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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30701 Definitions.

Sec. 30701.

As used in this part:

(a) "Commissioner" means the county drain commissioner, or the board of county road commissioners in counties not having a drain commissioner. However, if more than 1 county is involved, commissioner means the drain commissioner or board of county road commissioners, as applicable, for each county.

(b) "County board" means the county board of commissioners. However, if more than 1 county is involved, county board means the county board of commissioners of each of those counties.

(c) "Court" means a circuit court. However, if more than 1 judicial circuit is involved, court means the circuit court designated by the county board or otherwise authorized by law to preside over an action.

(d) "Dam" means an artificial barrier, structure, or facility, and appurtenant works, used to regulate or maintain the level of an inland lake.

(e) "Delegated authority" means the county drain commissioner or any other person designated by the county board to perform duties required under this part.

(f) "Department" means the department of environment, Great Lakes, and energy.

(g) "Inland lake" means a natural or artificial lake, pond, impoundment, or a part of 1 of those bodies of water. Inland lake does not include the Great Lakes or Lake St. Clair.

(h) "Interested person" means the department and a person who has a record interest in the title to, a right of ingress to, or a reversionary right to land that would be affected by a permanent change in the natural or normal level of an inland lake.

(i) "Normal level" means the target level or levels of the water of an inland lake, around which actual levels may fluctuate, that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of this state; and that best preserve and protect the value of property around the inland lake. A normal level shall be measured and described as an elevation or elevations based on a geodetic vertical datum including ranges based on tolerance, operational or weather conditions, seasonality, or other similar natural and regional considerations. An inland lake shall be considered to be maintained at its normal level during temporary water level fluctuations resulting from weather or natural events, during construction activities authorized by the department, or if a county or its delegated authority operates lake level infrastructure in a manner that may affect water levels but is reasonably intended to maintain a normal level. The application of this definition includes, but is not limited to, all normal levels established before the effective date of the amendatory act of the 2023-2024 legislative session that amended this section.

(j) "Normal level project" means a project to establish or maintain a normal level.


History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30702 Determination of normal inland lake level; motion or petition to initiate action; delegation of powers and duties by county board; maintenance.

Sec. 30702.

(1) The county board of a county in which an inland lake is located may upon the board's own motion, or shall within 45 days following receipt of a petition to the board of 2/3 of the owners of lands abutting the inland lake, initiate action to take the necessary steps to cause to be determined the normal level of the inland lake.

(2) Unless required to act by resolution as provided in this part, the county board may delegate powers and duties under this part to that county's commissioner, road commission, or other delegated authority.

(3) If a court-determined normal level is established pursuant to this part, the delegated authority of the county or counties in which the lake is located shall maintain that normal level.




History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30703 Preliminary study; costs; contents of study.

Sec. 30703.

(1) Before proceeding on a motion made or a petition filed under section 30702, the county board may require that a preliminary study be conducted by a licensed professional engineer. The county board, by resolution, may require a cash payment from the petitioners sufficient to cover the actual preliminary study costs or of \$10,000.00, whichever is less.

(2) A preliminary study shall include all of the following:

(a) The feasibility of a project to establish and maintain a normal level of the inland lake.

(b) The expediency of the normal level project.

(c) Feasible and prudent alternative methods and designs for controlling the normal level.

(d) The estimated costs of construction and maintenance of the normal level project.




- (e) A method of financing initial costs.
- (f) The necessity of a special assessment district and the tentative boundaries if a district is necessary.
- (g) Other information that the county board resolves is necessary.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT

(EXCERPT)

Act 451 of 1994

324.30704 Initiating proceeding for determining normal inland lake level and establishing special assessment district; required finding; multicounty lake; joinder permitted.

Sec. 30704.

(1) If the county board, based on the preliminary study, finds it expedient to have and resolves to have determined and established the normal level of an inland lake, the county board shall direct the prosecuting attorney or other legal counsel of the county to initiate a proceeding by proper petition in the court of that county for determination of the normal level for that inland lake and for establishing a special assessment district if the county board determines by resolution that one is necessary as provided in section 30711.

(2) If the waters of an inland lake are located in 2 or more counties, the normal level of the lake may be determined in the same manner if the county boards of all counties involved, by resolution, direct the prosecuting attorney or other legal

counsel of 1 or more of the counties to institute proceedings. All counties may make a single preliminary study.




(3) The department may join a proceeding initiated under this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Popular Name: Act 451

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30705 Special assessment bonds or notes; lake level orders; proceedings; full faith and credit.

Sec. 30705.

(1) A special assessment district provided for in section 30704 may issue any of the following in anticipation of the collection of special assessments:

- (a) Bonds or notes, subject to section 30716.
- (b) Lake level orders.

(2) Bonds or notes issued under subsection (1) shall have a final maturity date not more than 40 years after the date of original issuance.

(3) All proceedings relating to the making, levying, and collection of special assessments authorized by this part and the issuance of bonds, notes, or lake level orders in anticipation of the collection of the special assessments shall conform as nearly as possible to the proceedings for levying special assessments and issuing special assessment bonds as set forth in the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(4) A county board by a vote of 2/3 of its members may pledge the full faith and credit of the county for payment of bonds or notes issued by a special assessment district under subsection (1).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 215, Imd. Eff. Apr. 29, 2002 ;-- Am. 2020, Act 221, Imd. Eff. Oct. 16, 2020

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30707 Hearing; notice; service; powers and duties of court.

Sec. 30707.

(1) Upon filing of a civil action under this part, the court shall set a day for a hearing. The prosecuting attorney or other legal counsel of the county or counties or the department shall give notice of the hearing by publication in 1 or more newspapers of general circulation in the county and, if the waters of the inland lake are situated in 2 or more counties, in 1 or more newspapers of general circulation in each of the counties in which the inland lake is located. The notice shall be published at least once each week for 3 successive weeks before the date set for the hearing.

(2) The commissioner shall serve a copy of the published notice of hearing by first-class mail at least 3 weeks prior to the date set for the hearing to each person whose name appears upon the latest city or township tax assessment roll as owning land within a tentative special assessment district at the address shown on the roll; to the governing body of each political subdivision of the state in which the

lake is located; and to the governing body of each affected political subdivision of the state. If an address does not appear on the roll, then a notice need not be mailed to the person. The commissioner shall make an affidavit of mailing. The failure to receive a notice properly mailed shall not constitute a jurisdictional defect invalidating proceedings under this part.

(3) The prosecuting attorney or the legal counsel of the county shall serve notice on the department at least 21 days prior to the date of the hearing.

(4) In a determination of the normal level of an inland lake, the court shall consider all of the following:

(a) Past lake level records, including the ordinary high-water mark and seasonal fluctuations.

(b) The location of septic tanks, drain fields, sea walls, docks, and other pertinent physical features.

(c) Government surveys and reports.

(d) The hydrology of the watershed.

(e) Downstream flow requirements and impacts on downstream riparians.

(f) Fisheries and wildlife habitat protection and enhancement.

(g) Upstream drainage.

(h) Rights of riparians.

(i) Testimony and evidence offered by all interested persons.

(j) Other pertinent facts and circumstances.

(5) The court shall determine the normal level to be established and maintained, shall have continuing jurisdiction, and may provide for departure from the normal level as necessary to accomplish the purposes of this part. The court shall confirm the special assessment district boundaries within 60 days following the lake level determination. The court may determine that the normal level shall vary seasonally.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Popular Name: Act 451

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30708 Maintenance of normal level; acquisition by gift, grant, purchase, or condemnation; contract for operation and maintenance of existing dam; dam in adjoining county; operation of pumps and wells.

Sec. 30708.

(1) After the court determines the normal level of an inland lake in a proceeding initiated by the county, the delegated authority of any county or counties in which the inland lake is located shall provide for and maintain that normal level.

(2) A county may acquire, in the name of the county, by gift, grant, purchase, or condemnation proceedings, an existing dam that may affect the normal level of the inland lake, sites for dams, or rights in land needed or convenient in order to implement this part. A county may enter into a contract for operation and maintenance of an existing dam. The county may construct and maintain a dam that is determined by the delegated authority to be necessary for the purpose of maintaining the normal level. A dam may be acquired, constructed, or maintained in a county adjoining the county in which the lake is located.

(3) For the purpose of maintaining the normal level, a delegated authority may drill wells or pump water from another source to supply an inland lake with additional water, may lower the level of the lake by pumping water from the lake, and may purchase power to operate pumps, wells, or other devices installed as part of a normal level project.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30711 Defraying project costs by special assessment; special assessment roll; reassessment.

Sec. 30711.

(1) The county board may determine by resolution that the whole or a part of the cost of a project to establish and maintain a normal level for an inland lake shall be defrayed by special assessments against the following that are benefited by the project: privately owned parcels of land, political subdivisions of this state, and state owned lands under the jurisdiction and control of the department of natural resources. If the county board determines that a special assessment district is to be established, the delegated authority shall compute the cost of the project and prepare a special assessment roll.



(2) If the revenues raised pursuant to the special assessment are insufficient to meet the computation of cost under section 30712, or if these revenues are insufficient to meet bond obligations, the special assessment district may be reassessed without hearing using the same apportioned percentage used for the original assessment.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025

Popular Name: Act 451

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT

(EXCERPT)

Act 451 of 1994

324.30712 Computation of project costs.

Sec. 30712.

(1) Computation of the cost of a normal level project shall include the cost of all of the following:

- (a) The preliminary study.
- (b) Surveys.
- (c) Establishing a special assessment district, including preparation of assessment rolls and levying assessments.
- (d) Acquiring land and other property.
- (e) Locating, constructing, operating, repairing, and maintaining a dam or works of improvement necessary for maintaining the normal level.
- (f) Legal fees, including estimated costs of appeals if assessments are not upheld.
- (g) Court costs.

(h) Interest on bonds and other financing costs for the first year, if the project is so financed.

(i) Any other costs necessary for the project which can be specifically itemized.


(2) The delegated authority may add as a cost not more than 15% of the sum calculated under subsection (1) to cover contingent expenses.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30714 Special assessment roll; public hearing; notice; approval; appeal.

Sec. 30714.

(1) A special assessment roll shall describe the parcels of land to be assessed, the name of the owner of each parcel, if known, and the dollar amount of the assessment against each parcel.

(2) The delegated authority shall set a time and place for a public hearing or hearings on the project cost and the special assessment roll. Notice of a hearing shall be by both of the following:

(a) By publication of notice at least twice prior to the hearing in a newspaper that circulates in the special assessment district, the first publication to be at least 10 days before the hearing.

(b) As provided in Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.746 of the Michigan Compiled Laws.

(3) At or after a public hearing, the delegated authority may approve or revise the cost of the project or the special assessment roll. Before construction of a project is

begun, the county board shall approve the cost and the special assessment roll by resolution.

(4) The special assessment roll with the assessments listed shall be final and conclusive unless appealed in a court within 15 days after county board approval.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.30715 Assessment payments; installments; amount; interest, penalty, and collection; lien; preliminary study payment credited.

Sec. 30715.

(1) The county board may provide that assessments under this part are payable in installments.

(2) Assessment payments shall be sufficient to meet bond and note obligations of the special assessment district.

(3) Special assessments under this part shall be spread upon the county tax rolls, and shall be subject to the same interest and penalty charges and shall be collected in the same manner as county taxes.

(4) From the date of approval of the special assessment roll by the county board, a special assessment under this part shall constitute a lien on the parcel assessed. The lien shall be of the same character and effect as a lien created for county taxes.


(5) A payment for the cost of the preliminary study under section 30703 shall be credited against an assessment for the amount of the payment made by the person assessed.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT

(EXCERPT)

Act 451 of 1994

324.30716 Bonds and notes; issuance; exempt from MCL 141.2505.

Sec. 30716.

(1) With approval of the county board and pursuant to section 30705, the district may issue bonds or notes that are payable by special assessments under this part. Except as provided in subsection (2) and section 30717(3), the issuance of the bonds and notes is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds or notes shall not be issued exceeding the cost of the lake level project that is being financed.

(2) Notwithstanding any other provision of this part, bonds, notes, and other obligations issued under this part are exempt from section 505 of the revised municipal finance act, 2001 PA 34, MCL 141.2505.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 216, Imd. Eff. Apr.

29, 2002 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025

Popular Name: Act 451

Popular Name: NREPA

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

324.30717 Special assessment district; acceptance and repayment of advance.

Sec. 30717.

(1) A special assessment district under this part may borrow money or accept an advance of work, material, or money from a public or private corporation, a partnership, an association, an individual, or the federal government or any agency of the federal government for payment of financing of any costs in connection with a normal level project, including all of the following:

- (a) Costs of easement and land acquisition.
- (b) Engineering fees.
- (c) Financing costs.
- (d) Legal fees.
- (e) Costs of a preliminary, feasibility, practicability, environmental assessment, or impact study.
- (f) Any other permissible costs under this part.

(2) The special assessment district shall pay or provide reimbursement for the obligations under subsection (1), with or without interest as may be agreed, when funds are available. The obligation of the special assessment district under this subsection may be evidenced by a contract or note. The contract or note may pledge the full faith and credit of the special assessment district and may be made payable out of any of the following:

(a) Assessments made or to be made against public corporations at large or against lands in the special assessment district.

(b) The proceeds of lake level orders, notes, or bonds issued by the special assessment district pursuant to this act.

(c) Any other available funds.

(3) A contract or note described in subsection (2) is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, unless the principal amount of the obligation is more than \$600,000.00. However, if the principal amount of the obligation is \$600,000.00 or less, the contract or note is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177. Projects in which advances or loans are made by any public corporation, the federal government, or any agency of the federal government are not subject to either the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(4) The county board of commissioners by a majority vote of its members may pledge the full faith and credit of the county for the payment of a contract or note of the special assessment district.


(5) All notes previously issued under this section shall be considered to have been validly issued.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 217, Imd. Eff. Apr. 29, 2002 ;-- Am. 2024, Act 112, Eff. Apr. 2, 2025

Popular Name: Act 451

Popular Name: NREPA

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