

SUBSTITUTE FOR

HOUSE BILL NO. 5705

(As amended December 4, 2012)

<<A bill to amend 1990 PA 100, entitled
"City utility users tax act,"
by amending section 2 of chapter 1 (MCL 141.1152), as amended by
2011 PA 57, and by adding sections 8a and 8b to chapter 1.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER 1

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Sec. 2. (1) The governing body of a city having a population

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of 600,000 or more, by a lawfully adopted ordinance that

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incorporates by reference the uniform city utility users tax

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ordinance set forth in chapter 2, may levy, assess, and collect

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from those users in that city a utility users tax as provided in

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the ordinance. However, a uniform city utility users tax ordinance

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containing substantially the same provisions provided for in

1 chapter 2 adopted by the governing body of a city before June 13,
2 1990 that has not been rescinded by that governing body is
3 considered an ordinance adopted under this act and a tax imposed
4 and collected under that ordinance is revived. The governing body
5 shall set the rate of tax in increments of 1/4 of 1% that shall not
6 exceed 5%. **IF A CITY CURRENTLY ELIGIBLE TO LEVY A TAX UNDER THIS**
7 **ACT ENTERS INTO A CONTRACT WITH A LIGHTING AUTHORITY, IN WHICH IT**
8 **PLEDGES REVENUES FROM THE TAXES LEVIED UNDER THIS ACT, THE CITY IS**
9 **AUTHORIZED TO LEVY THE TAX UNDER THIS ACT UNTIL ALL RELATED**
10 **OUTSTANDING BONDS OF THE LIGHTING AUTHORITY HAVE BEEN PAID**
11 **NOTWITHSTANDING THE POPULATION OF THAT CITY.**

12 (2) A uniform city utility users tax ordinance may be lawfully
13 adopted or **UNLESS REVENUES HAVE BEEN OTHERWISE PLEDGED** rescinded by
14 the governing body at any time and its adoption shall become
15 effective on the first day of any month, following adoption of the
16 ordinance, as specified in the ordinance. The ordinance may be
17 rescinded at any time by the governing body in the same manner in
18 which the ordinance was adopted and with appropriate enforcement,
19 collection, and refund provisions with respect to liabilities
20 incurred before the effective date of its rescission. The ordinance
21 shall not be amended except as provided by the legislature. A
22 village and a city under 600,000 population shall not impose and
23 collect a utility users tax **EXCEPT AS OTHERWISE PROVIDED IN**
24 **SUBSECTION (1)**. A city that adopts or rescinds the tax shall notify
25 within 7 days by certified mail all public utilities or resale
26 customers affected by the action of the governing body. Except as
27 otherwise provided in this section, a city now having or that may

1 attain a population of 600,000 or more shall not impose a utility
2 users tax except by adopting the entire uniform city utility users
3 tax ordinance as set forth in chapter 2.

4 (3) The administrator, as that term is defined in chapter 2,
5 of the tax shall file a report indicating the total amount of
6 revenue collected in the prior fiscal year with the state revenue
7 commissioner by August 1 of each year, beginning on August 1, 1985.
8 The administrator shall make the report available to the public at
9 the same time.

10 (4) ~~The~~ **UNLESS REVENUES HAVE BEEN OTHERWISE PLEDGED TO PAY**
11 **BONDS ISSUED BY A LIGHTING AUTHORITY, THE** revenue generated from
12 this tax shall be placed directly in the budget of the police
13 department of a city described in this act and shall be used
14 exclusively to retain or hire police officers.

15 (5) **NOTWITHSTANDING SUBSECTION (4) OR ANY ORDINANCE OF A CITY**
16 **TO THE CONTRARY, A CITY THAT FORMS A LIGHTING AUTHORITY SHALL PAY**
17 **\$12,500,000.00 ANNUALLY TO THAT LIGHTING AUTHORITY FROM THE**
18 **PROCEEDS OF THE TAX AUTHORIZED UNDER THIS ACT. IF THE LIGHTING**
19 **AUTHORITY ISSUES BONDS PURSUANT TO A CONTRACT WITH THE CITY UNDER**
20 **THIS ACT AND PLEDGES REVENUES FROM TAXES LEVIED UNDER THIS ACT,**
21 **THOSE REVENUES SHALL BE DEPOSITED AND USED AS PROVIDED IN THIS ACT.**
22 **AFTER A CONTRACT DESCRIBED IN THIS SUBSECTION IS ENTERED INTO, THE**
23 **TRUSTEE, AFTER SETTING ASIDE FUNDS AS REQUIRED BY THE TRUST**
24 **INDENTURE, SHALL PAY TO THE LIGHTING AUTHORITY \$12,500,000.00, LESS**
25 **THE AMOUNT SET ASIDE. THE TRUST INDENTURE SHALL PROVIDE THAT THE**
26 **REMAINING REVENUES BE RETURNED TO THE CITY. NOTHING IN THIS**
27 **SUBSECTION SHALL OBLIGATE A CITY OR TRUSTEE TO REMIT TO THE**

1 LIGHTING AUTHORITY MORE THAN IS COLLECTED FROM TAXES LEVIED UNDER
2 THIS ACT.

3 (6) ~~(5)~~—As used in this section, "police officer" means a
4 police officer, investigator, or police sergeant.

5 (7) AS USED IN THIS ACT, "LIGHTING AUTHORITY" MEANS A LIGHTING
6 AUTHORITY CREATED UNDER THE MUNICIPAL LIGHTING AUTHORITY ACT.

7 SEC. 8A. NOTWITHSTANDING ANY ORDINANCE OF A CITY LEVYING A TAX
8 AUTHORIZED BY THIS ACT, IF A CITY LEVYING THE TAX AUTHORIZED BY
9 THIS ACT ENTERS INTO A CONTRACT WITH A LIGHTING AUTHORITY, ALL OF
10 THE FOLLOWING SHALL APPLY:

11 (A) THE CITY SHALL SEND NOTICE TO EACH PUBLIC UTILITY AND
12 RESALE CUSTOMER TO REMIT TAXES COLLECTED UNDER THIS ACT TO A
13 TRUSTEE UNTIL NOTIFIED BY THAT TRUSTEE TO RETURN THE FUNDS TO THE
14 CITY.

15 (B) AFTER RECEIVING A NOTICE DESCRIBED IN SUBDIVISION (A),
16 EACH PUBLIC UTILITY AND RESALE CUSTOMER SO NOTIFIED SHALL REMIT
17 TAXES AS DIRECTED BY THE NOTICE TO THE TRUSTEE UNTIL NOTIFIED BY
18 THE TRUSTEE TO REMIT TAXES TO THE CITY.

19 (C) THE TRUSTEE SHALL NOTIFY EACH PUBLIC UTILITY AND RESALE
20 CUSTOMER TO REMIT TAXES COLLECTED UNDER THIS ACT TO THE CITY WITHIN
21 45 DAYS OF THE RETIREMENT OF DEBT SERVICE ON THE BONDS ISSUED BY A
22 LIGHTING AUTHORITY.

23 SEC. 8B. NOTWITHSTANDING ANY ORDINANCE OF A CITY LEVYING THE
24 TAX OR ANY OTHER PROVISION OF THIS ACT, ANY UTILITY, RESALE
25 CUSTOMER, OTHER ENTITY, OR PERSON THAT COLLECTS A TAX OR ANY MONEY
26 REPRESENTED TO BE A TAX AUTHORIZED UNDER THIS ACT HOLDS THE AMOUNT
27 SO COLLECTED IN TRUST FOR THE BENEFIT OF THE CITY, OR FOR

House Bill No. 5705 as amended June 14, 2012

1 BONDHOLDERS SECURED BY A PLEDGE WITH A LIGHTING AUTHORITY.

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House Bill NO. 5705 as amended June 14, 2012

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House Bill No. 5705 (H-1) as amended June 7, 2012
as amended June 14, 2012

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[Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

- (a) Senate Bill No. 970.
- (b) House Bill No. 5688.]