

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 43

WATERWORKS SYSTEMS, SEWERS, AND DISPOSAL PLANTS

324.4301 Waterworks systems, sewers, and disposal plants; acquisition, construction, equipping, operation, and maintenance; acquisition of land; powers of local units of government.

Sec. 4301.

A local unit of government in this state, either individually or jointly by agreement with another local unit of government, may own, acquire, construct, equip, operate, and maintain, either within or outside of the statutory or corporate limits of the local unit or units of government, intercepting sewers, other sanitary and storm sewers, pumping stations, and a plant or plants for the treatment, processing, purification, and disposal in a sanitary manner approved by the department, of the liquid and solid wastes, refuse, sewage and night soil, storm water, and garbage of the local unit or units of government. A local unit of government, either individually or jointly by agreement with another local unit of government, may own, acquire, construct, equip, operate, and maintain either within or outside of the statutory or corporate limits of the local unit or units of government waterworks systems approved by the department of public health, including such facilities as water mains, treatment works, source facilities, pumping stations, reservoirs, storage tanks, and other appurtenances for the purpose of obtaining, treating, and delivering pure and wholesome water in adequate quantity to the local unit or units of government. They may acquire by gift, grant, purchase, or condemnation necessary lands either within or outside of the statutory or corporate limits of the local unit or units of government. However, a township shall not condemn land outside its corporate limits. For the purpose of acquiring property for the uses described in this part, the local unit of government has all the rights, powers, and privileges granted to public corporations under Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.25 of the Michigan Compiled Laws. These powers are in addition to any powers granted to the local unit of government by statute or charter.

History: 1994, Act 451, Eff. Mar. 30, 1995

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular Name: Act 451

Popular Name: NREPA

324.4302 Waterworks systems, sewers, and disposal plants; mortgage bonds.

Sec. 4302.

(1) The waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system, are public utilities within the meaning of any constitutional or statutory provisions for the purpose of acquiring, purchasing, owning, operating, constructing, equipping, and maintaining the waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system. A local unit of government may issue full faith and credit bonds or mortgage bonds for the purposes described in this part beyond the general limits of the bonded indebtedness prescribed by law except as provided in this section. The mortgage bonds as provided in this section shall not impose any general liability upon the local unit of government but shall be secured only on the property and revenues of the utility as provided in this section, including a franchise, stating the terms upon which the purchaser may operate the utility in case of foreclosure. The franchise shall not extend for a longer period than 20 years from the date of the sale on foreclosure. The total amount of mortgage bonds shall not exceed 60% of the original cost of the utility except as provided in this section. Bonds shall not be issued as general obligations of the local unit of government except upon a 3/5 affirmative vote of the qualified electors of the local unit of government and except as provided in this section, not in excess of 3% of the assessed valuation of the real and personal property of the local unit of government as shown by the last preceding tax roll. Bonds shall not be issued as full faith and credit bonds or mortgage bonds of the utility except upon a 3/5 affirmative vote of the legislative body of the local unit of government.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Except for revenue bonds described in subsection (2), all other bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2002, Act 327, Imd. Eff. May 23, 2002

Popular Name: Act 451

Popular Name: NREPA

324.4303 Waterworks systems, sewers, and disposal plants; supervision and control by local units of government; rules; establishment, certification, and assessment of rates or charges.

Sec. 4303.

The legislative body of a local unit of government or the respective legislative bodies of the local units of government who have agreed to jointly own and operate waterworks systems, intercepting sewers, or sewage treatment plants, may create a separate board or may designate certain officials of the local unit or units of government to have the supervision and control of the waterworks systems, intercepting sewers, transfer stations, or sewage and refuse and garbage processing or disposal plants. The legislative body, respective legislative bodies, or the board may make all necessary rules governing the use, operation, and control of the facilities and systems. The legislative body or respective legislative bodies may establish just and equitable rates or charges to be paid to them for the use of the waterworks system or disposal or processing plant and system by each person whose premises are served, and the rates or charges may be certified to the tax assessor and assessed against the premises served and collected or returned in the same manner as other county or municipal taxes are certified, assessed, collected, and returned.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4304 Mortgage bonds; manner of payment; sinking fund.

Sec. 4304.

Bonds that are issued and secured by a mortgage on the utility as provided in this part shall not be a general obligation of the local unit of government, but shall be paid only out of revenues received from the service charges as provided in section 4303 or from a sale of the property and franchises under a foreclosure of the mortgage. If a service rate is charged, a sufficient portion shall be set aside as a sinking fund for the payment of the interest on the bonds and the principal of the bonds at maturity.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4305 Sewers and disposal plants; granting franchise to private corporation.

Sec. 4305.

Instead of owning and operating a sewer system and sewage disposal plant, transfer station, garbage or refuse collection, processing, and disposal plant or system as provided in section 4301, a local unit of government may grant a franchise for a period not to exceed 30 years to a private corporation organized under, or authorized by, the laws of this state to engage in such business, to build, construct, own, and operate a sewage or garbage and refuse processing or disposal system for the purpose of receiving and treating sewage and night soil, refuse, and garbage

from the local unit or units of government. The franchise may authorize the corporation to charge each person owning property, from which the sewage, refuse, or garbage is received, a fee determined to be reasonable by the public service commission of this state, upon proper application made either by the corporation or local unit or units of government, and after holding a public hearing. The franchise may also grant to the corporation the right and privilege to provide collection services and to lay all intercepting and other sewers and connecting pipes in the streets and public alleys of the local unit or units of government as are necessary to receive, transfer, and conduct the sewage, garbage, or refuse to the processing or disposal plant and under reasonable rules, regulations, and supervision as are established by the local unit or units of government. The franchise is void unless approved by 3/5 of the electors of the local unit or units of government voting at a general or special election. This franchise shall not duplicate existing private solid waste management services or facilities that have been developed under part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4306 Contract to receive, treat, transfer, and process sewage, night soil, garbage, and refuse; charges.

Sec. 4306.

The local unit or units of government may enter into a contract with a person to receive, treat, transfer, and process in the manner provided in this part, the sewage, night soil, garbage, and refuse of the local unit or units of government. The contract may authorize the person to charge the owners of the premises served a service rate determined by the local unit or units of government to be just and reasonable, or the local unit or units of government may contract to pay a flat rate for the service, paid out of their general fund or funds, or assess the owners of the property served a reasonable charge to be collected as provided in this part and paid into a fund to be used to defray the contract charges.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4307 Sewage system, solid waste facility, or waterworks system; bonds generally.

Sec. 4307.

(1) In accordance with and to the extent authorized by law, when the department, the department of public health, or a court of competent jurisdiction in this state has ordered, or when the department has issued a permit for, the installation, construction, alteration, improvement, or operation of a sewage system, solid waste facility, or waterworks system in a local unit of government, and the plans for the facility or system have been prepared and approved by the state department or commission having the authority by law to grant the approval, the legislative body or the respective legislative bodies of the local unit or units of government may issue and sell the necessary bonds for the construction, installation, alteration, operation, or improvement, including the treatment works, and other facilities as may be ordered or set forth in the permit as being necessary to provide for the effective operation of the system. This provision shall be construed to allow a local unit of government the option of selling bonds under a department order or permit, or of taking or permitting the matter to go into court and selling bonds under a court order. The legislative body or the respective legislative bodies shall determine the denomination of the bonds and the date, time, and manner of payment. The amount of the bonds either issued or outstanding shall not be included in the amount of bonds that the local unit or units of government are authorized to issue under any statutes of this state or charters. Local units of government issuing bonds under this section may raise a sum annually by taxation as the legislative body or respective legislative bodies consider necessary to pay interest on the bonds, and to pay the principal as it falls due. The annual amount may be in excess of the authorized annual tax rate fixed by statute or charter.

(2) Except as otherwise provided in this part, all bonds issued under this section are subject to the revised

municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Court ordered bonds do not require approval of the electors and are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5, as to publication of notice, petition, and referendum. Bonds other than court ordered bonds issued under this part require approval of the electors at a general or special election only if an appropriate petition is filed as provided by law.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 2002, Act 213, Imd. Eff. Apr. 29, 2002

Popular Name: Act 451

Popular Name: NREPA

324.4308 Waterworks systems, sewers, or disposal systems; court order; plans and specifications; authorization and issuance of bonds.

Sec. 4308.

If an order is made by a court of competent jurisdiction pursuant to this part, the fact that the order was issued shall be recited in the official minutes of the legislative body or the respective legislative bodies. The body or bodies shall require that plans and specifications be prepared for a waterworks, sewage, garbage, or refuse transfer, processing, or disposal system, including the necessary other facilities. After the plans are approved by the legislative body or respective legislative bodies, they shall be submitted to the department of public health or the department for approval. If the plans are approved, the legislative body or respective legislative bodies shall authorize the issuance and sale of the necessary bonds to construct the proposed system or facilities in accordance with the approved plans.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4309 Construction of part.

Sec. 4309.

The authority given by this part is in addition to and not in derogation of any power existing in any of the local units of government under any statutory or charter provisions which they may now have or may adopt.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4310 Waterworks systems, sewers, or disposal plants; court proceedings.

Sec. 4310.

Proceedings under this part shall be taken only in a court of competent jurisdiction in the county in which the proposed waterworks system, interceptors, sewage, garbage, or refuse transfer, processing, or disposal plants are to be constructed.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4311 Waterworks systems, sewers, or disposal plants; agreements between local units of government and municipalities as to bonds.

Sec. 4311.

If considered expedient for the safety and health of the people, local units of government may enter into agreement with each other to raise money and issue bonds to erect and maintain waterworks systems, intercepting sewers, sewage treatment plants, or garbage or refuse transfer, processing, or disposal systems.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

324.4312 Local units of government; contract power; approval.

Sec. 4312.

If local units of government desire to act under this part, the relationship established between such local units of government shall be fixed by contract and such contracts may be made by local units of government under this part in a manner and to the extent that natural persons might make contracts for like purposes. Such contracts before becoming operative shall be approved by a vote of the majority of the members elect of each of the respective legislative bodies of the local units of government operating under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA