

SENATE BILL No. 363

April 25, 1989, Introduced by Senators NICHOLS, FAXON,
POSTHUMUS, CRUCE and FESSLER and referred to the
Committee on Local Government and Veterans.

A bill to provide for the establishment of a department of solid waste management in certain counties; to prescribe the powers and duties of certain public corporations; to provide for the incurring of certain contract obligations and the issuance and payment of certain bonds and notes by certain public corporations; to provide for a public corporation to pledge its full faith and credit and to levy taxes; and to prescribe a procedure for condemnation.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "county department of solid waste management act".

3 Sec. 2. As used in this act:

4 (a) "Acquire" means acquisition by any method described in
5 section 12 or by any other method permitted by law.

1 (b) "County" means a county organized under Act No. 139 of
2 the Public Acts of 1973, being sections 45.551 to 45.573 of the
3 Michigan Compiled Laws, except where the context provides
4 otherwise.

5 (c) "Department of solid waste management" means the depart-
6 ment of solid waste management provided for in section 3.

7 (d) "Governing body" means, for a county, the county board
8 of commissioners; for a city, the council, commission, or other
9 body having legislative powers; for a village, the council, com-
10 mission board of trustees, or other body having legislative
11 powers; for a general law or charter township, the township
12 board; and for a district or an authority, the body having gen-
13 eral governing powers.

14 (e) "Public corporation" means any county however organized,
15 a city, village, township, charter township, district, or author-
16 ity existing under the laws of this state.

17 (f) "Solid waste system" or "system" means all plants,
18 works, instrumentalities, properties, rights, processes, and con-
19 tracts used or useful in connection with the collection, trans-
20 portation, recycling, processing, storing, or disposing, by
21 treatment, incineration, or otherwise, of solid waste, or as may
22 be provided in a solid waste management plan or update of a solid
23 waste management plan approved pursuant to the solid waste man-
24 agement act, Act No. 641 of the Public Acts of 1978, being
25 sections 299.401 to 299.437 of the Michigan Compiled Laws, for a
26 county.

1 (g) "Solid waste" means putrescible and nonputrescible solid
2 wastes, except body wastes, and includes garbage, rubbish, ashes,
3 incinerator ash, incinerator residue, street cleanings, municipal
4 and industrial sludges, commercial and industrial wastes, and any
5 other wastes described in a solid waste management plan or an
6 update of a solid waste management plan approved pursuant to Act
7 No. 641 of the Public Acts of 1978, for a county.

8 Sec. 3. (1) The county board of commissioners of a county
9 may establish a department of solid waste management as an addi-
10 tional department pursuant to section 14 of Act No. 139 of the
11 Public Acts of 1973, being section 45.564 of the Michigan
12 Compiled Laws. The department of solid waste management shall
13 function as provided in section 13 of Act No. 139 of the Public
14 Acts of 1973, being section 45.563 of the Michigan Compiled Laws,
15 and as provided in and subject to the resolution of the county
16 board of commissioners establishing a solid waste system as pro-
17 vided in this act. The department of solid waste management is
18 under the control of the county manager or the elected county
19 executive in the same manner and extent as other departments of
20 the county.

21 (2) The county manager or elected county executive shall
22 prepare an annual budget for the department of solid waste man-
23 agement and shall submit this budget to the county board of com-
24 missioners for approval.

25 (3) The county manager or the elected county executive shall
26 appoint a director of the department of solid waste management in

1 accordance with section 8(1) of Act No. 139 of the Public Acts of
2 1973, being section 45.558 of the Michigan Compiled Laws.

3 Sec. 4. (1) A county that establishes a department of solid
4 waste management under this act may acquire, construct, improve,
5 enlarge, or extend a solid waste system within 1 or more areas of
6 the county, and may operate and maintain the system. A county
7 and a public or private corporation may contract for the con-
8 struction, operation, and maintenance of a solid waste system by
9 the corporation on behalf of the county.

10 (2) A county may acquire outside its corporate boundaries
11 any part of a solid waste system that is determined by the board
12 of commissioners to be necessary for the purpose of collecting,
13 transporting, recycling, processing, storing, or disposing, by
14 treatment, incineration, or otherwise, of the county's solid
15 waste.

16 (3) A county may acquire, for the purpose of providing solid
17 waste disposal services, any part of a solid waste system in 1 or
18 more public corporations outside its corporate boundaries.
19 Before making an acquisition under this subsection, a county
20 shall obtain the consent of each public corporation in the county
21 where part of the system is to be located or that is to be served
22 by part of the system through resolution of the governing body of
23 the public corporation or through a contract with the public
24 corporation.

25 Sec. 5. A county shall not furnish solid waste service to
26 the individual users within a public corporation without the
27 consent of the public corporation.

1 Sec. 6. The establishment of a solid waste system, the
2 method of financing the system, and all contracts relating to the
3 financing, acquisition, operation, maintenance, and administra-
4 tion of the system, including all contracts between the county
5 and a public corporation, including itself, relating to the
6 system, shall be approved by a resolution adopted by a majority
7 of the members elect of the county board of commissioners. The
8 department of solid waste management may, as provided in the res-
9 olution of the county board of commissioners, acquire the system
10 or make improvements and improve, enlarge, extend, operate, and
11 maintain the system, subject to any restrictions placed on the
12 department by the county board of commissioners in a resolution
13 or by this act. A county may merge 2 or more systems established
14 by that county by resolution adopted by a majority of the members
15 elect of its county board of commissioners. After such a resolu-
16 tion is adopted, the merged system may be improved, enlarged,
17 extended, operated, and maintained under this section as a single
18 system serving the total areas of the separate systems. However,
19 a merger under this subsection does not affect either the rights
20 or obligations acquired by a public corporation under contract
21 with respect to an established system or the security of bonds or
22 the prompt payment of the principal of or the interest on the
23 bonds.

24 Sec. 7. The acquisition, improvement, enlargement, or
25 extension of a solid waste system under this act may be financed
26 by 1 or more of the following methods:

1 (a) The issuance of revenue bonds under the revenue bond act
2 of 1933, Act No. 94 of the Public Acts of 1933, being
3 sections 141.101 to 141.140 of the Michigan Compiled Laws, or any
4 other applicable act.

5 (b) The issuance of bonds in anticipation of payments to
6 become due under 1 or more contracts whereby 1 or more public
7 corporations, including the county itself, agree to pay to the
8 county certain sums toward the cost of the acquisition, improve-
9 ment, enlargement, or extension of a system instituted under this
10 act.

11 (c) Through money advanced by a county under agreements with
12 1 or more public corporations for the repayment of the money.

13 (d) Through money advanced, periodically, before or during
14 construction of a system, by a public or private corporation,
15 firm, or individual, in which event the county shall reimburse
16 the individual, firm, or corporation, with interest not to exceed
17 10% per annum or without interest as may be agreed, when funds
18 are available. The obligation of the county to make this reim-
19 bursement may be evidenced by a contract or note that may be made
20 payable out of the payments to be made by public corporations
21 under a contract described in section 9 or 13, out of the pro-
22 ceeds of bonds issued pursuant to this act by the county, or out
23 of any other available money. However, the contract or note
24 shall not be considered an obligation within the meaning of the
25 municipal finance act, Act No. 202 of the Public Acts of 1943,
26 being sections 131.1 to 139.3 of the Michigan Compiled Laws.

1 Sec. 8. Bonds issued under this act shall be authorized by
2 a resolution or ordinance adopted by the county board of
3 commissioners. The county board of commissioners may, by a
4 majority vote of its members elect, pledge the full faith and
5 credit of the county for the prompt payment of the principal of
6 and interest on any bonds, including revenue bonds, issued pursu-
7 ant to this act. If it becomes necessary for the county to
8 advance money, other than its share of the cost of the project
9 for the payment of principal and interest, then the county is
10 entitled to reimbursement from any surplus from time to time
11 existing in the fund from which the principal and interest are
12 primarily payable. If the full faith and credit of the county
13 are pledged for the payment of principal of and interest on any
14 bonds issued pursuant to this act, the county may, in the case of
15 insufficiency of funds primarily pledged for the payment, pay the
16 principal and interest from its general fund or levy taxes, but
17 not in excess of the rate or amount necessary to make up the
18 deficiency and not in excess of constitutional limitations. The
19 bonds shall be issued in the name of the county and shall be exe-
20 cuted by the manual or facsimile signatures of the chairperson of
21 the county board of commissioners and the county clerk, and the
22 seal of the county shall be impressed or imprinted on the bonds.
23 The bonds issued under this act shall be negotiable instruments
24 and shall be serial bonds, term bonds, or both, payable or
25 subject to mandatory redemption, as the case may be, annually,
26 with the first maturity or mandatory redemption due not more than
27 10 years and the last maturity not more than 40 years from the

1 date of the bonds. Each annual maturity or mandatory redemption
2 payable after 10 years from the date of the bonds shall not be
3 less than 1/5 of the amount of any subsequent maturity or manda-
4 tory redemption on the same series of bonds. Several series of
5 bonds issued to finance all or any part of a solid waste system
6 may be treated as a single issue for the purpose of fixing matu-
7 rities or mandatory redemptions. The bonds shall be issued pur-
8 suant to, and shall bear interest at not more than the maximum
9 rate permitted by, the municipal finance act, Act No. 202 of the
10 Public Acts of 1943, being sections 131.1 to 139.3 of the
11 Michigan Compiled Laws. This interest shall be payable at least
12 semiannually, except that the first interest payment may be on a
13 date not later than 10 months after the date of the bonds. Bonds
14 issued under this act shall be made payable in lawful money of
15 the United States of America and are exempt from all taxation by
16 the state or by any taxing authority within the state.

17 Sec. 9. (1) A county may contract with 1 or more public
18 corporations, including the county itself, for the acquisition,
19 improvement, enlargement, or extension of a solid waste system
20 and for the payment of the cost of the system by the contracting
21 public corporations, with interest, over a period not exceeding
22 40 years.

23 (2) In a contract entered into under subsection (1), each
24 contracting public corporation shall pledge its full faith and
25 credit for the payment of its obligations under the contract. If
26 the public corporation has taxing power, it may each year levy a
27 tax in an amount that is sufficient for the prompt payment of all

1 or part of the contract obligations due before the following
2 year's tax collection. If the contract or an unlimited tax
3 pledge in support of the contract has been approved by the elec-
4 tors, the tax may be in addition to any tax that the public cor-
5 poration otherwise may be authorized to levy and may be imposed
6 without limitation as to rate or amount, but shall not be in
7 excess of the rate or amount necessary to pay the contract
8 obligation. For the payment of contractual obligations incurred
9 pursuant to this section, a township shall levy a tax only on the
10 taxable property of the township not incorporated as a village
11 unless the township and a village have agreed that a part of the
12 capacity in the county system allocated to the township by con-
13 tract pursuant to this act will be used to serve areas in a vil-
14 lage located wholly or partly within the township and the village
15 has not itself agreed to purchase that capacity in the county
16 system. If a contracting public corporation at the time of its
17 annual tax levy has on hand in cash or has budgeted any amount
18 pledged to the payment of the current obligations for which the
19 tax levy is to be made, then the annual tax levy may be reduced
20 by that amount. For the purpose of obtaining the credit, money
21 may be raised by a public corporation by 1 or more of the follow-
22 ing methods:

23 (a) Service or availability charges to users or customers of
24 the system.

25 (b) Special assessments upon lands benefited, directly or
26 indirectly or at a present or future time.

1 (c) Setting aside state collected money disbursed to the
2 public corporation and usable for this purpose.

3 (d) Setting aside other available money.

4 (3) Money raised or to be raised by a public corporation by
5 a method described in subsection (2) may be pledged to secure the
6 payment of its obligations under a contract entered into under
7 subsection (1).

8 (4) A public corporation may agree to raise all or any part
9 of its contract obligation by a method provided in this section
10 or by another legally available method. The governing body of a
11 public corporation shall exercise the powers granted to the
12 public corporation under this act.

13 Sec. 10. If a public corporation other than a county that
14 has established a department of solid waste management under this
15 act elects to raise money to pay all or any portion of its share
16 of the cost of a system by assessing the cost of the system upon
17 benefited lands, its governing body shall make this determination
18 by resolution and fix the district for the assessment. The gov-
19 erning body shall then cause a special assessment roll to be pre-
20 pared and thereafter the proceedings in respect to the special
21 assessment roll and the making and collection of the special
22 assessments shall be in accordance with the provisions of the
23 statute or charter governing special assessments in the public
24 corporation. However, the total assessment may be divided into
25 any number of installments not exceeding 30. A person assessed
26 has the right at the hearing upon the special assessment roll to

1 object to the special assessment district previously established,
2 and due consideration shall be given to the objections.

3 Sec. 11. A county or a public corporation, including the
4 county, shall not contest the validity of bonds or notes issued
5 by the county under this act or a contract that provides the
6 security for the bonds or notes after the bonds or notes have
7 been sold and delivered and the county has received the consider-
8 ation for the bonds or notes.

9 Sec. 12. A county may acquire tangible or intangible prop-
10 erty, rights, or processes, either within or outside its corpo-
11 rate limits, for a solid waste system by purchase, grant, assign-
12 ment, construction, lease, gift, devise, or condemnation and may
13 hold, manage, control, sell, grant, assign, exchange, or lease
14 the property, rights, or processes. For the purpose of condemna-
15 tion, the county may proceed as provided in section 16.

16 Sec. 13. A county and 1 or more public corporations, either
17 within or outside of the county, may contract for the furnishing
18 of solid waste services by the county to the public corporation
19 or corporations. Charges specified in a contract entered into
20 under this section are subject to increase by the county for the
21 purposes, in the manner, and at the time or times set forth in
22 the contract. A county and a public or private corporation may
23 enter into a contract for the purchase by the county from or for
24 the sale by the county to the corporation of solid waste services
25 or for any aspect of the acquisition, operation, management, or
26 use of 1 or more solid waste systems. A contract authorized
27 under this section shall be for a period not to exceed 50 years.

1 A contract authorized under this section is a general obligation
2 of the public corporation, and each public corporation may raise
3 money to pay its obligations under the contract by any method
4 provided in section 9(2).

5 Sec. 14. The following may be included as part of the cost
6 of a system funded under this act:

7 (a) Engineering fees.

8 (b) Legal fees.

9 (c) Administration expenses before and during the period of
10 construction.

11 (d) Feasibility study costs.

12 (e) Grant application costs.

13 (f) Financing costs.

14 (g) A reasonable amount for contingencies or reserves, or
15 both.

16 (h) Interest on bonds to be issued.

17 (i) Expenses of operation and management.

18 (j) Other costs incident to the acquisition and financing of
19 the project.

20 Sec. 15. (1) A contract made under this act may provide
21 that if a public corporation fails to pay to a county an amount
22 required to be paid under the contract when due, then the county
23 treasurer shall notify the state treasurer, or other appropriate
24 disbursing official, who shall deduct the amount from money in
25 the treasurer's possession belonging to the public corporation
26 that is not pledged to the payment of debts. Upon the giving of
27 notice in writing to the state treasurer, a public corporation

1 itself may authorize, in a contract with a county, the deduction
2 and transfer of money derived from unrestricted state funds
3 returnable to the public corporation.

4 (2) The right of deduction given by this act does not limit
5 the county's right to pursue other legal remedies for the reim-
6 bursement of money paid by the county under this act on behalf of
7 a public corporation other than the county. The county board of
8 commissioners of a county that pays money on behalf of a public
9 corporation under this act and that is not reimbursed for the
10 payment may order the public corporation and its officers to levy
11 upon its next tax roll an amount sufficient to make the reim-
12 bursement on or before the date when its taxes become
13 delinquent. The public corporation and its tax levying and col-
14 lecting officials shall levy and collect the taxes that are
15 ordered and reimburse the county.

16 Sec. 16. (1) A county may take private property necessary
17 for a purpose within the scope of this act for the use or benefit
18 of the public and may institute proceeding for that purpose.

19 (2) Proceedings to take private property under subsection
20 (1) shall be commenced under the uniform condemnation procedures
21 act, Act No. 87 of the Public Acts of 1980, being sections 213.51
22 to 213.77 of the Michigan Compiled Laws, whenever the county, by
23 resolution of its board of commissioners, determines that it is
24 necessary to take certain private property for a designated
25 public improvement and that the improvement is for the use or
26 benefit of the public.