

Chronological Steps to be Followed in Improving a Lake Under The Authority of Part 309, Inland Lake Improvements, of The Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as Amended

1. Formation of a Lake Board, Public and Private Lakes, Sections 30902 and 30904.
 - a) On public inland lakes, a Lake Board may be formed either by petition of 2/3 of the freeholders owning land abutting the lake or upon a motion of a local governing body.
 - b) On private inland lakes, a Lake Board may be formed only by petition of 2/3 of the freeholders owning land abutting the lake.
2. Resolution by Local Governing Body, Sections 30906 and 30908. In creating a Lake Board, the local governing body shall direct the Lake Board to do the following:
 - a) Institute proceedings as prescribed in the Act to bring about the desired lake improvement.
 - b) Determine the scope of the project.
 - c) Establish a special assessment district including all parcels of land and local units that will be benefited by the improvement of the lake.
3. Lake Board Membership, Section 30903(1). The Lake Board shall consist of the following:
 - a) A member of the County Board of Commissioners appointed by the chairperson of the board of commissioners of each county in which the lake is located.
 - b) 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.
 - c) The Drain Commissioner or his or her designee, or a member of the County Road Commission in counties not having a Drain Commissioner.
 - d) A property owner, appointed by the Board, who owns land abutting the lake.
4. Election of Officers, Section 30903(2). The first duty of the Lake Board is to elect a Chairperson, Secretary, and Treasurer. A majority of the members shall constitute a quorum.
5. Selection of Engineer, Section 30909(1). The Lake Board shall retain a Registered Professional Engineer to provide an engineering feasibility report, an economic study report and an estimate of cost.

6. Engineering Feasibility Study, Section 30909(2) & (3). The Engineering Feasibility Study, which is to be prepared by the selected engineering consultant, shall include the following:
 - a) The methods proposed to implement the recommended improvements.
 - b) An investigation of the groundwater conditions and possible effects on lake levels from removal of bottom materials (if applicable).
 - c) A study of existing nutrients in the lake and a projection of future lake conditions which may result from a reduction in nutrient levels.
 - d) An estimate of project costs.
 - e) Probable assessments for the project to individual property owners.
 - f) An economic report which analyzes the existing local tax structure and the effects of the proposed assessment on the local unit(s) of government involved.
7. Funding by County Board of Commissioners, Sections 30905 and 30911. The County Board of Commissioners may provide for a revolving fund to pay for preliminary costs of improvement projects. Such funds must be repaid on collection of funds from the assessment district. The County Board may also provide up to 25% of the cost of a lake improvement project on any public inland lake.
8. Hearing of Practicability, Section 30910. Within 60 days following receipt and final acceptance of the Engineering Feasibility Study, the Lake Board shall hold a public hearing to review the report and to determine the practicability of the project. Notice of the hearing must be published twice in a newspaper of general circulation in each local unit of government affected. The first publication shall not be less than 20 days prior to the time of the hearing.

The Lake Board shall, by resolution, determine the practicability within 10 days after the hearing. The resolution shall be published once in a newspaper of general circulation in each local unit to be affected.

9. Preparation of Assessment Roll, Section 30912. After accepting the special assessment district, the Lake Board shall prepare an assessment roll based upon benefits to be derived from the proposed lake improvement, and shall direct the assessing official of each local unit of government to be affected to join in making the assessment roll.

10. Public Hearing and Confirmation of Assessment Roll, Section 30913. After the assessment roll is reported to the Lake Board by the local assessing officials, the Lake Board shall hold a public hearing on the assessment roll. Notice of the hearing must be published twice in a newspaper of general circulation in each local unit of government affected. The first publication shall not be less than 10 days prior to the time of the hearing. Notice of the public hearing must also be mailed first class to all property owners in the special assessment district in accordance with Act 162, Public Acts of 1962.

After the hearing, the Lake Board may confirm the assessment roll as reported, or as amended or corrected by it, or may refer it back to the assessing officials for revision, or may annul it and direct a new roll to be made. When an assessment roll has been confirmed, the Lake Board shall direct the assessments therein to be collected, and the clerk of each local unit shall endorse therein the date of confirmation. Notice of confirmation of the special assessment roll must be published in the same manner as the notice of the public hearing on the roll.

11. Project Financing, Section 30922. Lake Boards have three methods available to finance lake improvement projects. They are:
- a) Borrow money from a local lending institution. This method would normally be possible only for low-cost projects.
 - b) Issue Lake Level Orders. These are promissory notes issued to the contractor that promises payment upon collection of funds from the special assessment district. In cases where the contractor does not wish to hold such a note, a purchaser for the lake level orders would have to be found. In some cases, local units of government have purchased lake level orders.
 - c) Bonding: If bonding is anticipated as a means of financing the lake improvement project, bond counsel should be retained as early in the project as possible. Whether bonding is needed depends on the cost of the project. Normally, only high cost projects such as dredging require bonding. Bond Counsel, if needed, can provide valuable assistance to a Lake Board to ensure that the necessary legal steps are taken so that bonds can be sold without problems or defaults.

Often, lake improvement projects financed under Part 309 involve “maintenance-type” work such as annual aquatic plant control. Thus, it may not be necessary to borrow funds but to simply pay for the project through the annual collection of assessments.

12. Advertising for and Letting of Contract, Section 30926(1) and (2). Except as provided below, the Chairperson of the Lake Board shall advertise for bids. The contract shall be let to the lowest bidder giving adequate security for the performance of the contract, but the Lake Board shall reserve the right to reject any and all bids.

The Lake Board may contract with a local homeowner association without advertising for public bids provided the homeowner association can provide adequate security for the performance of the contract.

13. Computation of Project Costs, Section 30927. Within 10 days after the letting of contracts, or after appeals have been decided, the Lake Board shall make a computation of the entire cost of a project, including preliminary engineering, contract work, inspections, publication of notices, legal expenses, administrative costs, permit fees, and contingent expenses. A lake board shall not expend money unless it has adopted an annual budget.

14. Dissolving a Lake Board, Section 30929. A Lake Board can be dissolved if all the following conditions are met:

- a) 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.
- b) All outstanding indebtedness and expenses of the lake board are paid in full.
- c) 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.
- d) 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.

15. Further Lake Board Meetings. After letting of the contract(s), the Lake Board will need to meet periodically to review the progress of the project, to adopt its annual budget, and to take action on the payment of bills.