HOUSE BILL No. 4112

January 20, 2011, Introduced by Reps. Heise and Kowall and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to provide for the establishment of a regional water and sewer authority; to provide for a board of trustees; to provide for an executive committee; to provide for transfer of certain rights in water supply and sewerage facilities; to provide for payment for water supply and sewerage services and facilities through rates, charges, special assessments, and other means; to provide for the issuance and payment of bonds or other obligations; and to provide for the powers and duties of certain governmental officials and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "regional water quality authority act".
Sec. 2. As used in this act:

(a) "Acquire" means acquisition by purchase, construction, or any other method.

(b) "Authority" means a regional water and sewer authority created by this act.

(c) "Board of trustees" or "board" means the governing body of an authority.

(d) "Chief executive officer" means any of the following:

(i) The mayor or city manager of a city.

(ii) The president or village manager of a village.

(iii) The supervisor of a township.

(iv) The county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(e) "Executive committee" means the administrative body of an authority.

(f) "Local unit of government" means a county, city, village, township, charter township, drainage district, or authority existing under the laws of this state.

(g) "Metropolitan area" means the service area of a regional system.

(h) "Municipal sewage collection system" means a sewerage system located within or outside the corporate limits of a local unit of government that collects sewage or combined sewage directly from the users of that system and transports that sewage to a regional system or another wastewater treatment facility for disposal.
(i) "Municipal water distribution system" means a water supply system located within or outside the corporate limits of a local unit of government that receives water from a regional system or another water source and distributes water directly to the users or ratepayers of that system.

(j) "Qualified city" means a city that owns a regional system.

(k) "Qualified county" means a county with a population of 500,000 or more that is a member of an authority created under this act.

(l) "Regional system" means interconnected water supply and sewerage services and facilities that provide water supply service or sewerage service, or both, for more than 20% of the population of this state. A regional system may consist of water supply facilities and services that serve 1 group of customers and users and a system of sewerage facilities and services that serves a different group of customers and users.

Sec. 3. Each regional system shall be incorporated as a regional water and sewer authority under this act. An authority created under this act has the power to do the following:

(a) To exercise jurisdiction, control, and supervision of a regional system and other water supply or sewage disposal systems placed under its jurisdiction.

(b) To maintain, operate, reconstruct, improve, or decommission a regional system and other water distribution or sewage disposal systems under its jurisdiction and make additions, betterments, and extensions to those systems to monitor and protect the public health and welfare by preventing or abating the
pollution of water.

(c) To prepare, revise, and adopt plans, designs, and estimates of costs of a system of outfalls, sewers, trunks, water mains, submains, interceptors, lateral sewers, outlets for sewerage, storm water drains, pump stations, ventilating stations, water and wastewater treatment plants and works, and all other structures, systems, and works which provide an effective and advantageous means for insuring the area within the authority of safe drinking water and adequate sanitary sewage treatment.

(d) To construct any additions, improvements, or extensions to the facilities of the authority, including across, through, over, or under any public highway, railroad right-of-way, tract, grade, fill or cut, and any other right-of-way or easement in the authority and remove any fence, building, or other improvement in the authority where necessary for the construction of the additions, improvements, or extensions.

(e) To establish, own, acquire, construct, lease, operate, and maintain, as a part of the systems of the authority, water treatment facilities, sewage treatment and disposal plants, and all appurtenances and appliances belonging to them and sell any product or by-product manufactured in the course of water or wastewater treatment.

(f) To own, acquire, and hold personal property considered necessary to carry out the corporate purposes of the authority and dispose of personal property when the authority has no further need of it.

(g) To own, hold, control, and acquire by donation, purchase,
contract, lease, or the exercise of the power of eminent domain all
rights of property, either public or private, necessary for the
purposes of the authority. In exercising the power of eminent
domain, an authority shall follow the procedures set forth in the
uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to
213.75. An authority may sell and convey property no longer
necessary or useful in its operations.

(h) To contract with state or federal governments or their
agencies, local units of government, drainage districts, other
public agencies, individuals, or private corporations for the
construction, use, or maintenance of common or joint sewers, common
or joint water lines, drains, outlets, or water treatment and
wastewater disposal plants or for any service required by the
authority.

(i) To contract with and permit municipalities, districts,
other public agencies, individuals, or private corporations to
contract for the purpose of connecting with and using the
facilities of the authority. The rates for the service and
connections shall be the amount agreed upon by the contracting
parties.

(j) To apply for and accept grants, loans, or contributions
from the federal government, its agencies, this state, or other
public or private agencies for the purposes of this act and do all
things within its powers necessary or desirable to secure the aid
or cooperation.

(k) To incur debts by borrowing money in anticipation of the
collection of revenues and to give appropriate evidence of those
loans. The executive committee shall determine by ordinance the amount and terms of the loans, and the executive director shall execute and issue warrants of the authority to the lenders as evidence of the loans and of the terms of the authority's obligation to repay the loans.

(l) To meet the cost of acquiring, constructing, improving, or extending all or any part of the water and sewage disposal systems operated by the authority by any of the following:

(i) The expenditure of funds available for that purpose.

(ii) The issuance of bonds for that purpose, payable from fees or special assessments collected by the authority.

(iii) The proceeds of special assessments.

(iv) Any other funds which may be obtained under the law of this state or of the United States for that purpose.

(v) The proceeds of revenue bonds, payable from the revenues to be derived from the operation of water supply systems and sewage disposal systems of the authority.

(vi) Any combination of these methods of providing funds.

(m) To establish by ordinance a schedule of rates and other charges to be collected from all of the real property served by the water supply or sewage disposal systems of the authority. An authority shall prescribe the manner and time at which the rates and charges are to be paid, change the schedule as the executive committee determines necessary, proper, or advisable, and collect or enforce collection of those charges. The schedule may be based on any classifications or subclassifications the executive committee determines are fair and reasonable, including, but not
limited to, the consumption of water on premises connected with the
facilities, taking into consideration commercial, industrial, and
agricultural use of water, the number and kind of plumbing fixtures
connected with the facilities, the number of persons served by the
facilities, or any combination of these factors.

(n) To contract with a local unit of government, public
agency, or private water company for service contracts, joint use
contracts, or contracts for the construction or operation of any
part of the water supply systems or sewage disposal systems or for
the collection of rates or other charges levied by the authority
for water supply and sewage disposal services. The local unit of
government, public agency, or private water company may contract to
collect the rates or other charges and to discontinue water
services or sewage collection services upon failure to pay the
rates or charges within the time prescribed by ordinance. A local
unit of government, public agency, or private water company
situated within an authority shall furnish the authority any
information which will assist the authority in calculating rates or
other charges for sewer services.

(o) To enter lands, waters, and premises for the purposes of
making surveys, evaluations, and examinations.

(p) To approve, revise, or reject the plans and designs of all
outfalls, sewers, trunks, water mains, submains, interceptors,
lateral sewers, outlets for sewerage, storm water drains, pump
stations, ventilating stations, water and wastewater treatment
plants and works, and all other structures, systems, and works
proposed to be constructed, altered, or reconstructed by any other
person or corporation, private or public, in the authority. Any work shall be subject to inspection and supervision of the authority.

(q) To fix, levy, and collect special assessments, in the form of supplemental rates, for the construction, improvement, or extension of water, sewer, or drainage facilities, levied ratably by area upon lots or parcels of ground within the authority, whether public or private, benefited by the construction, improvement, or extension and provide by ordinance for the classification and reclassification of these properties into classes or subclasses that the board determines are fair and reasonable.

(r) To provide a retirement system for employees of the authority if and when permissible under the constitution and laws of this state.

(s) To bargain collectively and enter into agreements with labor organizations. An authority shall be bound by existing labor union agreements with public or privately owned water supply systems or sewage disposal systems that are acquired, purchased, or condemned by the authority.

(t) To require the owner of any real property capable of being efficiently served by water supply or sewage disposal systems operated by the authority to connect with and use the facilities if the board finds that the water supply or sewage collection from that property constitutes a public nuisance or a danger to public health or safety.

(u) To select and employ a person or private entity to operate
the regional system as a public utility.

Sec. 4. (1) An authority shall be governed by a board of
directors whose members shall be the chief executive officer, or
his or her designee, from each county, city, village, and township
located in the service area of the regional system.

(2) A majority of the members of the board constitute a quorum
for the transaction of business. Each member of the board shall
have 1 vote.

(3) The first meeting of the board shall be held not more than
180 days after the effective date of this act. After its first
meeting, the board shall meet not less than biannually and at other
times determined by the board.

(4) The members of the board, at its first meeting and every 2
years thereafter, shall elect 5 members of the board to serve 2-
year terms on the executive committee. A member elected to the
executive committee under this subsection shall not be elected to
serve consecutive 2-year terms.

Sec. 5. (1) The powers of an authority are vested in an
executive committee whose members shall be all of the following:

(a) The mayor of a qualified city.

(b) The elected water resources commissioner, public works
commissioner, or appointed public services director, or his or her
designee, from each qualified county located in the service area of
the regional system.

(c) Five members elected by the board of directors for 2-year
terms as provided in section 4. A member elected to the executive
committee under this subdivision shall not be elected to serve
consecutive 2-year terms.

(2) A majority of the members of the executive committee constitute a quorum for the transaction of business. Each member of the executive committee shall have 1 vote.

(3) The first meeting of the executive committee shall be held not less than 30 days after the first meeting of the board. After its first meeting, the executive committee shall meet not less than monthly and at other times as determined by the executive committee.

(4) The executive committee shall do all of the following:

(a) Enact ordinances, adopt budgets, establish rates and fees, and determine policies of the authority.

(b) Employ an executive director who shall be the chief executive and operating officer of the authority and who shall execute the ordinances and administer the affairs of the authority.

(c) Establish broad policies covering all major operations of the authority to ensure transparency, accountability, and oversight.

(d) Prepare and publish a detailed public report and financial statement of the authority's operations at the end of each fiscal year.

(5) The powers of the executive committee shall be exercised in the manner prescribed by this act or, if not prescribed by this act, in a manner prescribed by the board.

Sec. 6. (1) The executive director shall do all of the following:

(a) Manage the properties, employees, and businesses of an
(b) Direct the enforcement of all resolutions, ordinances, rules, and regulations of the executive committee and enter into contracts under the general control of the authority.

(c) Prepare a separate operating and capital budget for each fiscal year. The executive committee shall approve the budgets at least 30 days prior to the beginning of each new fiscal year. Capital program budgets shall be prepared to cover periods of 5 years. The first of these annual capital program budgets shall be submitted no later than 3 years after the initial formation of an authority. The budgets shall be revised and updated annually prior to submission to the executive committee.

(2) The executive director may appoint officers, employees, and agents to carry out the purposes of the authority under the general policy direction of the executive committee.

(3) The executive director and his or her appointees shall serve at the pleasure of the executive committee.

Sec. 7. (1) A local unit of government, qualified city, sewer district, or public agency situated within a metropolitan area shall retain its municipal water distribution system and municipal sewage collection system together with all contracts, rights, privileges, interests, easements, books, maps, plans, papers, records, and title to them. A local unit of government, qualified city, sewer district, or public agency may, under a separate contract or transfer of ownership, transfer administration, control, and supervision of a municipal water distribution system or a municipal sewage collection system to an authority. An
authority shall not assume, agree to pay, or be liable for any
bonded indebtedness of a local unit of government, sewer district,
or other public agency unless ownership of the system is
transferred. In order to assure continuity of operation and
maintenance, a local unit of government, sewer district, or other
public agency shall continue to maintain and operate the municipal
water distribution system and sewage collection system until the
executive committee shall by resolution set a date when the
authority shall exclusively maintain, operate, and control the
systems and facilities.

(2) An authority shall administer, control, and supervise the
regional system. A qualified city shall retain ownership of its
portion of the regional system and all rights, privileges,
interests, easements, books, maps, plans, papers, records, and
title to them. A qualified city shall assign all contracts for
water supply and sewage disposal and treatment to the authority. A
qualified city may transfer ownership of the regional system to the
authority. In order to assure continuity of operation and
maintenance, a qualified city shall continue to maintain and
operate the regional system until the executive committee shall by
resolution set a date when the authority shall administer, control,
and supervise the system.

Sec. 8. An authority shall fix rates and other charges for
services and use of the water supply systems or sewage disposal
systems owned or operated within the jurisdiction of the authority.
An authority shall determine, after appropriate public hearing, the
water supply systems and sewage disposal systems to be operated by
Sec. 9. An authority may not levy taxes or pledge the credit or taxing power of this state or a local unit of government, except for the pledging of receipts of taxes collected by this state or a local unit of government and returnable or payable by law or by contract to the authority and except for the pledge by a local unit of government of its full faith and credit in support of its contractual obligations to the authority as authorized by law. A regional system and any municipal water supply or municipal sewage disposal system which the authority has agreed to control, supervise, administer, operate, and maintain shall be financed, in addition to other methods of financing provided by law, by any of the following:

(a) Rates and charges.

(b) Income or revenues from whatever source available, including appropriations or contributions of whatever nature or other revenues of the participating local units of government.

(c) Grants, loans, or contributions from federal, state, or local units of government and grants, contributions, gifts, devises, or bequests from public or private sources.

(d) Proceeds of taxes, special assessments, or charges imposed pursuant to law and collected by this state or a local unit of government.

Sec. 10. (1) An authority may borrow money and issue bonds to finance and carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the
proceeds of any of the methods of financing described in section 9 or elsewhere in this act or as provided by law.

(2) A local unit of government within the geographical boundaries of the authority may contract to make payments, appropriations, or contributions to the authority of the proceeds of taxes, special assessments, or charges imposed and collected by the local unit of government or out of other funds legally available and may pledge its full faith and credit in support of its contractual obligation to the authority. The contractual obligation shall not constitute an indebtedness of a local unit of government within a statutory or charter debt limitation. If the authority has issued bonds in anticipation of payments, appropriations, or contributions to be made to the authority pursuant to contract by a local unit of government having the power to levy and collect ad valorem taxes, the local unit of government may obligate itself by the contract and may levy a tax on all taxable property in the local unit of government to provide sufficient money to fulfill its contractual obligation to the authority. The tax rate or amount shall be as provided in section 6 of article IX of the state constitution of 1963 for contract obligations in anticipation of which bonds are issued.

(3) The bonds of the authority shall be issued and sold in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that the bonds may be issued for a period not exceeding 50 years.

(4) A local unit of government may advance money or deliver property to an authority to finance or carry out the authority's
powers and duties. The authority may agree to repay the advances or
pay for the property within a period not exceeding 10 years, from
the proceeds of its bonds or from other funds legally available for
that purpose, with or without interest as agreed at the time of
advance or of repayment. The obligation of the authority to make
the repayment or payment may be evidenced by a contract or note,
which may pledge the full faith and credit of the authority.

(5) An authority may advance money or deliver property to a
local unit of government to finance or to carry out the local unit
of government's powers and duties. The local unit of government may
agree to repay the advances or pay for the property within a period
not exceeding 10 years from the proceeds of its bonds or from other
funds legally available for that purpose, with or without interest
as agreed at the time of advance or of repayment. The obligation of
the local unit of government to make the repayment or payment may
be evidenced by a contract or note, which may pledge the full faith
and credit of the local unit of government.

(6) Notes issued and contracts entered into under this section
are not subject to the revised municipal finance act, 2001 PA 34,
MCL 141.2101 to 141.2821.

Sec. 11. This act, being necessary for the public peace,
health, safety, and welfare, shall be liberally construed to effect
the purposes hereof, which are declared to be public purposes.

Sec. 12. The authority and its property, real, personal, and
mixed, are exempt from fees and the assessment, levy, and
collection of all general and special taxes of this state or a
local unit of government.
Sec. 13. Records and any other writings prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be available to the public during normal business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The business which the board or executive committee may perform shall be conducted at a public meeting of the board or executive committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

Sec. 14. Pursuant to section 27 of article VII of the state constitution of 1963 and any other applicable law, an authority created under this act is an agency and instrumentality of the state that has all of the powers of a public corporation in the exercising of its duties under this act. The enumeration of any powers in this act shall not be construed as a limitation upon those general powers.

Sec. 15. A challenge to the validity of any provision of this act shall be filed with and decided by the court of appeals pursuant to section 10 of article VI of the state constitution of 1963.