

MICHIGAN ENERGY EMPLOYMENT ACT OF 1976 (EXCERPT)
Act 448 of 1976
Article 2

460.821 Joint venture agreement; undivided interest in project; determination of future power requirements.

Sec. 21.

(1) A governmental unit may join in a joint venture agreement to plan, finance, develop, construct, reconstruct, acquire, improve, enlarge, better, own, operate, or maintain an undivided interest in a project situated within or without the state with 1 or more municipalities, joint agencies, or power utilities; and make plans and enter into contracts in connection with that project, not inconsistent with this act, as are necessary or appropriate.

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

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

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

(c) The estimated useful life of the project.

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

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

History: 1976, Act 448, Imd. Eff. Jan. 13, 1977 ;-- Am. 2008, Act 21, Imd. Eff. Mar. 7, 2008

460.822 Joint venture agreement; proportion of undivided interest in project to be owned; percentage share of output and capacity; liability; restrictions as to money, property, or undivided share; acquisition of project; sources of money; providing property, services, and other considerations.

Sec. 22.

Pursuant to a joint venture agreement, each governmental unit shall own an undivided interest in a project or projects in proportion to the amount of money furnished or the value of property or other consideration supplied by the governmental unit for the planning, development, acquisition, or construction of the project, and each governmental unit shall be entitled to a percentage share of output and capacity from the project equal to its undivided interest. Each governmental unit shall be severally liable for its own acts, but shall not be jointly or severally liable for the acts, omissions or obligations of other governmental units or power utility party to the joint venture agreement, and money or property or other consideration supplied by the governmental unit shall not be credited or otherwise applied to the account of another governmental unit or power utility, nor shall the undivided share of a governmental unit in a project be charged directly or indirectly with a debt or obligation of another governmental unit or be subject to a lien as a result of a debt or obligation of another governmental unit or power utility. The acquisition of a project may include, but not limited to, the purchase or lease of an existing, completed project, or the purchase of a project under construction. A governmental unit participating in the joint planning, financing, construction, reconstruction, acquisition, improvement, enlargement, betterment, ownership, operation, or maintenance of a project under this act may furnish money derived from the proceeds of bonds, from the ownership and operation of its electrical system, or from any other source, and may provide property, both real and personal, services, and other considerations.

History: 1976, Act 448, Imd. Eff. Jan. 13, 1977

460.823 Joint venture agreement; terms, conditions, and provisions; ratification of contracts by resolution; provisions of contract.

Sec. 23.

A joint venture agreement entered into by governmental units with respect to joint ownership in a project shall contain those terms, conditions, and provisions, not inconsistent with this act, as the governing bodies of the governmental units determine to be in the interest of the governmental units. The contracts shall be ratified by resolution of the governing body of each governmental unit in the manner as may be prescribed by law or local charter. A contract shall include provisions relating to, but not limited to, the following:

- (a) The purpose or purposes of the contract.
- (b) The duration of the contract.
- (c) The method of appointing or employing the personnel necessary in connection with the project.
- (d) The method of financing the project, including the apportionment of costs and revenues.
- (e) The ownership interests of the parties in property used or useful in connection with the project, and the procedures for disposition of that property when the contract expires or is terminated, or when the project is abandoned, decommissioned, or dismantled.
- (f) The prohibition or restrictions of the alienation or partition of a governmental unit's undivided interest in a project, which provisions shall not be subject to a law restricting covenants against alienation or partition.
- (g) The construction of a project, which may include the determination that a governmental unit jointly participating, or a person, firm, or corporation, may construct the project as agent for all parties to the joint venture agreement.
- (h) The operation and maintenance of a project, which may include a determination that a governmental unit jointly participating, or that a person, firm, or corporation, may operate and maintain the project for all parties.
- (i) Detailed project costs.
- (j) The creation of a committee of representatives of the governmental units or power utility jointly participating, which committee shall have powers regarding the construction and operation of the project as the contract, not inconsistent with this act, may provide.
- (k) If 1 or more of the governmental units defaults in the performance or discharge of its or their obligations with respect to the project, the other party or parties may assume, pro rata or otherwise, the obligations of the defaulting parties, and may succeed to the rights and interests of the defaulting party or parties in the project as may be agreed upon in the contract.
- (l) Methods for amending the contract.
- (m) Methods for terminating the contract.
- (n) Any other necessary or proper matter.

History: 1976, Act 448, Imd. Eff. Jan. 13, 1977

460.824 Sale or exchange of capacity or output; licenses, permits, certificates, or approvals; contracts for electric power and energy; authority, rights, privileges, and immunities of personnel; annual report; operating and financial statement; audit.

Sec. 24.

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

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

(3) Municipalities participating in a joint project or projects may enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling, or transmission of electric power and energy produced by the project or projects with a power utility.

(4) Personnel appointed by a municipality to work on a joint project shall have the same authority, rights,

privileges, and immunities that the officers, agents, and employees of the appointing municipality enjoy within the jurisdictional boundaries of the municipality, whether within or without that territory, when the personnel are acting within the scope of their authority or within the course of their employment.

(5) Municipalities party to a joint project authorized by this article shall, following the end of each fiscal year, prepare an annual report of the activities of the project, including a complete operating and financial statement covering the operations of the project for that year. The municipalities shall conduct an audit of the books of records and accounts of the project to be made not less than annually by a certified public accountant, and the cost of the audit may be treated as part of the cost of construction of the project, or as part of the expense of administering the project covered by the audit.

History: 1976, Act 448, Imd. Eff. Jan. 13, 1977 ;-- Am. 2008, Act 21, Imd. Eff. Mar. 7, 2008