

# HOUSE BILL No. 4009

January 22, 2013, Introduced by Rep. Heise and referred to the Committee on Natural Resources.

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".

3       Sec. 2. As used in this act:

4       (a) "Acquire" means acquisition by purchase, construction, or

1 any other method.

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

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

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

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

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

9 (iii) The supervisor of a township.

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

13 (e) "Executive committee" means the administrative body of an  
14 authority.

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

18 (g) "Metropolitan area" means the service area of a regional  
19 system.

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

26 (i) "Municipal water distribution system" means a water supply  
27 system located within or outside the corporate limits of a local

1 unit of government that receives water from a regional system or  
2 another water source and distributes water directly to the users or  
3 ratepayers of that system.

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

5 (k) "Qualified county" means a county with a population of  
6 500,000 or more that is a member of an authority created under this  
7 act.

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

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

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

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

27 (c) To prepare, revise, and adopt plans, designs, and

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

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

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

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

25 (g) To own, hold, control, and acquire by donation, purchase,  
26 contract, lease, or the exercise of the power of eminent domain all  
27 rights of property, either public or private, necessary for the

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

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

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

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

24 (k) To incur debts by borrowing money in anticipation of the  
25 collection of revenues and to give appropriate evidence of those  
26 loans. The executive committee shall determine by ordinance the  
27 amount and terms of the loans, and the executive director shall

1 execute and issue warrants of the authority to the lenders as  
2 evidence of the loans and of the terms of the authority's  
3 obligation to repay the loans.

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

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

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

10 (iii) The proceeds of special assessments.

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

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

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

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

1 agricultural use of water, the number and kind of plumbing fixtures  
2 connected with the facilities, the number of persons served by the  
3 facilities, or any combination of these factors.

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

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

20 (p) To approve, revise, or reject the plans and designs of all  
21 outfalls, sewers, trunks, water mains, submains, interceptors,  
22 lateral sewers, outlets for sewerage, storm water drains, pump  
23 stations, ventilating stations, water and wastewater treatment  
24 plants and works, and all other structures, systems, and works  
25 proposed to be constructed, altered, or reconstructed by any other  
26 person or corporation, private or public, in the authority. Any  
27 work shall be subject to inspection and supervision of the

1 authority.

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

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

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

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

25 (u) To select and employ a person or private entity to operate  
26 the regional system as a public utility.

27 Sec. 4. (1) An authority shall be governed by a board of



1 directors whose members shall be the chief executive officer, or  
2 his or her designee, from each county, city, village, and township  
3 located in the service area of the regional system.

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

7 (3) The first meeting of the board shall be held not more than  
8 180 days after the effective date of this act. After its first  
9 meeting, the board shall meet not less than biannually and at other  
10 times determined by the board.

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

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

18 (a) The mayor of a qualified city.

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

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

27 (2) A majority of the members of the executive committee

1 constitute a quorum for the transaction of business. Each member of  
2 the executive committee shall have 1 vote.

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

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

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

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

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

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

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

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

25 (a) Manage the properties, employees, and businesses of an  
26 authority.

27 (b) Direct the enforcement of all resolutions, ordinances,

1 rules, and regulations of the executive committee and enter into  
2 contracts under the general control of the authority.

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

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

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

16 Sec. 7. (1) A local unit of government, qualified city, sewer  
17 district, or public agency situated within a metropolitan area  
18 shall retain its municipal water distribution system and municipal  
19 sewage collection system together with all contracts, rights,  
20 privileges, interests, easements, books, maps, plans, papers,  
21 records, and title to them. A local unit of government, qualified  
22 city, sewer district, or public agency may, under a separate  
23 contract or transfer of ownership, transfer administration,  
24 control, and supervision of a municipal water distribution system  
25 or a municipal sewage collection system to an authority. An  
26 authority shall not assume, agree to pay, or be liable for any  
27 bonded indebtedness of a local unit of government, sewer district,

1 or other public agency unless ownership of the system is  
2 transferred. In order to assure continuity of operation and  
3 maintenance, a local unit of government, sewer district, or other  
4 public agency shall continue to maintain and operate the municipal  
5 water distribution system and sewage collection system until the  
6 executive committee shall by resolution set a date when the  
7 authority shall exclusively maintain, operate, and control the  
8 systems and facilities.

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

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

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

13       (a) Rates and charges.

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

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

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

23       Sec. 10. (1) An authority may borrow money and issue bonds to  
24 finance and carry out its powers and duties. The bonds shall be  
25 payable from and may be issued in anticipation of payment of the  
26 proceeds of any of the methods of financing described in section 9  
27 or elsewhere in this act or as provided by law.

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

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

24           (4) A local unit of government may advance money or deliver  
25 property to an authority to finance or carry out the authority's  
26 powers and duties. The authority may agree to repay the advances or  
27 pay for the property within a period not exceeding 10 years, from

1 the proceeds of its bonds or from other funds legally available for  
2 that purpose, with or without interest as agreed at the time of  
3 advance or of repayment. The obligation of the authority to make  
4 the repayment or payment may be evidenced by a contract or note,  
5 which may pledge the full faith and credit of the authority.

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

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

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

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

26 Sec. 13. Records and any other writings prepared, owned, used,  
27 in the possession of, or retained by the authority in the

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

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

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