

Legislative Analysis



LAND BANK AUTHORITY SERVICE CHARGES

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<http://www.house.mi.gov/hfa>

House Bills 4675 (H-2) and 4679 as passed by the House
Sponsor: Rep. Kristian C. Grant
Committee: Tax Policy
Complete to 7-9-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4675 would amend the Land Bank Fast Track Act to specify that the property and income of a land bank authority is exempt from all taxes, special assessments, and user fees levied by the state or a local government.

Currently, the act provides that land bank authorities are exempt from all *taxation* by state and local governments.

The bill would apply to all taxes, special assessments and user fees levied on or after its effective date, and would not prevent an authority from contracting with a local government for services. If an authority or its tenant enters into an express contract for services from a local government, a user fee could be charged for those services. Local governments would be prohibited from providing services to an authority or its tenant unless an express contract is entered into.

MCL 124.754, 124.763, and 124.764

House Bill 4679 would amend the Revenue Bond Act to allow a *public improvement* to provide a free service to a land bank fast track authority created under the Land Bank Fast Track Act.

Currently, the act requires that a *public corporation* that is rendered a service by a public improvement must be charged the reasonable cost and value of that service, except for a hospital or other health care facility providing medical care to the indigent to comply with the conditions of a grant or contribution from a public or private donor.

Public corporation means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the Municipal Health Facilities Corporations Act.

Public improvement means only the following improvements, including the whole or a part of any of them or any combination of or interest or participation in them, as determined by the governing body:

- Housing facilities.
- Garbage disposal plants.
- Rubbish disposal plants.

- Incinerators.
- Transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems.
- Sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes.
- Storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water.
- Water supply systems, including plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems.
- Approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems.
- Automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public.
- Yacht basins.
- Harbors.
- Docks.
- Wharves.
- Terminal facilities.
- Elevated highways.
- Bridges over, tunnels under, and ferries across bodies of water; community buildings.
- Public wholesale markets for farm and food products.
- Stadiums.
- Convention halls.
- Auditoriums.
- Dormitories.
- Hospitals and other health care facilities.
- Buildings devoted to public use.
- Museums.
- Parks.
- Recreational facilities.
- Reforestation projects.
- Aeronautical facilities.
- Marine railways.
- Any right or interest in or equipment for the above improvements.

MCL 141.118

BRIEF DISCUSSION:

It appears that the bills are intended to clarify the intent of the amended acts in response to two recent, conflicting court cases regarding the liability of land bank authorities to pay stormwater and sewage fees in the city of Highland Park.

In *City of Highland Park v State Land Bank Authority*, the Michigan Court of Appeals ruled that the state land bank fell under the Revenue Bond Act's definition of a "public corporation" and thus was liable to pay the reasonable cost and value of the drainage and stormwater services.¹

In *City of Highland Park v Wayne County Land Bank Authority*, the Wayne County Circuit Court ruled that the city's stormwater charges are a tax rather than a user fee, and that the land bank was not liable to pay them. The city has appealed the decision to the Court of Appeals.²

According to the State Land Bank, land banks have very limited funding and often obtain almost all of their properties involuntarily through tax reversion. They argue that without the bills, the additional costs imposed on land banks for maintaining these properties would impose a significant financial burden and limit their ability to continue operating and accepting these properties.

Opponents of the bills raised concerns about the lack of clarity in the language to ensure that the exempted fees and taxes are paid by the individual or entity that obtains a property from a land bank.

FISCAL IMPACT:

The bills likely would result in reduced state expenditures for the State Land Bank and alter the allocation and distribution of revenues and expenditures at the local level between land banks (both local and state) and local governments affected by the provisions of the bill.

The expanded exemption under House Bill 4675 aims to resolve conflicting court opinions (noted in **Background**, above) related differing treatment of exemptions for different land banks. To the extent that the State Land Bank is no longer required to pay assessments and fees, state expenditures would be reduced. At the local level, local land banks would realize reduced expenditures, and local units of government levying assessments and fees would realize reduced revenue on those properties under the control of a land bank. The provisions of the bill presumably would also settle any existing contested claims around assessments or fees and affect prior payments made that would now be considered exempt. The scope and magnitude of any specific fiscal impact for the state or local unit of government would depend on the characteristics of the property and the assessment or fee that was levied.

POSITIONS:

A representative of the State Land Bank Authority testified in support of the bills. (11-1-23)

¹ <https://cases.justia.com/michigan/court-of-appeals-published/2022-355948.pdf?ts=1645279226>

² <https://www.courts.michigan.gov/c/courts/coa/case/362158>

The Ingham County Treasurer indicated support for the bills. (11-1-23)

A representative of the Michigan Townships Association testified in opposition to the bills.
(11-1-23)

The Michigan Assessors Association indicated opposition to the bills. (11-1-23)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.