

LAKE BOARD ACT AMENDED

By

Tony Groves, Water Resources Director, Progressive AE

This is the first of a two-part article about lake boards. The first article discusses recent amendments to the lake board act and the second article will explore the pros and cons of organizing a lake project under an existing township board versus establishing a lake board.

In the final moments of the 2003-2004 Legislative Session, several changes were made to the act that governs lake boards in Michigan. Part 309 (Inland Lake Improvements) of the Natural Resources and Environmental Protection Act provides for the establishment of lake boards and special assessment districts to finance lake improvement projects. Since 1966, this act has been used extensively to organize and finance a variety of lake projects. Currently, there are over 100 active lake boards in Michigan. The recent amendments change the membership of a lake board (Section 30903), project costs (Section 30927), and provide a formal mechanism for dissolving a lake board (Section 30929).

SECTION 30903

Section 30903 of the act defines the composition of a lake board and requires that a lake board consist of all the following:

- A member of the county board of commissioners appointed by the chairperson of the county board of each county affected by the lake improvement project.
- A representative of each local unit of government (other than the county) affected by the project appointed by the legislative body of the local unit. However, if there is only 1 local unit of government involved, 2 representatives of that local unit shall be appointed to the board.
- The county drain commissioner or his or her designee.
- A property owner, appointed by the lake board, who owns land abutting the lake.

Under the amendments, a representative from the Michigan Department of Environmental Quality (MDEQ) will no longer sit on the board. However, many lake projects will require the issuance of a permit from the MDEQ so the department will still provide regulatory review of proposed projects. Amendments to this section also require that once established, a lake board must now elect a treasurer, in addition to a chairperson and secretary.

SECTION 30927

Section 30927 deals with the computation of project costs and requires the lake board to make a computation of all costs associated with the project including preliminary engineering, contract work, inspections, publication of notices, legal expenses, administrative costs, permit fees, and contingent expenses. Amendments to this section require that a lake board shall not expend money unless it has adopted an annual budget.

SECTION 30929

Section 30929 was added to the act to provide a mechanism for dissolving a lake board. Prior to this amendment, Part 309 was silent on this issue. Section 30929 provides for a lake board to be dissolved if all the following conditions are met:

- The governing body of each local unit of government in which all or part of the lake is located holds a public hearing on the proposed dissolution, determines that the lake board is no longer necessary for the improvement of the lake because the reasons for establishing the lake board no longer exist, and approves the dissolution of the lake board.
- All outstanding indebtedness and expenses of the lake board are paid in full.
- Any excess funds of the lake board are refunded based on the last approved assessment roll. However, if the amount of excess funds is a minimal amount, the excess funds shall be distributed to the local units involved with the project apportioned in accordance with last approved special assessment roll.
- The lake board determines that it is no longer necessary for the improvement of the lake, because the reasons for its establishment no longer exist, and adopts an order approving its dissolution.

To ensure compliance with the recent amendments to Part 309, existing lake boards should appoint a treasurer. Also, if there is only one local unit of government involved with the project, request that the legislative body of the governmental unit appoint a second representative to serve on the lake board. Finally, if a lake board has not formally adopted an annual budget for expenditures, it should do so.