

**SUBSTITUTE FOR
HOUSE BILL NO. 4352**

A bill to amend 1955 PA 233, entitled

"An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies,"

by amending the title and sections 1, 4, 4a, 4b, 4c, and 4d (MCL 124.281, 124.284, 124.284a, 124.284b, 124.284c, and 124.284d), the title as amended by 1998 PA 182, section 1 as amended by 2009 PA 164, section 4 as amended and section 4c as added by 1985 PA 178, section 4a as amended by 2008 PA 172, section 4b as amended by 2000 PA 24, and section 4d as amended by 2009 PA 167.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; **to authorize the appointment or employment of law enforcement officers by certain authorities**; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies.

Sec. 1. As used in this act:

(a) "Authority", unless the context clearly implies a different meaning, means an authority incorporated under section 2.

(b) "Constituent municipality" or "constituent municipalities" includes all of the municipalities that signed or became signatories of articles of incorporation of any authority incorporated under this act. However, if an authority is incorporated by 2 or more counties, each municipality within the respective territorial limits of the counties, whether the counties are original incorporators or subsequently became a constituent part of the authority under section 6, is a constituent municipality.

(c) "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for services by the United States ~~secretary~~ **Secretary** of the ~~interior~~ **Interior** because of their status as Indians.

(d) "Law enforcement agency" means a law enforcement agency **created by a qualified authority under section 4.**



(e) ~~(d)~~—"Municipality" means a county, township, city, or village.

(f) "Qualified authority" means an authority that owns or operates a sewage disposal system or water supply system with a weekly treatment capacity of 1,000,000,000 gallons or more.

(g) ~~(e)~~—"Sewage disposal system" includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes.

(h) ~~(f)~~—"Solid waste management system" includes all plants, works, instrumentalities, and properties used or useful in connection with the collection, transportation, processing, or disposal of discarded or waste materials of any sort, including access roads and facilities for resource recovery. Solid waste management system does not include the storage or disposal of toxic materials.

(i) ~~(g)~~—"Water supply system" includes all plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water.

Sec. 4. (1) An authority ~~shall be~~ **is** a municipal authority and ~~shall be~~ a public body corporate with power to sue and be sued in any court of this state. ~~It shall possess~~ **An authority possesses** all the powers necessary to carry out the purposes of ~~its~~ **the authority's** incorporation and ~~these~~ **the powers** incident thereto. ~~to the powers necessary to carry out the purpose of the authority's incorporation.~~ The enumeration of ~~any powers of~~ **a power of an**



1 **authority under** this act ~~shall-must~~ not be construed as a
 2 limitation ~~upon-an-on~~ **the** authority's general powers.

3 (2) An authority may do all of the following:

4 (a) Adopt bylaws for the regulation of ~~its-the~~ **authority's**
 5 affairs and the conduct of ~~its-the~~ **authority's** business.

6 (b) Adopt an official seal and alter the seal at **the** pleasure
 7 **of the authority.**

8 (c) Maintain an office at ~~such-a~~ place or places within ~~the~~
 9 **this** state as ~~it-the~~ **authority** may designate.

10 (d) Sue and be sued in ~~its-the~~ **authority's** own name, **and** plead
 11 and be impleaded.

12 (e) Determine the location of any project constructed by ~~it~~
 13 **the authority** under the provisions of this act, and ~~to~~ determine,
 14 in ~~its-the~~ **authority's** discretion and without reference to any
 15 other provisions of this act or any other law, the design,
 16 standards, and the materials of construction, and construct,
 17 maintain, repair, and operate the project. ~~However, the~~ **The**
 18 functions, powers, and duties of the ~~state~~ department of ~~public~~
 19 health and **human services and** the department of ~~natural resources~~
 20 **environment, Great Lakes, and energy** in connection with any ~~such~~
 21 public improvements ~~shall remain-are~~ unaffected by this act.

22 (f) Issue bonds of the authority for any of ~~its-the~~
 23 **authority's** corporate purposes under ~~such-any~~ means as may be
 24 provided in this act. If revenue bonds are issued under the
 25 provisions of section 12 or sections 12b and 12c, the revenue bonds
 26 ~~shall be-are~~ payable solely from the revenues pledged for ~~their-the~~
 27 payment ~~, as provided in-of~~ **the revenue bonds under** this act.

28 (g) Adopt and ~~promulgate-enforce~~ rules and regulations for the
 29 use **and security** of any project constructed by ~~it-the~~ **authority**



under the provisions of this act.

(h) Acquire, hold, and dispose of real and personal property in the exercise of ~~its~~**the authority's** powers and the performance of ~~its~~**the authority's** duties under this act.

(3) A qualified authority may do all of the following:

(a) Adopt and enforce ordinances, rules, and regulations for the orderly, safe, efficient, and sanitary operation and use of any of the following that are owned, operated, or maintained by the qualified authority:

(i) Sewage disposal systems.

(ii) Solid waste management systems.

(iii) Water supply systems, projects, or facilities.

(b) Create a law enforcement agency within the qualified authority to appoint or employ law enforcement officers.

(c) Adopt ordinances providing for civil fines and criminal penalties for the violation of an ordinance, rule, or regulation of the qualified authority adopted under this act to the same extent as a city that owns a sewage disposal system, solid waste management system, or water supply system under this act.

(d) Enforce ordinances, rules, and regulations adopted by the qualified authority under this act in a court of competent jurisdiction in this state.

Sec. 4a. (1) ~~The~~**Except as provided in subsection (2), an** authority ~~shall~~**may** adopt rules and regulations by resolution of ~~its~~**the authority's** governing body and with concurrence by resolution of constituent municipalities. After adoption of the resolution and concurrence by the constituent municipalities, a notice of adoption of the resolution and the rules and regulations, or a summary of those rules and regulations, ~~shall~~**must** be



published in a newspaper of general circulation within the territory encompassed by the authority and within the territory furnished service by the authority by contract ~~pursuant to~~ **under** section 10. The rules and regulations ~~shall become~~ **are** effective 30 days after the date of publication of the notice and the rules and regulations or the summary of the rules and regulations. If a summary of rules and regulations is published, the summary ~~shall~~ **must** be written in clear and nontechnical language and the authority shall designate in the publication the location where a full copy of the rules and regulations can be inspected or obtained.

(2) A qualified authority may adopt ordinances, rules, and regulations by resolution of the qualified authority's governing body. After adoption of the resolution, the qualified authority shall provide notice of the adoption of the resolution and the ordinances, rules, and regulations included in the resolution to each constituent municipality of the qualified authority. The qualified authority shall publish notice of the resolution and the ordinances, rules, and regulations included in the resolution or a summary of the ordinances, rules, and regulations on a website maintained by the qualified authority and in a newspaper of general circulation within the geographic boundaries of the qualified authority and any municipality outside of the geographic boundaries of the qualified authority to which the qualified authority provides service by contract under section 10. An ordinance, rule, or regulation adopted by the governing body of a qualified authority is effective 30 days after the date of publication of the notice of the resolution adopting the ordinance, rule, or regulation. If a summary of ordinances, rules, and regulations is



published, the summary must be written in clear and nontechnical language, and the qualified authority shall designate in the notice a website address and a physical location where a full copy of the ordinances, rules, and regulations can be inspected or obtained.

Sec. 4b. (1) Except as otherwise provided in this act, ~~the~~**an** authority may prescribe a civil fine not to exceed \$1,000.00 for the violation of a rule or regulation adopted ~~and promulgated~~ under this act. If a civil fine is prescribed, it ~~shall~~**must** be prescribed in the rule or regulation.

(2) Except as otherwise provided in this act, a qualified authority may prescribe a civil fine not to exceed \$1,000.00 for the violation of an ordinance, rule, or regulation adopted by the governing body of the qualified authority under this act. If a civil fine is prescribed, it must be prescribed in the ordinance, rule, or regulation.

(3) A fine assessed under this section ~~shall~~**must** be distributed pursuant to section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379.

Sec. 4c. ~~The~~**An** authority may provide in ~~its~~**the authority's** rules and regulations, **and a qualified authority may provide in the qualified authority's ordinances, rules, and regulations, for** either or both of the following prohibitions and penalties:

(a) A person who knowingly submits or prepares for submission to ~~the~~**an** authority **or a qualified authority** a false statement, representation, or certification is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

(b) A person who knowingly tampers with or alters a monitoring



1 device or process, causing inaccurate readings or results, is
 2 guilty of a misdemeanor, punishable by imprisonment for not more
 3 than 90 days, or a fine of not more than \$500.00, or both. Each
 4 violation constitutes a separate and distinct offense.

5 Sec. 4d. (1) Subject to subsections (2) and ~~(3)~~, ~~(9)~~, rules
 6 and regulations ~~promulgated~~ **adopted by an authority, other than a**
 7 **qualified authority**, under this act are enforceable by the
 8 authority ~~, its~~ **that adopted the rules and regulations, the**
 9 **authority's** constituent municipalities, and municipalities or
 10 Indian tribes that have contracted with the authority for the
 11 furnishing of service ~~pursuant to~~ **under** section 10. A person
 12 charged with enforcement of ~~those~~ **the** rules and regulations may
 13 issue a citation or an appearance ticket to any person ~~who~~ **that** is
 14 reasonably believed to have violated a rule or regulation
 15 ~~promulgated~~ **adopted** under this act.

16 (2) ~~The~~ **An** authority, **other than a qualified authority**, shall
 17 exercise ~~its~~ **the authority's** enforcement powers under this act
 18 against a violator within a municipality.

19 (3) **Ordinances, rules, and regulations adopted by a qualified**
 20 **authority under this act are enforceable by the qualified**
 21 **authority, the qualified authority's constituent municipalities,**
 22 **and municipalities or Indian tribes that have contracted with the**
 23 **qualified authority for the furnishing of water, sewage disposal,**
 24 **or waste management services under section 10. A person authorized**
 25 **to enforce the ordinances, rules, or regulations may issue a**
 26 **citation or appearance ticket to any person that is reasonably**
 27 **believed to have violated an ordinance, rule, or regulation adopted**
 28 **by the qualified authority under this act. The ordinances, rules,**
 29 **and regulations of a qualified authority may be enforced by a peace**



1 officer under section 2a of chapter IV of the code of criminal
2 procedure, 1927 PA 175, MCL 764.2a.

3 (4) A law enforcement agency established by a qualified
4 authority may grant to a law enforcement officer of that law
5 enforcement agency the same powers, immunities, and authorities
6 granted by the law of this state to a peace officer and a police
7 officer to detect crime, to enforce the criminal laws of this
8 state, and to enforce state laws, including laws under this act,
9 local ordinances, and any ordinances, rules, and regulations
10 adopted by the qualified authority. A copy of the documentation of
11 a grant of authority under this subsection must be filed with the
12 Michigan commission on law enforcement standards created under the
13 Michigan commission on law enforcement standards act, 1965 PA 203,
14 MCL 28.601 to 28.615.

15 (5) To the extent permitted or required by federal law, a law
16 enforcement officer of a qualified authority may enforce federal
17 laws and regulations applicable to the security of sewage disposal
18 systems, solid waste management systems, or water supply systems.

19 (6) A qualified authority may administer a sworn oath of
20 office to a law enforcement officer of the qualified authority
21 conferring the power on the law enforcement officer to administer
22 the general criminal laws of this state.

23 (7) A law enforcement officer of a qualified authority granted
24 the authority of a law enforcement officer under subsections (4)
25 and (5) is a peace officer of this state with the authority of a
26 police officer of this state under this act and under the code of
27 criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

28 (8) A law enforcement agency of a qualified authority shall
29 submit monthly uniform crime reports pertaining to crimes occurring



1 within the qualified authority's jurisdiction to the department of
2 state police in the manner provided under section 1 of 1968 PA 319,
3 MCL 28.251.

4 (9) ~~(3)~~—A municipality or Indian tribe may exercise ~~its—the~~
5 enforcement powers **of the municipality or Indian tribe** under this
6 act against a violator in territory under ~~its—the~~ jurisdiction **of**
7 **the municipality or Indian tribe.**

8 (10) ~~(4)~~—For the purposes of this section, enforcement powers
9 include the power to bring an action in a court of competent
10 jurisdiction to enjoin the violation of a rule or regulation
11 ~~promulgated—adopted~~ under this act or to recover actual damages
12 sustained due to the violation, or both. Costs and fees ~~shall—must~~
13 be awarded in those actions as provided in ~~sections 2401 to 2461~~
14 **chapter 24** of the revised judicature act of 1961, 1961 PA 236, MCL
15 600.2401 to 600.2461, or other applicable law.