



Senate Bills 215 and 216 (as reported without amendment)
Sponsor: Senator Howard C. Walker
Committee: Local Government and Elections

(as enacted)

Date Completed: 4-26-11

RATIONALE

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. Due to the way a septage waste facility is operated in Grand Traverse County, however, some people believe that a larger board might be appropriate there. The facility currently accepts waste from a number of townships in the area. Since board membership is limited to nine, some of the townships are not represented on the board of public works. Furthermore, some of the townships without representation are the guarantors of the bonds issued to finance construction of the facility. In an attempt to address the lack of representation, a water and sewer committee and a subcommittee consisting of the guarantor townships were created to make recommendations for action to the board of public works. It has been suggested that expanding the board could allow the auxiliary bodies to be eliminated and all stakeholders to be represented directly. In addition, it has been suggested that a township supervisor should be allowed to serve on a board of public works without being considered to hold incompatible offices.

CONTENT

Senate Bill 215 would amend Public Act 185 of 1957 to increase the number of members who may serve on a board of public works in Grand Traverse County and Lapeer County; and allow a township supervisor to be appointed as a board member in those counties.

Senate Bill 216 would amend Public Act 566 of 1978, which prohibits a public officer from holding incompatible offices, to provide that this ban would not prohibit a township supervisor from being appointed to a county board of public works.

Senate Bill 216 is tie-barred to Senate Bill 215.

Senate Bill 215

Under Public Act 185 of 1957, a county board of commissioners may establish a department of public works for the administration of the acquisition, improvement, enlargement, extension, operation, and maintenance of the following:

- A water supply system.
- A sewage disposal system.
- A refuse system.
- An erosion control system.
- Lake improvements.

A department of public works is under the general control of the county board of commissioners and under the immediate control of a board of public works. Generally, the board of public works must consist of five, seven, or nine members, although the county board of commissioners may designate one of the following as the board of public works:

- The board of county road commissioners.
- The drain commissioner.
- The public works commissioner.

The bill would create an exception to the membership requirement 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 could consist of 11, 13, or 15 members.

Under the Act, membership on a board of public works must include the county drain commissioner and four, six, or eight other members appointed by the county board of commissioners, with the exception of the drain commissioner. Members of the county board of commissioners may be appointed as members of the board of public works.

Under the bill, if a board of public works consisted of 11, 13, or 15 members, it would have to include 10, 12, or 14 other members appointed by the county board of commissioners, with the exception of the drain commissioner. Members of the county board of commissioners could be appointed as members of the board of public works.

In addition, on a board of public works with 11, 13, or 15 members, the township supervisor of a township within the county or a township that received service by the department of public works also could be appointed. A township supervisor appointed as a member of the board of public works would not be deemed to hold two or more incompatible offices at the same time.

Senate Bill 216

Under Section 2 of Public Act 566 of 1978, a public officer or employee may not hold two or more incompatible offices at the same time, subject to specific exceptions. ("Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of those offices, results in any of the following: the subordination of one public office to another, the supervision of one public office by another, or a breach of duty of public office.)

The bill provides that Section 2 would not prohibit a township supervisor from being appointed as a member of a county board of public works.

MCL 123.732 (S.B. 215)
15.183 (S.B. 216)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In Grand Traverse County, the water and sewer committee and subcommittee of guarantors have provided townships that do not have delegates to the board of public works with a mechanism for indirect representation. This arrangement is somewhat duplicative and can present an obstacle to effective board action. Additionally, it results in increased expenses. If the membership of the board of public works were expanded, the ancillary bodies could be eliminated and administrative costs would be reduced by an estimated \$40,000. The bill would increase efficiency and ensure equitable representation of all stakeholder entities.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 215

The bill would have an indeterminate effect on local unit expenses in a county that increased the number of members on the board of public works. The bill would affect only Grand Traverse and Lapeer Counties. The bill would increase local expenditures by an amount that would depend on the compensation a county board of commissioners set for members of the board of public works and the number of additional members. However, given the configuration of the board of public works in Grand Traverse County, the bill could potentially allow the elimination of other auxiliary boards and committees, thus also reducing costs. In the case of any county where more members were added to the board of public works under the bill but that increase allowed other expenditures to be reduced or eliminated, the net local impact of the bill would depend upon the impact of the respective changes.

The bill would have no fiscal impact on State government.

Senate Bill 216

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.