

REGIONAL WATER AND SEWER AUTHORITY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4206 (Substitute H-4)
Sponsor: Rep. Leon Drolet
Committee: Government Operations

Complete to 9-22-04

A SUMMARY OF HOUSE BILL 4206 (H-4) AS REPORTED FROM COMMITTEE 9-15-04

House Bill 4206 would create a new act to

- 1) Require a city that owns or operates a water or sewer system that provides water or sewerage service to more than 20 percent of the state's population to establish an authority to provide oversight and control of the system; and
- 2) Give the Michigan Public Service Commission jurisdiction and authority over the system controlled by such an authority and provide a process for the authority to follow in seeking rate alterations.

(This is understood to apply only to the Detroit Water and Sewerage Department.)

Water and Sewer Authority. Under the bill, a city that owns or operates a "water or sewer system"--i.e., a water supply facility or sewerage services facility, or both, that provides water or sewerage service to more than 20 percent of the state's population--would be required to establish an authority to provide oversight and control of the system.

Each city with a population of 750,000 or more ("qualified city") and each county with a population of 400,000 or more ("qualified county") that is served by the system would be represented on the authority. The qualified city (Detroit) would have three members appointed by the mayor, with the advice and consent of the city's governing body. Each qualified county not containing a qualified city (Genesee, Macomb, and Oakland Counties) would have one member appointed by its board of commissioners. A qualified county with a qualified city within the county (Wayne County) would have one member, who would have to be a person who does not live or work within the qualified city; this appointment would be made by the majority vote of the chief elected officials of the five largest local units of government within the county.

Appointments would have to be made within 30 days after the act's effective date. Appointees (and their successors) would serve terms of four years or until a successor is appointed, whichever is later. A person could be reappointed to the authority, and an appointee could be replaced by the appointing city or county at any time. Appointees

would be considered public servants under state law. They would be subject to any applicable law with respect to conflicts of interest, and the authority would have to establish policies and procedures requiring periodic disclosure by appointees of relationships that may give rise to conflicts of interest.

A majority of members of the authority would constitute a quorum for the transaction of business, and each appointee would have one vote. The authority's first meeting would have to be held not more than 45 days after the act's effective date, and after its first meeting, the authority would have to meet at least once quarterly and at other times if necessary. The authority would elect a chairperson and other officers considered necessary. The authority would be required to adopt bylaws and rules to govern the authority's operation.

The authority would also have to establish an ethics manual governing the conduct of system business and conduct of the system's employees, and would have to establish policies no less stringent than those provided for public officers and employees by Public Act 196 of 1973. The authority would be subject to the Freedom of Information Act.

Public Service Commission Jurisdiction/Water and Sewer Rates. Except as otherwise provided in the new act, the Michigan Public Service Commission would have jurisdiction and authority over any water or sewer system controlled by an authority. The bill would require rates for water and sewer service to be just and reasonable. A system would only be allowed one rate increase during any 12-month period. A system could alter its rates in the following ways.

- For a rate reduction, the system would file notice of the decrease (or discount) with the PSC, and the rate alteration would become effective without PSC review or approval.
- For an increase in a service rate that does not exceed the consumer price index by more than .5 percent, the system would file notice with the PSC. The rate alteration would take effect 90 days from the date of the notice unless the commission decided it exceeded the allowed increase.
- For a larger increase in a service rate, the system would have to file an application for the increase with the PSC, accompanied by sufficient documentary support that the rate is just and reasonable. The commission would have to decide within 90 days either that the rate is just and reasonable or that a contested case is necessary.
- Upon receiving a complaint or based on its own determination, the PSC could require that a contested case be held under the Administrative Procedures Act to review a proposed rate alteration that exceeded the consumer price index. The commission could approve, modify, or reject the rate alteration.

Notice of rate increases would have to be provided to customers before taking effect, with the notice to contain a statement that the customer's rate could change; an estimate of the annual change for a typical customer; and a statement that the customer could comment on or receive complete details of the rate alteration by calling or writing the PSC. The notice would also have to contain the address and telephone number of the commission. Complete details of the rate alteration would have to be provided by the PSC free of charge to the customer at the expense of the system.

BACKGROUND INFORMATION:

For further discussion of some of the issues addressed by the bill, see the analysis of an earlier version of House Bill 4206 dated 2-25-03 and the similar analysis of Senate Bill 195 dated 3-12-03. Fiscal analyses of those versions are also available on the Michigan Legislature web site. Earlier this session, House Bill 4206 passed both the House and Senate before being re-referred to the House Committee on Government Operations. Senate Bill 195, which contained similar provisions, passed both the House and the Senate and was vetoed by Governor Granholm on 3-21-03.

Legislative Analyst: Chris Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.