

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:

1 Sec. 1. This act shall be known and may be cited as the
2 "regional water quality authority act".

1 Sec. 2. As used in this act:

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

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

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

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

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

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

11 (iii) The supervisor of a township.

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

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

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

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

22 (h) "Municipal sewage collection system" means a sewerage
23 system located within or outside the corporate limits of a local
24 unit of government that collects sewage or combined sewage directly
25 from the users of that system and transports that sewage to a
26 regional system or another wastewater treatment facility for
27 disposal.

1 (i) "Municipal water distribution system" means a water supply
2 system located within or outside the corporate limits of a local
3 unit of government that receives water from a regional system or
4 another water source and distributes water directly to the users or
5 ratepayers of that system.

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

7 (k) "Qualified county" means a county with a population of
8 500,000 or more that is a member of an authority created under this
9 act.

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

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

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

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

1 pollution of water.

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

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

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

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

27 (g) To own, hold, control, and acquire by donation, purchase,

1 contract, lease, or the exercise of the power of eminent domain all
2 rights of property, either public or private, necessary for the
3 purposes of the authority. In exercising the power of eminent
4 domain, an authority shall follow the procedures set forth in the
5 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to
6 213.75. An authority may sell and convey property no longer
7 necessary or useful in its operations.

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

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

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

26 (k) To incur debts by borrowing money in anticipation of the
27 collection of revenues and to give appropriate evidence of those

1 loans. The executive committee shall determine by ordinance the
2 amount and terms of the loans, and the executive director shall
3 execute and issue warrants of the authority to the lenders as
4 evidence of the loans and of the terms of the authority's
5 obligation to repay the loans.

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

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

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

12 (iii) The proceeds of special assessments.

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

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

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

19 (m) To establish by ordinance a schedule of rates and other
20 charges to be collected from all of the real property served by the
21 water supply or sewage disposal systems of the authority. An
22 authority shall prescribe the manner and time at which the rates
23 and charges are to be paid, change the schedule as the executive
24 committee determines necessary, proper, or advisable, and collect
25 or enforce collection of those charges. The schedule may be based
26 on any classifications or subclassifications the executive
27 committee determines are fair and reasonable, including, but not

1 limited to, the consumption of water on premises connected with the
2 facilities, taking into consideration commercial, industrial, and
3 agricultural use of water, the number and kind of plumbing fixtures
4 connected with the facilities, the number of persons served by the
5 facilities, or any combination of these factors.

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

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

22 (p) To approve, revise, or reject the plans and designs of all
23 outfalls, sewers, trunks, water mains, submains, interceptors,
24 lateral sewers, outlets for sewerage, storm water drains, pump
25 stations, ventilating stations, water and wastewater treatment
26 plants and works, and all other structures, systems, and works
27 proposed to be constructed, altered, or reconstructed by any other

1 person or corporation, private or public, in the authority. Any
2 work shall be subject to inspection and supervision of the
3 authority.

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

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

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

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

27 (u) To select and employ a person or private entity to operate

1 the regional system as a public utility.

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

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

9 (3) The first meeting of the board shall be held not more than
10 180 days after the effective date of this act. After its first
11 meeting, the board shall meet not less than biannually and at other
12 times determined by the board.

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

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

20 (a) The mayor of a qualified city.

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

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

1 consecutive 2-year terms.

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

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

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

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

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

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

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

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

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

27 (a) Manage the properties, employees, and businesses of an

1 authority.

2 (b) Direct the enforcement of all resolutions, ordinances,
3 rules, and regulations of the executive committee and enter into
4 contracts under the general control of the authority.

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

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

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

18 Sec. 7. (1) A local unit of government, qualified city, sewer
19 district, or public agency situated within a metropolitan area
20 shall retain its municipal water distribution system and municipal
21 sewage collection system together with all contracts, rights,
22 privileges, interests, easements, books, maps, plans, papers,
23 records, and title to them. A local unit of government, qualified
24 city, sewer district, or public agency may, under a separate
25 contract or transfer of ownership, transfer administration,
26 control, and supervision of a municipal water distribution system
27 or a municipal sewage collection system to an authority. An

1 authority shall not assume, agree to pay, or be liable for any
2 bonded indebtedness of a local unit of government, sewer district,
3 or other public agency unless ownership of the system is
4 transferred. In order to assure continuity of operation and
5 maintenance, a local unit of government, sewer district, or other
6 public agency shall continue to maintain and operate the municipal
7 water distribution system and sewage collection system until the
8 executive committee shall by resolution set a date when the
9 authority shall exclusively maintain, operate, and control the
10 systems and facilities.

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

23 Sec. 8. An authority shall fix rates and other charges for
24 services and use of the water supply systems or sewage disposal
25 systems owned or operated within the jurisdiction of the authority.
26 An authority shall determine, after appropriate public hearing, the
27 water supply systems and sewage disposal systems to be operated by

1 it, the services to be available to the public, and the rates to be
2 charged.

3 Sec. 9. An authority may not levy taxes or pledge the credit
4 or taxing power of this state or a local unit of government, except
5 for the pledging of receipts of taxes collected by this state or a
6 local unit of government and returnable or payable by law or by
7 contract to the authority and except for the pledge by a local unit
8 of government of its full faith and credit in support of its
9 contractual obligations to the authority as authorized by law. A
10 regional system and any municipal water supply or municipal sewage
11 disposal system which the authority has agreed to control,
12 supervise, administer, operate, and maintain shall be financed, in
13 addition to other methods of financing provided by law, by any of
14 the following:

15 (a) Rates and charges.

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

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

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

25 Sec. 10. (1) An authority may borrow money and issue bonds to
26 finance and carry out its powers and duties. The bonds shall be
27 payable from and may be issued in anticipation of payment of the

1 proceeds of any of the methods of financing described in section 9
2 or elsewhere in this act or as provided by law.

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

22 (3) The bonds of the authority shall be issued and sold in
23 compliance with the revised municipal finance act, 2001 PA 34, MCL
24 141.2101 to 141.2821, except that the bonds may be issued for a
25 period not exceeding 50 years.

26 (4) A local unit of government may advance money or deliver
27 property to an authority to finance or carry out the authority's

1 powers and duties. The authority may agree to repay the advances or
2 pay for the property within a period not exceeding 10 years, from
3 the proceeds of its bonds or from other funds legally available for
4 that purpose, with or without interest as agreed at the time of
5 advance or of repayment. The obligation of the authority to make
6 the repayment or payment may be evidenced by a contract or note,
7 which may pledge the full faith and credit of the authority.

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

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

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

24 Sec. 12. The authority and its property, real, personal, and
25 mixed, are exempt from fees and the assessment, levy, and
26 collection of all general and special taxes of this state or a
27 local unit of government.

1 Sec. 13. Records and any other writings prepared, owned, used,
2 in the possession of, or retained by the authority in the
3 performance of an official function shall be available to the
4 public during normal business hours in compliance with the freedom
5 of information act, 1976 PA 442, MCL 15.231 to 15.246. The business
6 which the board or executive committee may perform shall be
7 conducted at a public meeting of the board or executive committee
8 held in compliance with the open meetings act, 1976 PA 267, MCL
9 15.261 to 15.275. Public notice of the time, date, and place of the
10 meeting shall be given in the manner required by the open meetings
11 act, 1976 PA 267, MCL 15.261 to 15.275.

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

19 Sec. 15. A challenge to the validity of any provision of this
20 act shall be filed with and decided by the court of appeals
21 pursuant to section 10 of article VI of the state constitution of
22 1963.