

# SENATE BILL No. 437

June 18, 2013, Introduced by Senator NOFS and referred to the Committee on Local Government and Elections.

A bill to amend 1967 (Ex Sess) PA 7, entitled "Urban cooperation act of 1967," by amending sections 5, 7, and 9 (MCL 124.505, 124.507, and 124.509), section 5 as amended by 2011 PA 263 and section 7 as amended by 2002 PA 445.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5. (1) A joint exercise of power pursuant to this act  
2 shall be made by contract or contracts in the form of an interlocal  
3 agreement which may provide for:

4           (a) The purpose of the interlocal agreement or the power to be  
5 exercised and the method by which the purpose will be accomplished  
6 or the manner in which the power will be exercised.

7           (b) The duration of the interlocal agreement and the method by

1 which it may be rescinded or terminated by any participating public  
2 agency prior to the stated date of termination.

3 (c) The precise organization, composition, and nature of any  
4 separate legal ~~or administrative~~ entity **EXPRESSLY** created in the  
5 interlocal agreement with the powers designated to that entity.

6 (d) The manner in which the parties to the interlocal  
7 agreement will provide for financial support from the treasuries  
8 that may be made for the purpose set forth in the interlocal  
9 agreement, payments of public funds that may be made to defray the  
10 cost of such purpose, advances of public funds that may be made for  
11 the purposes set forth in the interlocal agreements and repayment  
12 of the public funds, and the personnel, equipment, or property of 1  
13 or more of the parties to the agreement that may be used in lieu of  
14 other contributions or advances.

15 (e) The manner in which funds may be paid to and disbursed by  
16 any separate legal ~~or administrative~~ entity created pursuant to the  
17 interlocal agreement.

18 (f) A method or formula for equitably providing for and  
19 allocating revenues, including, in the case of an authorized  
20 undertaking that is publicly owned at the time the interlocal  
21 agreement is entered into or becomes publicly owned during the time  
22 the interlocal agreement is in effect, revenues derived by or  
23 payable to any participating party or any other public agency which  
24 revenues directly or indirectly result from that undertaking,  
25 whether the revenues are in the form of ad valorem taxes on real or  
26 personal property, taxes on income, specific taxes or funds made  
27 available by the state in lieu of ad valorem property taxes or

1 local income taxes, any other form of taxation, assessment, levy,  
2 or impost, or any money paid under or which revert from a tax  
3 increment financing plan. The interlocal agreement may also provide  
4 a method or formula equitably providing for and allocating revenues  
5 derived from a federal or state grant or loan, or from a gift,  
6 bequest, grant, or loan from a private source. The interlocal  
7 agreement may also provide for a method or formula for equitably  
8 allocating and financing the capital and operating costs, including  
9 payments to reserve funds authorized by law and payments of  
10 principal and interest on obligations. Each method or formula shall  
11 be established by the participating parties to the interlocal  
12 agreement on a ratio of full valuation of real property, on the  
13 basis of the amount of services rendered or to be rendered, on the  
14 basis of benefits received or conferred or to be received or  
15 conferred, or on any other equitable basis, including the levying  
16 of taxes or assessments on the entire area serviced by the parties  
17 to the interlocal agreement, subject to such limitations as may be  
18 contained in the constitution and statutes of this state, to pay  
19 those capital and operating costs.

20 (g) The public agency that will function as the employer of  
21 personnel and staff needed for the joint exercise of power.

22 (h) The fixing and collecting of charges, rates, rents, fees,  
23 loan repayments, loan interest rates, or other charges on loans,  
24 where appropriate, and the making and promulgation of necessary  
25 rules and regulations and their enforcement by or with the  
26 assistance of the participating parties to the interlocal  
27 agreement.

1 (i) The manner in which purchases shall be made and contracts  
2 entered into.

3 (j) The acquisition, ownership, custody, operation,  
4 maintenance, lease, or sale of real or personal property.

5 (k) The disposition, division, or distribution of any property  
6 acquired through the execution of such interlocal agreement.

7 (l) The manner in which, after the completion of the purpose of  
8 the interlocal agreement, any surplus money shall be returned.

9 (m) The acceptance of gifts, grants, assistance funds, or  
10 bequests and the manner in which those gifts, grants, assistance  
11 funds, or bequests may be used for the purpose set forth in the  
12 interlocal agreement.

13 (n) The making of claims for federal or state aid payable to  
14 the individual or several participants on account of the execution  
15 of the interlocal agreement.

16 (o) The manner of responding for any liabilities that might be  
17 incurred through performance of the interlocal agreement and  
18 insuring against any such liability.

19 (p) The adjudication of disputes or disagreements, the effects  
20 of failure of participating parties to pay their shares of the  
21 costs and expenses, and the rights of the other participants in  
22 such cases.

23 (q) The manner in which strict accountability of all funds  
24 shall be provided for and the manner in which reports, including an  
25 annual independent audit, of all receipts and disbursements shall  
26 be prepared and presented to each participating party to the  
27 interlocal agreement.

1           (r) The manner of investing surplus funds or proceeds of  
2 grants, gifts, or bequests to the parties to the interlocal  
3 agreement under the control of a legal ~~or administrative~~ entity  
4 created under section 7.

5           (s) Any other necessary and proper matters agreed upon by the  
6 participating public agencies.

7           (2) The public agencies that are parties to a contract entered  
8 into pursuant to this act have the responsibility, authority, and  
9 right to manage and direct on behalf of the public the functions or  
10 services performed or exercised to the extent provided in the  
11 contract.

12           (3) The contents or language of a contract for a joint  
13 exercise of power under this act shall be a permissive subject of  
14 collective bargaining between a public agency and a bargaining  
15 representative of its employees. If a public agency and a  
16 bargaining representative of its employees engage in collective  
17 bargaining before the contract for a joint exercise of power is  
18 approved and that public agency and that bargaining representative  
19 reach an agreement on issues that would obligate the public agency  
20 that will function as an employer in the joint exercise of power,  
21 the contract for that joint exercise of power shall include those  
22 obligations.

23           (4) Nothing in this act creates an employment relationship  
24 between the existing employees of a public agency and the proposed  
25 joint exercise of power.

26           (5) A joint exercise of power is effective through its  
27 contract at least 180 days before the actual transfer of functions

1 or services. Before the effective date of the joint exercise of  
2 power, the public agencies that are parties to the contract shall  
3 affirm in writing to the joint exercise of power those employees  
4 who will be transferred to the joint exercise of power.

5 (6) If employees who are transferred to the joint exercise of  
6 power are represented by a labor organization, those employees are  
7 subject to their previous terms and conditions of employment until  
8 those terms and conditions of employment are modified in accordance  
9 with 1947 PA 336, MCL 423.201 to 423.217, or for 6 months after the  
10 transfer to the joint exercise of power, whichever is earlier.  
11 Negotiations on a collective bargaining agreement with a joint  
12 exercise of power shall begin no later than 180 days before the  
13 date the employees transfer to the joint exercise of power.

14 (7) Subject to subsection (8), a representative of the  
15 employees or group of employees in a public agency who previously  
16 represented or was entitled to represent the employees or group of  
17 employees in a public agency under 1947 PA 336, MCL 423.201 to  
18 423.217, shall continue to represent the employees or group of  
19 employees after those employees or group of employees are  
20 transferred to the joint exercise of power.

21 (8) This section does not limit the rights of employees, under  
22 applicable law, to assert that a bargaining representative  
23 protected by subsection (7) is no longer their representative. The  
24 employees of the joint exercise of power are eligible as of the day  
25 the joint exercise of power becomes effective through its contract  
26 to choose their representative under 1947 PA 336, MCL 423.201 to  
27 423.217. This subsection does not extend the time limits as

1 provided in subsection (5).

2 (9) If multiple labor organizations assert the right to  
3 represent all or part of the workforce of the joint exercise of  
4 power or where a substantial portion of the transferred employees  
5 were not previously represented, in the absence of a voluntary  
6 mutual agreement, at the request of any party or on the initiative  
7 of the Michigan employment relations commission, the Michigan  
8 employment relations commission shall conduct a representation  
9 election.

10 (10) In the absence of a voluntary mutual agreement, the  
11 workforce of the joint exercise of power shall be merged by using a  
12 single seniority list for each of the same or similar  
13 classifications. The single seniority list shall be composed of all  
14 employees from each public agency employed or having recall rights  
15 on the date of transfer and shall be used for purposes that  
16 include, but are not limited to, initial assignments, layoffs,  
17 recalls, and job bidding. Disputes concerning the single seniority  
18 list or use of the single seniority list shall be heard by a single  
19 arbitrator appointed by the Michigan employment relations  
20 commission.

21 (11) Nothing in this section requires a public agency or a  
22 joint exercise of power to assume a collective bargaining agreement  
23 between another public agency and its employees.

24 Sec. 7. (1) An interlocal agreement may provide for a separate  
25 legal ~~or administrative~~ entity to administer or execute the  
26 agreement which may be a commission, board, or council constituted  
27 pursuant to the agreement. ~~The~~ **IF AN INTERLOCAL AGREEMENT DOES NOT**

1 EXPRESSLY PROVIDE FOR A SEPARATE LEGAL ENTITY, THEN A SEPARATE  
 2 LEGAL ENTITY SHALL NOT BE CREATED. IF AN INTERLOCAL AGREEMENT DOES  
 3 EXPRESSLY PROVIDE FOR A SEPARATE LEGAL ENTITY, THE entity shall be  
 4 a public body, corporate or politic for the purposes of this act.  
 5 The governing body of each public agency shall appoint a member of  
 6 the commission, board, or council constituted pursuant to the  
 7 agreement. That member may be removed by the appointing governing  
 8 body at will. The ~~administrative or~~ **SEPARATE** legal entity shall not  
 9 be operated for profit. No part of its earnings shall inure to the  
 10 benefit of a person other than the public agencies that created it.  
 11 Upon termination of the interlocal agreement, title to all property  
 12 owned by the entity shall vest in the public agencies that  
 13 incorporated it.

14 (2) A separate legal ~~or administrative~~ entity created by an  
 15 interlocal agreement shall possess the common power specified in  
 16 the agreement and may exercise it in the manner or according to the  
 17 method provided in the agreement. The **SEPARATE LEGAL** entity may ~~be~~  
 18 ~~in addition to its other powers, authorized in its own name to~~ **ALSO**  
 19 make and enter into contracts; ~~to~~ employ agencies or employees; ~~to~~  
 20 acquire, construct, manage, maintain, or operate buildings,  
 21 works, or improvements; ~~to~~ acquire, hold, or dispose of property;  
 22 ~~to~~ incur debts, liabilities, or obligations that, except as  
 23 expressly authorized by the parties, do not constitute the debts,  
 24 liabilities, or obligations of any of the parties to the agreement;  
 25 ~~to~~ cooperate with a public agency, an agency or instrumentality  
 26 of that public agency, or another legal ~~or administrative~~ entity  
 27 created by that public agency under this act; ~~to~~ make loans from



1 the proceeds of gifts, grants, assistance funds, or bequests  
2 pursuant to the terms of the interlocal agreement creating the  
3 entity; ~~and to~~ form other entities necessary to further the  
4 purpose of the interlocal agreement. The **SEPARATE LEGAL** entity may  
5 sue and be sued in its own name.

6 (3) No separate legal ~~or administrative~~ entity created by an  
7 interlocal agreement shall possess the power or authority to levy  
8 any type of tax within the boundaries of any governmental unit  
9 participating in the interlocal agreement, or to issue any type of  
10 bond in its own name, or to in any way indebted a governmental unit  
11 participating in the interlocal agreement.

12 (4) A separate legal ~~or administrative~~ entity created by an  
13 interlocal agreement may be authorized by the interlocal agreement  
14 to borrow money and to issue bonds or notes in its name for local  
15 public improvements or for economic development purposes as  
16 provided in the interlocal agreement.

17 (5) The entity created by the interlocal agreement shall not  
18 borrow money or issue bonds or notes for a sum that, together with  
19 the total outstanding bonded indebtedness of the entity, exceeds 2  
20 mills of the taxable value of the taxable property within the local  
21 governmental units participating in the interlocal agreement as  
22 determined under section 27a of the general property tax act, 1893  
23 PA 206, MCL 211.27a.

24 (6) Bonds or notes issued under this act are a debt of the  
25 entity created by the interlocal agreement and not of the  
26 participating local governmental units.

27 (7) Bonds or notes issued under this act are declared to be

1 issued for an essential public and governmental purpose and,  
2 together with interest on those bonds or notes and income from  
3 those bonds or notes, are exempt from all taxes.

4 (8) Bonds or notes issued under this act are subject to the  
5 revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
6 141.2821.

7 Sec. 9. (1) All of the privileges and immunities from  
8 liability, and exemptions from laws, ordinances, and rules, and all  
9 pensions, relief, disability, ~~workmen's~~ **WORKER'S** compensation, and  
10 other benefits ~~which~~ **THAT** apply to the activity of officers,  
11 agency, or employees of any public agents or employees of any  
12 public agency when performing their respective functions within the  
13 territorial limits for their respective agencies shall apply to the  
14 same degree and extent to the performance of ~~such~~ **THOSE** functions  
15 and duties of ~~such~~ **THOSE** officers, agents, or employees  
16 extraterritorially under the provisions of any such interlocal  
17 agreement.

18 (2) An interlocal agreement does not relieve a public agency  
19 of any obligation or responsibility imposed upon it by law except  
20 to the extent of actual and timely performance thereof by 1 or more  
21 of the parties to the agreement or any legal ~~or~~ administrative  
22 entity created by the agreement in which case the performance may  
23 be offered in satisfaction of the obligation or responsibility.