

HOUSE BILL No. 4497

April 20, 2017, Introduced by Rep. Kosowski and referred to the Committee on Local Government.

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 that 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 that may be obtained under the laws 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 is 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 is bound by existing labor union
7 agreements with publicly or privately owned water supply systems or
8 sewage disposal systems that are acquired, purchased, or condemned
9 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 is governed by a 9-member board of
17 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 must 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 has 1
7 vote.

8 (3) The first meeting of the board must 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 retains its municipal
14 water distribution system and municipal sewage collection system
15 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 retains ownership of its portion of the regional system and
7 all rights, privileges, interests, easements, books, maps, plans,
8 papers, records, and title to them. A local unit of government that
9 owns a regional system shall assign all contracts for water supply
10 and sewage disposal and treatment to the alliance. A local unit of
11 government that owns a regional system may transfer ownership of
12 the regional system to the alliance. In order to assure continuity
13 of operation and maintenance, a local unit of government that owns
14 a regional system shall continue to maintain and operate the
15 regional system until January 1, 2018, when the alliance shall
16 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 that the alliance has agreed to control, supervise,
6 administer, operate, and maintain shall be financed, in addition to
7 other methods of financing provided by law, by any of the
8 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 must 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 does 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 must
13 be as provided in section 6 of article IX of the state constitution
14 of 1963 for contract obligations in anticipation of which bonds are
15 issued.

16 (3) The bonds of the alliance must 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 must be available to the public
25 during normal business hours in compliance with the freedom of
26 information act, 1976 PA 442, MCL 15.231 to 15.246. The business
27 that the board may perform must be conducted at a public meeting of

1 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 must 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 must not be construed as a limitation upon those
11 general powers.

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

15 Enacting section 1. This act takes effect 90 days after the
16 date it is enacted into law.

17 Enacting section 2. This act does not take effect unless
18 Senate Bill No. _____ or House Bill No. 4498 (request no. 02215'17) of
19 the 99th Legislature is enacted into law.