INTERGOVERNMENTAL CONTRACTS BETWEEN MUNICIPAL CORPORATIONS
Act 35 of 1951

AN ACT to authorize intergovernmental contracts between municipal corporations; to authorize any municipal corporation to contract with any person or any municipal corporation to furnish any lawful municipal service to property outside the corporate limits of the first municipal corporation for a consideration; to prescribe certain penalties; to authorize contracts between municipal corporations and with certain nonprofit public transportation corporations to form group self-insurance pools; and to prescribe conditions for the performance of those contracts.

History: 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

The People of the State of Michigan enact:

124.1 Definitions.

Sec. 1. As used in this act:

(a) "Municipal corporation" means a county, charter county, county road commission, township, charter township, city, village, school district, intermediate school district, community college district, metropolitan district, court district, public authority, or drainage district as defined in the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws, or any other local governmental authority or local agency with power to enter into contractual undertakings. For purposes of sections 5 to 12b, "municipal corporation" includes a public transportation corporation.

(b) "Public transportation corporation" means a nonprofit corporation organized pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, to which 1 of the following applies:

(*i*) The primary purpose of the nonprofit corporation is providing public transportation services.

(*ii*) The nonprofit corporation receives funding from the specialized services assistance program under section 10e of Act No. 51 of the Public Acts of 1951, being section 247.660e of the Michigan Compiled Laws.

(c) "Public transportation" means that term as defined in section 10c of Act No. 51 of the Public Acts of 1951, being section 247.660c of the Michigan Compiled Laws.

History: 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988;—Am. 1996, Act 289, Imd. Eff. June 19, 1996.

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124.2 Intergovernmental contracts between municipal corporations; authorization.

Sec. 2. Any municipal corporation shall have power to join with any other municipal corporation, or with any number or combination thereof by contract, or otherwise as may be permitted by law, for the ownership, operation, or performance, jointly, or by any 1 or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

History: 1951, Act 35, Imd. Eff. May 8, 1951.

124.3 Furnishing municipal service outside municipal corporate limits; definitions.

Sec. 3. (1) A municipal corporation may contract for adequate consideration with a person or another municipal corporation to furnish to property outside the municipal corporate limits any lawful municipal service that it is furnishing to property within the municipal corporate limits. A municipal corporation may sell and deliver heat, power, and light in amounts as determined by the governing body of the utility, except for both of the following:

(a) Electric delivery service is limited to the area of any city, village, or township that was contiguous to the municipal corporation as of June 20, 1974, and to the area of any other city, village, or township being served by the municipal utility as of June 20, 1974.

(b) Retail sales of electric generation service are limited to the area of any city, village, or township that was contiguous to the municipal corporation as of June 20, 1974, and to the area of any other city, village, or township being served by the municipal utility as of June 20, 1974.

(2) A municipal corporation shall not render electric delivery service for heat, power, or light outside its corporate limits to a customer that is currently receiving or within the previous 3 years has received the service from another utility unless the serving utility consents in writing.

(3) As used in this section:

(a) "Customer" means only the building or facilities served rather than the individual, association, partnership, corporation, governmental body, or other entity taking service.

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(b) "Electric delivery service" has the same meaning as "delivery service" under section 10y of 1939 PA 3, MCL 460.10y.

(c) "Electric generation service" means the sale of electric power and related ancillary services.

(d) "Person" means an individual, partnership, association, governmental entity, or other legal entity.

History: 1951, Act 35, Imd. Eff. May 8, 1951;—Am. 1974, Act 157, Imd. Eff. June 20, 1974;—Am. 2000, Act 155, Imd. Eff. June 14, 2000;—Am. 2018, Act 516, Imd. Eff. Dec. 28, 2018.

124.4 Public utility; joint ownership and operation.

Sec. 4. Nothing contained in this act shall be construed to grant the right to jointly own or operate a public utility for supplying transportation, gas, light, telephone service, or electric power except as may be provided by the statutes or constitution of the state of Michigan, nor to contract to furnish municipal services outside corporate limits except in accordance with the constitutional limitations on such sales. Nothing contained in this act shall be construed as to grant to municipal corporations acting jointly any power or authority which they do not have acting singly.

History: 1951, Act 35, Imd. Eff. May 8, 1951.

124.5 Group self-insurance pool; intergovernmental contract; purpose; hospital, medical, surgical, or dental benefits; assuming, ceding, and selling risk for coverages; reinsurance; documentation of coverage; powers; legislative findings and determinations; 2 or more municipal corporations as group self-insurance pool.

Sec. 5. (1) Notwithstanding any other provision of law to the contrary, any 2 or more municipal corporations, by intergovernmental contract, may form a group self-insurance pool to provide for joint or cooperative action relative to their financial and administrative resources for the purpose of providing to the participating municipal corporations risk management and coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any or all of the following:

(a) Casualty insurance, including general and professional liability coverage.

(b) Property insurance, including marine insurance and inland navigation and transportation insurance coverage.

(c) Automobile insurance, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(d) Surety and fidelity insurance coverage.

(e) Umbrella and excess insurance coverages.

(2) A group self-insurance pool may not provide for hospital, medical, surgical, or dental benefits to the employees of the member municipalities in the pool except as follows:

(a) If the municipal corporation is providing hospital, medical, surgical, or dental benefits as permitted under the public employees health benefit act.

(b) If the municipal corporation has formed a multiple employer welfare arrangement under chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090, for hospital, medical, surgical, or dental benefits.

(c) If the hospital, medical, surgical, or dental benefits arise from the obligations and responsibilities of the pool in providing automobile insurance coverage, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(3) A group self-insurance pool may assume, cede, and sell risk for coverages set forth in subsection (1). If a group self-insurance pool obtains reinsurance, the reinsurance contract shall be made available to the commissioner upon request. If the reinsurance contract is not available to the group self-insurance pool, the group self-insurance pool shall provide the commissioner with written documentation of coverage as is requested by the commissioner.

(4) A group self-insurance pool, for the purposes of carrying on the business of the group self-insurance pool whether or not a body corporate, shall have the power to sue and be sued; to make contracts; to hold and dispose of real and personal property; and to borrow money, contract debts, and pledge assets in the name of the group self-insurance pool.

(5) In addition to any other powers granted by this act, the power to enter into intergovernmental contracts under this section specifically includes the power to establish the pool as a separate legal or administrative entity for purposes of effectuating group self-insurance pool agreements.

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(6) The legislature hereby finds and determines that insurance protection is essential to the proper functioning of municipal corporations; that the resources of municipal corporations are burdened by the securing of insurance protection through standards carriers; that proper risk management requires spreading risk to minimize fluctuation in insurance needs; and that, therefore, all contributions of financial and administrative resources made by a municipal corporation pursuant to an intergovernmental contract authorized under this act are made for a public and governmental purpose, and that those contributions benefit each contributing municipal corporation.

(7) Two or more municipal corporations shall not form a group self-insurance pool to provide the coverages described in subsection (1) other than pursuant to sections 5 to 12b.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988;—Am. 1999, Act 83, Imd. Eff. June 28, 1999;—Am. 2007, Act 108, Imd. Eff. Oct. 1, 2007.

124.6 Status of group insurance pool, programs, and coverages.

Sec. 6. Any group self-insurance pool organized pursuant to section 5 is not an insurance company or insurer under the laws of this state. The development, administration, and provision of group self-insurance programs and coverages authorized by this act by the governing authority created to administer the pool pursuant to section 7(c) does not constitute doing an insurance business.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

124.7 Intergovernmental contract; required provisions.

Sec. 7. Any intergovernmental contract entered into under section 5 for the purpose of establishing a group self-insurance pool shall provide:

(a) A financial plan setting forth in general terms:

(*i*) The insurance coverages to be offered by the group self-insurance pool, applicable deductible levels, and the maximum level of claims which the pool will self-insure.

(*ii*) Subject to section 7a, the amount of cash reserves to be set aside for the payment of claims.

(*iii*) The amount of insurance to be purchased by the pool to provide coverage over and above the claims which are not to be satisfied directly from the pool's resources.

(*iv*) Subject to section 7a, the amount of aggregate excess insurance coverage to be maintained or the amount of the deposit of unimpaired surplus to be maintained with the state treasurer, which aggregate excess insurance or deposit shall be used in the event that the group self-insurance pool's resources are exhausted in a given fiscal period. The aggregate excess insurance or deposit or combination of aggregate excess insurance and deposit shall be, at a minimum, in the amount of $5,000,000.00 unless the commissioner determines a lesser amount of aggregate excess insurance would be adequate.

(b) A plan of management which provides for all of the following:

(*i*) The means of establishing the governing authority of the pool.

(*ii*) The responsibility of the governing authority with regard to fixing contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administering the pool in the event of termination or insolvency.

(*iii*) The basis upon which new members may be admitted to, and existing members may leave, the pool.

(*iv*) The identification of funds and reserves by exposure areas.

(*v*) Other provisions necessary or desirable for the operation of the pool.

(c) For election by pool members of a governing authority, which shall be a board of directors for the pool, a majority of whom shall be elected or appointed officers of pool members.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

124.7a Submission and review of intergovernmental contract; filing copy of coverage document; aggregate excess insurance or deposit; filing and review of copy of aggregate excess insurance contract; cash reserves.

Sec. 7a. (1) When 2 or more municipal corporations have formed a group self-insurance pool by an intergovernmental contract pursuant to section 5, the group self-insurance pool shall immediately submit a copy of the intergovernmental contract to the commissioner of insurance. The commissioner of insurance shall review it for compliance with this act.

(2) A copy of each coverage document form issued by the pool shall be filed with the commissioner of insurance.

(3) Each group self-insurance pool shall maintain aggregate excess insurance or a deposit with the state treasurer of unimpaired surplus which aggregate excess insurance or deposit shall be used in the event that the pool's resources are exhausted in a given fiscal period. The aggregate excess insurance or deposit, or

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combination of aggregate excess insurance and deposit shall be, at a minimum, in the amount of $5,000,000.00 unless the commissioner determines a lesser amount of aggregate excess insurance would be adequate. A copy of the aggregate excess insurance contract obtained by a group self-insurance pool pursuant to this section shall be filed with the commissioner of insurance who shall review it for compliance with this act.

(4) A group self-insurance pool shall set aside cash reserves that are adequate for the payment of claims.

History: Add. 1988, Act 36, Eff. July 1, 1988.

124.7b Misrepresentations; penalties.

Sec. 7b. (1) A group self-insurance pool or other person shall not issue, circulate, or use or cause or permit to be issued, circulated, or used, any written or oral statement or circular misrepresenting the terms of any policy or coverage document issued or to be issued by the pool, or misrepresenting the benefits or privileges promised under any such policy or coverage document, or estimating the future dividends payable under any such policy or coverage document.

(2) A group self-insurance pool or other person shall not make any misrepresentation or incomplete comparison of policies or coverage documents, oral, written, or otherwise, to any person for the purpose of inducing or tending to induce the person to obtain coverage from a group self-insurance pool or for the purpose of inducing or tending to induce a person to lapse, forfeit, or surrender his or her coverage with another person providing coverage in order to obtain coverage with the group self-insurance pool.

(3) In addition to the penalties provided in section 12a, a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $100.00 for each violation.

History: Add. 1988, Act 36, Eff. July 1, 1988.

124.8 Audited financial statements; certification; filing; audit by commissioner of insurance; reimbursement; uniform reporting format; uniform accounting system; review of working papers and other records; certification of reserves; examinations; noncompliance with financial requirements; plan to restore compliance; time, suspension, revocation, or limitation of right of pool to do business in state.

Sec. 8. (1) Each group self-insurance pool created in this state shall file with the members of the pool, within 120 days after the end of the pool's fiscal year, audited financial statements certified by an independent certified public accountant. Two additional copies of the audited financial statements shall be filed with the commissioner of insurance. The commissioner of insurance shall forward a copy of the audited financial statement to the state treasurer.

(2) If a group self-insurance pool fails to provide for the audited financial statements required by subsection (1), the commissioner of insurance shall perform the audit and the group self-insurance pool shall reimburse the commissioner of insurance for the cost of the audit. The commissioner of insurance shall prescribe a uniform reporting format for the preparation of the audited financial statements and shall also devise a uniform accounting system to be used by group self-insurance pools. The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements may be reviewed by the commissioner of insurance.

(3) Each group self-insurance pool created in this state shall file with the commissioner of insurance, within 120 days after the end of the pool's fiscal year, a certification by an independent actuary that the reserves set aside pursuant to section 7a are adequate for the payment of claims.

(4) The commissioner of insurance shall perform examinations of each group self-insurance pool created in this state to assure that the pools fulfill all of the requirements of this act and are operating in accordance with law.

(5) If a group self-insurance pool fails to maintain compliance with the financial requirements of this act, the commissioner of insurance shall notify the pool and the state treasurer that the pool has failed to maintain compliance with the financial requirements of this act. Within 30 business days after notification by the commissioner of noncompliance with the financial requirements of this act, the pool shall file a plan to restore compliance. Failure of the pool to file a plan shall create a presumption that the pool does not meet the financial requirements of this act. The commissioner, upon written request by the pool, may grant a period of time within which to restore compliance. The period of time may be granted only if the commissioner is satisfied the pool is safe, reliable, and entitled to public confidence; is satisfied the pool would suffer a material financial loss from an immediate forced conversion of its assets; and approves the plan filed by the pool for restoring compliance within the time granted. If the plan is not approved by the commissioner, or if the plan is approved, and, at the end of 1 year the pool still does not comply with the financial requirements of

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this act, or if the pool does not file a plan to restore compliance, the commissioner may grant additional time to comply, or the commissioner may suspend, revoke, or limit the right of the pool to do business in this state.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 1988, Act 36, Eff. July 1, 1988.

124.9 Group self-insurance pool as self-insurer for motor vehicle security; membership in catastrophic claims association required.

Sec. 9. (1) A group self-insurance pool shall be considered a self-insurer for motor vehicle security under sections 3101 and 3101d of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3101d. Members of the pool participating in the motor vehicle self-insurance provided by the pool shall be considered to meet the requirements of security as required by those sections and shall not be required to apply for a certificate of self-insurance under section 3101d of the insurance code of 1956, 1956 PA 218, MCL 500.3101d.

(2) A group self-insurance pool providing motor vehicle security under this section shall become a member of the catastrophic claims association created by section 3104 of the insurance code of 1956, 1956 PA 218, MCL 500.3104.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982;—Am. 2012, Act 571, Imd. Eff. Jan. 2, 2013.

124.10 Statute or charter requiring public official to post or obtain bond; furnishing surety or fidelity insurance coverage by group self-insurance pool.

Sec. 10. The provisions of any statute or charter requiring a public official to post bond or obtain a surety bond, the premium on which may lawfully be paid by a public agency of this state, may be satisfied with surety or fidelity insurance coverage furnished by a group self-insurance pool organized under this act, including any deductible amount or other portion self-insured by the public agency itself.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

124.11 Group self-insurance pool assets; investment.

Sec. 11. (1) The assets of any group self-insurance pool established pursuant to this act shall be invested in those securities and investments permitted for insurers in this state under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(2) An investment made pursuant to subsection (1) in securities wholly or partially exempt from income or other taxes levied by the United States shall be made only at taxable-equivalent yields or returns available in the marketplace on otherwise comparable securities at the time the investment decision is made.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

124.12 Certain information regarding funds or liability reserve of pool exempt from disclosure; discovery.

Sec. 12. (1) Information regarding that portion of the funds or liability reserve of a pool established for purposes of satisfying a specific claim or cause of action shall be exempt from disclosure pursuant to section 13 of Act No. 442 of the Public Acts of 1976, as amended, being section 15.243 of the Michigan Compiled Laws.

(2) Notwithstanding any provisions to the contrary contained in any public disclosure act or statute, in a claim or action against the state or any group self-insurance pool, a person shall not be entitled to discover that portion of the funds or liability reserve established for purposes of satisfying a claim or cause of action, except that the reserve is discoverable in any supplemental or ancillary proceeding to enforce a judgment.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

124.12a Violation; notice of complaint; notice of hearing; summary disposal of matter; action for damages; hearing; findings and decision; cease and desist order; other orders.

Sec. 12a. (1) When the commissioner has probable cause to believe that a group self-insurance pool or other person is violating, or has violated any of the provisions provided in sections 5 to 12, he or she shall give written notice to the pool or person, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, setting forth the general nature of the complaint against the pool or person and the proceedings contemplated under this section. Before the issuance of a notice of hearing, the staff of the bureau of insurance responsible for the matters which would be at issue in the hearing shall give the pool or person an opportunity to confer and discuss the possible complaint and proceedings in person with the commissioner or a representative of the commissioner, and the matter may be disposed of summarily upon agreement of the parties. This subsection

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shall not be construed to create or diminish any right of a person to bring an action for damages.

(2) A hearing held pursuant to subsection (1) shall be held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969. If, after the hearing, the commissioner determines that the pool or person is violating, or has violated, any of the provisions provided in sections 5 to 12, the commissioner shall reduce his or her findings and decision to writing, and shall issue and cause to be served upon the pool or person a copy of the findings and an order requiring the pool or person to cease and desist from engaging in the prohibited activity, and the commissioner may order any of the following:

(a) Payment of a monetary fine of not more than $500.00 for each violation but not to exceed an aggregate fine of $5,000.00, unless the pool or person knew or reasonably should have known it was in violation of this act, in which case the fine shall not be more than $2,500.00 for each violation and shall not exceed an aggregate fine of $25,000.00 for all violations committed in a 6-month period.

(b) Suspension, limitation, or revocation of the pool's right to continue to do business in this state, including, but not limited to, the liquidation and receivership of the pool in the same manner as under chapter 78 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.7800 to 500.7868 of the Michigan Compiled Laws. The commissioner of insurance has the same authority to act as custodian or receiver of a group self-insurance pool as the commissioner has to act under chapter 78 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956.

(c) Restitution or refund to an aggrieved person.

History: Add. 1988, Act 36, Eff. July 1, 1988.

124.12b Civil fine.

Sec. 12b. If a pool or person violates a cease and desist order under this act and has been given notice and an opportunity for a hearing held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, in addition to the actions provided in section 12a(2)(a) to (c), the commissioner may also order a civil fine of not more than $10,000.00 for each violation.

History: Add. 1988, Act 36, Eff. July 1, 1988.

124.13 Contract between 2 or more municipal corporations establishing authority to select single cable television franchisee and to propose model ordinances; adoption, rejection, or modification of proposed contracts and ordinances; validation of acts; inspection and review of contracts by attorney general; conducting business at public meeting; notice; availability of writings to public.

Sec. 13. (1) Two or more municipal corporations, other than counties, in a county with a population of 1 million or more are empowered to enter into a contractual relationship for the purpose of establishing an authority to select a single cable television franchisee which shall serve those municipal corporations and to propose model ordinances establishing reasonable fees, rates and other regulations. Each participating municipal corporation shall adopt, reject or modify such proposed contracts and ordinances. The acts of an authority established prior to January 13, 1982, which meet the criteria set forth in this subsection and the acts of a municipal corporation which is a member of such authority taken in accordance with the powers set forth in this subsection are validated as if such authority had been established and such acts taken subsequent to the effective date of this section.

(2) The contracts and ordinances authorized by this section shall be subject to inspection and review by the attorney general. The attorney general shall take such actions as are necessary to assure compliance with the provisions of this section.

(3) The business which the authority may perform shall be conducted at a public meeting of the authority held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) All writing prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1982, Act 138, Imd. Eff. Apr. 27, 1982.

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