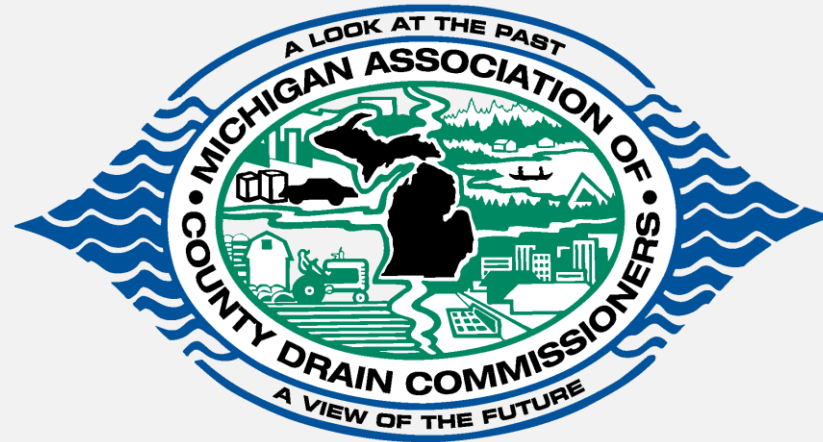


MICHIGAN ASSOCIATION OF COUNTY DRAIN COMMISSIONERS



Part 307 Amendments

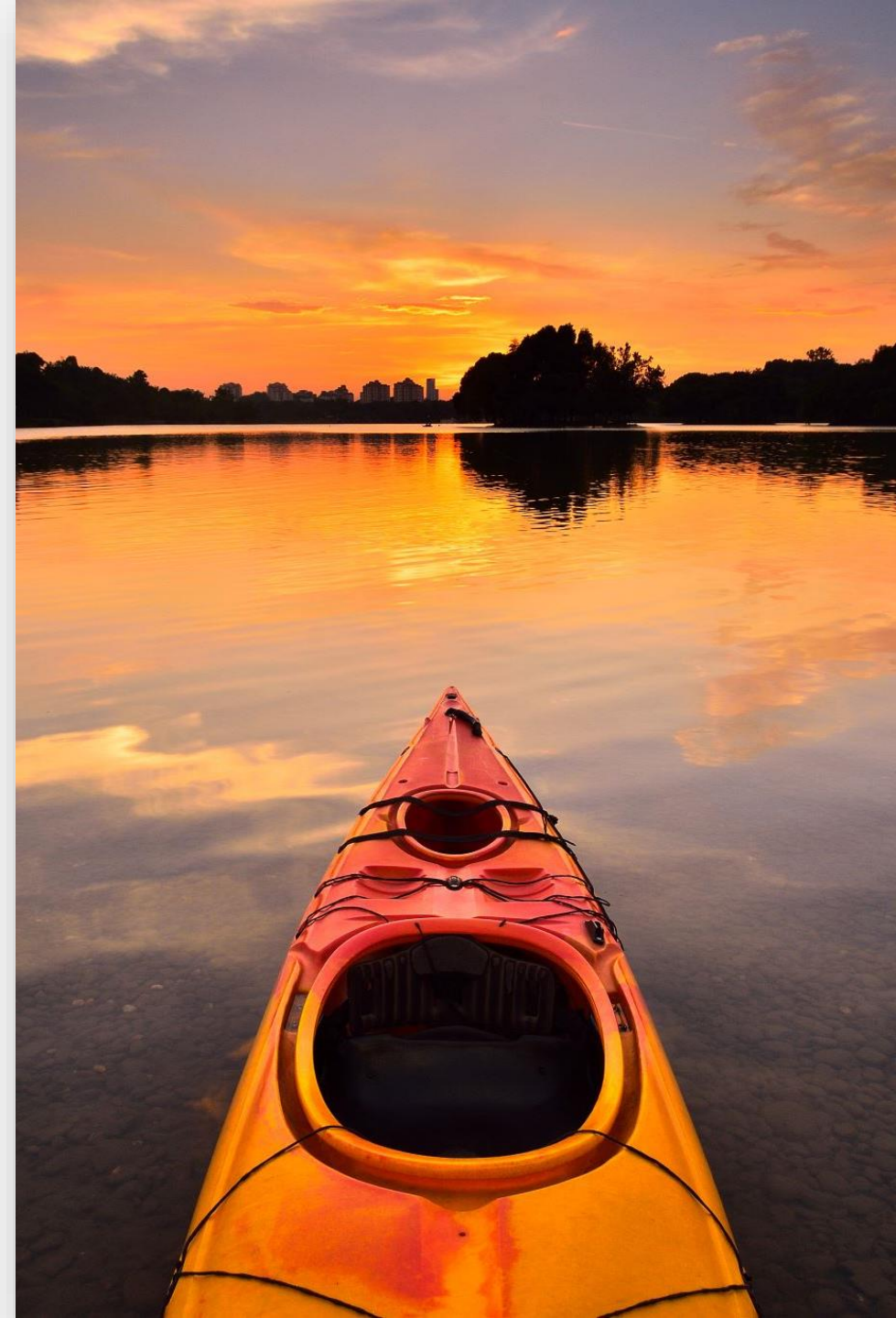
May 23, 2024

House Committee on Natural Resources,
Environment, Tourism and Outdoor Recreation

macdc.us

OVERVIEW

- Intro to Part 307
- 3 Issues:
 - Definition of “Normal Level”
 - Financing Election Requirement
 - Interim Borrowing/Full Faith and Credit
- Proposed Amendments



PART 307 (INLAND LAKE LEVELS)



- Court establishes a **“normal level”** administered by County Board of Commissioners
- Court also establishes a **lake level special assessment district**
- Approximately **400 Michigan lakes** have established lake levels under Part 307

MAINTENANCE OF A NORMAL LEVEL



- **Maintained through infrastructure**, such as dams, spillways, berms/dykes, augmentation, etc.
- Special assessment district may issue **bonds or notes** to finance lake level project costs
- **Full faith and credit** of the county is often required to obtain financing

HIGGINS LAKE LITIGATION

Citizens for Higgins Lake Levels v. Roscommon County Board of Commissioners

- Court of Appeals held that normal level must be **strictly maintained** as specified in lake level order
- Published opinion → **binding for established lake levels** across the state
- **NO fluctuations** (unless specified in order) allowed for:
 - Weather or natural conditions
 - Repairs/improvements
 - Designed operation of lake level control structure



IMPACTS OF DECISION

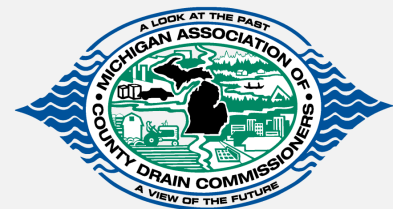


- Many lake level orders do not include ranges or allow for temporary fluctuations → **many lakes are not in compliance** with *Higgins Lake* decision
- It is **costly** to petition to go back to court and hold hearings to update lake level orders

PROPOSED AMENDMENTS: NORMAL LEVEL

Amend Part 307 definition of “normal level” to:

- Set a **target level(s)**, around which actual levels may fluctuate
- Allow for an **elevation range**
- Allow for **temporary fluctuations** due to weather or natural events, construction, or operation of lake level infrastructure
- Replace “national geodetic vertical datum” with “**geodetic vertical datum**”
- Make **retroactive** to cover historic lake level orders



FINANCIAL ISSUES

1. Could be construed to have an election requirement for securities over a certain amount
2. Interim financing/inability to pledge full faith and credit



FINANCIAL ISSUES: ELECTION REQUIREMENT

Revised Municipal Finance Act **requires an election** if a “municipality” issues financing secured by special assessments over 3% of the municipality’s assessed value

- Due to the size of a traditional municipality, it is ***very rare*** for an election to be required

MI Department of Treasury has interpreted lake level districts to be “**municipalities**” in certain instances

- Because lake level districts are much smaller than a traditional municipalities, elections will be required for ***almost every assessment***
- Part 307 does NOT define lake level districts as municipalities



FINANCIAL ISSUES: ELECTION REQUIREMENT

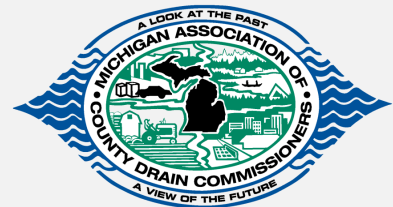
Lake level districts **do not follow municipal boundaries** for elections

- No legally established “assessed value”
- No roll of registered electors
- No election infrastructure



FINANCIAL ISSUES: INTERIM BORROWING

- Part 307 currently allows interim borrowing, but is **unspecific**
- No mechanism to pledge the **full faith and credit** of the county or special assessment district
- **Problematic because most banks are unwilling to issue notes without full faith and credit**



PROPOSED AMENDMENTS: INTERIM BORROWING



- Revise interim borrowing language and allow special assessment districts and counties to pledge full faith and credit
- Ensures counties can obtain interim financing for lake level projects

RECAP

3 proposed amendments to Part 307:

- Amend definition of “normal level”
- Ensure lake level special assessment districts are not treated as “municipalities” for election purposes
- Revise interim borrowing language to allow pledge of full faith and credit



QUESTIONS

