

“ . . . optional with the giver; that is, he can advise or remain silent. It is optional with him to whom it is directed; that is, he can accept or decline it.”

And in *Artificial Ice & Cold Storage Co v Martin*, 102 Ind App 74; 198 NE 446 (1935), “suggestion” is defined as:

“ . . . presentation of an idea especially indirectly, as through association of ideas, bringing before the mind for consideration, action, solution or the like.”

Thus, the language of 1943 PA 183, § 10, *supra*, cannot be construed as a directive which would require the county board of commissioners to accept the advice or suggestion of the county zoning commission regarding the proposed supplementation or amendment of an existing zoning ordinance.

In summary, the County Board of Commissioners has authority to enact amendments and supplements to county zoning ordinances and may do so upon soliciting the advice or suggestion of the county zoning commission. However, such advice or suggestions are not conclusive upon the board.

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HOME RULE CITIES: Revenue Bond Act.

WATER SUPPLY: Revenue Bond Act.

Inasmuch as the revenue bond act provides that water rates shall be fixed and revised by the governing body of a city that has resorted to its provisions for issuance of bonds, the legislative body of a home rule city has final authority for fixing such rates despite a provision in its charter stating that a charter-created Department of Water Supply shall periodically establish such rates.

Opinion No. 4886

September 5, 1975.

Honorable John Bennett, Chairman
Special Committee to Study City
of Detroit Water Rate Structure
House of Representatives
Lansing, Michigan

You have requested that I consider whether in the City of Detroit the authority to set water and sewerage rates rests with the City Council or the Board of Water Commissioners. In this regard, you forwarded a copy of the opinion of the Detroit Department of Law on that question. That opinion held:

“ . . . that when the city resorted to using the Revenue Bond Act as a means for financing the construction of water and sewerage systems, approval of . . . [the City Council] became required for any increase in rates. . . .” Opinion, Detroit Dept of Law, April 15, 1975.

I concur in that conclusion.

It is a well established principle of law in this state that:

“. . . the legislature may pass a general act directly conferring upon legislative bodies of cities, having home rule charters, powers in addition to those enumerated in the charter. . . .” *In the Matter of Widening Michigan Avenue, Roosevelt to Livernois Avenues*, 281 Mich 95, 100; 274 NW 723, 725 (1937).

As the opinion indicates, the City of Detroit resorted to using the provisions of the revenue bond act, MCLA 141.101 *et seq*; MSA 5.2731 *et seq*, as a means for financing the construction of the water and sewerage system. That act provides in pertinent part:

“Rates for services furnished by a public improvement shall be fixed precedent to the issuance of the bonds. The rates shall be sufficient to provide for the payment of the expenses of administration and operation and the expenses for the maintenance of the public improvement as may be necessary to preserve the same in good repair and working order; to provide for the payment of the interest upon and the principal of all bonds payable therefrom, as and when the same become due and payable, and for the creation of any reserve therefor as require in the ordinance; and to provide for such other expenditures and funds for the public improvement as the ordinance may require. *The rates shall be fixed and revised from time to time by the governing body of the borrower so as to produce these amounts, and the borrower shall covenant and agree in the ordinance authorizing the issuance of the bonds and on the face of each bond to maintain at all times such rates for services furnished by the public improvement as shall be sufficient to provide for the foregoing. . . .*” MCLA 141.121; MSA 5.2751. (Emphasis supplied.)

The term “governing body” is defined by the act:

“(d) The term ‘governing body’ shall be construed to mean . . . in the case of a city, the council, common council, commission or other body having legislative powers. . . .” MCLA 141.103; MSA 5.2733.

Detroit is a home rule city. Under the home rule cities act, MCLA 117.1 *et seq*; MSA 5.2071 *et seq*, certain mandatory charter provisions are set forth:

“Each city charter shall provide:

(a) For the election of a mayor who shall be the chief executive officer of the city, and of a *body vested with legislative power. . . .*” MCLA 117.3; MSA 5.2073. (Emphasis supplied.)

The Detroit city charter provides:

“The city council is the City’s legislative body. It has the powers and duties provided by law or this charter.” Detroit Charter, Art 4, ch 1, § 1.

While a water board is not a mandatory department of city government under the home rule cities act, the authority of the Board of Water Commissioners is provided by charter:

"Under the direction of the board, the department shall supply water, drainage and sewerage services within and outside of the City.

"The board shall periodically establish equitable rates to be paid: (a) by the owner or occupant of each house or building using water, drainage, or sewerage services; and (b) by any person, municipality, or public or private agency making a wholesale purchase of water, drainage or sewerage services from the City.

"Unless otherwise provided by contract, the unpaid charges for water, drainage, and sewerage services, with interest, shall be a lien of the City upon the real property using or receiving them.

"The board may make all necessary adjustments in the collection of water, drainage or sewerage charges.

"The board may be given additional authority to establish rates by ordinance.

"Upon the request of the mayor, the board shall advise the various agencies of the City on matters involving water resource management." Detroit Charter, Art 7, ch 15, § 2. (Emphasis supplied.)

The home rule cities act provides:

"No provision of any city charter shall conflict with or contravene the provisions of any general law of the state." MCLA 117.36; MSA 5.2116.

Charter provisions should be read where possible as being harmonious and not in conflict with any other provision of the charter, *Brady v City of Detroit*, 353 Mich 243; 91 NW2d 257 (1958), or with any general law of the state. Indeed, state law is read into the charters of home rule cities, *Hazel Park v Municipal Finance Commission*, 317 Mich 582; 27 NW2d 106 (1947). Consequently, the revenue bond act may be read into the charter of the City of Detroit.

The commentary to Detroit Charter, Art 7, ch 15, § 2 indicates that there was no substantial change from the 1918 city charter. The Supreme Court in reviewing the rates charged in *Detroit v Highland Park*, 326 Mich 78, 99; 39 NW2d 325, 333 (1949) stated:

"... The revenue bond act (PA 1933, No 94, as amended, *supra*) is cumulative and authorizes the construction of the disposal system as well as the issuance of the bonds. This act expressly provides that rates for service shall be set by ordinance. *The rates here were properly established by ordinance No 340-c, as amended, providing for the setting of suburban rates by the board of water commissioners, subject to approval of the common council.* The suburban rates were so set by the board and approved by the common council of Detroit on June 4, 1940." (Emphasis supplied.)

Such a procedure as outlined above is consistent with the present charter and with the ultimate authority of the City Council as the governing body under the revenue bond act.

In view of the above, it is my opinion that, under the provisions of the revenue bond act, the City Council has final authority for fixing water

and sewer rates. I would, however, call to your attention the language added to MCLA 141.121; MSA 5.2751 by 1974 PA 27, which provides:

“ . . . Any rates pledged for the payment of bonds that are fixed and established pursuant to the provisions of a contract or lease shall not be subject to revision or change, except in the manner provided in the lease or contract. . . .”

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CONSTITUTION OF MICHIGAN: Article 4, Section 24.

CONSTITUTION OF MICHIGAN: Article 4, Section 25

CONSTITUTION OF MICHIGAN: Article 3, Section 2.

CIVIL SERVICE COMMISSION: Constitutional authority to classify and allocate.

CIVIL RIGHTS COMMISSION: Constitutional power to promulgate procedural rules.

STATUTES: Severability of unconstitutional provisions.

The constitutional requirement that no law embrace more than one object expressed in its title, Const 1963, art 4, § 24, is designed to put legislators and other interested persons on notice of the contents of each law. This constitutional provision, therefore, prohibits any of the following provisions from being included as part of a bill to make appropriations:

1. A requirement that the attorney general issue opinions to legislators within 90 days or state in writing his reasons for failing to do so. (The attorney general will, nevertheless, comply with this provision since he has the authority to accomplish this desirable goal independently of any statutory requirement);
2. Establishment of an advisory committee on the arts;
3. Prohibition against use of funds by any state agency for eavesdropping devices; and
4. Assignment of a task force to prevent the escape of mental patients.

The constitutional requirement that the section or sections of an act altered or amended shall be re-enacted and published at length, Const 1963, art 4, § 25, is calculated to achieve harmony and consistency in the statute law and to inform the people of the law they are expected to obey. The following provisions in various appropriation bills were fatally defective for failing to re-enact and publish existing statutory provisions:

1. A change from existing law that would require the central books of account to remain open for 75 days instead of 30 days after the end of the fiscal year;
2. A change from existing law that would impose limitations on the inter-transfer of funds by the state administrative board;