

Legislative Analysis



PUBLIC WORKS BOARDS IN CERTAIN COUNTIES: EXPAND MEMBERSHIP & ADD TOWNSHIP SUPERVISORS

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House Bill 4419 with House Committee amendment
Sponsor: Rep. Wayne Schmidt
House Committee: Local, Intergovernmental, and Regional Affairs

Senate Bill 215 as passed by the Senate
Sponsor: Sen. Howard Walker
Senate Committee: Local Government and Elections
House Committee: Local, Intergovernmental, and Regional Affairs

First Analysis (6-10-11)

BRIEF SUMMARY: The bills would allow two counties--Grand Traverse and Lapeer--to have boards of public works that consist of 11, 13, or 15 members (rather than 5,7, or 9, as is currently required), and also allow a township supervisor to serve as a member of the county board of public works.

FISCAL IMPACT: As written, the bill would have no state fiscal impact, and could have an indeterminate fiscal impact for those counties that choose to expand their boards of public works. Increasing the number of board members would increase costs, but to the extent that other boards or committees would be reduced or eliminated, costs would decrease.

THE APPARENT PROBLEM:

Public Act 185 of 1957 allows a county board of commissioners to establish a department of public works. Generally, the board of public works that controls the department may consist of a maximum of nine members.

As Grand Traverse County expanded the service area of its waste treatment plant, each area served could not be adequately represented on the board due to the law that caps membership on a county board of public works at nine members. Currently the board consists of the resource recovery director (who happens also to be a township supervisor), the county drain commissioner, and a county commissioner, as well as urban representatives (one of whom is also a township supervisor) and rural representatives. The waste treatment facility accepts waste from a number of townships in the area; however, according to testimony from the bill sponsor, Acme, Alma, Blair, and East Bay have no representation on the board, because board membership is limited to nine. Some of the townships without representation are the guarantors of the bonds issued to finance construction of the waste water facility. In an attempt to address the lack of representation, a water and sewer committee and a subcommittee consisting of the guarantor townships have been created to make recommendations for action to the board of public works.

Legislation has been introduced to expand the county board of public works to allow all stakeholders to be represented directly, and enabling the elimination of the advisory committees. In addition, it has been suggested that township supervisors should be allowed to serve on a board of public works without being considered to hold incompatible offices.

THE CONTENT OF THE BILLS:

Senate Bill 215 would amend Public Act 185 of 1957 (MCL 123.732) to modify the membership of a county board of public works in counties having a population of more than 85,000 and less than 90,000. [Two Michigan counties meet that population requirement: Grand Traverse and Lapeer.] In those counties, under the bill, the board of public works could consist of 11, 13, or 15 members (rather than 5, 7, or 9, as is currently required).

Also in these counties, a township supervisor within the county or the township supervisor of a township that received service from the department of public works could be appointed as a member of the board of public works. A township supervisor so appointed would not be deemed to be holding two incompatible offices at the same time.

House Bill 4419 would make a complementary amendment to Public Act 566 of 1978, which prescribes standards of ethical conduct for public officers and employees in order to avoid conflicts of interest. It would allow a township supervisor to serve as a member of a county board of public works. House Bill 4419 is tie-barred to Senate Bill 215 (and to House Bill 4418, a bill with the same content as Senate Bill 215), meaning it cannot take effect unless that bill is also enacted.

Currently under the law, a county board of commissioners may establish a department of public works for the administration and maintenance of the water supply system; a sewage disposal system; a refuse system; an erosion control system; and lake improvements.

While a department of public works falls under the general control of a county's board of commissioners, the department's day-to-day operations are under the immediate control of a board of public works. Generally under the law, the board of public works consists of 5, 7, or 9 members. Or, a county board of commissioners can designate the county commission itself, the drain commissioner, or a public works commissioner to serve as the board of public works.

Senate Bill 215 would create an exception to the membership requirement (of 5, 7, or 9 members) for a county with a population of more than 85,000 and less than 90,000 according to the latest federal decennial census (i.e., Grand Traverse and Lapeer Counties). In those counties, the board of public works could consist of 11, 13, or 15 members.

Further, under current law, membership on a board of public works must include the

county drain commissioner and 4, 6, or 8 other members appointed by the county board of commissioners. Members of the county board of commissioners may be appointed as members of the board of public works. Senate Bill 215 would retain these provisions. Similarly, under the bill, if a board of public works consisted of 11, 13, or 15 members, it would have to include the drain commissioner, and 10, 12, or 14 other members appointed by the county board of commissioners. Members of the county board of commissioners could be appointed as members of the board of public works. Further, a township supervisor within the county (or the township supervisor of a township that received service from the department) could be appointed to the board of public works. Senate Bill 215 specifies that in that instance, a township supervisor "shall not be deemed to hold two or more incompatible offices at the same time."

Now under the law, if a county department of public works serves another county (or a portion of another county), then each of the 4, 6, or 8 members must be a resident of the geographic areas served by the department. Senate Bill 215 would extend this requirement to public works departments having 10, 12, or 14 members.

House Bill 4419, as amended, is tie-barred to Senate Bill 215 so that it could not go into effect unless Senate Bill 215 is also enacted into law.

ARGUMENTS:

For:

These bills would allow the board of public works in Grand Traverse County to expand its membership beyond nine members, to ensure that all of the cities, villages, and townships now served by the waste water plant to have a representative on the public works board. Currently some townships that have served as guarantors of the bonds used to finance the facility do not have representation, because of the nine-member cap in the law. Instead these officials serve on advisory committees to the public works board. This arrangement sometimes presents an obstacle to effective board action. Additionally, it results in increased expenses.

If the membership of the board of public works were expanded, the advisory committees could be eliminated and administrative costs would be reduced by an estimated \$40,000. The bills—allowing the board of public works to increase its membership to 15 members, and enabling township supervisors to serve on the board—would increase efficiency, and also ensure equitable representation of all stakeholders.

(Note: The bill has been narrowly drafted--using the county population parameters of between 85,000 and 90,000 people--in an effort to provide this remedy to Grand Traverse County. While Lapeer County's population also falls within this range, the officials in Lapeer County have reported no intention of increasing the membership on a county board of public works.)

POSITIONS:

The Michigan Association of Counties supports the bills. (6-9-11)

The Michigan Townships Association supports the bills. (5-26-11)

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