

What is a special assessment?

A special assessment is a charge against real property (i.e., immovable property such as land and structures -- not personal property) for an improvement or service that confers a benefit to those living within the special assessment district.

Special assessments are used by municipalities to fund projects or services that would otherwise not be possible, such as road repairs, water and sewer mains, street lighting, police and fire protection, and garbage and recycling services.

Special assessments can be used in conjunction with general fund revenues, service fees, user charges, grants, or other sources of funding.

How does a special assessment differ from a tax or fee?

Special assessments are often confused with property taxes, since most municipalities find it easiest to include special assessments on the property tax bill. Unlike taxes, special assessments are not levied on personal property, are not subject to constitutional/statutory limitations like the Headlee Amendment, do not require a vote of the electors, and are not tax deductible under the State Homestead Tax Credit or on Federal Income Tax. Unlike a tax, a special assessment must convey a specified benefit. In addition, special assessments can be included in the tax effort used to qualify for shared state revenues.

Special assessments differ from user fees in that they are imposed in advance of a project or service.

Pros and Cons**Pros:**

- Flexibility to levy assessment against only specified properties, which can keep certain residents from being double-billed for a service.
- Under many statutes, the government unit is authorized to determine the rate and duration of the levy.
- Increased revenue that qualifies for revenue-sharing.
- Public hearing requirements give residents the chance to comment and participate.

Cons:

- Not tax deductible for residents.
- May yield less funding than a general tax if there is an extensive personal property base.
- Administrative costs and work may be greater than for other mechanisms, such as a voted millage, depending on the community.

Before you begin:

The Michigan Townships Association recommends these steps prior to initiating procedures required by statute:

- Petition to measure interest.
This is not a required step under most statutes and no specific petition forms are required.
- Informational meeting to explain project scope and cost.

How is a special assessment accomplished?**1) Decide which statute to use.**

Following is a list of statutes commonly used to fund garbage and recycling collection and facilities. This list should not be considered exhaustive – there may be other statutes that are a better fit for your project or community.

Act 188 of 1954 (Township Public Improvement Act) – Township

This is the most frequently used statute for special assessments and contains specific procedural requirements and descriptions. This statute has the advantage of allowing a township board to correct any procedural errors from the stage where the error occurred, instead of requiring the process to start again from the beginning.

41.722(1)(f) Collection and disposal of garbage and rubbish

<http://tinyurl.com/pbante6>

Act 116 of 1923 (Township and Village Public Improvement and Public Service Act) – Township or Incorporated Village

Authorizes a township or incorporated village to establish and maintain garbage and mixed refuse systems, plants for collection and disposal of garbage and mixed refuse, or contracting for such collection and disposal not to exceed 30 years [41.411(1)(a)].

Note: a petition must be signed by 51% of land owners in the assessment district in order to initiate under this statute.

<http://tinyurl.com/luwwmwd>

Act 342 of 1939 (County Public Improvement Act of 1939) – County

Authorizes a county board of commissioners to establish garbage or rubbish collection and disposal facilities; or services within or between cities, villages, townships, charter townships; or any combination of government units within or without of the county.

<http://tinyurl.com/kkhrn38>

Act 233 of 1955 (Municipal Sewage and Water Supply Systems) – County, city, village, township

Authorizes an incorporation of municipal authorities to acquire, operate, and improve solid waste management systems, form contracts between such authorities and public corporations, and raise funds through bonds or assessments.

<http://tinyurl.com/lbnwfzu>

Act 185 of 1957 (County Department and Board of Public Works) – County

Authorizes a county to establish a department and board of public works, incur contract obligations, levy taxes, issue/pay bonds, and do special assessments.

123.737(7)(c) Acquire a refuse system within one or more areas of the county and improve, operate, and maintain the system.

<http://tinyurl.com/lk7wlp0>

Act 69 of 2005 – County and local units

Authorizes a county to work with local units via interlocal public agreements to establish recycling, composting, and household hazardous waste projects. Permits the collection of surcharges.

<http://tinyurl.com/q7ls5he>

Act 76 of 1965 (Joint Water Supply and Waste Disposal Systems) – All local units and other states

Authorizes units of government to construct waste disposal systems or contract for use of such facilities through agreements with governmental units, entities, or agencies of another state.

<http://tinyurl.com/o62ylxw>

2) Carefully follow procedural requirements in the statute.

If procedures are not detailed in the statute, it is recommended that you reference Act 188 of 1954 (Township Public Improvement Act).

Along with the authorizing statute, special assessments must also adhere to these statutory requirements:

- PA 162 of 1962 – Notice of assessment prior to each hearing
- PA 267 of 1976 – Notice and meeting requirements of the Open Meetings Act must be observed throughout
- PA 64 of 1988 – Notification of right to protest and appeal
- PA 65 of 1988 – Property owners must first protest a special assessment at a public hearing held to confirm the assessment roll before appealing to the Michigan Tax Tribunal

3) Apportion assessments

The amount levied in a special assessment is determined by the authorized government unit. Typical methods of assessment are based on front footage, total land area or value, per parcel, per dwelling, degree of accessibility/distance from project, or a combination of several methods or weighted factors. (See “Special Assessments – A Technical Manual” prepared by Michigan Townships Association (MTA) for a discussion of apportionment and corner lots.)

Often, the general public may also benefit from a special assessment project or service. In these cases, a government unit may decide to cover part of the cost through general funds, service fees, grants, or other funding sources.

The amount levied does not have to be uniform or applied to all parcels in the government unit – it is based on a determination of how much each parcel benefits from the project/service. This does not mean that strict dollar equality must be used, but the assessment should be reasonably proportionate to the benefit (L. Thomsen, Michigan Township News, Oct, 2005).

Be aware that property that is tax exempt, such as churches, schools, and public service properties, may not be exempt under special assessment statutes.

Careful consideration of apportionment should be done *before* holding any public hearings, especially if there are large differences in the amounts levied on parcels. Initial over-estimation of assessments is recommended, as it is easier to reduce estimates than to increase them.

Assessments that cover recurring expenses are often imposed one year at a time. This is generally done for services such as recycling, police and fire protection, weed control, and street lighting. This requires a new assessment roll to be reviewed by the government unit at a public hearing each year.

General outline of special assessment administration

(Note: procedural details will vary based on the statute used.)

- I. Initiation
- II. Planning
 - a. Project plans
 - b. Cost estimate (project total, admin/legal costs, cost to each resident)
 - c. Assessment district
 - d. File information with clerk
- III. Notice of first public hearing
 - i. Mail each property owner to be assessed and make an affidavit of mailing
 - ii. Put notice in local newspaper twice and retain proof of publication
- IV. First public hearing
 - a. Keep a record of attendance
 - b. Keep meeting minutes that reflect all comments
 - c. Address issues identified by comments or written submissions
- V. Resolution to proceed
 - a. Preparation of special assessment roll and file with clerk
- VI. Notice of second public hearing
 - a. Mail each property owner to be assessed
 - b. Put notice in local newspaper twice
- VII. Second public hearing
- VIII. Confirm resolution

Special assessment can only be challenged by an appeal to the Michigan Tax Tribunal within 30 days. (Exception for parcels that are split after assessment.)
- IX. Collect assessments

Resources:

Special Assessments – A Technical Manual for Townships, prepared by the MTA (2011). This manual contains sample forms and templates, including: citizen petition, notice of hearing, affidavit of mailing, board meeting minutes, and warrant for collection of special assessment roll. Library link: <http://elibrary.mel.org/record=b24831130~S15>. This manual can be purchased from the MTA store: www.michigantownships.org/mta_store.asp

You Get What You Pay For: Special Assessments Fund Public Improvements, by Lynda E. Thomsen (Michigan Township News, October, 2005) available online at <http://eagleharbortwp.org/pdf/lmric/>.

Municode (database of municipal codes): www.municode.com/library/mi

Michigan Legislative Website: [www.legislature.mi.gov/\(S\(fmb2oxhs3qsnzn01tjngiag4\)\)/mileg.aspx?page=Home](http://www.legislature.mi.gov/(S(fmb2oxhs3qsnzn01tjngiag4))/mileg.aspx?page=Home)

Michigan Department of Environmental Quality – Recycling Program: www.michigan.gov/mirecycles

This document is as a general guide only, and should not take the place of consultation with a municipal law specialist. These organizations can connect you with municipal law experts in your area:

Michigan Townships Association: www.michigantownships.org/

Michigan Municipal League: www.mml.org/home.html

Michigan Association of Counties: www.micounties.org/