any or all~~ sites for dams, or ~~interests~~
13 ~~and~~ rights in land needed or convenient in order to carry out
14 the purposes of this act. ~~—and~~ A COUNTY MAY ENTER INTO A CON-
15 TRACT FOR OPERATION AND MAINTENANCE OF AN EXISTING DAM. THE
16 COUNTY may ~~proceed to~~ construct and maintain ~~any~~ A dam that
17 ~~may be~~ IS determined by the COUNTY board to be necessary for
18 the purpose of maintaining the normal ~~height and~~ level. ~~of~~
19 ~~the waters of any lake as provided in section 3.~~ A dam may be
20 ACQUIRED, constructed, ~~and~~ OR maintained in a county ~~next~~
21 adjoining the county in which the lake ~~or part thereof~~ is
22 located.

23 (3) FOR THE PURPOSE OF MAINTAINING THE NORMAL LEVEL, A
24 COUNTY BOARD MAY DRILL WELLS OR PUMP WATER FROM ANOTHER SOURCE TO
25 SUPPLY AN INLAND LAKE WITH ADDITIONAL WATER. THE COUNTY BOARD
26 MAY LOWER THE LEVEL OF THE LAKE BY PUMPING WATER FROM THE LAKE.

1 THE COMMISSIONER MAY PURCHASE POWER TO OPERATE PUMPS, WELLS, OR
2 OTHER DEVICES INSTALLED AS PART OF A NORMAL LEVEL PROJECT.

3 Sec. 12. (1) AFTER THE COURT DETERMINES THE NORMAL LEVEL OF
4 AN INLAND LAKE IN A PROCEEDING INITIATED BY THE DEPARTMENT, THE
5 DEPARTMENT MAY PROVIDE FOR AND MAINTAIN THAT NORMAL LEVEL.

6 (2) ~~The conservation~~ IN A PROCEEDING INITIATED BY THE
7 DEPARTMENT, THE department ~~may acquire in the name of the state~~
8 ~~by gift, grant, purchase or by condemnation proceedings any~~
9 ~~existing dam which may affect the level of the waters in any~~
10 ~~inland lake, and may acquire by such means any or all sites for~~
11 ~~dams and rights in land needed or convenient in order to carry~~
12 ~~out the purpose of this act and may proceed to construct and~~
13 ~~maintain any dam that may be determined by the commission to be~~
14 ~~necessary for the purpose of maintaining the normal height and~~
15 ~~level of any inland lake~~ HAS THE SAME POWERS IN CONNECTION WITH
16 A NORMAL LEVEL PROJECT AS A COUNTY HAS UNDER SECTIONS 11, 16A,
17 AND 18.

18 Sec. 14. ~~The board of supervisors of any county in this~~
19 ~~state or the conservation department, within the limitations of~~
20 ~~the state constitution, may take private property for the uses or~~
21 ~~purposes specified in this act and to institute and prosecute~~
22 ~~proceedings for that purpose.~~ IF THE DEPARTMENT OR THE COUNTY
23 BOARD DETERMINES BY PROPER RESOLUTION THAT IT IS NECESSARY TO
24 CONDEMN PRIVATE PROPERTY FOR THE PURPOSE OF THIS ACT, THE DEPART-
25 MENT OR COUNTY MAY CONDEMN THE PROPERTY IN ACCORDANCE WITH THE
26 UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC

1 ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF THE MICHIGAN
2 COMPILED LAWS.

3 Sec. 15. (1) ~~Whenever the conservation department or the~~
4 ~~board of supervisors of any county in the state determines by~~
5 ~~proper resolution that it is necessary to condemn private prop-~~
6 ~~erty for the purpose of this act the condemnation proceedings~~
7 ~~shall be commenced and conducted in accordance with the provi-~~
8 ~~sions of law applicable to the taking of private property for~~
9 ~~highway purposes by the state, or chapter 20 or chapter 21 of Act~~
10 ~~No. 40 of the Public Acts of 1956, as amended, being section~~
11 ~~280.461 to section 280.538, inclusive, of the Compiled Laws of~~
12 ~~1948.~~ THE COUNTY BOARD MAY DETERMINE BY RESOLUTION THAT THE
13 WHOLE OR A PART OF THE COST OF A PROJECT TO ESTABLISH AND MAIN-
14 TAIN A NORMAL LEVEL FOR AN INLAND LAKE SHALL BE DEFRAID BY SPE-
15 CIAL ASSESSMENTS AGAINST THE FOLLOWING WHICH ARE BENEFITED BY THE
16 PROJECT: PRIVATELY OWNED PARCELS OF LAND, POLITICAL SUBDIVISIONS
17 OF THE STATE, AND STATE OWNED LANDS UNDER THE JURISDICTION AND
18 CONTROL OF THE DEPARTMENT. IF THE COUNTY BOARD DETERMINES THAT A
19 SPECIAL ASSESSMENT DISTRICT IS TO BE ESTABLISHED, THE COMMIS-
20 SIONER SHALL COMPUTE THE COST OF THE PROJECT AND COMPILE A SPE-
21 CIAL ASSESSMENT ROLL.

22 (2) IF THE REVENUES RAISED PURSUANT TO THE SPECIAL ASSESS-
23 MENT ARE INSUFFICIENT TO MEET THE COMPUTATION OF COST INCLUDED IN
24 SECTION 16, OR IF THESE REVENUES ARE INSUFFICIENT TO MEET BOND
25 OBLIGATIONS, THE SPECIAL ASSESSMENT DISTRICT MAY BE REASSESSED
26 WITHOUT HEARING USING THE SAME APPORTIONED PERCENTAGE USED FOR
27 THE ORIGINAL ASSESSMENT.

1 Sec. 16. (1) ~~The board of supervisors of any county of~~
2 ~~this state in which is situated, wholly or in part, the waters of~~
3 ~~any inland lake may receive and accept, in the name of the~~
4 ~~county, gifts or grants in aid, for the purpose of carrying out~~
5 ~~the provisions of this act, from persons and from other govern-~~
6 ~~mental units. If the waters of the inland lake are situated in 2~~
7 ~~or more counties, gifts and grants in aid shall be apportioned to~~
8 ~~the respective counties as the facts may require and as deter-~~
9 ~~mined by the donor or grantor.~~ COMPUTATION OF THE COST OF A

10 NORMAL LEVEL PROJECT SHALL INCLUDE THE COST OF ALL OF THE
11 FOLLOWING:

12 (A) THE PRELIMINARY STUDY.

13 (B) SURVEYS.

14 (C) ESTABLISHING A SPECIAL ASSESSMENT DISTRICT, INCLUDING
15 PREPARATION OF ASSESSMENT ROLLS AND LEVYING ASSESSMENTS.

16 (D) ACQUIRING LAND AND OTHER PROPERTY.

17 (E) LOCATING, CONSTRUCTING, OPERATING, REPAIRING, AND MAIN-
18 TAINING A DAM OR WORKS OF IMPROVEMENT NECESSARY FOR MAINTAINING
19 THE NORMAL LEVEL.

20 (F) LEGAL FEES, INCLUDING ESTIMATED COSTS OF APPEALS IF
21 ASSESSMENTS ARE NOT UPHELD.

22 (G) COURT COSTS.

23 (H) INTEREST ON BONDS AND OTHER FINANCING COSTS FOR THE
24 FIRST YEAR, IF THE PROJECT IS SO FINANCED.

25 (I) ANY OTHER COSTS NECESSARY FOR THE PROJECT WHICH CAN BE
26 SPECIFICALLY ITEMIZED.

1 (2) THE COMMISSIONER MAY ADD AS A COST NOT MORE THAN 15% OF
2 THE SUM CALCULATED UNDER SUBSECTION (1) TO COVER CONTINGENT
3 EXPENSES.

4 Sec. 16a. The COUNTY board ~~of supervisors~~ of ~~any~~ A
5 county ~~or counties~~ in which ~~the whole or any portion of any~~
6 AN inland lake is ~~situated~~ LOCATED may contract ~~or make~~
7 ~~agreement~~ with ~~the~~ A STATE OR federal government ~~, or any~~
8 agency, ~~thereof,~~ OR A PUBLIC OR PRIVATE CORPORATION, in connec-
9 tion with a project for the ESTABLISHMENT AND maintenance of
10 ~~the~~ A normal ~~lake~~ level. ~~, whereby the federal government~~
11 THE CONTRACT MAY SPECIFY THAT THE AGENCY OR CORPORATION will pay
12 the whole or ~~any~~ A part of the cost of the project or will per-
13 form the whole or ~~any~~ A part of the work connected ~~therewith~~
14 WITH THE PROJECT. ~~The contract or agreement may include any~~
15 ~~specific terms required by act of congress or federal regulation~~
16 ~~as a condition for participation on the part of the federal~~
17 ~~government.~~ The contract ~~or agreement~~ may provide that ~~any~~
18 ~~payments~~ PAYMENT made or work done ~~by the public corporation~~
19 ~~shall relieve it~~ RELIEVES THE AGENCY OR CORPORATION in whole or
20 in part from assessment for the cost of the project. ~~The board~~
21 ~~of supervisors of any county or counties may contract or make~~
22 ~~agreement with any private corporation or with any public corpo-~~
23 ~~ration, or any agency thereof, in respect to any matter connected~~
24 ~~with the construction or maintenance of such a project.~~
25 ~~The conservation department shall approve all contracts and~~
26 ~~agreements before being executed and copies of all plans and~~
27 ~~specifications shall be filed with and maintained by the~~

1 ~~conservation department as public records. No such contract or~~
2 ~~agreement, or anything in consequence thereof, shall in any~~
3 ~~manner limit any lawful public use of an inland lake, or infringe~~
4 ~~upon or invade the state's public trust therein.~~

5 Sec. 17. (1) ~~The conservation department in carrying out~~
6 ~~the purposes of this act may receive and accept, on behalf of the~~
7 ~~state, gifts and grants in aid from persons and other governmen-~~
8 ~~tal units.~~ A SPECIAL ASSESSMENT ROLL SHALL DESCRIBE THE PARCELS
9 OF LAND TO BE ASSESSED; THE NAME OF THE OWNER OF EACH PARCEL, IF
10 KNOWN; AND THE PERCENT AND DOLLAR AMOUNT OF THE ASSESSMENT
11 AGAINST EACH PARCEL.

12 (2) THE COUNTY BOARD SHALL FIX A TIME AND PLACE FOR A PUBLIC
13 HEARING OR HEARINGS ON THE PROJECT COST, SPECIAL ASSESSMENT DIS-
14 TRICT, AND SPECIAL ASSESSMENT ROLL. NOTICE OF A HEARING SHALL BE
15 BY BOTH OF THE FOLLOWING:

16 (A) BY PUBLICATION OF NOTICE AT LEAST TWICE PRIOR TO THE
17 HEARING IN A NEWSPAPER WHICH CIRCULATES IN THE SPECIAL ASSESSMENT
18 DISTRICT, THE FIRST PUBLICATION TO BE AT LEAST 10 DAYS BEFORE THE
19 HEARING.

20 (B) AS PROVIDED IN ACT NO. 162 OF THE PUBLIC ACTS OF 1962,
21 BEING SECTIONS 211.741 TO 211.746 OF THE MICHIGAN COMPILED LAWS.

22 (3) AT OR AFTER A PUBLIC HEARING, THE COUNTY BOARD MAY
23 APPROVE, OR REFER BACK TO THE COMMISSIONER FOR REVISION THE COST
24 OF THE PROJECT, THE SPECIAL ASSESSMENT DISTRICT, OR THE SPECIAL
25 ASSESSMENT ROLL. BEFORE A PROJECT IS BEGUN, THE COUNTY BOARD
26 SHALL APPROVE THE COST, DISTRICT, AND SPECIAL ASSESSMENT ROLL BY
27 RESOLUTION.

1 (4) THE SPECIAL ASSESSMENT ROLL WITH THE ASSESSMENTS LISTED
2 SHALL BE FINAL AND CONCLUSIVE UNLESS APPEALED IN A COURT WITHIN
3 15 DAYS AFTER COUNTY BOARD APPROVAL.

4 SEC. 17A. (1) THE COUNTY BOARD MAY PROVIDE THAT ASSESSMENTS
5 UNDER THIS ACT ARE PAYABLE IN INSTALLMENTS.

6 (2) ASSESSMENT PAYMENTS SHALL BE SUFFICIENT TO MEET BOND
7 OBLIGATIONS OF THE SPECIAL ASSESSMENT DISTRICT.

8 (3) SPECIAL ASSESSMENTS UNDER THIS ACT SHALL BE SPREAD UPON
9 THE COUNTY TAX ROLLS, AND SHALL BE SUBJECT TO THE SAME INTEREST
10 AND PENALTY CHARGES AND SHALL BE COLLECTED IN THE SAME MANNER AS
11 COUNTY TAXES.

12 (4) FROM THE DATE OF APPROVAL BY THE COUNTY BOARD, A SPECIAL
13 ASSESSMENT UNDER THIS ACT SHALL CONSTITUTE A LIEN ON THE PARCEL
14 ASSESSED. THE LIEN SHALL BE OF THE SAME CHARACTER AND EFFECT AS
15 A LIEN CREATED FOR COUNTY TAXES.

16 (5) A PAYMENT FOR THE COST OF THE PRELIMINARY STUDY UNDER
17 SECTION 4 SHALL BE CREDITED AGAINST AN ASSESSMENT FOR THE AMOUNT
18 OF THE PAYMENT MADE BY THE PERSON ASSESSED.

19 SEC. 17B. WITH APPROVAL OF THE COUNTY BOARD AND, EXCEPT AS
20 PROVIDED IN SECTION 17C, SUBJECT TO THE MUNICIPAL FINANCE ACT,
21 ACT NO. 202 OF THE PUBLIC ACTS OF 1943, BEING SECTIONS 131.1 TO
22 139.3 OF THE MICHIGAN COMPILED LAWS, THE DISTRICT MAY ISSUE BONDS
23 THAT SHALL BE PAYABLE BY SPECIAL ASSESSMENTS UNDER THIS ACT.
24 BONDS SHALL NOT BE ISSUED EXCEEDING THE COST OF THE NORMAL LEVEL
25 PROJECT THAT IS BEING FINANCED.

26 SEC. 17C. WITH APPROVAL OF THE COUNTY BOARD, THE
27 COMMISSIONER MAY ACCEPT THE ADVANCE OF WORK, MATERIAL, OR MONEY

1 IN CONNECTION WITH A NORMAL LEVEL PROJECT. THE OBLIGATION TO
2 REPAY AN ADVANCE OUT OF SPECIAL ASSESSMENTS UNDER THIS ACT MAY BE
3 EVIDENCED BY A NOTE OR CONTRACT. IF THE PRINCIPAL AMOUNT OF ALL
4 NOTES OR CONTRACTS ISSUED UNDER THIS SECTION FOR A SINGLE NORMAL
5 LEVEL PROJECT IS NOT MORE THAN \$300,000.00, A CONTRACT OR NOTE
6 SHALL NOT BE CONSIDERED AN OBLIGATION WITHIN THE MEANING OF THE
7 MUNICIPAL FINANCE ACT, ACT NO. 202 OF THE PUBLIC ACTS OF 1943,
8 BEING SECTIONS 131.1 TO 139.3 OF THE MICHIGAN COMPILED LAWS.

9 Sec. 18. ~~Whenever the board of supervisors causes to be~~
10 ~~constructed and maintained a dam as may have been determined to~~
11 ~~be necessary, plans~~ PLANS and specifications ~~therefor~~ FOR A
12 DAM CONSTRUCTED OR MAINTAINED UNDER THIS ACT shall be prepared by
13 a ~~registered~~ LICENSED PROFESSIONAL engineer under the direction
14 of the COUNTY board. ~~and bids may be advertised~~ THE PLANS AND
15 SPECIFICATIONS SHALL BE APPROVED BY THE DEPARTMENT BEFORE CON-
16 STRUCTION BEGINS. THE DEPARTMENT SHALL REVIEW AND APPROVE OR
17 REJECT THE PLANS AND SPECIFICATIONS WITHIN 30 DAYS AFTER THEY ARE
18 RECEIVED BY THE DEPARTMENT. IF THE PLANS AND SPECIFICATIONS ARE
19 REJECTED, THE DEPARTMENT SHALL PROPOSE CHANGES IN THE PLANS AND
20 SPECIFICATIONS THAT WOULD RESULT IN THEIR APPROVAL BY THE
21 DEPARTMENT. BIDS for ~~the~~ doing ~~of~~ the work MAY BE ADVERTISED
22 in ~~such~~ THE manner ~~as~~ the COUNTY board ~~shall direct by~~
23 ~~resolution~~ DIRECTS. The contract shall be let to the lowest
24 responsible bidder giving adequate security for the performance
25 of ~~his~~ THE contract but the COUNTY board may reserve the right
26 to reject any and all bids. The board may erect and maintain a

1 dam as a work relief project in accordance with the provisions of
2 the law applicable ~~thereto~~ TO A WORK RELIEF PROJECT.

3 Sec. 21. ~~If the lake is a public lake, the department of~~
4 ~~natural resources may join with any board of supervisors in the~~
5 ~~proceedings thereafter taken and may intervene for the protection~~
6 ~~and conservation of the natural resources of the state.~~ THE
7 DEPARTMENT MAY REQUIRE THAT A DAM BE EQUIPPED WITH AN UNDERSPILL
8 DEVICE FOR THE RELEASE OF COLD BOTTOM WATERS FOR THE PROTECTION
9 OF DOWNSTREAM FISH HABITATS. The department ~~of natural~~
10 ~~resources~~ may require the installation of A fish ~~ladders~~
11 LADDER or other ~~devices~~ DEVICE to permit the free passage of
12 fish.

13 Sec. 22. ~~Any unauthorized~~ A person WHO IS NOT AUTHORIZED
14 BY A COUNTY BOARD OR THE DEPARTMENT TO OPERATE A DAM OR OTHER
15 NORMAL LEVEL CONTROL FACILITY AND who changes, OR CAUSES TO
16 CHANGE, the level of ~~any~~ AN INLAND lake, the NORMAL level of
17 which has been established under ~~the provisions of~~ this act, OR
18 ANY PREVIOUS ACT GOVERNING LAKE LEVELS, AND FOR WHICH THE COUNTY
19 BOARD OR THE DEPARTMENT HAS TAKEN STEPS TO MAINTAIN THE NORMAL
20 LEVEL, is guilty of a misdemeanor ~~and may be fined~~ PUNISHABLE
21 BY A FINE OF not ~~to exceed~~ MORE THAN \$1,000.00 or ~~imprisoned~~
22 IMPRISONMENT FOR not ~~to exceed~~ MORE THAN 1 year, ~~in the county~~
23 ~~jail,~~ or both, AND SHALL BE REQUIRED TO PAY THE ACTUAL COST OF
24 RESTORATION OR REPLACEMENT OF THE DAM AND ANY OTHER PROPERTY
25 INCLUDING ANY NATURAL RESOURCE THAT IS DAMAGED OR DESTROYED AS A
26 RESULT OF THE VIOLATION.

1 Sec. 23. ~~No~~ A normal ~~water~~ level shall NOT be
2 established ~~under this act~~ for an ~~artificial~~ INLAND lake
3 ~~created for the purpose of providing a~~ IN EITHER OF THE FOLLOW-
4 ING CASES:

5 (A) THE INLAND LAKE IS USED AS A reservoir for a municipal
6 water supply system, unless A NORMAL LEVEL DETERMINATION IS peti-
7 tioned for by the governing body of the municipality.

8 (B) THE STATE HAS TITLE, FLOWAGE RIGHTS, OR EASEMENTS TO ALL
9 RIPARIAN LAND SURROUNDING THE INLAND LAKE, UNLESS A NORMAL LEVEL
10 DETERMINATION IS PETITIONED FOR BY THE DEPARTMENT.

11 Sec. 24. (1) The ~~department~~ COMMISSIONER of ~~each~~ A
12 county shall cause an inspection to be made of each ~~control~~
13 ~~structure~~ DAM on ~~all~~ AN inland ~~lakes, natural or~~
14 ~~artificial,~~ LAKE within the county which ~~have~~ HAS a normal
15 level established under this act or UNDER any previous act gov-
16 erning lake levels. THE INSPECTION SHALL BE CONDUCTED by a
17 ~~registered~~ LICENSED professional engineer. THE INSPECTION
18 SHALL TAKE PLACE every ~~3 years~~ THIRD YEAR from the date of com-
19 pletion of A new ~~dams~~ DAM OR EVERY THIRD YEAR FROM THE DETERMI-
20 NATION OF A NORMAL LEVEL FOR AN EXISTING DAM. An inspection
21 report shall be submitted promptly to the director of the depart-
22 ment ~~of natural resources~~ in ~~such~~ THE form and manner ~~as he~~
23 ~~may prescribe~~ THE DIRECTOR PRESCRIBES.

24 (2) If ~~the~~ A report discloses ~~any~~ A need for repairs or
25 ~~any~~ A change in condition of the dam that relates to ~~its~~ THE
26 DAM'S safety OR DANGER TO NATURAL RESOURCES, the department ~~7~~
27 ~~after inspection,~~ SHALL CONDUCT AN INSPECTION TO CONFIRM THE

1 REPORT. IF THE REPORT IS CONFIRMED AND THE PUBLIC SAFETY OR
2 NATURAL RESOURCES ARE ENDANGERED, THE DEPARTMENT may require ~~the~~
3 ~~department of~~ the county either to ~~make necessary repairs~~
4 ~~within 6 months following the inspection or to remove~~ REPAIR OR
5 REPLACE the dam. ~~if public safety is endangered.~~ PLANS AND
6 SPECIFICATIONS FOR THE REPAIRS OR REPLACEMENT SHALL BE PREPARED
7 BY A LICENSED PROFESSIONAL ENGINEER UNDER THE DIRECTION OF THE
8 COUNTY BOARD. THE PLANS AND SPECIFICATIONS SHALL BE APPROVED BY
9 THE DEPARTMENT BEFORE CONSTRUCTION BEGINS. THE DEPARTMENT SHALL
10 REVIEW AND APPROVE OR REJECT THE PLANS AND SPECIFICATIONS WITHIN
11 30 DAYS AFTER THEY ARE RECEIVED BY THE DEPARTMENT. IF THE PLANS
12 AND SPECIFICATIONS ARE REJECTED, THE DEPARTMENT SHALL PROPOSE
13 CHANGES IN THE PLANS AND SPECIFICATIONS THAT WOULD RESULT IN
14 THEIR APPROVAL BY THE DEPARTMENT. IF THE DAM IS IN IMMINENT
15 DANGER OF FAILURE, THE DEPARTMENT MAY ORDER AN IMMEDIATE LOWERING
16 OF THE LAKE LEVEL UNTIL NECESSARY REPAIR OR REPLACEMENT IS
17 COMPLETE.

18 (3) ~~(2) Any~~ A person failing to comply with ~~any of the~~
19 ~~foregoing provisions~~ THIS SECTION, or falsely representing dam
20 conditions, is guilty of misconduct in office.

21 (4) ~~(3) Whenever~~ IF AN inspection discloses the necessity
22 FOR MAINTENANCE OR REPAIR, the ~~department~~ COMMISSIONER, without
23 ~~petition~~ APPROVAL OF THE COUNTY BOARD, may ~~expend an amount~~
24 SPEND not ~~to exceed \$1,500.00~~ MORE THAN \$5,000.00 ANNUALLY for
25 maintenance and repair of each ~~lake~~ NORMAL level project. ~~If~~
26 ~~the funds of the department are not sufficient to meet this~~
27 ~~expenditure the department shall charge the special assessment~~

1 ~~district therefor according to benefits received.~~ AN EXPENDITURE
2 OF MORE THAN \$5,000.00 ANNUALLY SHALL BE APPROVED BY RESOLUTION
3 OF THE COUNTY BOARD.

4 SEC. 25. THIS AMENDATORY ACT SHALL NOT BE CONSTRUED TO
5 ABROGATE THE REQUIREMENTS OF OTHER STATE STATUTES.

6 Section 2. Sections 6, 7, 9, 13, 19, and 20 of Act No. 146
7 of the Public Acts of 1961, being sections 281.66, 281.67,
8 281.69, 281.73, 281.79, and 281.80 of the Michigan Compiled Laws,
9 are repealed.