

HOUSE BILL NO. 5909

August 13, 2024, Introduced by Rep. Tyrone Carter and referred to the Committee on Regulatory Reform.

A bill to amend 1955 PA 233, entitled

"An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies,"

by amending the title and sections 1, 4, 4a, 4b, 4c, and 4d (MCL 124.281, 124.284, 124.284a, 124.284b, 124.284c, and 124.284d), the title as amended by 1998 PA 182, section 1 as amended by 2009 PA 164, section 4 as amended and section 4c as added by 1985 PA 178,

section 4a as amended by 2008 PA 172, section 4b as amended by 2000 PA 24, and section 4d as amended by 2009 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the incorporation of certain municipal
3 authorities to acquire, own, extend, improve, and operate sewage
4 disposal systems, water supply systems, and solid waste management
5 systems; to prescribe the rights, powers, and duties thereof; to
6 authorize contracts between such authorities and public
7 corporations; **to authorize the appointment or employment of law**
8 **enforcement officers by certain authorities;** to provide for the
9 issuance of bonds to acquire, construct, extend, or improve the
10 systems; and to prescribe penalties and provide remedies.

11 Sec. 1. As used in this act:

12 (a) "Authority", unless the context clearly implies a
13 different meaning, means an authority incorporated under section 2.

14 (b) "Constituent municipality" or "constituent municipalities"
15 includes all of the municipalities that signed or became
16 signatories of articles of incorporation of any authority
17 incorporated under this act. However, if an authority is
18 incorporated by 2 or more counties, each municipality within the
19 respective territorial limits of the counties, whether the counties
20 are original incorporators or subsequently became a constituent
21 part of the authority under section 6, is a constituent
22 municipality.

23 (c) "Indian tribe" means an Indian tribe, band, nation, or
24 other organized group or community of Indians that is recognized as
25 eligible for services by the United States ~~secretary~~ **Secretary** of
26 the ~~interior~~ **Interior** because of their status as Indians.

1 (d) "Law enforcement agency" means a law enforcement agency
2 created by a qualified authority under section 4.

3 (e) ~~(d)~~—"Municipality" means a county, township, city, or
4 village.

5 (f) "Qualified authority" means an authority that owns or
6 operates a sewage disposal system or water supply system with a
7 treatment capacity of 1,000,000,000 gallons or more.

8 (g) ~~(e)~~—"Sewage disposal system" includes all interceptor
9 sewers, storm sewers, sanitary sewers, combined sanitary and storm
10 sewers, sewage treatment plants, and all other plants, works,
11 instrumentalities, and properties used or useful in connection with
12 the collection, treatment, or disposal of sewage or industrial
13 wastes.

14 (h) ~~(f)~~—"Solid waste management system" includes all plants,
15 works, instrumentalities, and properties used or useful in
16 connection with the collection, transportation, processing, or
17 disposal of discarded or waste materials of any sort, including
18 access roads and facilities for resource recovery. Solid waste
19 management system does not include the storage or disposal of toxic
20 materials.

21 (i) ~~(g)~~—"Water supply system" includes all plants, works,
22 instrumentalities, and properties used or useful in connection with
23 obtaining a water supply, the treatment of water, or the
24 distribution of water.

25 Sec. 4. (1) An authority ~~shall be~~ **is** a municipal authority and
26 ~~shall be~~ a public body corporate with power to sue and be sued in
27 any court of this state. ~~It shall possess~~ **An authority possesses**
28 all the powers necessary to carry out the purposes of ~~its~~ **the**
29 **authority's** incorporation and ~~these~~ **the powers** incident thereto. ~~to~~

1 **the powers necessary to carry out the purpose of the authority's**
 2 **incorporation.** The enumeration of ~~any powers of a power of an~~
 3 **authority under** this act ~~shall must~~ not be construed as a
 4 limitation ~~upon an~~ **on the** authority's general powers.

5 (2) An authority may do all of the following:

6 (a) Adopt bylaws for the regulation of ~~its the~~ **authority's**
 7 affairs and the conduct of ~~its the~~ **authority's** business.

8 (b) Adopt an official seal and alter the seal at **the** pleasure
 9 **of the authority.**

10 (c) Maintain an office at ~~such a~~ place or places within ~~the~~
 11 **this** state as ~~it the~~ **authority** may designate.

12 (d) Sue and be sued in ~~its the~~ **authority's** own name, **and** plead
 13 and be impleaded.

14 (e) Determine the location of any project constructed by ~~it~~
 15 **the authority** under the provisions of this act, and ~~to~~ determine,
 16 in ~~its the~~ **authority's** discretion and without reference to any
 17 other provisions of this act or any other law, the design,
 18 standards, and the materials of construction, and construct,
 19 maintain, repair, and operate the project. ~~However, the~~ **The**
 20 functions, powers, and duties of the ~~state~~ department of ~~public~~
 21 health and **human services and** the department of ~~natural resources~~
 22 **environment, Great Lakes, and energy** in connection with any ~~such~~
 23 public improvements ~~shall remain~~ **are** unaffected by this act.

24 (f) Issue bonds of the authority for any of ~~its the~~ **the**
 25 **authority's** corporate purposes under ~~such any~~ means as may be
 26 provided in this act. If revenue bonds are issued under the
 27 provisions of section 12 or sections 12b and 12c, the revenue bonds
 28 ~~shall be~~ **are** payable solely from the revenues pledged for ~~their the~~
 29 payment ~~, as provided in of the revenue bonds under~~ this act.

1 (g) Adopt and ~~promulgate~~**enforce** rules and regulations for the
 2 use **and security** of any project constructed by ~~it~~**the authority**
 3 under the provisions of this act.

4 (h) Acquire, hold, and dispose of real and personal property
 5 in the exercise of ~~its~~**the authority's** powers and the performance
 6 of ~~its~~**the authority's** duties under this act.

7 (3) A qualified authority may do all of the following:

8 (a) Adopt and enforce ordinances, rules, and regulations for
 9 the orderly, safe, efficient, and sanitary operation and use of any
 10 of the following that are owned, operated, or maintained by the
 11 qualified authority:

12 (i) Sewage disposal systems.

13 (ii) Solid waste management systems.

14 (iii) Water supply systems, projects, or facilities.

15 (b) Create a law enforcement agency within the authority to
 16 appoint or employ law enforcement officers.

17 (c) Adopt ordinances providing for civil and criminal
 18 penalties for the violation of an ordinance, rule, or regulation of
 19 the qualified authority adopted under this act to the same extent
 20 as a city that owns a sewage disposal system, solid waste
 21 management system, or water supply system under this act.

22 (d) Enforce ordinances, rules, and regulations adopted by the
 23 qualified authority under this act in a court of competent
 24 jurisdiction in this state.

25 Sec. 4a. (1) ~~The~~**Except as provided in subsection (2), an**
 26 authority ~~shall~~**may** adopt rules and regulations by resolution of
 27 ~~its~~**the authority's** governing body and with concurrence by
 28 resolution of constituent municipalities. After adoption of the
 29 resolution and concurrence by the constituent municipalities, a

1 notice of adoption of the resolution and the rules and regulations,
2 or a summary of those rules and regulations, ~~shall~~**must** be
3 published in a newspaper of general circulation within the
4 territory encompassed by the authority and within the territory
5 furnished service by the authority by contract ~~pursuant to~~**under**
6 section 10. The rules and regulations ~~shall become~~**are** effective 30
7 days after the date of publication of the notice and the rules and
8 regulations or the summary of the rules and regulations. If a
9 summary of rules and regulations is published, the summary ~~shall~~
10 **must** be written in clear and nontechnical language and the
11 authority shall designate in the publication the location where a
12 full copy of the rules and regulations can be inspected or
13 obtained.

14 (2) **A qualified authority may adopt ordinances, rules, and**
15 **regulations by resolution of the qualified authority's governing**
16 **body. After adoption of the resolution, the qualified authority**
17 **shall provide notice of the adoption of the resolution and the**
18 **ordinances, rules, and regulations included in the resolution to**
19 **each constituent municipality of the qualified authority. The**
20 **qualified authority shall publish notice of the resolution and the**
21 **ordinances, rules, and regulations included in the resolution or a**
22 **summary of the ordinances, rules, and regulations on a website**
23 **maintained by the qualified authority and in a newspaper of general**
24 **circulation within the geographic boundaries of the qualified**
25 **authority and any municipality outside of the geographic boundaries**
26 **of the qualified authority to which the qualified authority**
27 **provides service by contract under section 10. An ordinance, rule,**
28 **or regulation adopted by the governing body of a qualified**
29 **authority is effective 30 days after the date of publication of the**

1 notice of the resolution adopting the ordinance, rule, or
2 regulation. If a summary of ordinances, rules, and regulations is
3 published, the summary must be written in clear and nontechnical
4 language, and the qualified authority shall designate in the notice
5 a website address and a physical location where a full copy of the
6 ordinances, rules, and regulations can be inspected or obtained.

7 Sec. 4b. (1) Except as otherwise provided in this act, ~~the an~~
8 authority may prescribe a civil fine not to exceed \$1,000.00 for
9 the violation of a rule or regulation adopted ~~and promulgated~~ under
10 this act. If a civil fine is prescribed, it ~~shall~~ **must** be
11 prescribed in the rule or regulation.

12 (2) **Except as otherwise provided in this act, a qualified**
13 **authority may prescribe a civil fine not to exceed \$1,000.00 for**
14 **the violation of an ordinance, rule, or regulation adopted by the**
15 **governing body of the qualified authority under this act. If a**
16 **civil fine is prescribed, it must be prescribed in the ordinance,**
17 **rule, or regulation.**

18 (3) A fine assessed under this section ~~shall~~ **must** be
19 distributed pursuant to section 8379 of the revised judicature act
20 of 1961, 1961 PA 236, MCL 600.8379.

21 Sec. 4c. ~~The An~~ authority may provide in ~~its~~ **the authority's**
22 rules and regulations, **and a qualified authority may provide in the**
23 **qualified authority's ordinances, rules, and regulations, for**
24 either or both of the following prohibitions and penalties:

25 (a) A person who knowingly submits or prepares for submission
26 to ~~the an~~ authority **or a qualified authority** a false statement,
27 representation, or certification is guilty of a misdemeanor,
28 punishable by imprisonment for not more than 90 days, or a fine of
29 not more than \$500.00, or both. Each violation constitutes a

1 separate and distinct offense.

2 (b) A person who knowingly tampers with or alters a monitoring
3 device or process, causing inaccurate readings or results, is
4 guilty of a misdemeanor, punishable by imprisonment for not more
5 than 90 days, or a fine of not more than \$500.00, or both. Each
6 violation constitutes a separate and distinct offense.

7 Sec. 4d. (1) Subject to subsections (2) and ~~(3)~~, ~~(9)~~, rules
8 and regulations ~~promulgated~~ **adopted by an authority, other than a**
9 **qualified authority**, under this act are enforceable by the
10 authority ~~, its~~ ~~that adopted the rules and regulations, the~~
11 **authority's** constituent municipalities, and municipalities or
12 Indian tribes that have contracted with the authority for the
13 furnishing of service ~~pursuant to~~ ~~under~~ section 10. A person
14 charged with enforcement of ~~these~~ ~~the~~ rules and regulations may
15 issue a citation or an appearance ticket to any person ~~who~~ ~~that~~ is
16 reasonably believed to have violated a rule or regulation
17 ~~promulgated~~ **adopted** under this act.

18 (2) ~~The~~ **An authority, other than a qualified authority**, shall
19 exercise ~~its~~ ~~the authority's~~ enforcement powers under this act
20 against a violator within a municipality.

21 (3) **Ordinances, rules, and regulations adopted by a qualified**
22 **authority under this act are enforceable by the qualified**
23 **authority, the qualified authority's constituent municipalities,**
24 **and municipalities or Indian tribes that have contracted with the**
25 **qualified authority for the furnishing of water, sewage disposal,**
26 **or waste management services under section 10. A person authorized**
27 **to enforce the ordinances, rules, or regulations may issue a**
28 **citation or appearance ticket to any person that is reasonably**
29 **believed to have violated an ordinance, rule, or regulation adopted**

1 by the qualified authority under this act. The ordinances, rules,
2 and regulations of a qualified authority may be enforced by a peace
3 officer under section 2a of chapter IV of the code of criminal
4 procedure, 1927 PA 175, MCL 764.2a.

5 (4) A law enforcement agency established by a qualified
6 authority may grant to a law enforcement officer of that law
7 enforcement agency the same powers, immunities, and authorities
8 granted by the law of this state to a peace officer and a police
9 officer to detect crime, to enforce the criminal laws of this
10 state, and to enforce state laws, including laws under this act,
11 local ordinances, and any ordinances, rules, and regulations
12 adopted by the qualified authority. A copy of the documentation of
13 a grant of authority under this subsection must be filed with the
14 Michigan commission on law enforcement standards created under the
15 Michigan commission on law enforcement standards act, 1965 PA 203,
16 MCL 28.601 to 28.615.

17 (5) To the extent permitted or required by federal law, a law
18 enforcement officer of a qualified authority may enforce federal
19 laws and regulations applicable to the security of sewage disposal
20 systems, solid waste management systems, or water supply systems.

21 (6) A qualified authority may administer a sworn oath of
22 office to a law enforcement officer of the qualified authority
23 conferring the power on the law enforcement officer to administer
24 the general criminal laws of this state.

25 (7) A law enforcement officer of a qualified authority granted
26 the authority of a law enforcement officer under subsections (4)
27 and (5) is a peace officer of this state with the authority of a
28 police officer of this state under this act and under the code of
29 criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

1 (8) A law enforcement agency of a qualified authority shall
2 submit monthly uniform crime reports pertaining to crimes occurring
3 within the qualified authority's jurisdiction to the department of
4 state police in the manner provided under section 1 of 1968 PA 319,
5 MCL 28.251.

6 (9) ~~(3)~~A municipality or Indian tribe may exercise ~~its~~**the**
7 enforcement powers **of the municipality or Indian tribe** under this
8 act against a violator in territory under ~~its~~**the** jurisdiction **of**
9 **the municipality or Indian tribe.**

10 (10) ~~(4)~~For the purposes of this section, enforcement powers
11 include the power to bring an action in a court of competent
12 jurisdiction to enjoin the violation of a rule or regulation
13 ~~promulgated~~**adopted** under this act or to recover actual damages
14 sustained due to the violation, or both. Costs and fees ~~shall~~**must**
15 be awarded in those actions as provided in sections 2401 to 2461 of
16 the revised judicature act of 1961, 1961 PA 236, MCL 600.2401 to
17 600.2461, or other applicable law.