

**SUBSTITUTE FOR
HOUSE BILL NO. 5384**

A bill to amend 1976 PA 448, entitled "Michigan energy employment act of 1976," by amending sections 3, 5, 6, 9, 11, 21, 24, 31, 34, 36, 37, 43, and 44 (MCL 460.803, 460.805, 460.806, 460.809, 460.811, 460.821, 460.824, 460.831, 460.834, 460.836, 460.837, 460.843, and 460.844), section 5 as amended by 2002 PA 513 and section 44 as amended by 2002 PA 532, and by adding section 33a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Electric utility facility" means a facility
2 which a municipality is authorized to acquire as part of a
3 municipal electric utility system under this act or other law.

4 (2) "Governing body" means the council, commission, or board
5 of trustees of a municipality, or when the charter of a
6 municipality provides that a separate board has general
7 management over the municipal electric utility system, "governing

1 body" means that separate board, subject to review by the
2 legislative body of the municipality as its charter may provide.

3 (3) "Governmental unit" means a municipality or a joint
4 agency. ~~venture project.~~

5 ~~—— (4) "Joint venture" means a project undertaken by 2 or more~~
6 ~~municipalities, or 1 or more municipalities in conjunction with 1~~
7 ~~or more joint agencies, electric power cooperatives, publicly or~~
8 ~~privately owned utilities, authorities, or other public or~~
9 ~~private bodies, organized in accordance with article 2.~~

10 (4) ~~(5)~~ "Joint agency" means a public body corporate and
11 politic consisting of a combination of 2 or more municipalities,
12 authorities, or other public bodies organized ~~in accordance with~~
13 **UNDER** article 3.

14 Sec. 5. (1) "Project" means a system or facility, **INSIDE OR**
15 **OUTSIDE THE STATE, OR SERVICE RELATED TO A SYSTEM OR FACILITY**
16 **INSIDE OR OUTSIDE THE STATE,** for the generation, transmission, or
17 transformation of electricity, **IN WHOLE OR IN PART, OR FOR SALE**
18 **TO OR USE** by a municipal electric utility system **OR JOINT AGENCY**
19 by any means. Project also means stock, membership units,
20 **CONTRACTUAL INTERESTS,** or any other interest **IN A SYSTEM OR**
21 **FACILITY, INSIDE OR OUTSIDE OF THE STATE, FOR THE GENERATION,**
22 **TRANSMISSION, OR TRANSFORMATION OF ELECTRICITY OR** in a multistate
23 regional transmission system organization approved by the federal
24 government and operating in this state or a transmission-owning
25 entity which is a member of a multistate regional transmission
26 system organization approved by the federal government and
27 operating in this state.

1 (2) "Project cost" includes, but is not limited to, the cost
2 of acquisition, construction, improvement, or extension of a
3 project, the cost of studies, plans, specifications, surveys, and
4 estimates of related costs and revenues, the cost of land, land
5 rights, rights of way, easements, water rights, fees, permits,
6 approvals, licenses, certificates, franchises, and the
7 preparation of any required applications, engineering and
8 inspection expenses, financing costs, working capital, fuel
9 costs, interest on bonds, establishment of reserves, and all
10 other costs of the municipality or joint agency that are
11 incidental, necessary, or convenient to the acquisition,
12 construction, improvement, or extension of a project.

13 Sec. 6. (1) **"PERSON" MEANS AN INDIVIDUAL, CORPORATION,**
14 **ASSOCIATION, PARTNERSHIP, GOVERNMENTAL ENTITY, OR ANY OTHER LEGAL**
15 **ENTITY.**

16 (2) ~~(1)~~ "Power utility" means any ~~of the following entities~~
17 ~~engaged~~ **PERSON ENGAGED OR THAT MAY ENGAGE, INSIDE OR OUTSIDE THE**
18 **STATE**, in generating, transmitting, or distributing **OR FURNISHING**
19 **electricity. : a political subdivision of this or another state**
20 ~~or a Canadian province; an agency of this or another state, a~~
21 ~~federal agency, or a Canadian federal or provincial agency; or a~~
22 ~~cooperative or investor owned entity subject to the regulation of~~
23 ~~the Michigan public service commission or the equivalent~~
24 ~~regulatory agency of another state.~~

25 (3) ~~(2)~~ "Power utility bond" means electric utility bonds,
26 notes, or other evidences of indebtedness of a municipality,
27 including refunding bonds issued to underwrite projects

1 authorized by this act.

2 (4) ~~(3)~~—"Revenues" means all fees, charges, moneys, profits,
3 payment of principal of, or interest on, municipal or power
4 utility bonds, or other gifts, grants, contributions and
5 appropriations.

6 Sec. 9. The governing body of a municipal electric utility
7 system may purchase, acquire, construct, improve, enlarge,
8 extend, or repair facilities for the transmission of energy, and
9 may contract for the purchase, sale, exchange, interchange,
10 wheeling, pooling, or transmission of electrical energy with
11 another power utility **FOR A CONSIDERATION AND FOR A PERIOD AND**
12 **UPON OTHER TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE**
13 **PARTIES TO THE AGREEMENT.**

14 Sec. 11. A municipality engaging in a joint venture, joint
15 agency agreement, or other joint endeavor described in section 10
16 and authorized by article 2 or article 3 shall own a percentage
17 of any common facility equal to the percentage of the money
18 furnished or the value of the property supplied by the
19 municipality for the acquisition and construction of the common
20 facility, **EXCEPT IN THE CASE OF A FACILITY AT LEAST 2/3 OF WHICH**
21 **IS OWNED OR TO BE OWNED BY A STATE, A POLITICAL SUBDIVISION OF**
22 **THIS OR ANOTHER STATE OR A CANADIAN PROVINCE, AN AGENCY OF THIS**
23 **OR ANOTHER STATE OR OF A POLITICAL SUBDIVISION OF THIS STATE OR**
24 **ANOTHER STATE, A FEDERAL AGENCY, OR A CANADIAN FEDERAL OR**
25 **PROVINCIAL AGENCY OR AGENCY OF A POLITICAL SUBDIVISION OF A**
26 **CANADIAN PROVINCE, OR ANY CORPORATION OR OTHER ENTITY CONTROLLED**
27 **DIRECTLY OR INDIRECTLY BY 1 OR MORE OF THE ENTITIES LISTED ABOVE,**

1 **IN WHICH CASE OWNERSHIP SHALL BE AS PROVIDED IN THE CONTRACT**
2 **BETWEEN THE MUNICIPALITY OR JOINT AGENCY AND THE ENTITY OWNING OR**
3 **TO OWN AT LEAST 2/3 OF THE FACILITY.** Each municipality in a joint
4 endeavor shall defray its own interest and other payments
5 required to be made in connection with a financing undertaken by
6 it to pay its own percentage of the money furnished or the value
7 of the property supplied by it for the planning, acquisition, and
8 construction of a common facility, or an addition or betterment
9 to the common facility. The agreement shall provide a uniform
10 method of determining and allocating operation and maintenance
11 expenses of the joint facility or agency.

12 Sec. 21. (1) A governmental unit may join in a joint venture
13 agreement to plan, finance, develop, construct, reconstruct,
14 acquire, improve, enlarge, better, own, operate, or maintain an
15 undivided interest ~~as a tenant in common~~ in a project situated
16 within or without the state with 1 or more municipalities, joint
17 agencies, or power utilities; and make plans and enter into
18 contracts in connection ~~therewith~~ **WITH THAT PROJECT**, not
19 inconsistent with this act, as are necessary or appropriate.

20 (2) Before entering a joint venture agreement, the governing
21 body of a municipality shall determine the needs of the
22 municipality for power and energy based on engineering studies
23 and reports. In determining the future power requirements of a
24 municipality, the following shall be considered:

25 (a) The economies and efficiencies to be achieved in
26 constructing on a large scale facilities for the generation and
27 transmission of electric power and energy.

1 (b) The municipality's need for reserve and peaking
2 capacity, and to meet obligations under pooling and reserve
3 sharing agreements reasonably related to its needs for power and
4 energy to which it is or may become a party.

5 (c) The estimated useful life of the project.

6 (d) The estimated time necessary for the planning,
7 development, acquisition, or construction of the project, and the
8 length of time required in advance to obtain, acquire, or
9 construct additional power supply.

10 (e) The reliability and availability of existing or
11 alternative power supply sources, and the cost of those existing
12 or alternative power supply sources.

13 Sec. 24. (1) Capacity or output derived by a governmental
14 unit from its ownership share of a project not then required by
15 the governmental unit for its own use and for the use of its
16 customers may be sold or exchanged by the governmental unit for a
17 consideration and for a period and upon other terms and
18 conditions as may be determined by the parties to the sale.

19 (2) Municipalities proposing to jointly plan, finance,
20 develop, own and operate a project, may either jointly or
21 separately apply to the appropriate agencies of the state, the
22 federal government, another state, or another proper agency, for
23 the necessary licenses, permits, certificates, or approvals; may
24 construct, maintain, and operate the project in accordance with
25 the licenses, permits, certificates, or approvals; and may
26 obtain, hold, and use the licenses, permits, certificates, or
27 approvals in the same manner as the operating unit of any other

1 power utility.

2 (3) Municipalities participating in a joint project or
 3 projects may enter into contracts for the **PURCHASE, SALE,**
 4 exchange, interchange, wheeling, pooling, or transmission of
 5 electric power and energy produced by the project or projects
 6 with a ~~municipality of this state or another state owning~~
 7 ~~electric distribution facilities, with an electric membership~~
 8 ~~corporation, with a public utility, or with a state, federal, or~~
 9 ~~municipal agency which owns electric generation, transmission, or~~
 10 ~~distribution facilities in this state or another state~~ **POWER**
 11 **UTILITY.**

12 (4) Personnel appointed by a municipality to work on a joint
 13 project shall have the same authority, rights, privileges, and
 14 immunities ~~which~~ **THAT** the officers, agents, and employees of the
 15 appointing municipality enjoy within the jurisdictional
 16 boundaries of the municipality, whether within or without that
 17 territory, when the personnel are acting within the scope of
 18 their authority or within the course of their employment.

19 (5) Municipalities party to a joint project authorized by
 20 this article shall, following the end of each fiscal year,
 21 prepare an annual report of the activities of the project,
 22 including a complete operating and financial statement covering
 23 the operations of the project for that year. The municipalities
 24 shall ~~cause~~ **CONDUCT** an audit of the books of records and accounts
 25 of the project to be made not less than annually by a certified
 26 public accountant, and the cost of the audit may be treated as
 27 part of the cost of construction of the project, or as part of

1 the expense of administering the project covered by the audit.

2 Sec. 31. A joint agency is formed when the governing bodies
3 of 2 or more municipalities by resolution determine that it is in
4 the best interest of the municipalities ~~engaged in generation,~~
5 ~~transmission or distribution of electricity as of the effective~~
6 ~~date of this act,~~ in accomplishing the purposes of this act to
7 create a joint agency for the purpose of undertaking the
8 planning, financing, development, acquisition, construction,
9 reconstruction, improvement, enlargement, betterment, operation,
10 or maintenance of a project or projects to supply electric power
11 and energy for their present or future needs as an alternative or
12 supplemental method of obtaining the benefits and assuming the
13 responsibilities of ownership in a project. In determining
14 whether the creation of a joint agency for this purpose is in the
15 best interest of a municipality, the governing body of each
16 municipality shall consider, but shall not be limited to, the
17 following:

18 (a) Whether a separate entity may be able to finance the
19 cost of projects in a more economic and efficient manner.

20 (b) Whether financial market acceptance may be enhanced if 1
21 entity is responsible for issuing and selling all of the bonds
22 required for a project or projects in a timely and orderly manner
23 and with a uniform credit rating, instead of multiple entities
24 marketing their separate issues of bonds.

25 (c) Whether savings and other advantages may be obtained by
26 providing a separate entity responsible for the acquisition,
27 construction, ownership, and operation of a project or projects.

1 (d) Whether the existence of a separate entity will foster
 2 the continuation of joint planning and undertaking of projects,
 3 and the resulting economies and efficiencies to be realized from
 4 the joint planning and undertaking will serve the interests of
 5 the residents of the municipality. The determination made by the
 6 governing body of a municipality hereunder shall be conclusive.

7 **SEC. 33A. (1) RECORDS, BOOKS, DOCUMENTS, AND PAPERS OF A**
 8 **JOINT AGENCY OR A MUNICIPAL ELECTRIC UTILITY SYSTEM, INCLUDING**
 9 **THOSE MAINTAINED ELECTRONICALLY, MAY BE EXEMPTED FROM PUBLIC**
 10 **DISCLOSURE BY THE BOARD OF COMMISSIONERS OF THE JOINT AGENCY OR**
 11 **THE GOVERNING BODY OF THE MUNICIPAL ELECTRIC UTILITY SYSTEM IF**
 12 **ANY OF THE FOLLOWING APPLY:**

13 (A) THEY CONTAIN SPECIFIC PRICING OR OTHER CONFIDENTIAL OR
 14 PROPRIETARY INFORMATION.

15 (B) THEY PERTAIN TO THE DEVELOPMENT, CONSTRUCTION,
 16 FINANCING, OR LEASING OF A PROJECT.

17 (C) THEY CONTAIN INFORMATION WHICH WAS RECEIVED FROM A POWER
 18 UTILITY OR OTHER PERSON AND WHICH IS SUBJECT TO A CONFIDENTIALITY
 19 AGREEMENT.

20 (2) UPON A SHOWING OF GOOD CAUSE, DISCLOSURE SUBJECT TO
 21 APPROPRIATE CONFIDENTIALITY PROVISIONS MAY BE ORDERED BY A COURT.

22 Sec. 34. (1) A joint agency formed for the purposes provided
 23 in this article is ~~hereby made~~ a public body politic and
 24 corporate and the powers conferred by this act ~~shall be deemed~~
 25 ~~and held~~ **ARE CONSIDERED** to be the performance of an essential
 26 public function.

27 (2) ~~(1)~~ Any combination of 2 or more municipalities

1 described in section 31 may incorporate a joint agency by the
2 adoption of articles of incorporation by resolution of the
3 governing body of each municipality. The fact of adoption shall
4 be endorsed on the articles of incorporation by the chief
5 executive officer and clerk of the municipality, in form
6 substantially as follows:

7 The foregoing articles of incorporation
8 were adopted by the _____,
9 of the _____, of _____ county,
10 Michigan, at a meeting duly held on the ____ day
11 of _____, 19____.
12 _____
13 _____ of said
14 _____
15 _____ of said
16 _____.

17 (3) The articles of incorporation shall be published at
18 least once in a newspaper or newspapers designated in the
19 articles and generally circulating within the area of each
20 municipality. One printed copy of the articles of incorporation,
21 certified as a true copy by the person or persons designated in
22 the articles, with the date and place of the publication, shall
23 be filed with the county clerk or clerks of the county or
24 counties in which the incorporating municipalities are located
25 and the secretary of state. The incorporation of the joint agency
26 shall become effective at the time provided in the articles of
27 incorporation. The validity of the joint agency incorporation

1 shall be conclusive unless questioned in a court of competent
 2 jurisdiction within 60 days after the filing of certified copies
 3 with the county clerk or clerks and the secretary of state.

4 (4) ~~(2)~~—The articles of incorporation shall state the name
 5 of the joint agency, the names of the various incorporating
 6 municipalities, the purpose or purposes for which it is created,
 7 the powers, duties, and limitations of the joint agency and its
 8 officers, the method of selecting its governing body, officers,
 9 and employees, the person or persons who are charged with the
 10 responsibility for causing the articles of incorporation to be
 11 published and filed or who are charged with the responsibility in
 12 connection with the incorporation of the joint agency, the place
 13 of publication, and all other matters which the incorporating
 14 municipalities ~~shall deem~~ **CONSIDER** advisable, all of which shall
 15 be subject to ~~the provisions of~~ article 3 of this act and of the
 16 constitution and laws of the state.

17 (5) **THE BOARD OF COMMISSIONERS OF A JOINT AGENCY MAY, BY**
 18 **RESOLUTION, AUTHORIZE THE ESTABLISHMENT OF 1 OR MORE CLASSES OF**
 19 **ASSOCIATE MEMBERSHIP IN THE JOINT AGENCY. A MUNICIPALITY ADMITTED**
 20 **AS AN ASSOCIATE MEMBER SHALL HAVE PARTICIPATORY AND OTHER RIGHTS**
 21 **AND OBLIGATIONS AS PROVIDED IN THE RESOLUTION ESTABLISHING THE**
 22 **ASSOCIATE MEMBERSHIP CLASS OR CLASSES.**

23 (6) ~~(3)~~ ~~Any~~ **A** municipality described in section 31 which did
 24 not join in the original incorporation of a joint agency may
 25 become a ~~constituent part thereof by amendment to the articles of~~
 26 ~~incorporation adopted~~ **MEMBER OR AN ASSOCIATE MEMBER OF THE JOINT**
 27 **AGENCY BY THE ADOPTION OF A RESOLUTION** by the governing body of

1 the municipality and by ~~the governing body of each existing~~
2 ~~member municipality of which the joint agency is composed~~ A
3 RESOLUTION UNANIMOUSLY ADOPTED BY ALL MEMBERS OF THE BOARD OF
4 COMMISSIONERS OF THE JOINT AGENCY. THE RESOLUTION OF THE BOARD OF
5 COMMISSIONERS MAY PROVIDE THAT A MUNICIPALITY SHALL BECOME A
6 MEMBER OR AN ASSOCIATE MEMBER AT A FUTURE DATE OR UPON THE
7 OCCURRENCE OF A FUTURE EVENT AND MAY PROVIDE FURTHER THAT THE
8 DECISION OF THE BOARD OF COMMISSIONERS MAY NOT BE REVOKED WITHOUT
9 THE CONSENT OF THE GOVERNING BODY OF THE MUNICIPALITY BEING ADDED
10 AS A MEMBER OR ASSOCIATE MEMBER. UPON THE ADDITION OF A NEW
11 MEMBER OR ASSOCIATE MEMBER, THE ARTICLES OF INCORPORATION SHALL
12 BE CONFORMED BY THE BOARD OF COMMISSIONERS TO SHOW THE ADDITION
13 OF THE NEW MEMBER OR ASSOCIATE MEMBER AND, IF THE MUNICIPALITY IS
14 BEING ADDED AS AN ASSOCIATE MEMBER, THE RIGHTS AND OBLIGATIONS OF
15 THE MUNICIPALITY AS AN ASSOCIATE MEMBER. Other amendments may be
16 made to the articles of incorporation if adopted by the governing
17 body of each municipality of which the joint agency is composed.
18 An amendment shall be endorsed, published and certified and
19 printed copies filed in the same manner as the original articles
20 of incorporation, ~~except that printed copies shall also be~~
21 ~~certified and filed by the recording officer of the joint agency~~
22 AN AMENDMENT SHOWING ONLY THE ADDITION OF A NEW MEMBER OR
23 ASSOCIATE MEMBER AND THE RIGHTS AND OBLIGATIONS OF A NEW
24 ASSOCIATE MEMBER NEED NOT BE PUBLISHED.

25 Sec. 36. After the creation of a joint agency, another
26 municipality may become a member of the joint agency upon
27 application to the joint agency after the adoption of a

1 resolution of the governing body of the municipality as
 2 prescribed in section 31 of this article authorizing the
 3 municipality to participate, and with the unanimous consent of
 4 the members of the joint agency ~~evidenced by the resolutions of~~
 5 ~~each of their governing bodies~~ **AS PROVIDED IN SECTION 34(6)**. A
 6 municipality may withdraw from a joint agency, except that all
 7 contractual rights acquired and obligations incurred while a
 8 member municipality remain in full force and effect.

9 Sec. 37. A joint agency shall have the rights and powers
 10 necessary and convenient to ~~carry out and effectuate the purposes~~
 11 ~~and provisions of~~ **EFFECTUATE** this article, including, but not
 12 limited to, **1 OR MORE OF** the following:

13 (a) To adopt bylaws for the regulation of the affairs and
 14 conduct of its business, and to prescribe rules, regulations, and
 15 policies in connection with the performance of its functions and
 16 duties.

17 (b) To adopt **AND ALTER** an official seal. ~~and alter the same~~
 18 ~~at pleasure.~~

19 (c) To maintain ~~an office at a place or places as it may~~
 20 ~~determine~~ **1 OR MORE OFFICES**.

21 (d) To sue and be sued. ~~in its own name, and to plead and be~~
 22 ~~impleaded.~~

23 (e) To receive, administer, and comply with the conditions
 24 and requirements respecting a gift, grant, or donation of
 25 property or money.

26 (f) To acquire by purchase, lease, gift, or otherwise ~~or~~
 27 to obtain options for the acquisition of ~~or~~ real or personal

1 property, ~~improved or unimproved, including less than a fee~~
2 ~~interest in land~~ **OR ANY INTEREST IN REAL PROPERTY.**

3 (g) To sell, lease, exchange, transfer, or otherwise dispose
4 of, or to grant options for ~~those purposes with respect to,~~ **THE**
5 **DISPOSAL OF ANY** real or personal property or an interest ~~therein~~
6 **IN SUCH PROPERTY.**

7 (h) To pledge or assign money, rents, charges, or other
8 revenues or the proceeds derived by the joint agency from the
9 sales of real or personal property, insurance, or condemnation
10 awards.

11 (i) To issue bonds of the joint agency for the purpose of
12 providing funds for any of its corporate purposes.

13 (j) To study, plan, finance, construct, reconstruct,
14 acquire, **PARTICIPATE IN BY CONTRACT OR OTHERWISE,** improve,
15 enlarge, extend, better, own, operate, or maintain, 1 or more
16 projects, and to pay all or a part of the costs of the projects
17 from the proceeds of bonds of the joint agency or from other
18 funds made available to the joint agency.

19 (k) To authorize the construction, operation, or maintenance
20 of a project or projects by a person, firm, or corporation,
21 including a political subdivision or agency of another state.

22 (l) To acquire by lease, purchase, or otherwise an existing
23 project or a project under construction.

24 (m) To sell or otherwise dispose of a project or projects.

25 (n) To fix, charge, and collect rents, rates, fees, and
26 charges for electric power or energy or other services,
27 facilities, or commodities sold, furnished, or supplied through a

House Bill No. 5384 (H-1) as amended February 12, 2008

1 project.

2 (o) To generate, produce, transmit, deliver, exchange,
3 purchase or sell for resale ~~only~~ [
4 ~~]~~ electric power or energy. ~~and to~~
5 ~~enter into contracts for those purposes.~~

6 (p) To negotiate and to enter into contracts for the
7 **GENERATION, PRODUCTION**, purchase, sale, exchange, interchange,
8 wheeling, pooling, transmission, **DELIVERY**, or use of electric
9 power and energy with a ~~municipality in this state or another~~
10 ~~state or a Canadian province owning electric distribution~~
11 ~~facilities, and electric membership corporation, a public~~
12 ~~utility, or a state, federal, or municipal agency which owns~~
13 ~~electric generation, transmission, or distribution facilities in~~
14 ~~this state or another state~~ **A POWER UTILITY.**

15 (q) To make and execute contracts and other instruments
16 necessary or convenient in the exercise of the powers and
17 functions of the joint agency under this article. ~~including~~
18 ~~contracts with persons, firms, corporations, and others.~~

19 (r) To apply to **AND OBTAIN FROM** the appropriate ~~agencies of~~
20 ~~the state, the federal government, another state, or other proper~~
21 ~~agency for~~ **STATE OR FEDERAL AGENCY** the necessary permits,
22 licenses, certificates, or approvals ~~and to construct,~~
23 maintain, and operate projects. ~~in accordance with the licenses,~~
24 ~~permits, certificates, or approvals, and to obtain, hold, and use~~
25 ~~the licenses, permits, certificates, and approvals in the same~~
26 ~~manner as another person or operating unit of another person.~~

27 (s) To employ engineers, architects, attorneys, real estate

1 counselors, appraisers, financial advisors, and other consultants
2 and employees ~~PERSONS~~ as may be required in the judgment of the
3 joint agency, and to fix and pay their compensation from funds
4 available to the joint agency for that purpose **BY THE JOINT**
5 **AGENCY.**

6 (t) To do all acts and things necessary, convenient, or
7 desirable to carry out the purposes, and to execute the powers
8 granted to the joint agency under this act.

9 Sec. 43. (1) A municipality which is a member of a joint
10 agency may contract to buy power and energy **AND TRANSMISSION OR**
11 **OTHER RELATED RIGHTS** from the joint agency, **AND SEPARATELY, OR**
12 **THROUGH THE JOINT AGENCY, FROM ANY OTHER POWER UTILITY,** required
13 for the municipality's present or future requirements, including
14 the capacity and output of 1 or more specified projects. The
15 contract may provide that the member municipality **OR THE JOINT**
16 **AGENCY, OR BOTH,** shall be obligated to make the payments required
17 by the contract whether or not a project is completed, operable,
18 or operating, and notwithstanding the suspension, interruption,
19 interference, reduction, or curtailment of the output of a
20 project or the power and energy contracted for, and that the
21 payments under the contract shall not be subject to a reduction
22 whether by offset or otherwise, and shall not be conditioned upon
23 the performance or nonperformance of the joint agency **OR POWER**
24 **UTILITY** or another member of the joint agency, **OR ANY OTHER**
25 **PARTICIPANT IN A PROJECT WITHIN OR OUTSIDE THE STATE,** under the
26 contract or other instrument. A contract with respect to the sale
27 or purchase of capacity or output of a project entered into

1 between a joint agency and its member municipalities, **OR BETWEEN**
2 **A JOINT AGENCY OR 1 OR MORE OF ITS MEMBERS AND ANOTHER POWER**
3 **UTILITY**, may also provide that if 1 or more of the ~~municipalities~~
4 **MEMBERS OF THE JOINT AGENCY OR OTHER PARTICIPANTS IN A PROJECT OF**
5 **A POWER UTILITY** default in the payment of its or their
6 obligations with respect to the purchase of the capacity or
7 output, then the remaining member municipalities **AND OTHER**
8 **PARTICIPANTS** which are purchasing capacity and output under the
9 contract are, **SUBJECT TO SUCH CONDITIONS AND LIMITATIONS, IF ANY,**
10 **AS THE CONTRACT MAY PROVIDE**, required to accept and pay for and
11 shall be entitled proportionately to and may use or otherwise
12 dispose of the capacity or output which was to be purchased by
13 the defaulting municipality **OR OTHER PARTICIPANT**.

14 (2) Payments by a municipality under a contract for the
15 purchase of capacity and output from a joint agency **OR OTHER**
16 **POWER UTILITY** shall be made solely from the revenues derived from
17 the ownership and operation of the electric system of the
18 municipality, and an obligation under the contract shall not
19 constitute a legal or equitable pledge, charge, lien, or
20 encumbrance upon property of the municipality or upon the
21 municipality's income, receipts, or revenues, except the revenues
22 of its electric system. **SUBJECT TO ANY DEBT OR DEBT-RELATED**
23 **CONTRACTS OR INDENTURES OF A MUNICIPALITY OR JOINT AGENCY,**
24 **PAYMENTS DESCRIBED IN THIS SUBSECTION SHALL BE MADE AS PART OF**
25 **THE OPERATING AND MAINTENANCE COSTS OF THE MUNICIPALITY'S OR**
26 **AGENCY'S SYSTEM**. A municipality is obligated to fix, charge, and
27 collect rents, rates, fees, and charges for electric power and

1 energy and other services, facilities, and commodities, sold,
2 furnished, or supplied through its electric systems sufficient to
3 provide revenues adequate to meet its obligations under the
4 contract, and to pay other amounts payable from or constituting a
5 charge and lien upon those revenues, including amounts sufficient
6 to pay the principal of and interest on general obligation bonds
7 issued by the municipality for purposes related to its electric
8 system.

9 (3) A municipality which is a member of a joint agency may
10 furnish the joint agency with money derived solely from the
11 ownership and operation of its electric system or facilities and
12 provide the joint agency with personnel, equipment, and property,
13 both real and personal. A member municipality may also provide
14 services to a joint agency.

15 (4) A member municipality of a joint agency may contract
16 for, advance, or contribute funds derived solely from ownership
17 of its electric system or facilities to a joint agency as may be
18 agreed upon by the joint agency and member municipality, and the
19 joint agency shall repay the advance or contribution from the
20 proceeds of bonds, from operating revenues, or from other funds
21 of the joint agency, together with interest thereon as may be
22 agreed upon by the member municipality and the joint agency.

23 Sec. 44. (1) A joint agency may sell or exchange the excess
24 capacity or output of a project not required by any of its
25 members for consideration upon terms and conditions as determined
26 by the parties. ~~The sale or exchange of excess capacity or output~~
27 ~~shall not be made with a municipality not engaged in the~~

1 ~~generating, transmitting, or distributing of electricity as of~~
2 ~~January 13, 1977, unless no other power utility is willing to~~
3 ~~enter into a sale or exchange upon equally favorable terms and~~
4 ~~conditions.~~

5 (2) A joint agency may do ~~either or both~~ **1 OR MORE** of the
6 following:

7 (a) Transfer all or part of its interest in **OR FUNCTIONAL**
8 **CONTROL OF** transmission facilities to a multistate regional
9 transmission system organization approved by the federal
10 government and operating in this state or to 1 or more of its
11 transmission-owning members.

12 (b) Purchase, acquire, sell, or otherwise transfer stock,
13 membership units, or any other interest in a multistate regional
14 transmission system organization approved by the federal
15 government and operating in this state or in 1 or more of its
16 transmission-owning members.