

HOUSE BILL No. 5705

May 30, 2012, Introduced by Reps. Walsh, Stapleton and Wayne Schmidt and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) The governing body of a city having a population
2 of 600,000 or more, by a lawfully adopted ordinance that
3 incorporates by reference the uniform city utility users tax
4 ordinance set forth in chapter 2, may levy, assess, and collect
5 from those users in that city a utility users tax as provided in
6 the ordinance. However, a uniform city utility users tax ordinance
7 containing substantially the same provisions provided for in
8 chapter 2 adopted by the governing body of a city before June 13,

1 1990 that has not been rescinded by that governing body is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

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11 adopted or **UNLESS REVENUES HAVE BEEN OTHERWISE PLEDGED** rescinded by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15 rescinded at any time by the governing body in the same manner in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

1 tax ordinance as set forth in chapter 2.

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

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

13 (5) **NOTWITHSTANDING SUBSECTION (4) OR ANY ORDINANCE OF A CITY**
14 **TO THE CONTRARY, A CITY THAT FORMS A LIGHTING AUTHORITY SHALL PAY**
15 **\$12,500,000.00 ANNUALLY TO THAT LIGHTING AUTHORITY FROM THE**
16 **PROCEEDS OF THE TAX AUTHORIZED UNDER THIS ACT. IF THE LIGHTING**
17 **AUTHORITY ISSUES BONDS PURSUANT TO A CONTRACT WITH THE CITY UNDER**
18 **THIS ACT AND PLEDGES REVENUES FROM TAXES LEVIED UNDER THIS ACT,**
19 **THOSE REVENUES SHALL BE DEPOSITED AND USED AS PROVIDED IN THIS ACT.**
20 **AFTER A CONTRACT DESCRIBED IN THIS SUBSECTION IS ENTERED INTO, THE**
21 **TRUSTEE, AFTER PAYING DEBT SERVICE ON THE BONDS SECURED BY THE**
22 **PLEDGE, SHALL PAY TO THE LIGHTING AUTHORITY \$12,500,000.00 LESS THE**
23 **ANTICIPATED DEBT SERVICE OF THE BONDS AS DETERMINED BY THE LIGHTING**
24 **AUTHORITY, TAKING INTO ACCOUNT ANY ANTICIPATED FEDERAL TAX CREDITS,**
25 **TO BE PAID THAT YEAR. NOTHING IN THIS SUBSECTION SHALL OBLIGATE A**
26 **CITY OR TRUSTEE TO REMIT TO THE LIGHTING AUTHORITY MORE THAN IS**
27 **COLLECTED FROM TAXES LEVIED UNDER THIS ACT.**

1 (6) ~~(5)~~As used in this section, "police officer" means a
2 police officer, investigator, or police sergeant.

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

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

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

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

17 SEC. 8B. NOTWITHSTANDING ANY ORDINANCE OF A CITY LEVYING THE
18 TAX OR ANY OTHER PROVISION OF THIS ACT, ANY UTILITY, RESALE
19 CUSTOMER, OTHER ENTITY, OR PERSON THAT COLLECTS A TAX OR ANY MONEY
20 REPRESENTED TO BE A TAX AUTHORIZED UNDER THIS ACT HOLDS THE AMOUNT
21 SO COLLECTED IN TRUST FOR THE BENEFIT OF THE CITY, OR FOR
22 BONDHOLDERS SECURED BY A PLEDGE WITH A LIGHTING AUTHORITY.