

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4309

A bill to amend 1988 PA 57, entitled

"An act to provide for the incorporation by 2 or more municipalities of certain authorities for the purpose of providing emergency services to municipalities; to provide for the powers and duties of authorities and of certain state and local agencies and officers; to guarantee certain labor contracts and employment rights in regard to the formation and reorganization of authorities; to provide for certain condemnation proceedings; to provide for fees; to provide for the levy of property taxes for certain purposes; and to prescribe penalties and provide remedies,"

by amending the title and section 10 (MCL 124.610), the title as amended by 2006 PA 652.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to provide for the incorporation by 2 or more

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municipalities of certain authorities for the purpose of providing

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emergency services to municipalities; to provide for the powers and

1 duties of authorities and of certain state and local agencies and
2 officers; ~~to guarantee certain labor contracts and employment~~
3 ~~rights in regard to the formation and reorganization of~~
4 ~~authorities;~~ to provide for certain condemnation proceedings; to
5 provide for fees; to provide for the levy of property taxes for
6 certain purposes; and to prescribe penalties and provide remedies.

7 Sec. 10. ~~(1) Except as provided in subsection (2), employees~~
8 ~~of a municipal emergency service whose duties are transferred to an~~
9 ~~authority formed under this act shall be given comparable positions~~
10 ~~of employment with the emergency service established by the~~
11 ~~authority, and shall maintain their seniority status and all~~
12 ~~benefit rights of the position held in the municipal emergency~~
13 ~~response service before the transfer.~~

14 ~~—— (2) If sufficient positions of comparable employment are not~~
15 ~~available for all employees at the time of transfer, a less senior~~
16 ~~employee who is not transferred to a comparable position shall be~~
17 ~~placed on layoff status with the authority's emergency service and~~
18 ~~shall be recalled to any position for which he or she may qualify,~~
19 ~~which may occur after a reasonable training period, or as soon as~~
20 ~~vacancies occur, or both. The layoff status, or any layoff list,~~
21 ~~shall not be mandatorily honored beyond 3 years from the date of~~
22 ~~layoff. The authority shall determine the number of positions~~
23 ~~necessary to perform any emergency service, and shall not be~~
24 ~~required to create or maintain unnecessary positions.~~

25 **(1) THE MUNICIPALITIES THAT ARE PARTIES TO AN AUTHORITY**
26 **ENTERED INTO PURSUANT TO THIS ACT HAVE THE RESPONSIBILITY,**
27 **AUTHORITY, AND RIGHT TO MANAGE AND DIRECT ON BEHALF OF THE PUBLIC**

House Bill No. 4309 as amended November 2 and 30, 2011

1 THE EMERGENCY SERVICES PERFORMED OR EXERCISED <<TO THE EXTENT
PROVIDED IN THE ARTICLES OF INCORPORATION CREATING>>

2 THE AUTHORITY.

3 (2) THE CONTENTS OR LANGUAGE OF THE ARTICLES OF INCORPORATION
4 UNDER THIS ACT SHALL BE A PERMISSIVE SUBJECT OF COLLECTIVE
5 BARGAINING BETWEEN A MUNICIPALITY AND A BARGAINING REPRESENTATIVE
6 OF ITS EMPLOYEES. IF A MUNICIPALITY AND A BARGAINING REPRESENTATIVE
7 OF ITS EMPLOYEES ENGAGE IN COLLECTIVE BARGAINING BEFORE THE
8 ARTICLES OF INCORPORATION ARE APPROVED AND THAT MUNICIPALITY AND
9 THAT BARGAINING REPRESENTATIVE REACH AN AGREEMENT ON ISSUES THAT
10 WOULD OBLIGATE AN ENTITY THAT WILL FUNCTION AS AN EMPLOYER IN THE
11 AUTHORITY, THE ARTICLES OF INCORPORATION SHALL INCLUDE THOSE
12 OBLIGATIONS.

13 (3) NOTHING IN THIS ACT CREATES AN EMPLOYMENT RELATIONSHIP
14 BETWEEN THE EXISTING EMPLOYEES OF A MUNICIPALITY AND THE PROPOSED
15 AUTHORITY.

16 <<(4) ~~(3) An authority may bargain collectively and enter into~~
17 ~~agreements with labor organizations pursuant to Act No. 336 of the~~
18 ~~Public Acts of 1947, being sections 423.201 to 423.216 of the~~
19 ~~Michigan Compiled Laws. When the duties of a municipal emergency~~
20 ~~service are transferred to an authority, the authority immediately~~
21 ~~shall assume and be bound by any existing labor agreements~~
22 ~~applicable to that municipal service for the remainder of the term~~
23 ~~of the labor agreement. Subject to the provision of subsection (2),~~
24 ~~the members and beneficiaries of any pension or retirement system~~
25 ~~or other benefits established by a municipal emergency service~~
26 ~~which is transferred to an authority shall have the same rights,~~
27 ~~privileges, benefits, obligations, and status with respect to the~~

House Bill No. 4309 as amended November 2, 2011

~~comparable systems established by the authority.~~

~~A representative of the employees or any group of employees in a municipal emergency service who represent or are entitled to represent the employees or a group of employees of the municipal service, pursuant to Act No. 336 of the Public Acts of 1947, shall continue to represent the employee or group of employees after the employees are transferred to an authority's emergency service. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative~~

~~protected by this subsection is no longer their representative.~~
 AN AUTHORITY IS EFFECTIVE THROUGH ITS ARTICLES OF INCORPORATION AT LEAST 180 DAYS BEFORE THE ACTUAL TRANSFER OF PERSONNEL AND EQUIPMENT. BEFORE THE AUTHORITY'S EFFECTIVE DATE, THE INCORPORATING MUNICIPALITIES SHALL AFFIRM IN WRITING TO THE AUTHORITY THOSE EMPLOYEES WHO WILL BE TRANSFERRED TO THE AUTHORITY.

(5) IF EMPLOYEES WHO ARE TRANSFERRED TO THE AUTHORITY ARE REPRESENTED BY A LABOR ORGANIZATION, THOSE EMPLOYEES ARE SUBJECT TO THEIR PREVIOUS TERMS AND CONDITIONS OF EMPLOYMENT UNTIL THOSE TERMS AND CONDITIONS OF EMPLOYMENT ARE MODIFIED IN ACCORDANCE WITH 1947 PA 336, MCL 423.201 TO 423.217, OR FOR 6 MONTHS AFTER THE TRANSFER TO THE AUTHORITY, WHICHEVER IS EARLIER. NEGOTIATIONS ON A COLLECTIVE BARGAINING AGREEMENT WITH AN AUTHORITY SHALL BEGIN NO LATER THAN 180 DAYS BEFORE THE DATE THE EMPLOYEES TRANSFER TO THE AUTHORITY.

(6) SUBJECT TO SUBSECTION (7), A REPRESENTATIVE OF THE EMPLOYEES OR GROUP OF EMPLOYEES IN A MUNICIPAL EMERGENCY SERVICE WHO PREVIOUSLY REPRESENTED OR WAS ENTITLED TO REPRESENT THE EMPLOYEES OR GROUP OF EMPLOYEES IN A MUNICIPAL EMERGENCY SERVICE UNDER 1947 PA 336, MCL 423.201 TO 423.217, SHALL CONTINUE TO REPRESENT THE EMPLOYEES OR GROUP OF EMPLOYEES AFTER THOSE EMPLOYEES OR GROUP OF EMPLOYEES ARE TRANSFERRED TO THE AUTHORITY'S EMERGENCY SERVICE.

(7) THIS SECTION DOES NOT LIMIT THE RIGHTS OF EMPLOYEES, UNDER APPLICABLE LAW, TO ASSERT THAT A BARGAINING REPRESENTATIVE PROTECTED BY SUBSECTION (6) IS NO LONGER THEIR REPRESENTATIVE. THE EMPLOYEES OF THE AUTHORITY ARE ELIGIBLE AS OF THE DAY THE AUTHORITY BECOMES EFFECTIVE THROUGH ITS ARTICLES OF INCORPORATION TO CHOOSE THEIR REPRESENTATIVE UNDER 1947 PA 336, MCL 423.201 TO 423.217. THIS SUBSECTION DOES NOT EXTEND THE TIME LIMITS AS PROVIDED IN SUBSECTION (4).

(8) IF MULTIPLE LABOR ORGANIZATIONS ASSERT THE RIGHT TO REPRESENT ALL OR PART OF THE AUTHORITY'S WORKFORCE OR WHERE A SUBSTANTIAL PORTION OF THE TRANSFERRED EMPLOYEES WERE NOT PREVIOUSLY REPRESENTED, IN THE ABSENCE OF A VOLUNTARY MUTUAL AGREEMENT, AT THE REQUEST OF ANY PARTY OR ON THE INITIATIVE OF THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION, THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION SHALL CONDUCT A REPRESENTATION ELECTION.

House Bill No. 4309 as amended November 2, 2011

(9) IN THE ABSENCE OF A VOLUNTARY MUTUAL AGREEMENT, THE AUTHORITY'S WORKFORCE SHALL BE MERGED BY USING A SINGLE SENIORITY LIST FOR EACH OF THE SAME OR SIMILAR CLASSIFICATIONS. THE SINGLE SENIORITY LIST SHALL BE

COMPOSED OF ALL EMPLOYEES FROM EACH INCORPORATING MUNICIPALITY EMPLOYED OR HAVING RECALL RIGHTS ON THE DATE OF TRANSFER AND SHALL BE USED FOR

PURPOSES THAT INCLUDE, BUT ARE NOT LIMITED TO, INITIAL ASSIGNMENTS, LAYOFFS, RECALLS, AND JOB BIDDING. DISPUTES CONCERNING THE SINGLE SENIORITY LIST OR USE OF THE SINGLE SENIORITY LIST SHALL BE HEARD BY A SINGLE ARBITRATOR APPOINTED BY THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION.

(10) NOTHING IN THIS SECTION REQUIRES A MUNICIPALITY OR AN AUTHORITY TO ASSUME A COLLECTIVE BARGAINING AGREEMENT BETWEEN ANOTHER MUNICIPALITY AND ITS EMPLOYEES.

12 (11)>> ~~(4)~~An employee who left the employ of the municipal
13 emergency response service to enter the military service of the
14 United States shall have the same employment rights as to the
15 emergency service as they would have had under the municipal
16 emergency response service ~~pursuant to Act No. 263 of the Public~~
17 ~~Acts of 1951, being sections 35.351 to 35.356 of the Michigan~~
18 ~~Compiled Laws.~~UNDER 1951 PA 263, MCL 35.351 TO 35.356.