

# HOUSE BILL No. 4790

May 29, 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 alliance; 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, 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 and sewer alliance act".

3           Sec. 2. As used in this act:

4           (a) "Acquire" means acquisition by purchase, construction, or  
5 any other method.

1 (b) "Alliance" means a regional water and sewer alliance  
2 created by this act.

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

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

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

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

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

21 (h) "Regional system" means interconnected water supply and  
22 sewerage services and facilities that provide water supply service  
23 or sewerage service, or both, for more than 20% of the population  
24 of this state. A regional system may consist of water supply  
25 facilities and services that serve 1 group of customers and users  
26 and a system of sewerage facilities and services that serves a  
27 different group of customers and users.

1           Sec. 3. Each regional system shall be incorporated as a  
2 regional water and sewer alliance under this act. An alliance  
3 created under this act has the power to do the following:

4           (a) To exercise exclusive jurisdiction, control, and  
5 supervision of a regional system and other water supply or sewage  
6 disposal systems placed under its jurisdiction.

7           (b) To maintain, operate, reconstruct, improve, or  
8 decommission a regional system and other water distribution or  
9 sewage disposal systems under its jurisdiction and make additions,  
10 betterments, and extensions to those systems to monitor and protect  
11 the public health and welfare by preventing or abating the  
12 pollution of water.

13           (c) To prepare, revise, and adopt plans, designs, and  
14 estimates of costs of a system of outfalls, sewers, trunks, water  
15 mains, submains, interceptors, lateral sewers, outlets for  
16 sewerage, storm water drains, pump stations, ventilating stations,  
17 water and wastewater treatment plants and works, and all other  
18 structures, systems, and works which provide an effective and  
19 advantageous means for insuring the area within the alliance of  
20 safe drinking water and adequate sanitary sewage treatment.

21           (d) To construct any additions, improvements, or extensions to  
22 the facilities of the alliance, including across, through, over, or  
23 under any public highway, railroad right-of-way, tract, grade, fill  
24 or cut, and any other right-of-way or easement in the alliance and  
25 remove any fence, building, or other improvement in the alliance  
26 where necessary for the construction of the additions,  
27 improvements, or extensions.

1 (e) To establish, own, acquire, construct, lease, operate, and  
2 maintain, as a part of the systems of the alliance, water treatment  
3 facilities, sewage treatment and disposal plants, and all  
4 appurtenances and appliances belonging to them and sell any product  
5 or by-product manufactured in the course of water or wastewater  
6 treatment.

7 (f) To own, acquire, and hold personal property considered  
8 necessary to carry out the corporate purposes of the alliance and  
9 dispose of personal property when the alliance has no further need  
10 of it.

11 (g) To own, hold, control, and acquire by donation, purchase,  
12 contract, lease, or the exercise of the power of eminent domain all  
13 rights of property, either public or private, necessary for the  
14 purposes of the alliance. In exercising the power of eminent  
15 domain, an alliance shall follow the procedures set forth in the  
16 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to  
17 213.75. An alliance may sell and convey property no longer  
18 necessary or useful in its operations.

19 (h) To contract with state or federal governments or their  
20 agencies, local units of government, drainage districts, other  
21 public agencies, individuals, or private corporations for the  
22 construction, use, or maintenance of common or joint sewers, common  
23 or joint water lines, drains, outlets, or water treatment and  
24 wastewater disposal plants or for any service required by the  
25 alliance.

26 (i) To contract with and permit municipalities, districts,  
27 other public agencies, individuals, or private corporations to

1 contract for the purpose of connecting with and using the  
2 facilities of the alliance.

3 (j) To apply for and accept grants, loans, or contributions  
4 from the federal government, its agencies, this state, or other  
5 public or private agencies for the purposes of this act and do all  
6 things within its powers necessary or desirable to secure the aid  
7 or cooperation.

8 (k) To incur debts by borrowing money in anticipation of the  
9 collection of revenues and to give appropriate evidence of those  
10 loans.

11 (l) To meet the cost of acquiring, constructing, improving, or  
12 extending all or any part of the water and sewage disposal systems  
13 operated by the alliance by any of the following:

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

15 (ii) The issuance of bonds for that purpose, payable from fees  
16 or special assessments collected by the alliance.

17 (iii) The proceeds of special assessments.

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

20 (v) The proceeds of revenue bonds, payable from the revenues  
21 to be derived from the operation of water supply systems and sewage  
22 disposal systems of the alliance.

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

24 (m) To prescribe the manner and time at which the rates and  
25 charges authorized by the public service commission under 1939 PA  
26 3, MCL 460.1 to 460.11, are to be paid, and to collect or enforce  
27 collection of those charges.

1           (n) To contract with a local unit of government, public  
2 agency, or private water company for service contracts, joint use  
3 contracts, or contracts for the construction or operation of any  
4 part of the water supply systems or sewage disposal systems or for  
5 the collection of rates or other charges levied by the alliance for  
6 water supply and sewage disposal services. The local unit of  
7 government, public agency, or private water company may contract to  
8 collect the rates or other charges and to discontinue water  
9 services or sewage collection services upon failure to pay the  
10 rates or charges within the time prescribed by ordinance.

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

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

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

1 that the board determines are fair and reasonable.

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

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

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

16 Sec. 4. (1) An alliance shall be governed by a 9-member board  
17 of directors whose members are appointed for a term of 4 years as  
18 follows:

19 (a) Two board members appointed by the mayor of the city with  
20 the largest population served by the regional system.

21 (b) One board member appointed by the city council of the city  
22 with the largest population served by the regional system.

23 (c) One board member appointed by the governor.

24 (d) Two board members appointed by the governor. The board  
25 members appointed under this subdivision shall be local elected  
26 officials from 2 of the local units of government served by the  
27 regional system, but not local elected officials from the city with

1 the largest population served by the regional system.

2 (e) Each county executive or chief executive officer from a  
3 county with 1 of the 3 largest populations served by the regional  
4 system shall appoint 1 board member.

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

8 (3) The first meeting of the board shall be held not more than  
9 120 days after the effective date of this act. After its first  
10 meeting, the board shall meet not less than every 30 days and at  
11 other times determined by the board.

12 Sec. 5. A local unit of government, sewer district, or public  
13 agency situated within a metropolitan area shall retain its  
14 municipal water distribution system and municipal sewage collection  
15 system together with all contracts, rights, privileges, interests,  
16 easements, books, maps, plans, papers, records, and title to them.  
17 A local unit of government, sewer district, or public agency may,  
18 under a separate contract or transfer of ownership, transfer  
19 administration, control, and supervision of a municipal water  
20 distribution system or a municipal sewage collection system to an  
21 alliance. An alliance shall not assume, agree to pay, or be liable  
22 for any bonded indebtedness of a local unit of government, sewer  
23 district, or other public agency unless ownership of the system is  
24 transferred.

25 Sec. 6. (1) In order to assure continuity of operation and  
26 maintenance, a local unit of government, sewer district, or other  
27 public agency shall continue to maintain and operate the municipal

1 water distribution system and sewage collection system until  
2 January 1, 2018, when the alliance shall exclusively maintain,  
3 operate, and control the systems and facilities.

4 (2) An alliance shall administer, control, and supervise the  
5 regional system. A local unit of government that owns a regional  
6 system shall retain ownership of its portion of the regional system  
7 and all rights, privileges, interests, easements, books, maps,  
8 plans, papers, records, and title to them. A local unit of  
9 government that owns a regional system shall assign all contracts  
10 for water supply and sewage disposal and treatment to the alliance.  
11 A local unit of government that owns a regional system may transfer  
12 ownership of the regional system to the alliance. In order to  
13 assure continuity of operation and maintenance, a local unit of  
14 government that owns a regional system shall continue to maintain  
15 and operate the regional system until January 1, 2018, when the  
16 alliance shall administer, control, and supervise the system.

17 Sec. 7. The public service commission shall, as provided in  
18 1939 PA 3, MCL 460.1 to 460.11, authorize rates and other charges  
19 for services and use of the water supply systems or sewage disposal  
20 systems owned or operated within the jurisdiction of the alliance.  
21 An alliance shall determine, after appropriate public hearing, the  
22 water supply systems and sewage disposal systems to be operated by  
23 it and the services to be available to the public.

24 Sec. 8. An alliance may not levy taxes or pledge the credit or  
25 taxing power of this state or a local unit of government, except  
26 for the pledging of receipts of taxes collected by this state or a  
27 local unit of government and returnable or payable by law or by

1 contract to the alliance and except for the pledge by a local unit  
2 of government of its full faith and credit in support of its  
3 contractual obligations to the alliance as authorized by law. A  
4 regional system and any municipal water supply or municipal sewage  
5 disposal system which the alliance has agreed to control,  
6 supervise, administer, operate, and maintain shall be financed, in  
7 addition to other methods of financing provided by law, by any of  
8 the following:

9 (a) Rates and charges.

10 (b) Income or revenues from whatever source available,  
11 including appropriations or contributions of whatever nature or  
12 other revenues of the participating local units of government.

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

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

19 Sec. 9. (1) An alliance may borrow money and issue bonds to  
20 finance and carry out its powers and duties. The bonds shall be  
21 payable from and may be issued in anticipation of payment of the  
22 proceeds of any of the methods of financing described in section 8  
23 or elsewhere in this act or as provided by law.

24 (2) A local unit of government within the geographical  
25 boundaries of the alliance may contract to make payments,  
26 appropriations, or contributions to the alliance of the proceeds of  
27 taxes, special assessments, or charges imposed and collected by the

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

16 (3) The bonds of the alliance shall be issued and sold in  
17 compliance with the revised municipal finance act, 2001 PA 34, MCL  
18 141.2101 to 141.2821, except that the bonds may be issued for a  
19 period not exceeding 50 years.

20 (4) A local unit of government may advance money or deliver  
21 property to an alliance to finance or carry out the alliance's  
22 powers and duties. The alliance may agree to repay the advances or  
23 pay for the property within a period not exceeding 10 years, from  
24 the proceeds of its bonds or from other funds legally available for  
25 that purpose, with or without interest as agreed at the time of  
26 advance or of repayment. The obligation of the alliance to make the  
27 repayment or payment may be evidenced by a contract or note, which

1 may pledge the full faith and credit of the alliance.

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

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

15 Sec. 10. This act, being necessary for the public peace,  
16 health, safety, and welfare, shall be liberally construed to effect  
17 the purposes hereof, which are declared to be public purposes.

18 Sec. 11. The alliance and its property, real, personal, and  
19 mixed, are exempt from fees and the assessment, levy, and  
20 collection of all general and special taxes of this state or a  
21 local unit of government.

22 Sec. 12. Records and any other writings prepared, owned, used,  
23 in the possession of, or retained by the alliance in the  
24 performance of an official function shall be available to the  
25 public during normal business hours in compliance with the freedom  
26 of information act, 1976 PA 442, MCL 15.231 to 15.246. The business  
27 which the board may perform shall be conducted at a public meeting

1 of the board held in compliance with the open meetings act, 1976 PA  
2 267, MCL 15.261 to 15.275. Public notice of the time, date, and  
3 place of the meeting shall be given in the manner required by the  
4 open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

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

12       Sec. 14. A challenge to the validity of any provision of this  
13 act shall be filed with and decided by the court of appeals  
14 pursuant to section 10 of article VI of the state constitution of  
15 1963.

16       Enacting section 1. This act does not take effect unless  
17 Senate Bill No.\_\_\_\_ or House Bill No. 4791(request no. 02388'13) of  
18 the 97th Legislature is enacted into law.