

HOUSE BILL No. 4546

March 23, 2005, Introduced by Reps. Taub, Meyer, Pavlov, Gosselin, Garfield, Pastor, Marleau, Robertson, Drolet, Palmer, Acciavatti, LaJoy, Stahl, Stakoe, Espinoza, Amos, Brandenburg and Gonzales and referred to the Committee on Local Government and Urban Policy.

A bill to provide for the establishment of a regional water and sewer district; to provide for a board of trustees; 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, taxes, special assessments, and other means; to provide for the issuance and payment of bonds; 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 and sewer district act".

3 Sec. 2. As used in this act:

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

1 any other method.

2 (b) "Board of trustees" or "board" means the governing and
3 administrative body of a district.

4 (c) "District" means a regional water and sewer district
5 created by this act.

6 (d) "Local unit of government" means a county, city, village,
7 township, charter township, drainage district, or authority
8 existing under the laws of this state.

9 (e) "Metropolitan area" means the service area of a regional
10 system.

11 (f) "Municipal sewage collection system" means a sewerage
12 system located within or outside the corporate limits of a local
13 unit of government that collects sewage or combined sewage directly
14 from the users of that system and transports that sewage to a
15 regional system or another wastewater treatment facility for
16 disposal.

17 (g) "Municipal water distribution system" means a water supply
18 system located within or outside the corporate limits of a local
19 unit of government that receives water from a regional system or
20 another water source and distributes water directly to the users or
21 ratepayers of that system.

22 (h) "Qualified city" means a city that owns a regional system.

23 (i) "Regional system" means interconnected water supply and
24 sewerage services and facilities that provide water supply service
25 or sewerage service, or both, for more than 25% of the population
26 of this state. A regional system may consist of water supply
27 facilities and services that serve 1 group of customers and users

1 and a system of sewerage facilities and services that serves a
2 different group of customers and users. Regional system does not
3 include a municipal sewage collection system or a municipal water
4 distribution system.

5 (j) "Resolution" means a resolution or an ordinance, if the
6 governing body of a municipality chooses to act by ordinance rather
7 than by resolution.

8 Sec. 3. Each regional system shall be incorporated as a
9 regional water and sewer district under this act. A district
10 created under this act has the power to do the following:

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

14 (b) To maintain, operate, reconstruct, and improve the
15 regional system and other water distribution or sewage disposal
16 systems under its jurisdiction and make additions, betterments, and
17 extensions to those systems to protect the public health and
18 welfare by preventing or abating the pollution of water.

19 (c) To prepare, revise, and adopt plans, designs, and
20 estimates of costs of a system of outfalls, sewers, trunks, water
21 mains, submains, interceptors, lateral sewers, outlets for
22 sewerage, storm water drains, pump stations, ventilating stations,
23 water and wastewater treatment plants and works, and all other
24 structures, systems, and works which, in the judgment of the board,
25 provide an effective and advantageous means for insuring the area
26 within the district of safe drinking water and adequate sanitary
27 sewage treatment.

1 (d) To construct any additions, improvements, or extensions to
2 the facilities of the district, including across, through, over, or
3 under any public highway, railroad right-of-way, tract, grade, fill
4 or cut, and any other right-of-way or easement in the district and
5 remove any fence, building, or other improvement in the district
6 where necessary for the construction of the additions,
7 improvements, or extensions.

8 (e) To establish, own, acquire, construct, lease, operate, and
9 maintain, as a part of the systems of the district, water treatment
10 facilities, sewage treatment and disposal plants, and all
11 appurtenances and appliances belonging to them and sell any product
12 or by-product manufactured in the course of water or wastewater
13 treatment.

14 (f) To own, acquire, and hold personal property the board
15 considers necessary to carry out the corporate purposes of the
16 district and dispose of personal property when the district has no
17 further need of it.

18 (g) To own, hold, control, and acquire by donation, purchase,
19 contract, lease, or the exercise of the power of eminent domain all
20 rights of property, either public or private, necessary for the
21 purposes of the district. In exercising the power of eminent
22 domain, a district shall follow the procedures set forth in the
23 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to
24 213.75. A district may sell and convey property no longer necessary
25 or useful in its operations.

26 (h) To contract with state or federal governments or their
27 agencies, local units of government, drainage districts, other

1 public agencies, individuals, or private corporations for the
2 construction, use, or maintenance of common or joint sewers, common
3 or joint water lines, drains, outlets, or water treatment and
4 wastewater disposal plants or for any service required by the
5 district.

6 (i) To contract with and permit municipalities, districts,
7 other public agencies, individuals, or private corporations to
8 contract for the purpose of connecting with and using the
9 facilities of the district. The rates for the service and
10 connections shall be the amount agreed upon by the contracting
11 parties.

12 (j) To apply for and accept grants, loans, or contributions
13 from the federal government, its agencies, this state, or other
14 public or private agencies for the purposes of this act and do all
15 things within its powers necessary or desirable to secure the aid
16 or cooperation.

17 (k) To incur debts by borrowing money in anticipation of the
18 collection of revenues and to give appropriate evidence of those
19 loans. The board shall determine by ordinance the amount and terms
20 of the loans, and the executive director shall execute and issue
21 warrants of the district to the lenders as evidence of the loans
22 and of the terms of the district's obligation to repay the loans.

23 (l) To meet the cost of acquiring, constructing, improving, or
24 extending all or any part of the water and sewage disposal systems
25 operated by the district by any of the following:

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

27 (ii) The issuance of bonds for that purpose, payable from

1 taxes, fees, or special assessments collected by the district.

2 (iii) The proceeds of special assessments.

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

5 (v) The proceeds of revenue bonds, payable from the revenues
6 to be derived from the operation of water supply systems and sewage
7 disposal systems of the district.

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

9 (m) To establish by ordinance a schedule of rates and other
10 charges to be collected from all of the real property served by the
11 water supply or sewage disposal systems of the district. A district
12 shall prescribe the manner and time at which the rates and charges
13 are to be paid, change the schedule as the board determines
14 necessary, proper, or advisable, and collect or enforce collection
15 of those charges. The schedule may be based on any classifications
16 or subclassifications the board determines are fair and reasonable,
17 including, but not limited to, the consumption of water on premises
18 connected with the facilities, taking into consideration
19 commercial, industrial, and agricultural use of water, the number
20 and kind of plumbing fixtures connected with the facilities, the
21 number of persons served by the facilities, or any combination of
22 these factors.

23 (n) To contract with a local unit of government, public
24 agency, or private water company for service contracts, joint use
25 contracts, or contracts for the construction or operation of any
26 part of the water supply systems or sewage disposal systems or for
27 the collection of rates or other charges levied by the district for

1 water supply and sewage disposal services. The local unit of
2 government, public agency, or private water company may contract to
3 collect the rates or other charges and to discontinue water
4 services or sewage collection services upon failure to pay the
5 rates or charges within the time prescribed by ordinance. A local
6 unit of government, public agency, or private water company
7 situated within a district shall furnish the district any
8 information which will assist the district in calculating rates or
9 other charges for sewer services.

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

12 (p) To approve, revise, or reject the plans and designs of all
13 outfalls, sewers, trunks, water mains, submains, interceptors,
14 lateral sewers, outlets for sewerage, storm water drains, pump
15 stations, ventilating stations, water and wastewater treatment
16 plants and works, and all other structures, systems, and works
17 proposed to be constructed, altered, or reconstructed by any other
18 person or corporation, private or public, in the district. Any work
19 shall be subject to inspection and supervision of the district.

20 (q) To fix, levy, and collect special assessments, in the form
21 of supplemental rates, for the construction, improvement, or
22 extension of water, sewer, or drainage facilities, levied ratably
23 by area upon lots or parcels of ground within the district, whether
24 public or private, benefited by the construction, improvement, or
25 extension and provide by ordinance for the classification and
26 reclassification of these properties into classes or subclasses
27 that the board determines are fair and reasonable.

1 (r) To provide a retirement system for employees of the
2 district if and when permissible under the constitution and laws of
3 this state.

4 (s) To bargain collectively and enter into agreements with
5 labor organizations. A district shall be bound by existing labor
6 union agreements with public or privately owned water supply
7 systems or sewage disposal systems that are acquired, purchased, or
8 condemned by the district.

9 (t) To require the owner of any real property capable of being
10 efficiently served by water supply or sewage disposal systems
11 operated by the district to connect with and use the facilities if
12 the board finds that the water supply or sewage collection from
13 that property constitutes a public nuisance or a danger to public
14 health or safety.

15 Sec. 4. (1) The powers of a district are vested in a board of
16 trustees which shall enact district ordinances, adopt budgets,
17 determine policies, and appoint the executive director, who shall
18 execute the ordinances and administer the affairs of the district.
19 The powers of a district shall be exercised in the manner
20 prescribed in this act or, if not prescribed in this act, in a
21 manner prescribed by the board.

22 (2) The membership of the board shall provide representation
23 across a metropolitan area in approximate proportion to the number
24 of customers served and shall be as follows:

25 (a) The mayor of a qualified city and the elected drain
26 commissioner, public works commissioner, or appointed environment
27 department director from each county served, or their designees,

1 shall be board members.

2 (b) A qualified city and each county by resolution may appoint
3 1 additional representative for every additional increment of
4 400,000 in population served. Each county or qualified city shall
5 have at least 1 member.

6 (3) In determining the representation for a county containing
7 a qualified city, the population shall exclude the population of
8 that city. The population served shall be individual residents of a
9 community who buy water from or discharge sewage to a district and
10 shall be determined by the appropriate regional planning agency,
11 using the most recent federal census data overlaid on the sewer
12 service area map or the water service area map. Membership of the
13 board shall be reconfigured once every decade after each federal
14 census to reflect changes and shifts in population or when service
15 is provided to an additional county.

16 (4) A majority of the members of the board constitute a quorum
17 for the transaction of business. Each member of the board shall
18 have 1 vote.

19 (5) The first meeting of the board shall be held not more than
20 180 days after the effective date of this act. After its first
21 meeting, the board shall meet not less than quarterly and at other
22 times as determined by the board.

23 Sec. 5. (1) A local unit of government, qualified city, sewer
24 district, or public agency situated within a metropolitan area
25 shall retain its municipal water distribution system and municipal
26 sewage collection system together with all contracts, rights,
27 privileges, interests, easements, books, maps, plans, papers,

1 records, and title to them. A local unit of government, qualified
2 city, sewer district, or public agency may, under a separate
3 contract or transfer of ownership, transfer administration,
4 control, and supervision of a municipal water distribution system
5 or a municipal sewage collection system to a district. A district
6 shall not assume, agree to pay, or be liable for any bonded
7 indebtedness of a local unit of government, sewer district, or
8 other public agency unless ownership of the system is transferred.
9 In order to assure continuity of operation and maintenance, a local
10 unit of government, sewer district, or other public agency shall
11 continue to maintain and operate the municipal water distribution
12 system and sewage collection system until the board shall by
13 resolution set a date when the district shall exclusively maintain,
14 operate, and control the systems and facilities.

15 (2) A district shall administer, control, and supervise the
16 regional system. A qualified city shall retain ownership of the
17 regional system and all rights, privileges, interests, easements,
18 books, maps, plans, papers, records, and title to them. A qualified
19 city shall assign all contracts for water supply and sewage
20 disposal and treatment to the district. A qualified city may
21 transfer ownership of the regional system to the district. In order
22 to assure continuity of operation and maintenance, a qualified city
23 shall continue to maintain and operate the regional system until
24 the board shall by resolution set a date when the district shall
25 administer, control, and supervise the system.

26 Sec. 6. A district may fix rates and other charges for
27 services and use of the water supply systems or sewage disposal

1 systems owned or operated within the jurisdiction of the district.
2 A district shall determine, after appropriate public hearing, the
3 water supply systems and sewage disposal systems to be operated by
4 it, the services to be available to the public, and the rates to be
5 charged.

6 Sec. 7. The board shall do all of the following:

7 (a) Employ an executive director, who shall be the chief
8 executive and operating officer of the authority and who shall
9 execute the ordinances and administer the affairs of the district.

10 (b) Establish broad policies covering all major operations of
11 the district.

12 (c) Prepare and publish a detailed public report and financial
13 statement of its operations at the end of each fiscal year.

14 Sec. 8. (1) The executive director shall do all of the
15 following:

16 (a) Manage the properties, employees, and businesses of a
17 district.

18 (b) Direct the enforcement of all resolutions, rules, and
19 regulations of the board and enter into contracts under the general
20 control of the board.

21 (c) Prepare a separate operating and capital budget for each
22 fiscal year. The board shall approve the budgets at least 30 days
23 prior to the beginning of each new fiscal year. Capital program
24 budgets shall be prepared to cover periods of 5 years. The first of
25 these annual capital program budgets shall be submitted no later
26 than 3 years after the initial formation of a district. The budgets
27 shall be revised and updated annually prior to submission to the

1 board.

2 (2) The executive director may appoint officers, employees,
3 and agents to carry out the purposes of the district under the
4 general policy direction of the board.

5 (3) The executive director and his or her appointees shall
6 serve at the pleasure of the board.

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

19 (a) Rates.

20 (b) Income or revenues from whatever source available,
21 including appropriations or contributions of whatever nature or
22 other revenues of the participating local units of government.

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

26 (d) Proceeds of taxes, special assessments, or charges imposed
27 pursuant to law and collected by this state or a local unit of

1 government.

2 Sec. 10. (1) A district may borrow money and issue bonds to
3 finance and carry out its powers and duties. The bonds shall be
4 payable from and may be issued in anticipation of payment of the
5 proceeds of any of the methods of financing described in section 9
6 or elsewhere in this act or as provided by law.

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

26 (3) The bonds of the district shall be issued and sold in
27 compliance with the revised municipal finance act, 2001 PA 34, MCL

1 141.2101 to 141.2821, except that the bonds may be issued for a
2 period not exceeding 40 years.

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

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

22 (6) A local unit of government desiring to enter into a
23 contract under this act shall authorize, by resolution, the
24 execution of the contract. The resolution shall be published in a
25 newspaper of general circulation within the local unit of
26 government, and the contract may be executed without a vote of the
27 electors 90 days after the date of the publication unless, within

1 the 90-day period, a petition signed by not fewer than 25% of the
2 registered electors residing within the limits of the local unit of
3 government is filed with the clerk of the local unit of government
4 requesting a referendum upon the execution of the contract. In that
5 event, the contract shall not be executed until approved by a
6 majority of the qualified electors of the local unit of government
7 voting on the contract at the next regular election.

8 (7) Notes issued and contracts entered into under this section
9 are not subject to the revised municipal finance act, 2001 PA 34,
10 MCL 141.2101 to 141.2821.

11 Sec. 11. A petition under section 10, including the
12 circulation and signing of the petition, is subject to section 488
13 of the Michigan election law, 1954 PA 116, MCL 168.488. A
14 person who violates a provision of the Michigan election law, 1954
15 PA 116, MCL 168.1 to 168.992, is subject to the penalties
16 prescribed for that violation in the Michigan election law, 1954 PA
17 116, MCL 168.1 to 168.992.

18 Sec. 12. This act, being necessary for the public peace,
19 health, safety, and welfare, shall be liberally construed to effect
20 the purposes hereof, which are declared to be public
21 purposes.

22 Sec. 13. The district 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. 14. Records and any other writings prepared, owned, used,
27 in the possession of, or retained by the district 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 may perform shall be conducted at a public meeting
5 of the board held in compliance with the open meetings act, 1976 PA
6 267, MCL 15.261 to 15.275. Public notice of the time, date, and
7 place of the meeting shall be given in the manner required by the
8 open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

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

16 Sec. 16. A challenge to the validity of any provision of this
17 act shall be filed with and decided by the court of appeals
18 pursuant to section 10 of article VI of the state constitution of
19 1963.