

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

460.843 Contract for purchase of capacity and output; payments; default; furnishing money, personnel, equipment, and property; advances or contributions; repayment.

Sec. 43. (1) A municipality which is a member of a joint agency may contract to buy power and energy and transmission or other related rights from the joint agency, and separately, or through the joint agency, from any other power utility, required for the municipality's present or future requirements, including the capacity and output of 1 or more specified projects. The contract may provide that the member municipality or the joint agency, or both, shall be obligated to make the payments required by the contract whether or not a project is completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for, and that the payments under the contract shall not be subject to a reduction whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint agency or power utility or another member of the joint agency, or any other participant in a project within or outside the state, under the contract or other instrument. A contract with respect to the sale or purchase of capacity or output of a project entered into between a joint agency and its member municipalities, or between a joint agency or 1 or more of its members and another power utility, may also provide that if 1 or more of the members of the joint agency or other participants in a project of a power utility default in the payment of its or their obligations with respect to the purchase of the capacity or output, then the remaining member municipalities and other participants which are purchasing capacity and output under the contract are, subject to such conditions and limitations, if any, as the contract may provide, required to accept and pay for and shall be entitled proportionately to and may use or otherwise dispose of the capacity or output which was to be purchased by the defaulting municipality or other participant.

(2) Payments by a municipality under a contract for the purchase of capacity and output from a joint agency or other power utility shall be made solely from the revenues derived from the ownership and operation of the electric system of the municipality, and an obligation under the contract shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon property of the municipality or upon the municipality's income, receipts, or revenues, except the revenues of its electric system. Subject to any debt or debt-related contracts or indentures of a municipality or joint agency, payments described in this subsection shall be made as part of the operating and maintenance costs of the municipality's or agency's system. A municipality is obligated to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities, sold, furnished, or supplied through its electric systems sufficient to provide revenues adequate to meet its obligations under the contract, and to pay other amounts payable from or constituting a charge and lien upon those revenues, including amounts sufficient to pay the principal of and interest on general obligation bonds issued by the municipality for purposes related to its electric system.

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

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

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