

**Chapter 123**  
**LOCAL GOVERNMENT**  
**DIVISION OF TERRITORY**

**Act 38 of 1883**

AN ACT to provide for adjustment of rights and liabilities on division of territory of cities and townships.

**History:** 1883, Act 38, Eff. Sept. 8, 1883

*The People of the State of Michigan enact:*

**123.1 Division of territory; adjustment of property rights and liabilities.**

Sec. 1.

When land shall be detached from any city or township in this state and attached to any city or township, or organized into a new township, the moneys, rights, credits and personal property belonging to any city or township, the boundary of which may be so changed, or from which a new township shall be organized, shall be divided between said cities, townships, or city and township; the city or township to which said territory is attached, or the newly organized township, as the case may be, to have such a proportion as the value of the taxable property attached thereto, or embraced in such new township, bears to the whole value of the taxable property of the city or township from which said territory was detached and the city or township from which territory is detached shall be entitled to the balance of said moneys, rights, credits and personal property, the value of said taxable property to be ascertained from the assessment roll of said city or township made immediately before such change of boundary: Provided, That in case said assessment roll shall have been lost or destroyed, the value of said taxable property may be ascertained by the assessment or tax roll of said city or township made before and nearest to the time of said change of boundary which can be produced; and in case all of the assessment and tax rolls of said city or township made prior to such division or organization of the new township shall have been lost or destroyed, then the value of said taxable property may be determined by any other competent evidence.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109b ;-- Am. 1887, Act 51, Imd. Eff. Mar. 29, 1887 ;-- CL 1897, 3462 ;-- CL 1915, 3452 ;-- CL 1929, 2334 ;-- CL 1948, 123.1

**123.2 Division of territory; sale of lands; division of proceeds.**

Sec. 2.

When the boundary of any city or township shall be changed in the manner provided in the preceding section, any land of which such city or township, from which said territory is detached, shall be seized, shall be sold by the proper city or township authorities of the city or township in which said land was located before the division, and the moneys derived from such sale shall be divided between the said city and township in the manner provided in section 1 of this act; and the city or township in which the said land may be situated after the change of boundary may purchase the said real estate.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109c ;-- CL 1897, 3463 ;-- CL 1915, 3453 ;-- CL 1929, 2335 ;-- CL 1948, 123.2

**123.3 Division of territory; burial grounds.**

Sec. 3.

The preceding section of this chapter shall not apply to any cemetery or burying ground belonging to any city or township, but the same shall belong to the city or township within which it may be situated after the division shall have been made.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109d ;-- CL 1897, 3464 ;-- CL 1915, 3454 ;-- CL 1929, 2336 ;-- CL 1948, 123.3

**123.4 Division of territory; apportionment of debts.**

Sec. 4.

All debts owing by a city or township from which territory has been detached, as provided for in section 1 of this act, shall be apportioned in the same manner as the personal property of such city or township, and each city and township shall be charged with and pay its share of the debts according to such apportionment.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109e ;-- CL 1897, 3465 ;-- CL 1915, 3455 ;-- CL 1929, 2337 ;-- CL 1948, 123.4

**123.5 Division of territory; joint settlement meeting, notice.**

Sec. 5.

As soon after the said change of boundary as practicable either any city or township, the boundary of which has been changed, may give notice to the other cities or townships, the boundaries of which have been changed by such division, to meet with said city or township giving the notice for a settlement of the matters in difference between said cities or city and township growing out of the said division and change of boundary, which notice may be served, in case of cities, upon the mayor of the city, and in case of townships upon the township clerk, and such notice shall specify the object for which it is given, the place of meeting, which shall be in 1 of said cities or townships, and the time of such meeting, which shall not be less than 20 days after service of such notice as aforesaid.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109f ;-- CL 1897, 3466 ;-- CL 1915, 3456 ;-- CL 1929, 2338 ;-- CL 1948, 123.5

**123.6 Division of territory; representation at settlement meeting; duties at meeting.**

Sec. 6.

If said notice is given by a city it shall be the duty of the mayor of said city to appoint a committee of 4 from the aldermen of said city to meet with the township board of any such township and settle the matters in difference between the city and townships. And it shall be the duty of the mayor of any city upon which such notice shall be served to appoint from the aldermen of the city a committee of 4 for like purpose; and the township clerk of the township upon whom such notice shall be served shall immediately give notice to the members of the township board of the time and place said meeting has been called, and it shall be the duty of said committees so appointed in such cities and the township boards of any such townships, to meet at the time and place designated in the notice, and make a fair and equitable division of the money, rights, credits, and personal estate, and apportionment of the indebtedness of said cities or townships from which territory has been detached, as provided in section 1 of this act, between the said city and townships.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109g ;-- CL 1897, 3467 ;-- CL 1915, 3457 ;-- CL 1929, 2339 ;-- CL 1948, 123.6

### **123.7 Division of territory; institution of proceedings in chancery; decree.**

#### **Sec. 7.**

If the mayor of any such city upon whom such notice shall be served shall neglect or refuse to appoint a committee as provided for in section 6 of this act, or the township clerk of any township shall neglect or refuse to notify the township board of the time and place of such meeting, or if said committee be appointed and such township board notified, if they shall neglect or refuse to meet at the time and place specified for the settlement, or having met, shall refuse, fail, or neglect to arrive at a settlement of the matters submitted to them by the preceding sections of this chapter, then the city or township giving the notice may file a bill in the circuit court in chancery in the proper county against such other city or township as is entitled under the provisions of this act to have a portion of the personal property, money, rights, and effects of the city, village or township from which said land shall be detached, or liable to contribute to the payment of the debts of the said city, village, or township for an accounting and settlement, or in such suit in chancery between said city and township, or between such cities, and a decree may be entered in the said case fixing the amount which each of said cities or townships shall be entitled to of the moneys, rights, credits and personal property of said city or township, the boundary of which has been changed by detaching territory therefrom as specified in section 1 of this act, and said decree may also apportion the amount which each of said cities or townships shall be liable for of the indebtedness of any such city or township from which lands may be detached as above specified.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109h ;-- CL 1897, 3468 ;-- CL 1915, 3458 ;-- CL 1929, 2340 ;-- CL 1948, 123.7

### **123.8 Liability for pro rata share of indebtedness paid.**

#### **Sec. 8.**

Upon payment of any of its indebtedness existing prior to said change of boundary by any city or township, the boundary of which has been changed as provided for in this act, the remaining cities or townships, the boundaries of which have been changed by said division, shall be liable to and pay to the city or township paying any such indebtedness their pro rata share of the indebtedness so paid.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109i ;-- CL 1897, 3469 ;-- CL 1915, 3459 ;-- CL 1929, 2341 ;-- CL 1948, 123.8

### **123.9 Construction and scope of act.**

#### **Sec. 9.**

This act shall be applied to any change in the boundary of any incorporate village whenever it shall not be a part of any township within this state.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109j ;-- CL 1897, 3470 ;-- CL 1915, 3460 ;-- CL 1929, 2342 ;-- CL 1948, 123.9

### **123.10 Construction of act; existing change but no settlement.**

#### **Sec. 10.**

That in all cases where the boundaries of cities or townships have been heretofore changed in the manner specified in section 1 of this act, and no settlement of the matters in difference between said cities, or city and townships, has been arranged, and no division of the moneys, rights, credits and personal property of said cities or townships made, or no apportionment of the indebtedness due from the city or township from which territory has been detached in making the division, shall have been made, the provisions of this act shall apply; and the provisions of this act shall extend to such cases and a settlement of said matters made and enforced in the same manner as though said division were made after the passage and taking effect of this act.

**History:** 1883, Act 38, Eff. Sept. 8, 1883 ;-- How. 3109k ;-- CL 1897, 3471 ;-- CL 1915, 3461 ;-- CL 1929, 2343 ;-- CL 1948, 123.10

### **123.11 New assessment district; assessment and collection; reassessment of bonded indebtedness; circuit court, jurisdiction.**

#### **Sec. 11.**

When land shall be detached from any city, township or village in this state and attached to any city, township or village, as in the first section of this act provided, and a special assessment district or districts shall have been created and a special assessment roll or rolls shall have been made and special assessments levied thereon by such city, township or village prior to the detachment therefrom of land as aforesaid, and the same shall not have been paid in full, such city, township or village from which such land is detached or to which such land is annexed may create a new assessment district or districts out of the territory of such special assessment district or districts so attached or remaining, as the case may be, and may make a new assessment roll, and charge the property of such assessment district or districts or the owner or owners thereof with the payment of the whole or any portion of the special assessment unpaid; Provided, That in case any part of the assessment so made upon any lot or parcel of land shall have been paid in whole or in part, the said lot or parcel of land in said assessment district or districts shall be credited with the payment thereof upon such new assessment roll, or a certified copy of such special assessment roll may be made by the city, township or village having the custody thereof, and when so made shall be turned over to the municipality to which land has been annexed or detached, as the case may be, as aforesaid; and the collection of the said special assessment upon said assessment district or districts so divided shall be continued in all respects according to law by the proper officer of each of said municipalities upon the portion of the assessment district or districts within either of said municipalities after such annexation or detachment of land as aforesaid; or if the whole of any special assessment district or districts so created as aforesaid shall be annexed to another municipality, a new special assessment may be made upon the territory of the original assessment district or districts by the municipality to which said special assessment district or districts shall have been annexed, and the assessment collected in the same manner as special assessments are collected by such municipality; or the original assessment roll made by the municipality from which the land shall have been taken as aforesaid may be used by the municipality to which the assessment district or districts has been annexed, upon which to collect the assessment or any part thereof; or where any tax whatever has been levied by a municipality and subsequently part of the territory of such municipality shall have been annexed to another municipality, and said tax or any part thereof shall remain uncollected and unpaid, a certified copy of the tax roll shall be made by the municipality having the custody thereof and turned over to the municipality to which a part of such territory has been annexed, and said tax shall then be collected by the proper officer of each of said municipalities upon the portion of territory within the jurisdiction of each, and in case the whole of the territory of a municipality is taken by being annexed to another municipality or a new municipality created therefrom, the tax roll of the municipality making the same may be used by such municipality or the municipality to which such land is annexed, and the tax collected in the same manner as other taxes are collected by municipalities under the law. Where a special assessment district shall have been charged with the payment of money evidenced by bond issue or otherwise and the same shall have been divided by the detachment of land as aforesaid, and the authorities of each of the municipalities are unable to agree upon the division and assumption of said bond issue or other indebtedness, then the circuit court in chancery of the county wherein is located the municipality to which land has been attached shall have the power to apportion the payment of said bonds or other evidence of indebtedness between the said special assessment district or districts, according to the proportion each part of said special assessment district or districts should bear when divided as aforesaid. If for any reason any special or general assessment or tax levy in this act enumerated shall be declared void by a court of competent jurisdiction on account of any error or omission in the proceedings had or taken in making such special or general assessment or tax levy, the common council or other proper authority of such municipality shall cause a re-assessment to be made upon the original assessment district or so much thereof as is within its jurisdiction, in the same manner and with like effect as assessments of like character are made by such municipality for general and

special purposes under the charter and laws of such municipality; nor shall any assessment herein mentioned be held invalid by any court on account of any defect or omission in the proceedings had or taken in the making of said assessment, unless the person or persons complaining thereof be required to pay such sum or sums as said court may find the property assessed in said assessment roll shall have been benefited by the making of such assessment. The said circuit court in chancery is hereby given full and ample power to determine and adjudicate every question which may arise under the provisions of this act, where provision for the solution of such question is not herein already made. The foregoing act as in this section amended shall apply and be applicable to all cases where the boundaries of cities, townships or villages have been heretofore changed or may hereafter be changed, in the manner specified in section 1 of this act.

**History:** Add. 1909, Act 290, Eff. Sept. 1, 1909 ;-- CL 1915, 3462 ;-- CL 1929, 2344 ;-- CL 1948, 123.11

## **CONSOLIDATION OF MUNICIPALITIES**

### **Act 390 of 1913**

123.21,123.22 Repealed. 1968, Act 191, Eff. Nov. 15, 1968.

## **DISCONNECTION OF LAND FROM CITIES AND VILLAGES**

### **Act 123 of 1949**

AN ACT to provide for the disconnection of land from cities and villages; and to declare the effect thereof.

**History:** 1949, Act 123, Eff. Sept. 23, 1949

*The People of the State of Michigan enact:*

#### **123.31 Disconnection of farm land from city or village.**

Sec. 1.

The owner or owners of any area of farm land consisting of 1 or more tracts, lying within the corporate limits of any city or village, may have the same disconnected from such city or village under the provisions of this act if such area of land

- (1) Contains 10 or more acres;
- (2) Is not subdivided into city or village lots and blocks;
- (3) Is located on the border or boundary of the city or village: Provided, however, That such disconnection shall not result in the isolation of any part of the said city or village from the remainder of such city or village;
- (4) Shall have been for a period of 3 years next preceding the filing of the petition provided for in section 2 hereof, used for agricultural purposes only.

**History:** 1949, Act 123, Eff. Sept. 23, 1949

#### **123.32 Disconnection of farm land from city or village; petition, filing, contents; determination of court; denial.**

Sec. 2.

The owner or owners of any such area of land who desire such disconnection shall file a petition in the circuit court of the county where the land, or the greater part thereof, is situated, and in such petition shall allege facts in support of such disconnection. The particular city or village shall be made defendant, and it, or any taxpayer resident in such municipality, may appear and defend against such petition. If the court finds that the allegations of the petition are true and that the petitioner has met the qualifications as set forth in section 1 hereof, then such area of land shall be entitled to disconnection under the provisions of this act, and the court shall order said land disconnected from such city or village. In case of the disconnection from a city of any land which previously constituted a part of 1 or more townships, such land shall thereupon attach to and become a part of such township or townships, which shall be specified in the judgment. In case of the disconnection of any other land, the court shall determine and specify in the judgment what township or townships such land shall attach to and become a part of: Provided, however, That if by reason of city or village owned sewers, sidewalks, highways, water mains, gas mains, or other public improvements, upon or abutting said property, it would be inequitable to such city or village to grant said petition, in such case only may the court in its discretion deny the same even though petitioner has met the qualifications set forth in section 1 hereof.

**History:** 1949, Act 123, Eff. Sept. 23, 1949

**123.33 Disconnection of farm land from city or village; assessment for bonded indebtedness; division as between municipalities; sale for delinquent taxes.**

Sec. 3.

The disconnection of any such area of land shall not exempt it from taxation for the purpose of paying any bonded indebtedness contracted prior to the filing of such petition by the corporate authorities of the city or village, but such land shall be assessed and taxed for this purpose until such indebtedness is completely paid, the same as though not disconnected. The division of said indebtedness as between the municipalities involved shall be according to the provisions of Act No. 38 of the Public Acts of 1883, as amended, being sections 123.1 to 123.11, inclusive, of the Compiled Laws of 1948. Such disconnection shall not affect the lien upon any property for taxes for county, township, school, city or village purposes, or special assessments which have been levied thereon prior to such disconnection. Such disconnection shall not prevent the sale of any such land or parcels of land for delinquent taxes due to such county, township, school district, city or village at any regular state tax sale held in the manner provided by law, or at any regular tax sale of a city or village which, by its charter, has the right to sell lands for unpaid taxes or special assessments.

**History:** 1949, Act 123, Eff. Sept. 23, 1949

**123.34 Judgment; recording.**

Sec. 4.

The owner or owners of the land shall record or cause the judgment, or a certified copy of the judgment, to be recorded in the office of the register of deeds of the county or counties where the land is situated, and shall deliver a certified copy of the judgment to the secretary of state by registered mail.

**History:** 1949, Act 123, Eff. Sept. 23, 1949 ;-- Am. 2002, Act 377, Imd. Eff. May 24, 2002

**123.35 Disconnection of land from city or village; cities and villages excepted.**

Sec. 5.

The provisions of this act shall not apply in the case of proposed disconnection of any land from cities of over 5,000 population. The provisions of this act shall not apply in the case of proposed disconnection of any land from incorporated villages under 400 population according to the latest or each succeeding federal decennial census. The provisions of this act shall not apply in the case of proposed disconnection of any lands from any city or village the population of which has increased more than 18 per cent during the interval between the federal census of 1940 and the federal census of 1950.

**History:** 1949, Act 123, Eff. Sept. 23, 1949 ;-- Am. 1953, Act 158, Eff. Oct. 2, 1953

**123.36 Territory annexed to city or village; exemption.**

Sec. 6.

The provisions of this act shall not apply to territory which has been annexed to an incorporated city under the provisions of Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38, inclusive, of the Compiled Laws of 1948, or Act No. 215 of the Public Acts of 1895, as amended, being sections 81.1 to 113.20, inclusive, of the Compiled Laws of 1948, or to territory which has been annexed to villages under the provisions of Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.27, inclusive, of the Compiled Laws of 1948, or Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948.

**History:** 1949, Act 123, Eff. Sept. 23, 1949

**COMMUNITY CENTER**

**Act 199 of 1929**

AN ACT to authorize and empower villages and townships of this state having a population not exceeding 10,000 inhabitants, to levy a tax for the maintenance or the purchase of lands and maintenance of property for a community center for the benefit of the public, provided the question of such purchase or maintenance, or both purchase and maintenance, as the case may be, is submitted to the duly qualified voters of such villages or townships and is adopted by a majority vote of those participating in said election; and to prescribe penalties and provide remedies.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- Am. 1998, Act 180, Eff. Mar. 23, 1999

*The People of the State of Michigan enact:*

**123.41 Referendum.**

Sec. 1.

The township board, village council, common council, commission, or other legislative body of any township or village of this state, having a population not exceeding 10,000 inhabitants, upon petition of 10 per centum of the qualified voters of such township or village shall submit the question to the people as to whether such village or township, as the case may be, shall come under the provisions of this act and, if adopted by a majority vote of the qualified voters participating in said election, then this act shall be in full force and effect.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2375 ;-- CL 1948, 123.41



### **123.41a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

#### **Sec. 1a.**

A petition under section 1 or 6, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 180, Eff. Mar. 23, 1999

### **123.42 Community center; annual tax levy, credit.**

#### **Sec. 2.**

In all villages, or townships adopting the provisions of this act, the legislative body thereof is authorized and empowered to levy an annual tax not exceeding 2 mills on each dollar of the assessed valuation of such village or township as the case may be, for the maintenance, or the purchase and maintenance of property for a community center for the benefit of the public. The said tax shall be levied and collected at the same time and in the same manner as other general taxes of the said village or township are levied and collected. And the taxes thus collected under the provisions of this act shall be deposited in the village or township treasury to the credit of the community fund.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2376 ;-- CL 1948, 123.42

### **123.43 Community center; board of directors; terms; compensation; vacancy.**

#### **Sec. 3.**

(1) If a village or township votes to establish a community center, the governing body of the village or township shall appoint 6 directors for boards established before January 9, 2001 and 7 directors for boards established on or after January 9, 2001 who shall hold office until their successors are elected and qualified. For boards established before January 9, 2001, the governing body of the village or township shall appoint 1 additional director who shall hold office until his or her successor is elected and qualified. At the next regular election there must be elected a community board of 7 directors, 2 for 1 year, 2 for 2 years, and 3 for 3 years, and then annually there must be elected the number of directors whose terms have expired, who shall hold office for 3 years or until their successors are elected and qualified. Alternatively, the governing body of a village or township may by resolution provide that at the next regular election, and then every 2 years, there must be elected a community board of 7 directors, who shall hold office for 2 years or until their successors are elected and qualified.

(2) If a village or township initially elected directors for 3-year terms as described in subsection (1), its governing body may subsequently adopt a resolution providing for the election every 2 years of directors for 2-year terms. The resolution must provide for the transition of the elective terms from 3 to 2 years as follows:

(a) The offices of those directors whose terms first expire after the adoption of the resolution must be filled at the next scheduled local, state, or federal election by the election of that number of directors who shall hold office for 2 years, and then every 2 years for 2 years or until their successors are elected and qualified.

(b) The offices of those directors whose terms next expire after the adoption of the resolution must be filled in the year following the election in subdivision (a) by the election of that number of directors who shall hold office for 1 year, and then every 2 years for 2 years or until their successors are elected and qualified.

(c) The offices of those directors whose terms last expire after the adoption of the resolution must be filled as described in subdivision (a).



(3) The governing body of the village or township shall determine by resolution the compensation of the board of directors. A vacancy in the board of directors occasioned by a removal, a resignation, or otherwise must be reported to the governing body of the village or township, which shall proceed to appoint a director to fill the vacancy.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2377 ;-- CL 1948, 123.43 ;-- Am. 2000, Act 435, Imd. Eff. Jan. 9, 2001 ;-- Am. 2018, Act 61, Eff. June 12, 2018

#### **123.44 Board of directors; powers, duties.**

##### **Sec. 4.**

When such community center shall have been established and a board of directors elected and qualified as herein provided said directors shall immediately meet and organize, by the election of 1 of their number president, and by the election of such other officers as they may deem necessary. They shall on or before the first day of September in each year, prepare an estimate of the amount of money necessary for the support and maintenance of such community center for the ensuing year, and report such estimate to the assessor of such village or township for assessment and collection and the same shall be assessed and collected as in this act provided, and they shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the community house and grounds, as may be expedient and not inconsistent with this act, they shall have power to purchase or lease grounds, to occupy, lease, or erect, appropriate buildings for the use of said community center, and shall have the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose, and shall also have the authority to employ a suitable community director, and necessary assistants and fix their compensation, and shall also have power to discharge such appointees, and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a community center. Said board of directors shall also have charge of the expenditure of all moneys collected to the credit of the community fund, shall draw their order on the community fund for any expenses incurred, and the governing body of the village, or township shall cause the order to be paid from the community fund. The said board of directors shall keep a record of the proceedings of said board and a complete record of their expenditures.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2378 ;-- CL 1948, 123.44

#### **123.45 Use of community center; rules and regulations.**

##### **Sec. 5.**

Every community center established under this act shall be subject to such reasonable rules and regulations as the community board may adopt. The board may exclude from the use of the community building and grounds any individuals who willfully violate these rules.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2379 ;-- CL 1948, 123.45 ;-- Am. 2000, Act 435, Imd. Eff. Jan. 9, 2001

#### **123.46 Legislative body; relinquishment of control power by legislative body.**

##### **Sec. 6.**

Any such village or township having previously adopted the provisions of this act, may at any time thereafter relinquish said authority or power by following the same procedure as provided in this act for adopting the provisions thereof: Provided, That such action may be taken by the legislative body aforesaid only after a petition signed by 10 per centum of the qualified voters residing in such village or township, as the case may be, duly filed

with the legislative body thereof at least 90 days prior to the date of re-submission asking that the question of relinquishment of said authority be re-submitted to the vote of the people.

**History:** 1929, Act 199, Eff. Aug. 28, 1929 ;-- CL 1929, 2380 ;-- CL 1948, 123.46

## **RECREATION AND PLAYGROUNDS**

### **Act 156 of 1917**

AN ACT authorizing cities, villages, counties, townships and school districts to operate systems of public recreation and playgrounds.

**History:** 1917, Act 156, Eff. Aug. 10, 1917

*The People of the State of Michigan enact:*

#### **123.51 Public recreation system; powers of municipality.**

##### **Sec. 1.**

Any city, village, county or township may operate a system of public recreation and playgrounds; acquire, equip and maintain land, buildings or other recreational facilities; employ a superintendent of recreation and assistants; vote and expend funds for the operation of such system.

**History:** 1917, Act 156, Eff. Aug. 10, 1917 ;-- CL 1929, 2389 ;-- CL 1948, 123.51

#### **123.52 Public recreation system; powers of school district.**

##### **Sec. 2.**

Any school district may operate a system of public recreation and playgrounds, may vote a tax to provide funds for operating same, and may exercise all other powers enumerated in section 1.

**History:** 1917, Act 156, Eff. Aug. 10, 1917 ;-- CL 1929, 2390 ;-- CL 1948, 123.52

#### **123.53 Public recreation system; operation.**

##### **Sec. 3.**

Any city, village, county, township or school district may operate such a system independently or they may cooperate in its conduct in any manner in which they may mutually agree; or they may delegate the operation of the system to a recreation board created by any or all of them, and appropriate money, voted for this purpose, to such board.

**History:** 1917, Act 156, Eff. Aug. 10, 1917 ;-- CL 1929, 2391 ;-- CL 1948, 123.53

### **123.54 Public recreation system; location.**

#### **Sec. 4.**

Any municipal corporation or board given charge of the recreation system is authorized to conduct its activities on (1) property under its custody and management; (2) other public property, under the custody of other municipal corporations or boards, with the consent of such corporations or boards; (3) private property, with the consent of the owners.

**History:** 1917, Act 156, Eff. Aug. 10, 1917 ;-- CL 1929, 2392 ;-- CL 1948, 123.54

## **PARKS, ZOOLOGICAL GARDENS, AND AIRPORTS**

### **Act 90 of 1913**

AN ACT authorizing and empowering the boards of supervisors of counties to purchase, acquire by condemnation, accept gifts and devises of real estate for, and to improve and maintain public parks and zoological gardens, airports and landing fields, and to contribute to the improvement and maintenance of public parks and public zoological gardens, airports and landing fields, owned or held in trust by cities, villages or townships or used for the benefit of the public; to authorize the making of reasonable rules and regulations relative to the public use of park property; and to provide penalties for violations of such rules and regulations.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- Am. 1931, Act 268, Eff. Sept. 18, 1931 ;-- Am. 1953, Act 165, Imd. Eff. June 3, 1953

*The People of the State of Michigan enact:*

### **123.61 County park, zoological garden or airport; land, acquisition, appropriation; vote.**

#### **Sec. 1.**

It shall be lawful for and the several boards of supervisors are hereby authorized and empowered to purchase, acquire by condemnation, and to accept gifts and devises of real estate for purposes of public parks, public zoological gardens, airports and landing fields either or both, when such lands lie within the boundaries of their respective counties or within the boundaries of any adjoining county, and to make appropriations covering the costs of such purchases or acquisitions by condemnation and incidental to the acceptance of such gift or devise: Provided, When such lands are purchased, acquired by condemnation, given or devised to any county adjoining a county wherein such lands are situate, they shall be conveyed or devised to such counties jointly: Provided further, however, That a 2/3 vote of the members-elect of a board of supervisors shall be necessary to authorize the purchase or condemnation of real estate designed for such public park, public zoological garden, airport and landing field purposes.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2318 ;-- Am. 1921, Act 36, Eff. Aug. 18, 1921 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- CL 1929, 2393 ;-- Am. 1931, Act 268, Eff. Sept. 18, 1931 ;-- CL 1948, 123.61

### **123.62 County park, zoological garden or airport; land, acquisition; appropriation for improvement and maintenance.**

Sec. 2.

It shall be lawful for and the several boards of supervisors are hereby authorized and empowered to make appropriations for the improvement and maintenance of such public parks, public zoological garden property, airports and landing fields, as shall have been purchased or acquired by condemnation or accepted by way of gift or devise or if used for the benefit of the public.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2319 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- CL 1929, 2394 ;-- Am. 1931, Act 268, Eff. Sept. 18, 1931 ;-- CL 1948, 123.62

**123.63 County park, zoological garden or airport; owned or held in trust.**

Sec. 3.

It shall be lawful for, and the several boards of supervisors are hereby authorized and empowered to make appropriations by way of contributing toward the improvement and maintenance of any such public parks, public zoological gardens, airports and landing fields, either owned or held in trust by any township, city or village within their respective counties or any adjoining county, or for any public parks, public zoological gardens, airports and landing fields, either owned or held in trust by any adjoining county, or for any public parks, zoological gardens, airports or landing fields, either owned or held in trust by 2 or more adjoining counties.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2320 ;-- Am. 1921, Act 36, Eff. Aug. 18, 1921 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- CL 1929, 2395 ;-- CL 1948, 123.63

**123.64 Providing funds for public park, zoological garden, airport, or other authorized purpose; appropriation; property tax; limitation.**

Sec. 4.

A county board of commissioners may provide funds for 1 or more of the following purposes by an appropriation from the county general fund and may raise these funds by an ad valorem property tax levy on property within the county subject to taxation for county purposes, but, except upon approval of a majority of the qualified electors of that county voting on a question of whether to increase this limitation, said tax shall never exceed in any 1 year 1/4 of 1 mill on the equalized valuation of the county:

- (a) Purchasing or acquiring by condemnation property for a public park, zoological garden, airport, or other purpose authorized by this act.
- (b) Improving or maintaining property purchased or acquired pursuant to subdivision (a).
- (c) Contributing towards the maintenance of a public park, zoological garden, airport, or other facility authorized by this act which is owned or held in trust by a township, city, or village within the county, or by an adjoining county.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2321 ;-- Am. 1921, Act 36, Eff. Aug. 18, 1921 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- CL 1929, 2396 ;-- Am. 1931, Act 268, Eff. Sept. 18, 1931 ;-- CL 1948, 123.64 ;-- Am. 1982, Act 164, Imd. Eff. May 25, 1982

**123.65 Construction of powers; boulevards.**

Sec. 5.

The powers and authority granted in this act, shall be deemed to include power and authority to purchase and accept gifts of lands for boulevards and highways to be laid out as boulevards by county authority and power and authority to improve the same, and the words "parks owned or held in trust by townships, cities and villages," shall

be deemed to include boulevards or highways or streets laid out as boulevards and owned or held in trust by the municipalities aforesaid.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2322 ;-- Am. 1921, Act 36, Eff. Aug. 18, 1921 ;-- CL 1929, 2397 ;-- CL 1948, 123.65

### **123.66 County park trustees; board of county road commissioners; rules and regulations, resolution, publication; report to board of supervisors.**

#### **Sec. 6.**

Whenever the board of supervisors of any county shall have adopted a resolution to purchase, condemn or to accept certain lands for park purposes, and make an appropriation therefor under the provisions of sections 1 and 2 of this act, there shall be created a board of 3 members to be known and designated as "county park trustees." In counties operating under the county road system, the board of county road commissioners is hereby designated and shall then act as the county park trustees. In all other counties the board of supervisors, at the time of making the appropriation above provided for, shall name and appoint from their number 3 members to be known and designated as county park trustees. Said board of trustees shall have the management, control and expenditure of such funds when collected and shall hold in trust for the county the title to any real estate so purchased, acquired by condemnation or accepted by way of gift or devise for park purposes, and shall supervise the improvement of any such property so purchased, acquired or accepted as authorized by the board of supervisors. Said board of park trustees shall have the power to impound water on any property so purchased, acquired by condemnation or accepted for park purposes and to form a lake thereon whenever they deem it necessary in the course of improving such property for park purposes. Such trustees shall also have the care and control of such park property and may make reasonable rules and regulations and enforce the same when made respecting the use by the public of such park property: Provided, That no such rule or regulation shall become effective until (1) it has been approved by resolution of the board of supervisors, (2) such resolution containing such rule or regulation has been published at least once in a newspaper of general circulation within the county, and (3) such rule or regulation has been posted in at least 3 conspicuous places in such park property, the posters to be not less than 10 inches by 12 inches in size and printed in legible type. Such posting shall be continuously maintained. They shall elect a chairman and secretary from among their number. All expenditures of funds so appropriated shall be paid only by the county treasurer on the warrant or voucher of the chairman and 1 other member of such board. The trustee so appointed shall make a full report to the board of supervisors at each October session as to the condition of the property and the expenditure of funds. The members of such board of county park trustees shall continue to act until their successors have been duly elected or appointed. In all counties of this state operating under the county road system when this act takes effect, the board of "county park trustees" heretofore appointed shall be immediately dissolved and cease to exist, and the board of county road commissioners shall take the place thereof and thereafter exercise the powers and perform the duties of the board of county park trustees, taking possession of all books, records and office equipment of such former board.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2323 ;-- Am. 1921, Act 36, Eff. Aug. 18, 1921 ;-- Am. 1923, Act 215, Eff. Aug. 30, 1923 ;-- CL 1929, 2398 ;-- Am. 1931, Act 268, Eff. Sept. 18, 1931 ;-- Am. 1939, Act 275, Eff. Sept. 29, 1939 ;-- CL 1948, 123.66 ;-- Am. 1953, Act 165, Imd. Eff. June 3, 1953

### **123.66a County airport committee; appointment, powers, organization.**

#### **Sec. 6-a.**

Whenever a board of supervisors of any county shall have adopted a resolution to purchase, condemn or to accept certain lands for airport or landing field purposes and makes an appropriation therefor under the provisions of sections 1 and 2 of this act, there shall be created a board of 3 members to be known as a "county airport committee." These 3 members may be either 3 members of the board of county road commissioners or 3 members of the board of supervisors as determined by the majority vote of the members of the board of supervisors. Such county airport committee shall have the management, control and expenditure of such funds collected and shall

hold in trust for the county the title to any real estate so purchased, acquired by condemnation or accepted by way of gift or devise for airport or landing field purposes and shall supervise the improvement of any such property so purchased, acquired or accepted as authorized by the board of supervisors. Such county airport committee shall have the care and control of all airport and landing field property and may make reasonable rules and regulations and enforce the same when made respecting the use by the public of such property. They shall elect a chairman and secretary from among the members. All expenditures of funds so appropriated shall be paid only by the county treasurer on the warrant or voucher of the chairman and 1 other member of such board. The committee so appointed shall make a full report to the board of supervisors at each October session as to the condition of the airport or landing field property and the expenditure of funds. The members of such committee shall continue to act until their successors have been duly elected or appointed.

**History:** Add. 1939, Act 275, Eff. Sept. 29, 1939 ;-- CL 1948, 123.66a

### **123.67 Maintenance payment to local treasurer; misapplication penalty.**

#### **Sec. 7.**

Funds appropriated and collected for the purpose of contributing towards the maintenance of public parks, public zoological gardens, airports and landing fields, owned by counties, townships, cities and villages, under the provisions of section 3 hereof, shall be paid by the county treasurer to the treasurer of the municipality owning such park. Any county, township, city or village misapplying any portion of such funds shall be liable to the county in the full sum so contributed, and for all costs and expenses incidental, to the recovery of the same. Any person or official who shall cause or assist in the misapplication of such funds shall be deemed guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than 100 dollars and not more than 1,000 dollars, or to imprisonment in the county jail for not more than 6 months, or to both such fine and imprisonment in the discretion of the court.

**History:** 1913, Act 90, Eff. Aug. 14, 1913 ;-- CL 1915, 2324 ;-- Am. 1929, Act 210, Eff. Aug. 28, 1929 ;-- CL 1929, 2399 ;-- CL 1948, 123.67

### **123.68 Violation of posted rule or regulation as misdemeanor; penalty; recreational trailway; posting of regulation; violation as municipal civil infraction.**

#### **Sec. 8.**

(1) A person who violates a posted rule or regulation made pursuant to section 6 or 6a is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or work in a park cleanup program as an alternative to the imprisonment, or by a fine of not more than \$500.00, or both.

(2) A rule or regulation adopted under section 6 that regulates a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(3) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by a rule or regulation adopted under section 6 is a municipal civil infraction, whether or not so designated by the rule or regulation. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the rule or regulation or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that is excluded from the definition of municipal civil infraction in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

**History:** Add. 1953, Act 165, Imd. Eff. June 3, 1953 ;-- Am. 1978, Act 559, Eff. Mar. 30, 1979 ;-- Am. 1982, Act 359, Eff. Mar. 30, 1983 ;-- Am. 1994, Act 85, Eff. Oct. 1, 1994

## JOINT PUBLIC IMPROVEMENTS

### Act 81 of 1925

AN ACT to provide for the making and maintenance of certain public improvements by 2 adjoining municipalities and for the assessment of the cost thereof.

**History:** 1925, Act 81, Eff. Aug. 27, 1925

*The People of the State of Michigan enact:*

#### **123.71 Joint improvements; authorization by legislative body; condemnation proceedings.**

##### Sec. 1.

Any 2 adjoining cities or villages, or an adjoining city and village, may, by a 3/5 vote of their several legislative bodies, unite in making and maintaining any public improvement located on or near the boundary line between such municipalities and located either entirely within 1 or partly within each of such municipalities, and may agree upon the method and manner of making and maintaining such improvement, the division of the cost thereof, and all other matters connected therewith. In no case, however, shall any municipality pay a greater proportion of the cost of any such improvement than its legislative body shall by a 3/5 vote determine such municipality is benefited thereby. Such municipalities shall have authority in their joint names to condemn property necessary for any such improvement and for such purpose may bring proceedings under Act No. 149 of the Public Acts of this state of 1911 or under any other general law of this state in relation to the condemnation of property for public purposes. If the property to be taken is located entirely within 1 such municipality, condemnation proceedings may be taken jointly or by the municipality in which such property is located.

**History:** 1925, Act 81, Eff. Aug. 27, 1925 ;-- CL 1929, 2405 ;-- CL 1948, 123.71

**Compiler's Notes:** For provisions of Act 149 of 1911, referred to in this section, see MCL 213.21 et seq.

#### **123.72 Joint improvements; assessment of cost.**

##### Sec. 2.

Any municipality joining in the making of any public improvement, as above provided, may assess its portion, or any part thereof, of the cost of any such improvement, upon property located in such municipality to the same extent, and in the same manner, as it might do if such improvement were entirely located within its own limits. The determination as above provided by the legislative body of a municipality as to its portion of the cost of any such improvement shall be a legal basis upon which to spread an assessment against any property benefited by such improvement.

**History:** 1925, Act 81, Eff. Aug. 27, 1925 ;-- CL 1929, 2406 ;-- CL 1948, 123.72

#### **123.73 Additional procedure.**

##### Sec. 3.

Any city or village may by charter provide additional procedure for the carrying out of the authority herein granted, if the same shall be necessary.



**History:** 1925, Act 81, Eff. Aug. 27, 1925 ;-- CL 1929, 2407 ;-- CL 1948, 123.73

## **DISPOSAL OF LIGHTING PLANTS**

### **Act 261 of 1925**

AN ACT to authorize incorporated villages and cities of the fourth and fifth classes to sell and dispose of their gas, electric or other lighting plants, and to determine the procedure therefor.

**History:** 1925, Act 261, Imd. Eff. May 13, 1925

*The People of the State of Michigan enact:*

#### **123.81 Sale of lighting plants by fourth, fifth class cities; referendum.**

##### **Sec. 1.**

The council of any city of the fourth or fifth class, or of any incorporated village, is hereby authorized to sell, transfer and convey at such price and upon such terms as said council shall deem advisable, any works, system or property owned by such city or village for the purpose of supplying such city or village and the inhabitants thereof with gas, electric or other lights, or any part of such works, system or property: Provided, That no such proposed sale, transfer and conveyance shall be valid until the same shall have been approved by the affirmative votes of 3/5 of the electors of such city or village voting thereon at a regular or special municipal or village election.

**History:** 1925, Act 261, Imd. Eff. May 13, 1925 ;-- CL 1929, 2408 ;-- CL 1948, 123.81

#### **123.82 Construction of act.**

##### **Sec. 2.**

Nothing in this act shall be construed to impair or otherwise affect the powers of any cities except cities of the fourth and fifth classes.

**History:** 1925, Act 261, Imd. Eff. May 13, 1925 ;-- CL 1929, 2409 ;-- CL 1948, 123.82

## **LIGHTING OF PUBLIC PLACES**

### **Act 186 of 1891**

AN ACT to authorize the cities and villages of this state to provide for the lighting of their streets and other public places therein by means of electric or other lights; and to prescribe penalties and provide remedies.

**History:** 1891, Act 186, Imd. Eff. July 2, 1891 ;-- Am. 1998, Act 179, Eff. Mar. 23, 1999

*The People of the State of Michigan enact:*

### **123.91 Lighting works; construction, operation, maintenance, contract power.**

#### **Sec. 1.**

That it shall be lawful for any city or incorporated village in this state to acquire by purchase or to construct, operate and maintain works for the purpose of supplying such cities or villages and the inhabitants thereof with gas, electric or other lights, or to contract for the furnishing thereof at such times and on such terms and conditions as the common council of any such city or the board of trustees in any such village shall direct.

**History:** 1891, Act 186, Imd. Eff. July 2, 1891 ;-- CL 1897, 3437 ;-- CL 1915, 3426 ;-- CL 1929, 2411 ;-- CL 1948, 123.91

**Compiler's Notes:** This act seems to have been intended to supercede Act 115 of 1891, on same subject. The only essential difference between the two acts is that this act provides for contracts for furnishing light as well as construction of works by municipality. In section 1, clause "or to contract for the furnishing thereof," is inserted. In section 2, clause "or when such common council shall deem it expedient to contract for the lighting of such cities and villages, with electric or other lights," is inserted, and all after first proviso added. In section 3, vote required of electors is made "a majority," instead of "two-thirds," and proviso added. The title of this act however, does not mention "inhabitants," as does Act 115, 1891. But see MCL 123.101.

### **123.92 Expediency resolution of council; contracts, time limit; submission of purchase, construction to electors; governing rules.**

#### **Sec. 2.**

Whenever the common council of any city or the board of trustees of any village shall, by resolution, declare that it is expedient for such city or village to acquire by purchase or to construct as the case may be, works for the purpose of supplying such city or village and the inhabitants thereof with gas, electric or other lights, or when such common council shall deem it expedient to contract for the lighting of such cities and villages with electric or other lights, then such common council or the board of trustees of any village or city shall have power to take such action as shall be deemed expedient to accomplish such purpose, provided such action shall be governed by the provisions of Act No. 5 of the Session Laws of 1870, approved August fourth, 1870 as amended, entitled, "An act to authorize the introduction of water into and the construction or purchase of hydraulic works in the cities and villages in the state of Michigan," being sections 3096 to 3109 of Howell's annotated statutes, and all the provisions of that act so far as the same shall be material shall apply to and have full force and operation in the case of cities and villages desiring to have the benefit of this act, in the same manner and to the same effect as in the case of cities and villages proposing to purchase or construct works for the purpose of supplying such city or village or the inhabitants thereof with water: Provided, That all contracts for lighting such cities or villages as hereinbefore provided shall be for a period not less than 3 nor more than 10 years: And provided further, That such contract shall be entered into in the manner prescribed by the charter of such city or village for the letting of contracts for public lighting: Provided further, That in case any such common council or board of trustees shall declare that it is expedient for such city or village to acquire by purchase or to construct, as the case may be, works for the purpose of supplying such city or village with electric or other lights, then such common council or board of trustees shall submit to the electors of the city or village the question of purchasing or constructing such works before any further proceedings are had, and no further proceedings shall be had by such common council or board of trustees, unless a majority of such electors vote for the purchasing or constructing of such works.

**History:** 1891, Act 186, Imd. Eff. July 2, 1891 ;-- CL 1897, 3438 ;-- CL 1915, 3427 ;-- CL 1929, 2412 ;-- CL 1948, 123.92

**Compiler's Notes:** For provisions of Act 5 of 1870, referred to in this section, see MCL 123.111 et seq.

### **123.93 Petition of election to come under act; referendum; approval, effect; scope of act limited.**

#### **Sec. 3.**

Whenever 100 or more of the qualified electors of any city or village in this state shall petition to the common council of such city or the board of trustees of such village, to submit to the electors thereof the question of

whether or not said city or village shall avail itself of the provisions of this act, it shall be the duty of such common council or board of trustees as the case may be, to submit such question to the electors of such city or village at its next regular election therein, and in case a majority of the electors shall vote in favor of such city or village availing itself of the provisions of this act, it shall thereupon become the duty of the common council of such city, or the board of trustees of such village, to take such action as shall be necessary to carry such resolution into effect in the same manner and with the same effect as if such common council or board of trustees had, by resolution, declared the same to be expedient as provided for in section 2 of this act: Provided, however, That the provisions of this act, so far as the same applies to the purchase, or construction or operation or maintenance of works for the purpose of supplying such city or village, or the inhabitants thereof, with public lights, as hereinbefore provided for, shall not apply to cities having more than 25,000 inhabitants.

**History:** 1891, Act 186, Imd. Eff. July 2, 1891 ;-- CL 1897, 3439 ;-- CL 1915, 3428 ;-- CL 1929, 2413 ;-- CL 1948, 123.93

### **123.94 Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

#### **Sec. 4.**

A petition under section 3, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 179, Eff. Mar. 23, 1999

## **ELECTRICITY FURNISHED INHABITANTS**

### **Act 41 of 1895**

AN ACT to authorize the cities and villages of this state which own and operate electric light works for the purpose of lighting their streets and other public places, to furnish and supply electric lights to the inhabitants of such cities and villages.

**History:** 1895, Act 41, Imd. Eff. Mar. 27, 1895

*The People of the State of Michigan enact:*

### **123.101 Cities and villages furnishing light to inhabitants.**

#### **Sec. 1.**

That it shall be lawful for any city or incorporated village in this state not having more than 10,000 inhabitants, which now own and operate works for the purpose of supplying such city or village with electric light and lighting their streets and other public places with electric light, to furnish and supply electric light to the inhabitants of such cities or villages upon such terms and under such conditions as the common council may deem expedient.

**History:** 1895, Act 41, Imd. Eff. Mar. 27, 1895 ;-- CL 1897, 3440 ;-- CL 1915, 3430 ;-- CL 1929, 2420 ;-- CL 1948, 123.101

**Compiler's Notes:** This act is identical with Act 139 of 1893, except that limit of population is raised from 8,000 to 10,000. It did not seem necessary to include Act 139 of 1893 in the compilations of 1897, 1915, 1929, 1948, 1970, and 1979.

## **WATER SUPPLY**

### **Act 5 of 1870 (Ex. Sess.)**

123.111-123.130 Repealed. 2002, Act 298, Imd. Eff. May 9, 2002.

## **PUBLIC UTILITY FRANCHISES; VALIDATION**

### **Act 28 of 1935**

AN ACT to validate and make legal franchises heretofore voted by any city having a population not to exceed 15,000, as required by sections 24 and/or 25 of article 8 of the constitution of Michigan.

**History:** 1935, Act 28, Imd. Eff. Apr. 19, 1935

*The People of the State of Michigan enact:*

#### **123.131 Public utility franchises in cities under 15,000; validation.**

##### **Sec. 1.**

Whenever any franchises as are required by sections 24 and/or 25 of article 8 of the constitution of the state of Michigan have heretofore been approved by the requisite majority of the qualified voters of any city having a population not to exceed 15,000 according to the last federal census, as fixed by the several enabling acts under which the election was held, the said franchises as so approved by the voters are hereby confirmed and validated and declared to be legal and binding franchises of the city if, as and when so approved by the voters, notwithstanding said franchises fail to fix rates and/or charges to be made by the grantee in said franchises, and notwithstanding said franchises delegate to the city council and/or the grantee in said franchises the power to agree upon rates and/or charges, and notwithstanding said franchises provide that if rates and/or charges cannot be agreed upon between said city and the grantee in said franchise, said rates and/or charges may be fixed by the Michigan public utilities commission, or its successors, from time to time upon the application of either party to said franchise after due hearing thereon, and notwithstanding said franchises may be invalid as to any matter of substance or form.

**History:** 1935, Act 28, Imd. Eff. Apr. 19, 1935 ;-- CL 1948, 123.131

**Compiler's Notes:** In this section, "sections 24 and/or 25 of article 8 of the constitution" refers to the Constitution of 1908. See now Const. 1963, Art. VII, Â§Â§ 25 and 26.

#### **123.132 Immediate necessity of act.**

##### **Sec. 2.**

It is hereby declared that this act is immediately necessary for the protection of the public health and safety.

**History:** 1935, Act 28, Imd. Eff. Apr. 19, 1935 ;-- CL 1948, 123.132

## **WATER FURNISHED OUTSIDE TERRITORIAL LIMITS**

## Act 34 of 1917

AN ACT to authorize municipal corporations having authority by law to furnish water outside their territorial limits, to sell water to other municipal corporations and contract regarding such sale; to contract with individuals, firms, or corporations regarding the construction of water mains, and the sale of water in such outside territory; to construct water mains through the highways outside their territorial limits, with the consent of the proper local authorities; to furnish water to individual consumers, fix rates thereof, and enforce collection thereof.

**History:** 1917, Act 34, Imd. Eff. Apr. 5, 1917

*The People of the State of Michigan enact:*

### **123.141 Sale of water; authority of municipal corporation to contract with city, village, township, or authority; price; limits; applicability and effective date of subsection (2); adjustments; proceedings to determine rate changes; retail rate; applicability of act.**

#### Sec. 1.

(1) A municipal corporation, referred to in this act as a corporation, authorized by law to sell water outside of its territorial limits, may contract for the sale of water with a city, village, township, or authority authorized to provide a water supply for its inhabitants.

(2) The price charged by the city to its customers shall be at a rate which is based on the actual cost of service as determined under the utility basis of ratemaking. This subsection shall not remove any minimum or maximum limits imposed contractually between the city and its wholesale customers during the remaining life of the contract. This subsection shall not apply to a water system that is not a contractual customer of another water department and that serves less than 1% of the population of the state. This subsection shall take effect with the first change in wholesale or retail rate by the city or its contractual customers following the effective date of this subsection. Any city that has not adjusted rates in conformity with this subsection by April 1, 1982 shall include in the next ensuing rate period an adjustment to increase or decrease rates to wholesale or retail customers, so that each class of customer pays rates which will yield the same estimated amount of revenue as if the rate adjustment had been retroactive to April 1, 1982. A city that is subject to section 5e of Act No. 279 of the Public Acts of 1909, being section 117.5e of the Michigan Compiled Laws, shall begin proceedings to determine rate changes pursuant to section 5e(b) of Act No. 279 of the Public Acts of 1909, being section 117.5e of the Michigan Compiled Laws.

(3) The retail rate charged to the inhabitants of a city, village, township, or authority which is a contractual customer as provided by subsection (2) shall not exceed the actual cost of providing the service.

(4) This act shall not apply to a jointly operated water system or authority that supplies raw untreated water to 2 or more municipalities.

**History:** 1917, Act 34, Imd. Eff. Apr. 5, 1917 ;-- CL 1929, 2445 ;-- CL 1948, 123.141 ;-- Am. 1957, Act 53, Imd. Eff. May 17, 1957 ;-- Am. 1981, Act 89, Imd. Eff. July 2, 1981

### **123.142 Sale of water; authority to contract with persons; construction of mains, payment.**

#### Sec. 2.

Such corporations may contract with persons, natural or artificial, for the furnishing of water in townships, villages and cities and may construct and maintain water mains through the public highways thereof, with the consent of the proper local authorities having jurisdiction over such highways. Such mains shall in all cases be the property of the corporation. Such contracts may specify such terms of payment for such mains as shall be just and equitable in the judgment of the corporation, and may in its discretion provide for a rebate of a just proportion of the cost thereof to the persons originally paying the same, whenever additional connections are made and additional service rendered therefrom.

**History:** 1917, Act 34, Imd. Eff. Apr. 5, 1917 ;-- CL 1929, 2446 ;-- CL 1948, 123.142

### **123.143 Sale of water; purchasers not city or village; rights and powers.**

#### **Sec. 3.**

Where water is sold to purchasers other than cities and villages in such outside territory, such corporations shall exercise all the powers and have all the rights and remedies in connection with such water system in such outside territory, the sale, and delivery of water therefrom, the fixing of water rates and the collection thereof, and all other matters incident to its operation which they possess by law within their own territorial limits.

**History:** 1917, Act 34, Imd. Eff. Apr. 5, 1917 ;-- CL 1929, 2447 ;-- CL 1948, 123.143

### **123.144 Water service in outside territories; enforcement, prerequisites.**

#### **Sec. 4.**

No contract relating to water service in such outside territory except in cases provided for in section 1 hereof, shall be enforceable against such corporation until the consent of the proper local authorities to the construction and maintenance of water mains in the highways of such territory has been obtained, and the burden of securing such consent shall not be upon such corporation.

**History:** 1917, Act 34, Imd. Eff. Apr. 5, 1917 ;-- CL 1929, 2448 ;-- CL 1948, 123.144

## **WATER SUPPLY; JOINT SOURCE**

### **Act 130 of 1945**

AN ACT to authorize cities to extend and improve their municipally owned water systems through the acquisition and operation of a joint source of water supply, to finance the cost thereof through the issuance of water revenue bonds; providing for methods for the operation of such joint source of water; authorizing the purchase and condemnation of necessary property; and providing the procedure for such acquisition and financing.

**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945

*The People of the State of Michigan enact:*

### **123.151 Water supply; joint source; bonds; agreements; expense.**

#### **Sec. 1.**

Whenever 2 or more cities in Michigan determine to extend and improve their municipally owned water systems through the acquisition of an additional source of water supply consisting of a water supply line from one of the great lakes, bays thereof, and connecting waters between, together with related pumping station or stations, intake, meters, valves, rights of way, real estate and appurtenant apparatus and equipment (all of which are hereinafter referred to as the "source of supply"), such cities may jointly acquire, own and operate such source of supply, or any part thereof, and each such city may finance all or part of its agreed share of the cost thereof through the

issuance of its water revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as such act now exists or may hereafter be amended. The governing bodies of such cities are hereby empowered to enter into such agreements for the acquisition, operation, control, management and improvement of such source of supply (any which agreement may run for a term of years) as they may in their discretion see fit, including, but without limitation, agreements with each other, with water customers and with any board, agency or commission in which may be imposed the operation of the source of supply. Such agreements may provide for and fix the membership, powers and duties of a joint board, agency or commission to operate the source of supply, in which event the governing bodies may delegate to such board, agency or commission such of their powers with respect to the operation of the source of supply as they may see fit. Such board, agency or commission is empowered to enter into such agreements with said cities and with water consumers, including other cities, villages and public corporations, for the sale of water thereto and with respect to the operation of the source of supply, as may be consistent with the provisions of the agreements creating such board, agency or commission and as it may consider advantageous. The expense of the operation, maintenance, management, control and improvement of the source of supply may be paid either through the sale of water by the operating board to the cities and other customers, or by contributions to be made by the respective cities, or both, all as may be provided in the agreements between the cities, as originally entered into or as modified and supplemented from time to time.

**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945 ;-- CL 1948, 123.151

**Compiler's Notes:** For provisions of Act 94 of 1933, referred to in this section, see MCL 141.101 et seq.

#### **123.152 Joint source; cities having outstanding water revenue bonds.**

##### **Sec. 2.**

If any city issuing bonds hereunder shall then have outstanding other water revenue bonds which constitute a prior lien on the revenues of the city's water system, bonds may be issued hereunder in such manner as to be subordinate to the outstanding bonds.

**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945 ;-- CL 1948, 123.152

#### **123.153 Joint source cities; acquisition of property; construction contracts.**

##### **Sec. 3.**

Such cities shall have authority in their joint names to purchase and condemn property necessary for such source of supply, and for such purpose may bring proceedings under Act No. 149 of the Public Acts of 1911, as amended, or under any other general law of the state applicable to the condemnation of property for city purposes. Contracts for the construction of such source of supply may either be entered into individually by such cities, or in whole or in part by joint contract or contracts to which all or any of the cities are parties.

**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945 ;-- CL 1948, 125.153

**Compiler's Notes:** For provisions of Act 149 of 1911, referred to in this section, see MCL 213.21 et seq.

#### **123.154 Sale or delivery outside of corporate limits.**

##### **Sec. 4.**

Any city taking advantage of the provisions of this act may sell and deliver water outside of its corporate limits in such amount as may be determined by its legislative body, as provided by section 23, article VIII of the constitution of Michigan, as amended in 1944.



**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945 ;-- CL 1948, 123.154

**Compiler's Notes:** In this section, "section 23, article VIII of the constitution" refers to the Constitution of 1908. See now Const. 1963, Art. VII, Â§ 24.

### **123.155 Source acquired; contracts entered; limitations and procedural requirements removed.**

Sec. 5.

Cities may acquire a source of water supply under this act and may enter into contracts therefor and agreements with respect thereto and may issue their revenue bonds as provided herein, without regard to any limitations or procedural requirements which may be contained in any other laws (except Act No. 94 of the Public Acts of 1933) or in the charters of said cities. Except as herein expressly otherwise provided, the provisions of said Act No. 94 of the Public Acts of 1933, as now existing or hereafter amended, shall be applicable in all respects to the issuance of the revenue bonds and the rights and remedies of the holders thereof, and except as therein provided, no election need be held as a condition to the carrying out of any of the powers herein granted.

**History:** 1945, Act 130, Imd. Eff. Apr. 27, 1945 ;-- CL 1948, 123.155

**Compiler's Notes:** For provisions of Act 94 of 1933, referred to in this section, see MCL 141.101 et seq.

## **MUNICIPAL WATER LIENS**

### **Act 178 of 1939**

AN ACT to provide for the collection of water or sewage system rates, assessments, charges, or rentals; and to provide a lien for water or sewage system services furnished by municipalities as defined by this act.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

*The People of the State of Michigan enact:*

### **123.161 Definitions.**

Sec. 1.

As used in this act:

(a) "Municipality" means a county, city, township, village, or metropolitan district.

(b) "Person" means an individual, firm, partnership, association, or corporation which is the owner or occupant of any house or other building or any premises, lot, or parcel of land.

(c) "Sewage system" means a sewage disposal system, 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.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.161 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

### **123.162 Municipality operating water distribution system or sewage system; lien as security for collection of assessments, charges, or rentals; effective date and enforceability of lien.**

Sec. 2.

A municipality that has operated or operates a water distribution system or a sewage system for the purpose of supplying water or sewage system services to the inhabitants of the municipality has as security for the collection of water or sewage system rates, or any assessments, charges, or rentals due or to become due, respectively, for the use of sewage system services or for the use or consumption of water supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, a lien upon the house or other building and upon the premises, lot or lots, or parcel or parcels of land upon which the house or other building is situated or to which the sewage system service or water was supplied. This lien becomes effective immediately upon the distribution of the water or provision of the sewage system service to the premises or property supplied, but shall not be enforceable for more than 5 years after it becomes effective.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.162 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981 ;-- Am. 2016, Act 421, Eff. Apr. 4, 2017

**123.163 Manner of enforcing lien.**

Sec. 3.

The lien created by this act may be enforced by a municipality in the manner prescribed in the charter of the municipality, by the general laws of the state providing for the enforcement of tax liens, or by an ordinance duly passed by the governing body of the municipality.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.163 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

**123.164 Official records of municipality as notice of pendency of lien.**

Sec. 4.

The official records of the proper officer, board, commission, or department of any municipality having charge of the water distribution system or sewage system shall constitute notice of the pendency of this lien.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.164 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

**123.165 Priority of lien; applicability of act where lease provides lessor not liable for payment of bills; affidavit.**

Sec. 5.

The lien created by this act shall, after June 7, 1939, have priority over all other liens except taxes or special assessments whether or not the other liens accrued or were recorded before the accrual of the water or sewage system lien created by this act. However, this act shall not apply if a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of the affidavit provided by this section. An affidavit with respect to the execution of a lease containing this provision shall be filed with the board, commission, or other official in charge of the water works system or sewage system, or both, and 20 days' notice shall be given by the lessor of any cancellation, change in, or termination of the lease. The affidavit shall contain a notation of the expiration date of the lease.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.165 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

### **123.166 Discontinuing service or instituting action for collection; invalidation or waiver of lien.**

#### **Sec. 6.**

A municipality may discontinue water service or sewage system service from the premises against which the lien created by this act has accrued if a person fails to pay the rates, assessments, charges, or rentals for the respective service, or may institute an action for the collection of the same in any court of competent jurisdiction. However, a municipality's attempt to collect these sewage system or water rates, assessments, charges, or rentals by any process shall not invalidate or waive the lien upon the premises.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.166 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

### **123.167 Construction of act.**

#### **Sec. 7.**

This act shall not repeal any existing statutory charter or ordinance provisions providing for the assessment or collection of water or sewage system rates, assessments, charges, or rentals by a municipality, but shall be construed as an additional grant of power to any power now prescribed by other statutory charter or ordinance provisions, or as a validating act to validate existing statutory or charter provisions creating liens which are also provided for by this act.

**History:** 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.167 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

## **CONVENIENCE STATIONS**

### **Act 285 of 1915**

AN ACT to provide for the establishment of public closets, commonly known and designated as public convenience stations, in all incorporated villages and cities of this state, and in certain unincorporated villages therein.

**History:** 1915, Act 285, Eff. Aug. 24, 1915

*The People of the State of Michigan enact:*

### **123.171 Convenience stations; construction, maintenance.**

#### **Sec. 1.**

It shall be the duty of the common council of any city in this state, and of the board of trustees of any incorporated village, to cause to be constructed and maintained in such village or city not less than 1 public closet, commonly known and designated as a public convenience station, in such place or places as directed by the local board of health. Such closets or public convenience stations shall have thereon the proper signs and be so placed as directed by the local board of health as to be easily accessible from the business district or districts of such city or village, and shall be maintained in a sanitary manner under the supervision of the local board of health. Suitable and adequate accommodations shall be afforded at such public convenience station, to the members of both sexes.

**History:** 1915, Act 285, Eff. Aug. 24, 1915 ;-- CL 1915, 3302 ;-- CL 1929, 2464 ;-- CL 1948, 123.171

### **123.172 Convenience stations; despoiling, penalty.**

#### **Sec. 2.**

Any person destroying, mutilating, injuring, despoiling or abusing the property of any part thereof included within a public convenience station as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 50 dollars, or imprisonment in the county jail for a period of not more than 60 days, or by both such fine and imprisonment in the discretion of the court.

**History:** 1915, Act 285, Eff. Aug. 24, 1915 ;-- CL 1915, 3303 ;-- CL 1929, 2465 ;-- CL 1948, 123.172

## **SEWERS IN PRIVATE PROPERTY**

### **Act 23 of 1882 (Ex. Sess.)**

AN ACT to authorize cities and villages to construct, enlarge, and maintain sewers, as public improvements, in private property, and to repeal all laws in conflict with the provisions of this act.

**History:** 1882, Ex. Sess., Act 23, Eff. June 13, 1882

*The People of the State of Michigan enact:*

### **123.181 Sewers in private property; acquisition of property rights.**

#### **Sec. 1.**

That the common council of any city and the board of trustees of any village in this state are hereby authorized to construct, enlarge and maintain sewers, hereby declared to be public improvements, in private property; and may enter, by committee and by agents and servants, into and upon private property where it is proposed to construct a sewer, and make necessary examinations and surveys, the better to enable them to determine the necessity for using such private property for a sewer and to locate the same, and for any such entry no action shall be maintainable. But the common council or board of trustees before constructing a sewer in private property shall acquire the right to take and use the property for such purpose, by agreement or purchase, or by proceedings in the proper court in behalf of the municipality, in the manner provided by law in that behalf. All laws in conflict with the provisions of this act are hereby repealed.

**History:** 1882, Ex. Sess., Act 23, Eff. June 13, 1882 ;-- How. 3109a ;-- CL 1897, 3436 ;-- CL 1915, 3425 ;-- CL 1929, 2463 ;-- CL 1948, 123.181

## **SANITARY SEWAGE COLLECTION FACILITIES**

### **Act 151 of 1961**

123.191-123.195 Repealed. 1978, Act 75, Imd. Eff. Mar. 22, 1978.

## SEWAGE DISPOSAL PLANTS

### Act 316 of 1931

123.201-123.220 Repealed. 2002, Act 313, Imd. Eff. May 13, 2002.

## SEWERS AND SEWAGE DISPOSAL

### Act 129 of 1943

AN ACT to provide for contracts between political subdivisions relative to systems of sewers and sewage disposal, and to validate existing contracts of such nature; to authorize the issue of joint revenue bonds to construct, acquire, extend or improve such systems and to regulate the use of the revenues thereof.

**History:** 1943, Act 129, Imd. Eff. Apr. 13, 1943 ;-- Am. 1945, Act 137, Imd. Eff. May 4, 1945

*The People of the State of Michigan enact:*

#### **123.231 Definitions.**

##### Sec. 1.

The term "political subdivision" as herein used shall be deemed to mean any county, metropolitan district, city, village or township in this state.

**History:** 1943, Act 129, Imd. Eff. Apr. 13, 1943 ;-- Am. 1945, Act 137, Imd. Eff. May 4, 1945 ;-- CL 1948, 123.231

#### **123.232 Sewers and sewage disposal; joint contracts.**

##### Sec. 2.

Any 2 or more political subdivisions may contract for the joint ownership, use and/or operation of sewers and/or sewage disposal facilities. Any 2 or more political subdivisions may contract relative to the furnishing of sewage disposal services by 1 or more of such political subdivisions to the other political subdivision or subdivisions. Any such contract shall be authorized or approved by the legislative body of each contracting political subdivision and shall be effective for such term as shall be prescribed therein not exceeding 50 years.

**History:** 1943, Act 129, Imd. Eff. Apr. 13, 1943 ;-- CL 1948, 123.232

#### **123.233 Contracts validated.**

##### Sec. 3.

Any contract heretofore made relative to the matters above set forth is hereby validated if such contract would

have been valid had the same been made subsequent to the effective date of this act.

**History:** 1943, Act 129, Imd. Eff. Apr. 13, 1943 ;-- CL 1948, 123.233

#### **123.234 Joint revenue bonds; issuance, authorization.**

##### **Sec. 4.**

For the purpose of constructing, acquiring, extending or improving a system of sewers or sewage disposal, 2 or more political subdivisions may borrow money and issue revenue bonds in the name, and by authority, of said political subdivisions jointly, but payable solely from the revenues of such system. Such political subdivisions shall provide by an ordinance, adopted by their respective governing bodies, for the issue of such revenue bonds in the name of such political subdivisions jointly, for the execution thereof by suitable officers of said political subdivisions and for the sale of said bonds at a joint meeting of the governing bodies thereof.

**History:** Add. 1945, Act 137, Imd. Eff. May 4, 1945 ;-- CL 1948, 123.234

#### **123.235 Joint revenue bonds; contracts; revenues.**

##### **Sec. 5.**

In event money shall be borrowed and bonds issued jointly under the provisions of section 4 above, said political subdivisions shall enter into a contract, the terms of which shall be set forth in said ordinance, providing for the operation of such system or systems, and the collection, custody and expenditure of the revenues thereof by a joint board consisting of 1 or more representatives of each of such political subdivisions. Said contract shall authorize such joint board to adopt rules and regulations governing the operation of the system or systems, to fix the rates for the service of such system or systems from time to time as may be necessary for the operation thereof and the payment of the bonds, and to collect the same either from such political subdivisions in proportion to the service furnished to each, or directly from the owners or occupants of the property served. If such rates are charged to the political subdivisions, they shall raise the money necessary to pay the same by charging and collecting rates for such service from the owners or occupants of the property served. Except as herein otherwise provided, such jointly owned systems, the revenues therefrom and the bonds issued therefor shall be subject to all the requirements and provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended.

**History:** Add. 1945, Act 137, Imd. Eff. May 4, 1945 ;-- CL 1948, 123.235

**Compiler's Notes:** For provisions of Act 94 of 1933, referred to in this section, see MCL 141.101 et seq.

#### **123.236 Joint sewage disposal facility; body corporate.**

##### **Sec. 6.**

The system herein created shall be a body corporate and may sue or be sued in its own name.

**History:** Add. 1962, Act 68, Imd. Eff. Apr. 23, 1962

### **WATERWORKS SYSTEMS, SEWERS, AND DISPOSAL PLANTS**

## Act 320 of 1927

123.241-123.253 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

## GARBAGE DISPOSAL PLANTS

### Act 298 of 1917

AN ACT to authorize cities and villages to levy a tax for the purpose of collecting and disposing of garbage; and providing for the issuance of bonds therefor.

**History:** 1917, Act 298, Eff. Aug. 10, 1917 ;-- Am. 1919, Act 253, Eff. Aug. 14, 1919 ;-- Am. 1969, Act 213, Imd. Eff. Aug. 6, 1969 ;-- Am. 1976, Act 127, Imd. Eff. May 25, 1976

*The People of the State of Michigan enact:*

**123.261 Garbage disposal plants or systems in cities or villages; establishment and maintenance; annual garbage tax; construction bonds; "garbage" defined.**

Sec. 1.

(1) The city council of a city, whether organized under the general law or special charter, or the president and board of trustees of a village may establish and maintain garbage systems or plants for the collection and disposal of garbage in the city or village, and may levy a tax not to exceed 3 mills on the taxable value of all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village for these purposes. The annual garbage tax shall be in addition to the amount authorized to be levied for general purposes by the general law or special charter under which the city or village is incorporated. All cities or villages may, for the construction of a garbage disposal plant or system, issue bonds in a sum not to exceed 3 mills on the dollar on all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) As used in this act, "garbage" means any putrescible and nonputrescible solid wastes, except body wastes, and includes ashes, incinerator ash, incinerator residue, street cleanings, solid market wastes, solid industrial wastes, and also rubbish including such items as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and litter of any kind.

**History:** 1917, Act 298, Eff. Aug. 10, 1917 ;-- Am. 1919, Act 253, Eff. Aug. 14, 1919 ;-- CL 1929, 2480 ;-- CL 1948, 123.261 ;-- Am. 1969, Act 213, Imd. Eff. Aug. 6, 1969 ;-- Am. 1975, Act 38, Imd. Eff. May 12, 1975 ;-- Am. 1976, Act 127, Imd. Eff. May 25, 1976 ;-- Am. 2002, Act 239, Imd. Eff. Apr. 29, 2002

## DISPOSAL PLANTS

### Act 261 of 1927

AN ACT to prevent the acquisition, construction, operation, maintenance or building of garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter in certain cities and villages without having first procured permission from said cities or villages; to provide for the enforcement of this act; to declare such acquisition, construction, operation, maintenance, or building, a nuisance, in certain cases; to provide a manner in which the consent of said cities and villages may be granted, and to provide a penalty for the violation of this act.



**History:** 1927, Act 261, Eff. Sept. 5, 1927

*The People of the State of Michigan enact:*

**123.271 Disposal plants; power to prevent construction.**

**Sec. 1.**

All incorporated cities and villages of this state shall have the power to prevent any other municipal or public corporation from acquiring, erecting, owning, operating, maintaining, managing, controlling or building garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of such cities or villages.

**History:** 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2482 ;-- CL 1948, 123.271

**123.272 Required permit.**

**Sec. 2.**

It shall be unlawful for any individual, firm, private, public or municipal corporation to acquire, erect, own, operate, maintain, manage, control or build garbage disposal plants, sewage disposal plants, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of any other city or village, without first obtaining a permit from said city or village in accordance with the provisions of this act.

**History:** 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2483 ;-- CL 1948, 123.272

**123.273 Required permit; procedure to procure; disposal of sewage by municipality; members of municipality authority.**

**Sec. 3.**

Any public or municipal corporation desiring such permit shall make application for the granting thereof unto the legislative body of any city or village in which said work or plant is proposed to be located. Such application shall state the exact property within the city limits to be devoted to said plant and shall state the kind of work or plan contemplated and the size and capacity thereof and shall render such other information to the said legislative body as the latter may require. The proposal shall, in manner and form as said body may provide, be submitted to a vote of the electors of said city or village at the next general or special election, and if the granting of the permit be approved by a majority of the electors voting therefor, then the permit shall be granted: Provided, however, That nothing in this act shall prevent any city or village from disposing of its own sewage matter within its own corporate limits or in territory outside thereof which is not within the limits of any other incorporated city or village without obtaining a permit therefor as in this act required, or in any such plants and works actually in operation at the time of the passage of this act or enlargements thereto: Provided further, That nothing in this act shall prevent any city or village which is a member of an authority incorporated under Act No. 179 of the Public Acts of 1947, being sections 123.301 to 123.310, inclusive, of the Compiled Laws of 1948, for the purpose of the collection or disposal, or both, of garbage or rubbish, or both, from acquiring, erecting, owning, operating, maintaining, managing, controlling or building the equipment, trucks, buildings and plants by such authority which are necessary for the purposes of its incorporation, within the corporate limits of such city or village member, without obtaining a permit therefor as in this act required: Provided further, That nothing in this act shall be construed as authority to violate the provisions of any local zoning ordinance.

**History:** 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2484 ;-- CL 1948, 123.273 ;-- Am. 1952, Act 33, Imd. Eff. Mar. 31, 1952

#### **123.274 Declaration of nuisance; action.**

##### **Sec. 4.**

Any building, plant or work erected, constructed or carried on in violation of any the provisions of this act is hereby declared to be a nuisance and an action for the abatement of such nuisance may be brought in the name of the people of the state of Michigan, by the attorney general of the state of Michigan, or by any one or more of the property owners within the city or village in which said building, plant, or work is attempted to be placed in violation of this act.

**History:** 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2485 ;-- CL 1948, 123.274

**Compiler's Notes:** The word "between" between "any" and "the provisions," near the beginning of this section, appears to have been omitted.

#### **123.275 Application of act.**

##### **Sec. 5.**

Nothing in this act shall in any way impair, impeach, or in any way affect any right of action in law or in equity that may now exist in addition to the provisions of this act for the prevention of building plants or works, named in this act, nor shall this act in any way affect the right of any city or village to enact ordinances for their protection against such building plants or works in this act named. This act shall not apply to sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter, where the same are located within the confines of any city or village whose sewage constitutes part of the total sewage entering such a facility.

**History:** 1927, Act 261, Eff. Sept. 5, 1927 ;-- CL 1929, 2486 ;-- CL 1948, 123.275 ;-- Am. 1962, Act 21, Imd. Eff. Apr. 9, 1962

#### **123.276 Resolution as permit.**

##### **Sec. 6.**

Notwithstanding any other provision in this act, a resolution adopted by the legislative body of an incorporated city or village in this state authorizing and approving a contract with any other municipal or public corporation of this state with respect to the financing or location of or service from a garbage disposal plant, or garbage reduction plant in the corporate limits of the city or village constitutes a permit to acquire, improve, enlarge, extend, operate, and maintain the plant within the corporate limits of the city or village.

**History:** Add. 1989, Act 187, Imd. Eff. Aug. 24, 1989

## **SANITARY SEWER SYSTEMS**

### **Act 288 of 1972**

123.281-123.287 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

## JOINT GARBAGE AND RUBBISH DISPOSAL

### Act 179 of 1947

AN ACT to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- Am. 1955, Act 92, Imd. Eff. June 2, 1955

*The People of the State of Michigan enact:*

#### **123.301 Garbage and rubbish disposal and dog pound authority; incorporation by municipality.**

##### **Sec. 1.**

Any 2 or more cities, villages or townships, hereinafter referred to as "municipalities", or any combination thereof, may incorporate an authority for the purpose of the collection or disposal, or both, of garbage or rubbish, or both, and for the establishment and operation of a dog pound, by the adoption of articles of incorporation, by the legislative body of each such municipality. The fact of such adoption shall be endorsed on such articles of incorporation by the mayor and clerk of the city, the president and clerk of the village, or the supervisor and clerk of the township, as the case may be, in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ..... county, Michigan, at a meeting duly held on the ..... day of ..... 19.... of said ..... Clerk of said ....."

The authority shall be comprised of the territory within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and circulating within the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each the secretary of state and the clerk of the county within which such authority or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.301 ;-- Am. 1955, Act 92, Imd. Eff. June 2, 1955

#### **123.302 Authority; articles of incorporation, contents.**

##### **Sec. 2.**

Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitations of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibility of causing the articles of incorporation to be published and printed copies to be certified and filed as above provided or who are charged with any other responsibility in connection with the incorporation of said authority, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.302

### **123.303 Authority; corporate powers; construction of act.**

#### **Sec. 3.**

Such authority shall be a body corporate with power to sue or be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation, and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.303

### **123.304 Authority; acquisition, management, sale or lease of land; condemnation.**

#### **Sec. 4.**

For the purposes of its incorporation, the authority may acquire private property by purchase, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911 as now or hereafter amended, or any other appropriate statute.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.304

### **123.305 Authority; contracts; time limitations; charges.**

#### **Sec. 5.**

(1) The authority may contract with any municipality that is a part of the authority for the collection or disposal, or both, by the authority of garbage or rubbish, or both, originating in the municipality, or for the establishment and operation of a dog pound for the municipality, for a period not exceeding 40 years. The charges specified in the contract shall be subject to increase by the authority, if necessary, in order to provide funds to meet its obligations.

(2) For the purposes provided in subsection (1), the authority may also contract with a city, village, or township that is not a part of the authority. The contract may provide for charges greater than those to the municipalities that are a part of the authority. The contract shall be for a period not exceeding 40 years. The charges under the contract shall be subject to change from time to time.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.305 ;-- Am. 1955, Act 92, Imd. Eff. June 2, 1955 ;-- Am. 1962, Act 16, Imd. Eff. Mar. 26, 1962 ;-- Am. 1992, Act 106, Imd. Eff. June 25, 1992

### **123.306 Authority; right to make subcontracts.**

#### **Sec. 6.**

The authority shall have the power to contract with any person, firm or corporation for the performance by the latter of any part of the work of collecting or disposing, or both, of garbage or rubbish, or both.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.306

### **123.307 Authority; articles of incorporation, amendment.**

#### **Sec. 7.**

Any city, village or township may become a part of such authority by amendment to the articles of incorporation, adopted by the legislative body of such city, village or township and by the legislative body of each city, village or township of which such authority is composed. Other amendments may be made to such articles of incorporation if adopted by the legislative body of each city, village or township of which the authority is composed. Any such amendment shall be endorsed, published and certified printed copies filed in the same manner as the original articles of incorporation, except that the filed printed copies shall be certified by the recording officer of the authority.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.307

### **123.308 Power to raise and expend moneys; payment of contracts; taxing power denied authority.**

#### **Sec. 8.**

The legislative body of each city, village or township which is a part of such authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation or by the terms of any contract between it and the authority, unless some other method is provided therefor in such articles of incorporation or contract. The authority shall have no direct taxing power.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.308

### **123.309 Self-liquidating revenue bonds; issuance.**

#### **Sec. 9.**

For the purpose of acquiring, constructing, improving, enlarging or extending facilities for the collection or disposal, or both, of garbage or rubbish, or both, or for the purpose of refunding bonds previously issued, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. No such bonds shall be a general obligation of the authority but shall be payable from revenues only.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.309 ;-- Am. 1959, Act 205, Imd. Eff. July 23, 1959

### **123.310 Powers additional.**

#### **Sec. 10.**

The powers herein granted shall be in addition to those granted by any statute or charter.

**History:** 1947, Act 179, Eff. Oct. 11, 1947 ;-- CL 1948, 123.310

**123.311 Entering or extending contract, obligation, bond, or note; sale or transfer of property; determination of current market value; withdrawal of member from qualified authority; payment; dissolution of authority; payment of environmental activities; distribution of assets; articles of incorporation; definitions.**

Sec. 11.

(1) After the effective date of the 2002 amendatory act that added this section, a qualified authority shall not enter into or extend any contract, obligation, bond, or note that has, or as extended would have, a termination date after the termination date of the authority's most recently approved contract under section 5(1), unless the contract, obligation, bond, or note or extension thereof, is approved by all members.

(2) Within 90 days after a qualified authority decides to sell or transfer real property located within the territory of a member or former member, the member or former member may exercise the right of first refusal to purchase the real property at a price not less than the greater of the real property's current market value or the highest price offered for the real property in an arm's length, bona fide offer by a third party. The current market value of such real property shall be determined by an appraiser acceptable to the authority and the interested member. Any dispute regarding a determination of current market value shall be resolved by independent arbitration.

(3) Unless its withdrawal would cause an impairment of any contract, a member may withdraw from a qualified authority if all of the following requirements are met:

(a) The legislative body of the member adopts a resolution stating that the authority is no longer effectively serving the member's needs and declaring its decision to withdraw from the authority on a date specified in the resolution.

(b) The withdrawal date specified in the resolution under subdivision (a) is not either of the following:

(i) Less than 60 days after the date the resolution is adopted.

(ii) Within 1 year before the termination date of the authority's most recently approved contract under section 5(1) unless the filings required by subdivision (c) are made more than 1 year before the specified withdrawal date.

(c) The clerk of the member promptly files a certified copy of the resolution adopted under subdivision (a) with the authority and the secretary of state.

(4) By the withdrawal date, the withdrawing member, at its option, either shall pay to the authority the amount of the withdrawing member's fair share of the negative equity of the authority, if any, determined as of the withdrawal date, or shall provide the authority with a bond or other independent, insured guarantee that any such amount will be paid not later than 30 days after the expiration date of the authority's most recently approved contract under section 5(1). This subsection does not relieve the withdrawing member from either of the following:

(a) The member's fair share of any obligation to reimburse the authority following the member's withdrawal for any environmental liabilities subsequently incurred by the authority, to the extent that the environmental liabilities result from the authority's disposal of the withdrawn former member's municipal solid waste, recyclable materials, or yard waste.

(b) The member's payment of any money damages, owed on account of its or the authority's default under a contract under section 6 if the default and damages result directly and solely from the member's withdrawal and are necessary to prevent an impairment of the contract. If 2 or more members withdraw, they are jointly liable for damages under this subdivision.

(c) The member's fair share of any obligation to reimburse the authority following the member's withdrawal for liability incurred by the authority as a result of litigation or arbitration proceedings that were initiated before the date of withdrawal, or litigation or arbitration involving a cause of action arising before the date of withdrawal, if the total amount of the member's fair share of the obligation cannot be exactly determined by the date of withdrawal.

(5) At the option of the authority, by the withdrawal date, the authority shall pay to the withdrawing member the withdrawing member's fair share of the equity of the authority, determined as of the withdrawal date, or shall provide the withdrawing member with a bond or other independent, insured guarantee that such amount will be paid no later than 30 days after the expiration date of the authority's most recently approved contract under section 5(1). If an authority elects to provide such a bond or other guarantee, the withdrawn former member may direct the bonding company or guarantor at any time thereafter to pay from the bond or other guarantee any obligation or liability owed to the authority by the withdrawn former member, including, but not limited to, an obligation described in subsection (4)(a) or (b).

(6) Unless it would cause an impairment of an authority contract under section 6, a qualified authority shall dissolve if both of the following requirements are met:

(a) The legislative bodies of 60% of the members, weighted by the percentage of recent waste delivery, each adopt a resolution stating that the authority is no longer effectively serving the public good for which it was created

and directing that the authority be dissolved pursuant to this subsection and subsections (7) to (9).

(b) The clerk of each member whose legislative body adopts a resolution under subdivision (a) promptly files a certified copy of the resolution with the authority and the secretary of state.

(7) Within 6 months after the requirements of subsection (6) are met, the qualified authority shall establish a mechanism to manage and pay for environmental activities required under existing law and cease the activities described in section 1 for which it was incorporated. Within 6 months after ceasing activities described in section 1, the authority shall settle its accounts, including, but not limited to, all vested or accrued employee benefits, employment contracts, collective bargaining agreements, and unemployment compensation, and, subject to subsection (2), shall sell all of its property. In addition, the authority shall establish a mechanism for handling future environmental liabilities. A qualified authority with respect to which the requirements of subsection (6) have been met and a new authority incorporated under subsection (10) may agree to the assignment of contracts from the qualified authority to the new authority.

(8) After the requirements of subsection (7) are met, the qualified authority shall distribute to each member that member's fair share of the authority's remaining assets.

(9) Upon distribution of the qualified authority's assets under subsection (8), both of the following apply:

(a) The authority is dissolved.

(b) All liabilities of each member and former member of the authority are terminated, except for both of the following:

(i) Any environmental liabilities attributed to the authority to the extent that the environmental liabilities result from the authority's disposal of the member's or former member's fair share of municipal solid waste, recyclable materials, or yard waste.

(ii) The member's fair share of any obligation to reimburse the authority following the dissolution for liability incurred by the authority as a result of litigation or arbitration proceedings that were initiated before the date of dissolution, or litigation or arbitration involving a cause of action arising before the date of dissolution, if the total amount of the member's fair share of the obligation cannot be exactly determined by the time the requirements of subsection (7) are met.

(10) Subsections (6) to (9) do not prevent the incorporation of a new authority by some or all of the members or former members of an authority with respect to which the requirements of subsection (6) have been met.

(11) If, after the effective date of the amendatory act that added this section, a qualified authority is incorporated or amends its articles of incorporation, the qualified authority shall include in its articles the provisions of subsections (3) to (9).

(12) As used in this act:

(a) "Appraiser" means an individual licensed under article 26 of the occupational code, 1980 PA 299, MCL 339.2601 to 339.2637.

(b) "Authority" means an authority incorporated under this act.

(c) "Corrective action" means that term as defined in section 11502 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11502.

(d) "Environmental liabilities" means the costs of landfill closure and postclosure obligations, the costs of corrective action, response activity costs, and fines, penalties, or damages required or assessed by the state under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(e) "Equity of the authority" means the total fund equity of the authority excluding contributions of capital attributed to the clean Michigan initiative bond fund as set forth in an audit conducted for this purpose except that liabilities shall be reduced by any estimated liabilities that were included in determining total fund equity.

(f) "Former member" means a member that has withdrawn from a qualified authority under this section or a prior member of a qualified authority that has been dissolved under this section.

(g) "Impairment", in reference to an authority contract, means a material default in the contract that cannot be cured by the payment of monetary damages.

(h) "Member" means a municipality that incorporated a qualified authority under section 1 or that became part of a qualified authority under section 7 and that has not withdrawn from the authority under this section.

(i) "Member's fair share" means the percentage determined by taking the tonnage of municipal solid waste, recyclable materials, and yard waste contributed by the member and disposed of by the authority since its incorporation and dividing that amount by the tonnage of municipal solid waste, recyclable materials, and yard waste contributed by all members and disposed of by the authority since its incorporation, as determined, in the event of a dispute, by statutory and binding arbitration.

(j) "Percentage of recent waste delivery" means the amount of municipal solid waste, recyclable materials, and yard waste generated within a particular member's territory and disposed of by the authority during the latest full calendar year for which the authority disposed of such materials or waste generated within the territory of that member, divided by the sum of such amounts for all members, as determined, in the event of a dispute, by independent arbitration.

(k) "Qualified authority" means an authority that as of the effective date of this section or thereafter is composed of 10 or more members and has a population residing within its territory of 250,000 or more.

(l) "Response activity costs" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

**History:** Add. 2002, Act 598, Imd. Eff. Dec. 16, 2002

**Compiler's Notes:** Former MCL 123.311 to 123.319, deriving from Act 345 of 1978, were repealed by Act 60 of 1995, Imd. Eff. May 24, 1995.

## **ACCESS TO DISPOSAL FACILITIES**

### **Act 152 of 1976**

AN ACT to regulate access to disposal facilities which are connected with sewer systems and which are open to public use.

**History:** 1976, Act 152, Imd. Eff. June 17, 1976

*The People of the State of Michigan enact:*

#### **123.321 Tank disposal facilities maintained by gas station; installation of lock; use of facilities.**

##### **Sec. 1.**

A person, firm, or corporation operating a gas station which maintains tank disposal facilities for trailers, campers, or other recreation or travel vehicles, which facilities are connected directly with sewer systems, shall install a lock on the facilities and permit the use of the facilities only upon the permission of the manager or attendant in charge of the premises.

**History:** 1976, Act 152, Imd. Eff. June 17, 1976

#### **123.322 Installation of lock on outdoor capped access to sewer located at gas station.**

##### **Sec. 2.**

A lock shall be installed on an outdoor capped access to a sewer located at a gas station and the capped access be kept locked at all times except when the facilities described in section 1 are in use.

**History:** 1976, Act 152, Imd. Eff. June 17, 1976

#### **123.323 Violation; penalty.**

##### **Sec. 3.**

A person, firm, or corporation who violates this act is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00.

**History:** 1976, Act 152, Imd. Eff. June 17, 1976



## JOINT WATER AND SEWAGE DISPOSAL SYSTEM

### Act 235 of 1947

AN ACT to regulate the ownership, extension, improvement and operation of public water and sewage disposal systems lying within 2 or more public corporations; to authorize the acquisition, by any public corporation, of that part of a public water or sewage disposal system lying within its boundaries; and to provide for the payment and security of revenue bonds issued for the construction, acquisition, extension and improvement of such systems.

**History:** 1947, Act 235, Eff. Oct. 11, 1947

*The People of the State of Michigan enact:*

#### **123.331 Public corporation; definition.**

##### Sec. 1.

The term "public corporation" as used herein shall be deemed to mean any county, metropolitan district, city, village or township in this state.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.331

#### **123.332 Water and sewage disposal system; acquisition through change of boundaries; referendum.**

##### Sec. 2.

When any public corporation shall have acquired any water or sewage disposal system, and, by subsequent incorporation, annexation or other change of boundaries, the land in which any part of such system lies shall have been placed within the boundaries of any other public corporation, the legislative or governing body of such other public corporation, if it desires to acquire that part of such system lying within its boundaries, shall submit the question of acquiring the same to vote of its qualified electors at a regular or special election.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.332

#### **123.333 Disposal system; electors' approval; ordinance.**

##### Sec. 3.

If such proposition shall receive the favorable vote of 3/5 of the electors voting thereon, the legislative or governing body of such public corporation may adopt an ordinance providing for taking the ownership of that portion of such system lying within its boundaries on a specified date not less than 3 months from the adoption of said ordinance and cause a copy of said ordinance to be delivered within 10 days after its adoption to the clerk of each other public corporation within which any part of such system is located.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.333

**123.334 Disposal system; joint board or commission, control; members, election.**

Sec. 4.

On or before the date specified in said ordinance, it shall be the duty of each of such public corporations, by its legislative or governing body, to elect 1 member of a joint board or commission. The members so elected shall elect 1 additional member, and the board so constituted shall have full control of the operation, extension and improvement of the system except as herein otherwise provided. The members of such board shall be elected annually in the same manner.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.334

**123.335 Disposal system; alternative plans for division or operation.**

Sec. 5.

The several public corporations in which said system lies may, at any time before or after the date specified, enter into a contract providing, in lieu of the provisions of section 4 of this act, for the division of such system, between the several public corporations, or for its operation as a single unit either by 1 of the public corporations as agent for all, or by a joint board of commissioners, 1 or more of whom shall be appointed by the legislative or governing body of each public corporation, and 1 or more shall be elected by such commissioners or by some disinterested agency.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.335

**123.336 Disposal system; retirement of bonds; noncallable bonds; bond and interest redemption fund; payment priority; bonds subject to revenue bond act of 1933.**

Sec. 6.

(1) If there are outstanding revenue bonds issued for the acquisition, construction, extension, or improvement of the system, the bonds may be retired either by the issue of joint refunding bonds on behalf of all the public corporations by concurrent ordinances of their respective legislative or governing bodies, or by the apportionment of the outstanding indebtedness among the several public corporations and assumption by each of its proportion of indebtedness, or the issue by each of revenue refunding bonds or other obligations for its proportion. Unless otherwise provided by contract, the outstanding indebtedness, if the plan of refunding or assumption is adopted by either public corporation, and if there are noncallable bonds the owners of which do not consent to surrender for redemption, exchange, or indorsement, the plan may nevertheless be made effective if provision is made for the subordination of the refunding or assumed bonds to those not consenting and for a separate bond and interest redemption fund for the non-consenting bonds and the deposit of all money required by the ordinance under which the bonds were originally issued for the payment of the non-consenting bonds and reserves before any provision is made for the payment of the refunding or assumed bonds or reserves.

(2) Bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.336 ;-- Am. 2002, Act 415, Imd. Eff. June 3, 2002

**123.337 Disposal system; operation as a single unit; segregation and disposition of revenues, retirement of bonds.**

Sec. 7.

The integrity and unit of operation of the entire system as a single unit shall be preserved, and the segregation, safekeeping and disposition of its revenues as provided by the bond ordinance shall be continued until all outstanding bonds assumed by the revenues of the entire system shall have been retired by payment, redemption, assumption, or exchange, or provision made for their priority in accordance with section 6 of this act.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.337

**123.338 Disposal system; operation as a separate unit after retirement of bonds; collection and disposition of revenues.**

Sec. 8.

After all outstanding bonds have been paid or their priority secured as aforesaid, or have been retired by the issue of separate refunding bonds, by the several public corporations, jointly or severally, or by the assumption by each of its proportion thereof, any public corporation shall have the right to take over the ownership and operation of that part of the system lying within its boundaries and the collection and disposition of the revenues derived therefrom, subject to such conditions as will secure to all the subdivisions the connections, flowage rights and other facilities necessary to the operation of their respective systems.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.338

**123.339 Disposal system; division between public corporations; proportionate share of expenses or indebtedness.**

Sec. 9.

If any such system shall be divided, each public corporation shall provide for the operation of its portion and for the proper proportion of any expenses common to the entire system or separate systems, including payment of interest and principal of any unrefunded bonds of the original issue and for the payment of those expenses properly chargeable to its separate system including the payment of any bonds assumed or separately issued by it.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.339

**123.340 Disposal system; operation by joint board or agency as unit; fund payments; depreciation, contingent, and surplus funds; revised municipal finance act inapplicable.**

Sec. 10.

(1) If the system is operated as a single unit, by a joint board or by 1 public corporation as agent for all, the operating board or agency shall provide for the payment of the necessary amounts into the operation and maintenance fund and into the bond and interest redemption fund for all bonds secured by the revenues of the entire system. The public corporations may, by contract, provide for the joint holding and management of other revenues or for their apportionment and deposit into separate bond and interest redemption funds for bonds, severally issued or assumed and into separate depreciation, contingent, and surplus funds. Unless otherwise provided by the contract, those revenues shall be divided and paid quarterly or more often into their respective treasuries and set

apart by each into the appropriate funds. Unless otherwise provided by the contract, each public corporation shall have control of the construction of extensions and improvements to the system within its boundaries, and shall be entitled to its proportion of the contingent and surplus funds for that purpose.

(2) The contracts described in subsection (1) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.340 ;-- Am. 2002, Act 415, Imd. Eff. June 3, 2002

#### **123.341 Disposal system; apportionment of revenues, debts, properties; realty, purchase, use.**

Sec. 11.

Unless otherwise provided by contract, all revenues subject to apportionment and all outstanding indebtedness to be separately refunded or assumed by the several public corporations shall be divided in proportion to the net revenues received during the preceding fiscal year from services rendered by the system to property within the respective boundaries of such public corporations. All properties, including buildings, shops, garages, warehouses having a permanent location, shall upon appraisal be purchased by the public corporation within whose boundaries it is located for a percentage of the appraised value, applicable to the division of revenues as herein provided, but so far as necessary to the efficient operation of parts of the system lying within the boundaries of another public corporation, such property may continue to be used for that purpose for a charge to such other public corporation for its proportion of the expenses of operation and repairs. Any cash assets and intangible property shall be divided in the same proportion as herein provided for the net revenues.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.341

#### **123.342 Disposal system provisions applicable.**

Sec. 12.

Except as herein provided, all such systems shall be subject to the provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.342

**Compiler's Notes:** For provisions of Act 94 of 1933, referred to in this section, see MCL 141.101 et seq.

#### **123.343 Disposal system; cumulative effect of act; repeal of authority granted by other law.**

Sec. 13.

This act is cumulative authority for the exercise of the powers hereby granted, and does not repeal any existing authority granted by any other law.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.343

#### **123.344 Disposal system; joint acquisition by public corporations under other statutes; contracts.**

Sec. 14.

Any public corporations which may, heretofore or hereafter, have jointly acquired the ownership or right to operate any water or sewage disposal system under any other statute may make any contract in regard to such system of the nature hereby authorized.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.344

**123.345 Disposal system; contracts for division of systems existing or to be acquired.**

Sec. 15.

Any public corporation which may, heretofore or hereafter, have acquired a water or sewage disposal system extending beyond its own boundaries and any public corporation into whose territory any such system shall extend, may divide such system by a contract of the nature hereby authorized.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.345

**123.346 Vote or proceeding by public corporation before effective date of act; validation.**

Sec. 16.

Any vote or proceeding authorized hereby which may have been taken by any public corporation before the effective date of this act is hereby validated.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.346

**123.347 Act not deemed part of bondholders' contract; proceedings impairing contracts prohibited.**

Sec. 17.

This act shall not be deemed to be a part of the bond contract between a public corporation hereafter issuing any revenue bonds and the holders of such bonds, and no proceedings shall be taken hereunder which will impair the contract rights of such bondholders.

**History:** 1947, Act 235, Eff. Oct. 11, 1947 ;-- CL 1948, 123.347

**JOINT WATER AND SEWAGE DISPOSAL SYSTEM**

**Act 82 of 1955**

AN ACT to provide for the acquirement by a city of the water supply system and/or sewage disposal system of a metropolitan district and to permit such a city to own, maintain, operate, improve, enlarge and extend such system or systems either within or without its limits, and to provide for the transfer to such city of the rights, obligations, property and functions of the metropolitan district.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

**123.351 Definitions.**

Sec. 1.

The words "water supply system and/or sewage disposal system" as herein used shall include either or both of such systems or a combined water supply and sewage disposal system.

The term "water supply system" shall include all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and/or the distribution of water.

The term "sewage disposal system" shall include all sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities and properties used or useful in connection with the collection, treatment and/or disposal of sewage and/or industrial wastes.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

**123.352 Purchase of water supply system and/or sewage disposal system by city from adjoining metropolitan district; contract, approval.**

Sec. 2.

Where any part of a city adjoins or is included in a metropolitan district organized under the provisions of Act No. 312 of the Public Acts of 1929, as amended, being sections 119.1 to 119.15, inclusive, of the Compiled Laws of 1948, such city may acquire by purchase the water supply system and/or sewage disposal system owned by such metropolitan district, and may own, maintain and operate the same either separately or as a part of its own water supply system and/or sewage disposal system, and may improve, enlarge and extend the same. Any such metropolitan district is hereby empowered to sell its water supply system and/or sewage disposal system in accordance with the terms of this act. In the event that there are outstanding any bonds pledging the revenues of such metropolitan district system or systems, the city may assume the obligations of the metropolitan district on said bonds as a part or complete payment of the purchase price. The purchase agreement shall be evidenced by a contract between the city and metropolitan district, which contract shall be approved by a resolution adopted by the affirmative vote of 3/5 of the members elect of the respective governing bodies of such city and metropolitan district. Such a contract shall contain those provisions which the parties thereto shall deem necessary to properly effect such sale and purchase and to define the rights and obligations of the parties. No such contract shall be entered into unless the disposal of the system or systems shall have been authorized by 3/5 of the electors of the metropolitan district voting thereon at a regular or special election and unless the acquirement of the system or systems shall have been authorized by 3/5 of the electors of the city voting thereon at a regular or special city election. Such an authorization shall be valid for the purpose of this act if made at an election held after the effective date of this act or within 1 year prior thereto. The foregoing requirements as to authorization by the electors shall supersede any charter requirements in that respect.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

**123.353 Succession of rights, obligations and property; contract.**

Sec. 3.

Any city acquiring a water supply system under the terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water, unless the purchase contract shall otherwise provide. Any city acquiring a sewage disposal system under the

terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying sewage disposal, unless the purchase contract shall otherwise provide. Any city acquiring both a water supply system and a sewage disposal system, or a combined water supply and sewage disposal system, under the terms hereof, shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water and sewage disposal, unless the purchase contract shall otherwise provide. The said rights, obligations and property shall include the right to transact a local business and the right to lay, maintain and operate water mains and/or sewers in the public highways, to the extent that such rights have been granted to the metropolitan district by any city, village or township.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

#### **123.354 Services; continuance, extension.**

##### **Sec. 4.**

Any city acquiring a water supply system shall have the right to supply water, any city acquiring a sewage disposal system shall have the right to supply sewage disposal, and any city acquiring a combined water supply and sewage disposal system, shall have the right to supply water and sewage disposal, to the same area to which the metropolitan district had the right to furnish such services on the effective date of the purchase contract, and for the purpose of furnishing such services such city may improve, enlarge, extend, maintain and operate such system or systems within and/or without its corporate limits: Provided, That the city shall comply with any constitutional requirements in respect to the exercise outside its boundaries of any such rights which shall not have been constitutionally transferred to it pursuant to this act.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

#### **123.355 Readjustment of service rates; adoption of ordinances, property outside limits.**

##### **Sec. 5.**

A city so acquiring such a system may readjust the service rates provided the same do not impair the obligation of any bond contract. The legislative body of a city may, subject to constitutional and statutory limitations, adopt such ordinances and resolutions as may be necessary for the care, protection, preservation, management and control of any system acquired pursuant to this act, including that portion outside its city limits.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

#### **123.356 Construction of act.**

##### **Sec. 6.**

This act and any contract entered into pursuant thereto shall be liberally construed by the courts. The provisions of this act shall be construed as an additional grant of power to that prescribed by other statutory provisions or by any charter provisions.

**History:** 1955, Act 82, Imd. Eff. May 26, 1955

## THE GARBAGE DISPOSAL ACT

### Act 266 of 1951

AN ACT regulating garbage disposal by cities and villages; to provide for the adoption of ordinances; to provide for the borrowing of money and the issuance of bonds; to provide for rates for services; and to declare the effect of this act.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

*The People of the State of Michigan enact:*

#### **123.361 Garbage disposal act; short title.**

##### Sec. 1.

This act shall be known and may be cited as "the garbage disposal act."

**History:** 1951, Act 266, Eff. Sept. 28, 1951

#### **123.362 Garbage disposal equipment system; city or village may provide; garbage disposal equipment, definition; garbage grinders.**

##### Sec. 2.

Any city or village may by ordinance provide for a garbage disposal equipment system to acquire, purchase, lease, install, replace or repair garbage disposal equipment. The term "garbage disposal equipment," whenever used in this act, except when otherwise indicated by the context, shall be construed to mean all equipment or machinery of any nature whatsoever and all appurtenances thereto used or useful in treating and reducing garbage and similar waste materials prior to introduction into the sewer system of the city or village, including but not limited to garbage grinders: Provided, That when garbage grinders are installed for such disposal, the city or village shall have a sanitary sewage disposal plant into which the refuse from such garbage grinders is deposited for treatment.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

#### **123.363 Installation on private property; written agreement with owner; ordinance, provisions, rates and charges, lien, enforcement, priority; discontinuance of water service.**

##### Sec. 3.

Garbage disposal equipment may be installed on private property by said city or village making provision for garbage disposal equipment, as may be required by ordinance, after written agreement with the owner of such property. Any such ordinance adopted pursuant to the provisions of this act shall, in addition to providing for the payment of rates and charges and such other terms and conditions as may be necessary to fully perform and exercise the powers conferred by this act provide that all such garbage disposal equipment shall be deemed the property of the city or village installing such equipment and any such ordinance shall fix the responsibility for the use, care, maintenance and replacement thereof. All such rates and/or charges shall have as security for their collection a lien upon the building in which said equipment is installed and upon the premises or lot or lots or parcel or parcels of land upon which the building is situated. Such lien shall become effective and shall be enforced as



provided by ordinance. Such lien shall have priority over all other liens except taxes, special assessments and liens for unpaid water charges or sewage disposal charges. Any city or village may provide by ordinance for the discontinuance of water service from the building whenever any person shall fail to pay rates or charges for such garbage disposal equipment.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.364 Bonds; issuance, amount, interest, maturity; tax exemption; principal and interest; payment.**

#### **Sec. 4.**

For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting, and repairing a garbage disposal equipment system, any city or village may borrow money and issue its negotiable bonds for those purposes. However, bonds shall not be issued under this section unless and until the ordinance required by section 3 has been adopted, which ordinance shall set forth a brief description of the contemplated garbage disposal equipment system, the estimated cost of the system and the amount, maximum rate of interest, and the time of payment of the bonds, not to exceed 20 years. The bonds and coupons shall be exempt from any and all taxation by this state or by any taxing authority within this state. The principal of and interest on the bonds shall be payable primarily from the net revenues derived from the operation of the garbage disposal equipment system, and in addition the city or village may pledge the full faith, credit, and resources of the city or village for the payment of the bonds. No bond or coupon issued under this act shall constitute an indebtedness of the city or village within the meaning of any charter, statutory, or constitutional limitation. All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1951, Act 266, Eff. Sept. 28, 1951 ;-- Am. 2002, Act 240, Imd. Eff. Apr. 29, 2002

### **123.365 Self-liquidating bonds, secured by revenues; liability.**

#### **Sec. 5.**

For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting and/or repairing a garbage disposal equipment system, any city or village may issue self-liquidating bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948. Such bonds shall not impose any liability upon the city or village, but shall be secured only by the revenues from the garbage disposal equipment system.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.366 Preliminary expense; appropriation, repayment.**

#### **Sec. 6.**

Any city or village which by ordinance provides for a garbage disposal equipment system to be financed by the issuance of bonds as aforesaid, may appropriate for and set up a fund to provide for all necessary preliminary expenses in making a survey estimate of costs and revenues, employment of personnel and all other expenses necessary and to be paid prior to the issuance and delivery of the bonds authorized pursuant to the provisions of this act: Provided, That the funds so appropriated and expended shall be repaid from the first proceeds of the sale of bonds, and the amount of any such appropriation so advanced shall be a first charge against the proceeds of the sale of such bonds.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.367 Use of money received from sale of bonds.**

#### **Sec. 7.**

All money received from the sale of any bonds issued under this act shall, after the payment of any appropriation made under section 6, be used solely for the purchase, acquisition, construction, improvement, installation, extension, enlargement, adjustment, or repair of the garbage disposal improvement for which the bonds were issued, including any engineering, legal, and other expenses incident to the garbage disposal improvement, and, if determined in the authorizing ordinance, the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and the amount required for operation and maintenance prior to the receipt of the first revenues.

**History:** 1951, Act 266, Eff. Sept. 28, 1951 ;-- Am. 1983, Act 28, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 240, Imd. Eff. Apr. 29, 2002

### **123.368 Free service prohibited.**

#### **Sec. 8.**

No free service shall be furnished by any such garbage disposal equipment system to any person, firm or corporation, public or private, or to any public agent or instrumentality while any bonds issued in pursuance of this act shall remain unpaid.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.369 Additional bonds; negotiation.**

#### **Sec. 9.**

Any city or village issuing bonds pursuant to the provisions of this act may, at the time of the authorization of such bonds, provide by ordinance for the issuance of additional bonds of equal standing in the event the bonds first authorized shall prove insufficient or in the event subsequent extension, enlargement, improvement and/or repair is deemed advisable, which said additional bonds may be negotiated from time to time as the proceeds therefrom may be necessary for such purposes.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.370 Retirement of outstanding bonds; new bonds, issuance, refunding bonds, premium; sale, exchange of refunding bonds, surrender and cancellation.**

#### **Sec. 10.**

Where a borrower has outstanding any bonds issued under the provisions of this act, it may thereafter issue and negotiate new bonds under this act for the purpose of providing for the retirement of such outstanding bonds, in whole or in part. Such new bonds may only be issued in accordance with and subject to the statutory provisions governing the issuance of the bonds so refunded, and except as in the refunding ordinance otherwise provided shall

be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded. Such refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the bonds to be refunded, or if such bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded: Provided, That the amount of premium so included shall not in either case exceed 5 per centum of the principal amount of the bonds to be refunded. Nothing in this section shall be construed as providing for the refunding of noncallable unmatured bonds without the consent of the holder or holders thereof. Any such refunding bonds may be sold or may be exchanged for the obligations to be refunded thereby, and if sold, the proceeds shall be deposited in a bank or trust company in a special trust account to be used only for the redemption or purchase of such outstanding bonds. Where refunding bonds are to be issued and sold for the purpose of refunding unmatured noncallable bonds, the latter must be surrendered and cancelled at the time of the delivery to the purchaser of such refunding bonds.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.371 Service rates fixed by ordinance; supervision and regulation.**

Sec. 11.

Rates for services furnished by any garbage disposal equipment system shall be fixed by ordinance. The rates charged shall be sufficient to provide for the payment of the expenses of administration and operation and such expenses of maintenance of the system as may be necessary to preserve the same; and to provide for the payment of principal and interest of all bonds payable therefrom as and when the same become due and payable; and for the creation of any reserve therefor, as required in the ordinance; and to provide for such other expenditures and funds as the ordinance may require. Rates charged for the services furnished pursuant to this act shall not be subject to the supervision or regulation by any state bureau, board, commission or like instrumentality or agency thereof.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.372 Authority additional to other powers.**

Sec. 12.

The authority hereby given shall be in addition to and not in derogation of any power existing or hereinafter granted to any city or village under any statutory or charter provisions.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.373 Powers conferred upon cities and villages; authorization and issuance not subject to referendum.**

Sec. 13.

Unless otherwise provided in this act, the powers herein conferred upon cities and villages shall be exercised by their respective governing bodies; and this act shall be construed as authorizing the issuance of bonds hereunder without submitting the proposition for the approval of the same to voters of the borrower, and the authorization and issuance of bonds pursuant to this act shall not be subject to a referendum vote of the electors of the city and village.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

### **123.374 Liberal construction of act.**

Sec. 14.

This act being necessary for and to secure the public health, safety and welfare of cities and villages of the state of Michigan, shall be liberally construed to effect the purposes hereof.

**History:** 1951, Act 266, Eff. Sept. 28, 1951

## **JOINT WATER SUPPLY AND WASTE DISPOSAL SYSTEMS**

### **Act 76 of 1965**

AN ACT to authorize counties, townships, villages, cities and any other governmental unit or entity to construct or build water supply systems and waste disposal systems by agreements or contracts with governmental units, entities or agencies of another state; or to enter into contracts or agreements with such governmental units or entities of another state for the use of such facilities.

**History:** 1965, Act 76, Imd. Eff. June 24, 1965

*The People of the State of Michigan enact:*

### **123.381 Joint water supply and waste disposal systems; definitions.**

Sec. 1.

As used in this act:

(a) "Local unit of government" means any county, city, village, township, school district, port district, metropolitan district or other governmental unit or entity in or of this state; and in or of another state.

(b) "Waste disposal system" means sewers, interceptors or waste treatment facilities, and facilities for the collection and disposal of refuse, garbage, liquid and solid waste materials.

(c) "Water supply system" means installations including pipe lines and other facilities needed for the pumping, treatment and distribution of water supplies.

**History:** 1965, Act 76, Imd. Eff. June 24, 1965

### **123.382 Local governmental units; power to construct and operate with units in another state.**

Sec. 2.

Any local unit of government, either alone or jointly with another local unit or units of government, is hereby empowered and authorized to construct, maintain and operate waste disposal systems and water supply systems through agreements or contracts with local units of government located in another state upon such terms as may be agreed upon which are not contrary to any of the laws of this state. The contracts and agreements may provide for the location of the systems either within the boundaries of this state or within the boundaries of the other state.

**History:** 1965, Act 76, Imd. Eff. June 24, 1965

**123.383 Local governmental units; agreements with units of another state for waste disposal or water supply services.**

Sec. 3.

Any local unit of government in this state, either singly or jointly with other local units of government, may enter into contracts and agreements with local units of government in another state for securing or providing of waste disposal or water supply services by means of appropriate facilities located in either state.

**History:** 1965, Act 76, Imd. Eff. June 24, 1965

**123.384 Local governmental units; financing according law.**

Sec. 4.

Local units of government may finance the construction, maintenance and operation of such systems pursuant to any laws now existing in this state or such other laws as may be hereafter enacted.

**History:** 1965, Act 76, Imd. Eff. June 24, 1965

**GIFTS FROM MUNICIPAL UTILITIES**

**Act 301 of 1969**

AN ACT authorizing municipalities owning or operating public utilities to make contributions and gifts as determined by its governing body.

**History:** 1969, Act 301, Eff. Mar. 20, 1970

*The People of the State of Michigan enact:*

**123.391 Authorization for giving gifts and contributions; source; legislative approval.**

Sec. 1.

Any municipality owning or operating any public utility may authorize the giving of gifts or contributions from the operating revenues of the utility in such amounts and for such purposes as shall be determined by the governing body of the public utility to be in the public interest, subject to the approval of the legislative body of the municipality.

**History:** 1969, Act 301, Eff. Mar. 20, 1970

**INJURIES TO PERSONS DRAFTED FOR MUNICIPAL SERVICE**

## **Act 203 of 1931**

AN ACT to establish the liability of municipalities of this state for injuries sustained by persons drafted into service for such municipalities, and to provide the manner of payment of claims for such injuries.

**History:** 1931, Act 203, Eff. Sept. 18, 1931

*The People of the State of Michigan enact:*

### **123.401 Municipality, drafted person; definitions.**

#### **Sec. 1.**

The term "municipality" as used in this act shall be construed to include any township, city, village or county of this state.

The term "drafted person" as used in this act shall be construed to include any person commanded to assist any municipal official or employee authorized to command the assistance of bystanders in the performance of his duties as such municipal official or employee. In the case of the commanding of assistance in putting out fires, the term "drafted person" shall be construed to include any municipal fire department employee called to aid in putting out of a fire in any other municipality, which is not under a fire protection contract with the municipality operating such fire department.

**History:** 1931, Act 203, Eff. Sept. 18, 1931 ;-- CL 1948, 123.401

### **123.402 Municipal liability for injuries to drafted person; basis of compensation.**

#### **Sec. 2.**

Any municipality of this state shall be liable for the injuries sustained by any person drafted to assist any official or employee of such municipality authorized to command the assistance of such drafted person in the performance of his duties as such municipal official or employee: Provided, however, That the compensation allowed such injured drafted person shall be on the same basis and equal to the compensation the drafting municipal official or employee would receive under the workmen's compensation act in case of a similar injury.

**History:** 1931, Act 203, Eff. Sept. 18, 1931 ;-- CL 1948, 123.402

### **123.403 Payment of claim; law applicable.**

#### **Sec. 3.**

The payment of any claim arising against a municipality under this act shall be governed by the laws, ordinances and/or charter affecting such municipality in respect to the payment of claims.

**History:** 1931, Act 203, Eff. Sept. 18, 1931 ;-- CL 1948, 123.403

## **LEASING OF PRIVATE RESIDENTIAL PROPERTY**

## Act 226 of 1988

AN ACT to limit the powers of a local governmental unit regarding the leasing of private residential property.

**History:** 1988, Act 226, Imd. Eff. July 5, 1988

*The People of the State of Michigan enact:*

### **123.411 "Local governmental unit" defined; rent control prohibited; management and control of residential property; incentive to increase supply of certain residential property.**

Sec. 1.

(1) As used in this section, "local governmental unit" means a political subdivision of this state including, but not limited to, a county, city, village, or township, if the political subdivision provides local government services for residents in a geographically limited area of this state as its primary purpose and has the power to act primarily on behalf of that area.

(2) Subject to subsections (3) and (4), a local governmental unit shall not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential property.

(3) This section does not impair the right of any local governmental unit to manage and control residential property in which the local governmental unit has a property interest.

(4) This section does not limit the power of a local governmental unit to adopt an ordinance or resolution to implement a plan to use voluntary incentives and agreements to increase the supply of moderate- or low-cost private residential property available for lease.

**History:** 1988, Act 226, Imd. Eff. July 5, 1988 ;-- Am. 2018, Act 585, Eff. Mar. 28, 2019

## FREE EMPLOYMENT BUREAU

### Act 306 of 1931

AN ACT to authorize cities and villages of this state to create, acquire, control, and operate free employment bureaus.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931

*The People of the State of Michigan enact:*

### **123.451 Free employment bureau; power of city or village legislative body.**

Sec. 1.

The legislative body of any city or village in this state is hereby authorized to create, acquire, control, and operate free employment bureaus within the limits of said cities and villages, and may use for such purpose any property suitable therefor that is now or may at any time hereafter be owned, leased, or controlled by such city or village.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931 ;-- CL 1948, 123.451

### **123.452 Free employment bureau; purpose, name, registration fees, powers and duties.**

#### **Sec. 2.**

Such employment bureaus shall be established for the purpose of receiving applications of persons seeking employment and applications of persons seeking to employ labor. Such bureaus shall be designated and known as municipal or village public employment bureaus as the case may be. The cities and villages creating public employment bureaus authorized by this act may require the payment by all persons seeking employment a registration fee of not more than 1 dollar for the period of 1 year. For each fee there shall be issued a receipt which shall be in triplicate; 1 copy to be given to the applicant, 1 copy to be filed in the local office and 1 copy to be filed in the office of the department of labor and industry at Lansing. Every person paying such registration fee shall be entitled without further charge for the period of 1 year, to the service, of any municipal or village public employment bureau within the city or village wherein the applicant registered. It shall be the duty of such bureaus to use all diligence in securing the cooperation of employers of labor with the purpose and objects of said employment bureau. To this end it shall be competent for the legislative bodies of such cities and villages to advertise in the columns of newspapers or to use other mediums for such situations as it or its employes and agents have applicants to fill, and for such help as may be called for by employers. Said legislative bodies of the cities and villages may also advertise in a general way for the cooperation of large contractors and employers, in such trade journals or special publications as reach such employers, whether such trade journals are published within the city or village or not, and it may pursue such other methods as in their judgment will best tend to accomplish the purpose of this act: Provided, That all persons in charge of such public employment bureaus shall devote their entire time to the work of their office while receiving salary or wages from the city or village.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931 ;-- CL 1948, 123.452

### **123.453 Free employment bureau; registration fund.**

#### **Sec. 3.**

All moneys received by the cities or villages under the provisions of section 2 of this act shall be set aside and shall be known as the public employment bureau registration fund and shall be used and disbursed under the direction of the legislative body of such city or village for the purpose of conducting, maintaining and improving such employment bureaus.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931 ;-- CL 1948, 123.453

### **123.454 Free employment bureau; property.**

#### **Sec. 4.**

Any property acquired, owned, leased, controlled or occupied by such cities and villages for the purposes enumerated herein shall and is hereby declared to be acquired, owned, controlled or occupied for a public purpose and as a matter of public necessity, and such cities and villages shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity and in accordance with the procedure as outlined in their charter or in the statutes of this state.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931 ;-- CL 1948, 123.454



### **123.455 Free employment bureau; delegation of powers by legislative body.**

Sec. 5.

The powers herein enumerated may be delegated by the said legislative body of the city or village to any department, commission or agency of such city or village as may be designated or created by such legislative body.

**History:** 1931, Act 306, Imd. Eff. June 8, 1931 ;-- CL 1948, 123.455

## **YOUTH CENTERS**

### **Act 179 of 1967**

AN ACT to authorize the registered electors of, or governing body of, a county, city, village, or township to levy taxes and expend funds for youth centers; and to prescribe penalties and provide remedies.

**History:** 1967, Act 179, Imd. Eff. June 30, 1967 ;-- Am. 1988, Act 342, Imd. Eff. Oct. 18, 1988 ;-- Am. 1998, Act 178, Eff. Mar. 23, 1999

*The People of the State of Michigan enact:*

### **123.461 Youth centers; financing operations; ad valorem property tax; petition; election; canvassing and certifying votes.**

Sec. 1.

(1) Any county, city, township, or village may levy taxes and appropriate funds for operating centers open exclusively to youths under 21 years of age and aimed at curbing juvenile delinquency within the community.

(2) A registered elector of a county, city, township, or village may submit petitions requesting that a unit of government submit the question of levying an ad valorem property tax of not to exceed 1.5 mills on taxable property within the unit for not to exceed 20 years for the operation of a youth center as described in subsection (1) to the electors of the unit at the next general election in the manner provided by law. Petitions that are filed pursuant to this subsection shall be filed not less than 120 days before the election at which the question is to be voted upon. The petitions shall be signed by a number of registered electors from the county, city, township, or village equal to not less than 5% of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected within the petitioning unit of local government. A tax authorized by this subsection shall be levied and collected in the same manner and at the same time as other ad valorem property taxes in the unit of local government.

(3) A petition filed pursuant to subsection (2) shall be in substantial compliance with section 544c of the Michigan election law, Act No. 116 of the Public Acts of 1954, being section 168.544c of the Michigan Compiled Laws. The petition shall be filed with the clerk of the county, city, township, or village.

(4) A determination of the sufficiency or insufficiency of a petition filed pursuant to subsection (2) shall be made not later than 60 days prior to the general election for which the petition was filed by the official receiving the petition. If the petition is determined to be sufficient, the ballot for the question shall be prepared by the official responsible for preparing the other ballots to be used at the general election. The ballot question shall specify the number of mills to be levied and the specific time period that this number of mills is to be levied.

(5) The votes cast for and against the proposal shall be canvassed and certified by the canvassing board responsible for canvassing and certifying the votes cast for offices and other proposals voted on at the general election.

**History:** 1967, Act 179, Imd. Eff. June 30, 1967 ;-- Am. 1988, Act 342, Imd. Eff. Oct. 18, 1988

**123.462 Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 2.

A petition under section 1, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 178, Eff. Mar. 23, 1999

**BIDDERS ON PUBLIC WORKS**

**Act 170 of 1933**

AN ACT to regulate the practice of taking bids and awarding contracts on public work construction, maintenance or repair work, except public buildings, and to provide a means of prohibiting those not qualified by experience, financial resources or any other valid reason from undertaking such public construction work.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933

*The People of the State of Michigan enact:*

**123.501 Bidders on public works; statement of qualifications, notice of rejection.**

Sec. 1.

Any officer, board, commission, committee or department of the state, county, city, village, or township government authorized to receive bids for the construction, maintenance and/or repair of public works, except public buildings, may require that any person proposing to bid on any such work, submit a sworn statement at least 10 days before bids are opened on such standard form and in such detail and at such time as may be deemed necessary by said officer, board, commission, committee or department, setting forth his qualifications to satisfactorily carry out the work to be performed within the time specified for such performance. Said qualifications may be judged by said officer, board, commission, committee or department upon the basis of the proposed bidder's past performance on work of a similar nature, his financial resources and his construction equipment and facilities which he proposes to use on the work advertised for construction as disclosed by such sworn statement and any other available information and a determination made whether or not the proposed bidder is a suitable person to bid on the work. Any person determined not to be a suitable person to bid on any proposed work shall be notified in writing 5 days before bids are opened of such determination.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.501

**Admin Rule:** R 247.1 et seq. of the Michigan Administrative Code.

**123.502 Bidders on public works; failure to file statement; rejection of bid.**

Sec. 2.

Should the prospective bidder fail to file the statement as required by said officer, board, commission, committee or department within the time specified, or should he, in the judgment of said officer, board, commission,

committee or department be not qualified to bid on the work duly advertised, such officer, board, commission, committee or department may refuse to furnish such person with plans, specifications and proposals and may reject any bid made by him.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.502

### **123.503 Allotment of work by public officers.**

#### **Sec. 3.**

It is further provided that when, in the judgment of such officer, board, commission, committee or department, the volume of work regularly advertised for construction would justify such course, bidders on public work may be rated according to their experience, equipment and resources and be furnished with proposals, plans and specifications for only such type and quantity of work as their qualifications as outlined in section 1 of this act would warrant.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.503

### **123.504 Questionnaire and statement; confidentiality.**

#### **Sec. 4.**

Such questionnaire and statement, filed with said officer, board, commission, committee or department, shall be deemed to be confidential and shall not be imparted to any other person, firm or corporation without the consent of the bidder.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.504

### **123.505 Refusal to furnish data to bidder; action against public officers prohibited.**

#### **Sec. 5.**

No action or proceeding of any nature or description in any court, except as hereinafter stated, shall lie against any officer of the state, county, municipal or township government because of his refusal to furnish plans, specifications or proposals or to award to any person a contract for the construction of a public work, maintenance or repair thereof for the satisfactory performance of which such person is not, in the opinion of the officer, fully qualified, or who has failed to comply with the provisions of this act.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.505

### **123.506 Review of decision of public officers.**

#### **Sec. 6.**

Any person feeling himself aggrieved at the determination of any such officer, board, commission, committee or department shall have the right of appeal by mandamus, certiorari or other proper remedy to the supreme court of

the state of Michigan, or in any proper case to any circuit court having jurisdiction.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.506

**123.507 False statements; penalty.**

Sec. 7.

Any person who wilfully makes, or causes to be made any false, deceptive or fraudulent statement in any questionnaire or statement required to be submitted under this act shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than 100 dollars, or more than 1,000 dollars, or to imprisonment in the county jail for a period not exceeding 6 months.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.507

**123.508 Person; definition.**

Sec. 8.

The word "person" as used herein, shall mean and include any individual, corporation, co-partnership, association or their lessees, trustees or receivers.

**History:** 1933, Act 170, Imd. Eff. June 28, 1933 ;-- CL 1948, 123.508

**ANNEXATION OF SUBMERGED LANDS**

**Act 4 of 1955**

AN ACT to authorize certain cities and villages to annex certain lands submerged by waters of the great lakes or connecting waters; to provide the procedure of annexation; and to declare certain submerged lands part of political subdivisions without annexation.

**History:** 1955, Act 4, Imd. Eff. Mar. 3, 1955 ;-- Am. 1961, Act 205, Eff. Sept. 8, 1961

*The People of the State of Michigan enact:*

**123.581 Great lakes submerged lands; annexation to cities and villages.**

Sec. 1.

Any incorporated city or village in this state, which has a boundary on waters of any of the great lakes, shall have the power to annex lands submerged by said waters if said lands are adjacent to its said boundary, the title to which is vested in a private owner pursuant to an act of the legislature of this state, which have no inhabitants, and are not at the time of the conveyance located in any township, city or village.

**History:** 1955, Act 4, Imd. Eff. Mar. 3, 1955

**123.582 Great lakes submerged lands; consent, amendment of charter.**

Sec. 2.

If the written consent of the owner or owners of such lands to the annexation shall be first procured by the city or village, said annexation shall be accomplished by amending the charter of said city or village to extend the boundaries of said city or village to include said submerged lands sought to be annexed.

**History:** 1955, Act 4, Imd. Eff. Mar. 3, 1955

**123.583 Great lakes submerged lands; automatic annexation to cities and villages.**

Sec. 3.

Whenever the boundary of any city or village in this state is the shore line of any of the Great Lakes or connecting waters, any filled-in submerged land which is attached to and an extension of the upland and which shall have been in existence for more than 15 years and any submerged islands not within any city or village but within 300 yards of the boundary of the city or village shall be included within the boundaries of the city or village without annexation proceedings and shall also be within the boundaries of the county and other units of government.

**History:** Add. 1961, Act 205, Eff. Sept. 8, 1961

**REGULATION OF HOUSEBOATS**

**Act 68 of 1957**

AN ACT to provide for the regulation by county boards of supervisors of sanitation requirements and location of houseboats in the portion of the county outside incorporated cities and villages and to prescribe penalties for the violation of such regulation.

**History:** 1957, Act 68, Eff. Sept. 27, 1957 ;-- Am. 1959, Act 17, Imd. Eff. Apr. 30, 1959

*The People of the State of Michigan enact:*

**123.591 Houseboats; regulation of sanitation and location by counties.**

Sec. 1.

The boards of supervisors of any county in the portions of such county outside incorporated cities and villages may regulate by ordinance the sanitation requirements and the location of houseboats on those portions of the lakes, rivers, canals and waterways of the county under their control and jurisdiction.

**History:** 1957, Act 68, Eff. Sept. 27, 1957 ;-- Am. 1959, Act 17, Imd. Eff. Apr. 30, 1959

**123.592 Houseboats; designation of enforcement officer.**

Sec. 2.

The boards of supervisors in enacting ordinances under the provisions of this act shall designate the proper county and township official or officials whose duty it shall be to cooperate in the administration and enforcement of the provisions of ordinances so enacted.

**History:** 1957, Act 68, Eff. Sept. 27, 1957

**123.593 Penalty for violation.**

Sec. 3.

Any person violating the provisions of such ordinance is guilty of a misdemeanor.

**History:** Add. 1959, Act 17, Imd. Eff. Apr. 30, 1959

**WATER FRONT IMPROVEMENTS**

**Act 66 of 1941**

123.601-123.604 Repealed. 2002, Act 314, Imd. Eff. May 13, 2002.

**CONTRACTS FOR ASSESSING SERVICES**

**Act 37 of 1961**

AN ACT permitting cities, villages and townships, or any combination thereof, to contract for assessing services.

**History:** 1961, Act 37, Eff. Sept. 8, 1961

*The People of the State of Michigan enact:*

**123.621 Assessing services; cities, villages, townships.**

Sec. 1.

Any 2 or more cities, villages or townships, or any combination thereof, may contract jointly for employing an independent appraisal firm to make township, village and city appraisals or to assist the supervisors and assessing officials as directed by the contracting governing boards and councils. Expenses shall be paid from the general funds of the contracting governing bodies pursuant to their contractual agreement.

**History:** 1961, Act 37, Eff. Sept. 8, 1961

## INTERMUNICIPALITY COMMITTEES

### Act 200 of 1957

AN ACT to provide for the creation by 2 or more municipalities of an intermunicipality committee for the purpose of studying area problems; and to provide authority for the committee to receive gifts and grants.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

*The People of the State of Michigan enact:*

#### **123.631 Intermunicipality area problem study committee; municipalities, definition.**

##### Sec. 1.

As used in this act, "municipalities" means any city, village, township, chartered township or other incorporated political subdivision of this state.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

#### **123.632 Intermunicipality committee; organization; purposes; definitions.**

##### Sec. 2.

(1) The governing bodies of any 2 or more municipalities, by resolution, may establish and organize an intermunicipality committee, to be known as the intermunicipality committee, for the purpose of studying area governmental problems of mutual interest and concern, including such matters as facility studies on sewers and sewage disposal, water, drains, roads, transit-oriented developments, transit-oriented facilities, rubbish and garbage disposal, recreation and parks, and ports, and to formulate recommendations for review and action thereon by the member governing bodies.

(2) As used in this section:

(a) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use.

(b) "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

**History:** 1957, Act 200, Eff. Sept. 27, 1957 ;-- Am. 2010, Act 236, Imd. Eff. Dec. 14, 2010

#### **123.633 Intermunicipality study committee; surveys, recommendations, reports.**

##### Sec. 3.

The intermunicipality committee may employ personnel to coordinate and conduct all types of surveys and studies relating to the mutual problems of its member municipalities or may enter into agreements for such surveys and studies to be conducted by other public or private agencies. It shall adopt, by resolution of a majority of its full membership, any recommendation for submission to the several member governing bodies. It may publicize its purposes, objectives and findings, and may distribute reports thereon. It shall make an annual report of its activities to the several member governing bodies.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

#### **123.634 Intermunicipality study committee; funds.**

##### **Sec. 4.**

For the purpose of providing funds to meet the expenses of the intermunicipal committee, the member governing bodies, by resolution, may authorize the allocation of municipal funds for such purpose. The proportion of the total amount of funds to be provided by each member municipality shall be based on the recommendation of the intermunicipality committee, or shall be provided for in the bylaws of the committee, which shall have been approved by the member governing bodies.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

#### **123.635 Intermunicipality study committee; contributions of services of personnel, equipment, office space.**

##### **Sec. 5.**

Services of personnel, use of equipment and office space and other necessary services may be accepted from member municipalities and may be considered as a part of the financial support of that municipality.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

#### **123.636 Intermunicipality study committee; gifts and grants from governmental units and from private sources.**

##### **Sec. 6.**

The intermunicipal committee may accept gifts and grants from the federal government, state government and local governments, also from private individuals, foundations or agencies, if the grants are made for furtherance of the objectives for which the committee is established.

**History:** 1957, Act 200, Eff. Sept. 27, 1957

#### **123.637 Intermunicipal committee; audit.**

##### **Sec. 7.**

(1) The intermunicipal committee shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially as determined by the intermunicipal committee.

(2) The intermunicipal committee shall submit the results of an audit under subsection (1) to the state treasurer.

(3) An audit under subsection (1) shall satisfy all audit requirements set forth in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

**History:** Add. 1999, Act 143, Eff. Oct. 22, 1999



## INTERCOUNTY COMMITTEES

### Act 217 of 1957

AN ACT to provide for the creation by 2 or more counties of an intercounty committee for the purpose of studying area problems; and to provide authority for the committee to receive gifts and grants.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957

*The People of the State of Michigan enact:*

#### **123.641 Intercounty area problem study committees; establishment, recommendations.**

##### Sec. 1.

The boards of supervisors of any 2 or more counties, by resolution, may establish and organize an intercounty committee, to be known as the supervisors' intercounty committee, for the purpose of studying area governmental problems of mutual interest and concern, including such matters as facility studies on sewers and sewage disposal, water, drains, roads, rubbish and garbage disposal, recreation, zoning, parks and ports, and to formulate recommendations for review and action thereon by the member county boards of supervisors.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957

#### **123.642 Intercounty study committee; surveys, findings, reports.**

##### Sec. 2.

The supervisors' intercounty committee may employ personnel to coordinate and conduct all types of surveys and studies relating to the mutual problems of its member counties or may enter into agreements for such surveys and studies to be conducted by other public or private agencies. It shall adopt, by resolution of a majority of its full membership, any recommendation for submission to the several member county boards of supervisors. It may publicize its purposes, objectives and findings, and may distribute reports thereon. It shall make an annual report of its activities to the several member county boards of supervisors.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957

#### **123.643 Intercounty study committee; expenses.**

##### Sec. 3.

For the purpose of providing funds to meet the expenses of the supervisors' intercounty committee, the member county boards of supervisors, by resolution, may authorize the allocation of county funds for such purpose. The proportion of the total amount of funds to be provided by each member-county shall be based on the recommendation of the supervisors' intercounty committee, or shall be provided for in the bylaws of the committee, which shall have been approved by the member county boards of supervisors.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957

**123.644 Intercounty study committee; contributions of services of personnel, equipment, office space.**

Sec. 4.

Services of personnel, use of equipment and office space, and other necessary services may be accepted from member counties and may be considered as a part of the financial support of that county.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957

**123.645 Intercounty study committee; gifts and grants from governmental units and from private sources; approval.**

Sec. 5.

The supervisors' intercounty committee may apply for and accept gifts, contributions and grants from the federal government, state government and local governments, also from private individuals, foundations or agencies, if the grants are made for furtherance of the objectives for which the committee is established. Any application shall be approved by the member county boards of supervisors.

**History:** 1957, Act 217, Imd. Eff. June 6, 1957 ;-- Am. 1965, Act 362, Imd. Eff. June 24, 1965

**CITY EXHIBITION AREAS**

**Act 70 of 1955**

AN ACT to authorize cities to acquire and operate exhibition areas for commercial, industrial and agricultural products; to provide for the issuance of bonds to finance the cost thereof; to authorize the fixing and collecting of fees and other charges for the use of facilities therein; and to authorize the making of reasonable rules and regulations relative to the public use of facilities therein.

**History:** 1955, Act 70, Eff. Oct. 14, 1955

*The People of the State of Michigan enact:*

**123.651 Exhibition areas for display of commercial, industrial, and agricultural products.**

Sec. 1.

Any city may acquire, construct, improve, enlarge, extend and operate, within or without its corporate limits, exhibition areas for the display of commercial, industrial and agricultural products and parking facilities used in connection therewith. Such exhibition areas shall include all necessary real or personal property used or useful in connection therewith and including, but not by way of limitation, exhibition buildings, community buildings, stadiums, auditoriums, arenas, convention halls, recreational facilities and parking facilities used in connection therewith. Such facilities at any one location may be operated independently or jointly with those at one or more other locations. The legislative body of the city is hereby authorized and empowered to purchase, and to accept gifts and devises of real estate for the purposes of the aforementioned exhibition areas.

**History:** 1955, Act 70, Eff. Oct. 14, 1955

#### **123.652 Exhibition areas; appropriation.**

##### **Sec. 2.**

The legislative body of the city is authorized and empowered to make appropriations for the operation, improvement and maintenance of such exhibition areas, as herein authorized, as shall have been acquired.

**History:** 1955, Act 70, Eff. Oct. 14, 1955

#### **123.653 Exhibition areas; operation and maintenance.**

##### **Sec. 3.**

The legislative body of the city may provide by ordinance or resolution for the operation and maintenance of any such exhibition area by a board, commission or other agency of the city in manner to be specified in such ordinance or resolution.

**History:** 1955, Act 70, Eff. Oct. 14, 1955

#### **123.654 Exhibition areas; fees, rules.**

##### **Sec. 4.**

The legislative body of the city is authorized to establish by ordinance, fees or charges for the use of the facilities in any exhibition area, admission fees and other charges for use of such area, and to make reasonable rules and regulations for the use of said area or areas, and penalties for the violation thereof.

**History:** 1955, Act 70, Eff. Oct. 14, 1955

#### **123.655 Exhibition areas; bonds; appropriation of revenues.**

##### **Sec. 5.**

Any city may issue bonds pledging the full faith and credit of the city for the purpose of acquiring any facility or facilities as authorized in this act when the issuance of bonds has been approved by a 3/5 vote in favor of the issuance by the electors of the city voting at any regular or special election. The issue and sale of the bonds is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The legislative body of the city shall appropriate annually for the payment of principal and interest on the bonds, sufficient of the revenues derived from the operation of the exhibition area or areas for which bonds are issued above the amount required to meet the reasonable expenses of administration, operation, and maintenance of the facilities.

**History:** 1955, Act 70, Eff. Oct. 14, 1955 ;-- Am. 2002, Act 189, Imd. Eff. Apr. 24, 2002

## THE MARKET AUTHORITY ACT OF 1956

### Act 185 of 1956

AN ACT to authorize cities to establish market authorities; to provide the powers and duties of such authorities; to provide that such authorities are not tax exempt; to authorize agreements with the United States; and to provide penalties for violations.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

*The People of the State of Michigan enact:*

#### **123.671 Short title.**

##### Sec. 1.

This act shall be known and may be cited as "The market authority act of 1956".

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

#### **123.672 Market authority; construction of act.**

##### Sec. 2.

This act shall be construed as cumulative authority for the exercise of the powers herein granted and shall not be construed to repeal any existing laws with respect thereto. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as herein otherwise provided.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

#### **123.673 Market authority; establishment; powers; areas; "farm products" defined; location; board of directors; construction, repair, or ornamentation of market.**

##### Sec. 3.

Any city, by ordinance, may establish a market authority, hereinafter also referred to as "the authority", which shall be a corporate body having the responsibility to plan, establish, develop and supervise a public market for the reception, handling, storage and sale at wholesale of farm and food products. Any such public market shall be divided into 2 distinct areas. One area shall be devoted exclusively to facilities for the wholesale marketing of farm products as hereinafter defined. The other area shall be devoted to the wholesale marketing of food products and the authority shall have no interest in such area, or any part thereof, which is actually made use of but said authority may limit the type and nature of the use to be made of the whole or any part thereof in its conveyance of the real property which is sold to any person, firm, partnership or corporation. The authority shall have no interest in any improvements on the land or any part thereof of the area known as the food products marketing area.

"Farm products" as used in this act shall mean those products of agriculture which are unprocessed. "Food products" as used in this act shall mean those foods which have been processed.

Said market shall be located within or without the corporate limits of said city and said authority shall be authorized to purchase, acquire, construct, improve, enlarge, extend and/or repair said market and to furnish the services, facilities and commodities of said market to users within or without its corporate limits and to issue

revenue bonds to carry out said purposes. Said ordinance shall fix the method of selecting the board of directors of said authority, the number thereof, which shall not be less than 5 nor more than 9, the qualifications of members of said board and their terms and compensation, if any. A city establishing a market authority as herein provided shall have power to appropriate such moneys from the general fund as may be required in addition to funds available from revenue bonds of the authority to insure the successful maintenance and operation of said market. In the event that any profit shall accrue from the operation of said market over and above payments required to be made on principal and interest on the bonds or for funds required to be established for the payment of said bonds and above costs of operation, such profit shall be transferred to the general fund of the city. Any construction, repair or ornamentation as respects the market shall be governed by the provisions of Act No. 187 of the Public Acts of 1905, as amended, being sections 570.101 to 570.105, inclusive, of the Compiled Laws of 1948.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.674 Market authority; board of directors, powers.**

#### **Sec. 4.**

The board of directors of the market authority shall have the following powers:

(1) To acquire by purchase, lease, or otherwise such land or any interest in land, or other property, real or personal, as may be necessary to the operation of the market and hold said property in the name of the authority, and to mortgage, sell, lease, rent, exchange, or otherwise dispose of any such property or any part thereof as it may deem advisable: Provided, however, That no real estate shall be sold unless the sale is approved by the governing body of the city and the trustee of the bondholders: Provided further, however, Of that property which is to remain within the market area the market authority shall sell only that property which is outside of the wholesale farm products market and shall reserve the right in any conveyance made of such property to regulate its use and control said property in order to promote the purposes of the market authority and protect public health: Provided further, That such sale of this property shall be made only to persons who plan to use such property for the purpose of wholesale food products marketing or for the purpose of constructing and operating business establishments such as restaurants, filling stations, garages and warehouses for the convenience of the customers of the markets.

(2) To plan, build, construct, or operate, or cause to be built, constructed, or operated, such buildings, structures, equipment, and appurtenances thereto as may be necessary for the operation of the market.

(3) To borrow money, make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations (herein called "bonds") of the authority, said bonds to have a maturity date not longer than 40 years from the date of issue, and to secure the payment of such bonds or any part thereof by pledge or mortgage of all or any of its revenues, receipts or other assets, real or personal, and to make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds (whether issued or to be issued), as the authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof: Provided, however, That no obligations incurred by the authority shall be a debt of the city, or a pledge of the credit or taxing power of the city.

(4) To employ a market manager qualified to operate a market of the type contemplated by the authority and such additional employees as may be necessary for the management and operation of the market.

(5) To fix the salaries of the market manager and any other authorized employees of the market.

(6) To fix, alter, charge and collect rentals and charges for stores, stalls, space, buildings, equipment and other appurtenances, privileges, and services furnished or performed in or in connection with the market for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance, and operation of its properties, the payment of the principal and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations; but the rentals and charges shall not be designed to render a profit to the authority.

(7) To promulgate reasonable rules or regulations, subject to approval by the governing body of the city, relating to the use of the market, including without limiting the generality of the foregoing, rules and regulations relating to hours of business, sanitation, traffic, and such other matters as are normally incidental to the proper management of a market; but no such rules or regulations shall fix or regulate prices, profits, or types of farm and food products dealt in.

(8) In its discretion, and after due notice to interested persons and an opportunity to be heard, to suspend or revoke any or all rights or privileges of any person violating the rules and regulations provided for in subdivision (7) above, enjoyed in connection with his activities in the market.

(9) To make contracts of any name and nature and to execute all instruments necessary or convenient for the

carrying on of its business.

(10) To enter into and maintain contracts for all such types of insurance as it may deem necessary to protect the authority against loss.

(11) To enter into contracts of group insurance for the benefit of its employees, and to set up a retirement or benefit fund for such employees.

(12) To adopt and use a corporate seal.

(13) To make by-laws for the management and regulation of its affairs.

(14) To sue and be sued in its corporate name.

(15) To delegate to the market manager or other officers of the authority such duties and responsibilities in relation to the operation of the market as it may deem reasonably necessary.

(16) In general, to do such other acts and things as may be reasonably necessary or convenient to carry out the powers hereinabove enumerated, and to carry on the operations of a wholesale market for farm and food products in accordance with the general purposes of this act and the exercise of the powers herein granted in the construction, operation and maintenance of the market shall be deemed and held to be an essential governmental function, except that this provision shall not be construed to confer governmental tort immunity upon the market authority.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.675 Market authority; limitations on operations.**

#### **Sec. 5.**

The following limitations shall govern the operations of the authority and its board of directors:

(1) The authority shall be subject to all the zoning, building, fire, sanitary, health and other police ordinances and regulations of the state and political subdivisions in which it is established.

(2) The authority shall have no power to discriminate against the sale on the market of any farm or food products, or against any producer of such products on account of county, state or political subdivisions in which any such products are produced, or on account of the legal status of the producer or other person engaged in the marketing of any such products, or on account of the conditions of employment or the nature of the labor employed in the production or marketing of such products or on account of the method of transportation; but the authority shall take every reasonable precaution to prevent any such discrimination.

(3) The authority shall have no power to acquire, construct, maintain, or operate a market which is not operated primarily for the purpose of handling farm and food products at wholesale.

(4) No member of the board of directors shall be interested directly or indirectly in any transaction with the authority except in connection with his normal business operations in the market.

(5) No authority shall itself engage directly or indirectly in the purchase or sale of farm or food products, or engage in any business other than that of managing the market.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.676 Market authority; powers.**

#### **Sec. 6.**

The authority shall have power:

(1) To issue bonds or notes for the purpose of acquiring and constructing markets. Said bonds or notes shall have such maturities, redemption rights shall bear such interest and shall have such other details as may be determined by the authority. Said bonds or notes shall be payable from the revenues of the authority. In the event that the authority secures mortgage insurance from the United States of America or any officer, agency or instrumentality thereof, the authority may sell its bonds or notes at private sale and may, as additional security for the payment of its bonds or notes, execute a mortgage on the real estate or personal property owned or to be acquired by the authority for the benefit of the holders of its bonds. Said mortgage may make provision for mortgaging or pledging the real estate and personal property of the authority or any part thereof, whether then

owned or thereafter acquired, for the benefit of the holders of the bonds of the authority. Said mortgage may pledge or assign the revenues of the authority or any part thereof. Said mortgage may contain such provisions for the protection of the bondholders, including the right to sell real estate or personal property of the authority mortgaged or pledged, as the authority may deem necessary. Said mortgage may contain such provisions relating to acquisition of the market improvements, the operation and maintenance of the same and the custody and safe-guarding of its funds as the authority may deem necessary and which are not in violation of law. Said mortgage may provide for the rights and remedies of the bondholders. The authority may provide for execution of said mortgage in the ordinance authorizing issuance of the bonds.

(2) As an additional or alternative method of acquiring and constructing markets, the authority shall have power to issue revenue bonds and such bonds shall be issued pursuant to the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948, known as the revenue bond act of 1933, and the provisions of said act shall be controlling in all matters with respect to said bonds as regards terms, issuance, redemption, rights of bondholders in event of default, and all other matters affecting said bonds and, insofar as applicable, the operation of the public market financed from the proceeds of said bonds.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.677 Market authority; acquisition of property, market deemed public improvement.**

#### **Sec. 7.**

Any authority established under this act may purchase, lease, accept by gift or devise, private property for the public purposes herein set forth and for no other purposes. The market so established shall be deemed to be a public improvement under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.678 Market authority; property subject to taxation.**

#### **Sec. 8.**

The real and personal property owned by the authority shall be subject to taxation.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.679 Market authority; audit, filing, violation.**

#### **Sec. 9.**

Immediately after the close of each fiscal year, every authority established pursuant to this act shall cause an audit to be made of its operations for the fiscal year. The audit shall be made by a certified public accountant, or firm of accountants not regularly employed by the authority for its accounting purposes. Within 90 days after the close of its fiscal year each authority shall file with the state department of agriculture and with the governing body of the city creating the authority, a copy of the audit together with names of the officers and directors thereof. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

### **123.680 Market authority; agreement with secretary of agriculture of United States for mortgage insurance.**

Sec. 10.

The board of directors of the authority shall be authorized to enter into agreements with the secretary of agriculture of the United States, hereinafter called "the secretary", under any applicable federal law providing for the insurance of mortgages for the financing of public wholesale market facilities, that rentals and other charges for the use of such market facilities will be established at reasonable levels approved by the secretary and designed to meet the obligations, defray the costs of maintaining and operating the market facility, and provide reasonable reserves; that any substantial alterations of the market facility will be made only with approval of the secretary; that reports will be made to the secretary at such intervals and giving such information concerning the market facility as the secretary may require and that the books and records of the market facility will be available for examination by the secretary at its offices during business hours; that title to the market facility, or any part thereof, will not be transferred or encumbered, or leased for any purpose not related to the operation of the market, and that vacant land of the market facility will not be leased for a period longer than 1 year, except with the approval of the secretary; that the maximum charges which may be received for the use of the market facility shall be subject to approval of the secretary during the period while the insurance of such mortgages is in force and effect; and such other agreements as shall be necessary to comply with the provisions of such federal mortgage insurance law.

The authority may pay to the United States such sums of money each year as may be required for mortgage insurance. Said payments shall be made from the revenues of the authority.

**History:** 1956, Act 185, Imd. Eff. Apr. 24, 1956

## **TRANSPORTATION FACILITY OUTSIDE CORPORATE LIMITS**

### **Act 17 of 1942 (2nd Ex. Sess.)**

123.701-123.704 Expired. 1942, 2nd Ex. Sess., Act 17, Eff. Sept. 2, 1946.

## **TAX ON MANUFACTURE, DISTRIBUTION, OR SALE OF FOOD**

### **Act 135 of 2017**

AN ACT to prohibit local units of government from imposing an excise tax on the manufacture, distribution, or sale of food.

**History:** 2017, Act 135, Imd. Eff. Oct. 26, 2017

*The People of the State of Michigan enact:*

### **123.711 Definitions.**

Sec. 1.

As used in this act:

(a) "Food" means that term as defined in section 1107 of the food law, 2000 PA 92, MCL 289.1107.

(b) "Local unit of government" means any local government or its subdivision, including, but not limited to, a



city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision.

**History:** 2017, Act 135, Imd. Eff. Oct. 26, 2017

### **123.713 Prohibited acts by local government.**

#### **Sec. 3.**

Except as otherwise provided by federal law or a law of this state, a local unit of government shall not do either of the following:

(a) Impose an excise tax on the manufacture, distribution, wholesale sale, or retail sale of food for immediate consumption or nonimmediate consumption.

(b) Enact, enforce, or administer any ordinance, regulation, resolution, policy, rule, or directive imposing a tax or fee on the manufacture, distribution, wholesale sale, or retail sale of food for immediate consumption or nonimmediate consumption.

**History:** 2017, Act 135, Imd. Eff. Oct. 26, 2017

## **PURCHASE OF LANDS AND PROPERTY FOR PUBLIC PURPOSES**

### **Act 99 of 1933**

AN ACT to authorize villages, townships, cities, and school districts to enter into contracts and agreements for the purchase of real or personal property for public purposes; to provide for the payment of the purchase price thereof; to authorize school districts to enter into certain other contracts; and to prescribe the use of the real or personal property.

**History:** 1933, Act 99, Imd. Eff. June 2, 1933 ;-- Am. 1937, Act 242, Imd. Eff. July 21, 1937 ;-- Am. 1969, Act 247, Imd. Eff. Aug. 11, 1969 ;-- Am. 1973, Act 121, Imd. Eff. Aug. 21, 1973 ;-- Am. 1997, Act 77, Imd. Eff. July 22, 1997

*The People of the State of Michigan enact:*

### **123.721 Purchase of real or personal property; contract or agreement; limitations; exceptions.**

#### **Sec. 1.**

(1) A village, township, city, or school district, after adoption of a resolution by its governing body approving the action, may enter into any contract or agreement for the purchase of real or personal property for public purposes, to be paid for in installments over a period of not to exceed 15 years and not to exceed the useful life of the property acquired as determined by the resolution. For school buses, the determined useful life shall not exceed 6 years. The outstanding balance of all purchases authorized under this act, exclusive of interest, shall not exceed 1-1/4% of the taxable value of the real and personal property in the village, township, city, or school district at the date of the contract or agreement. The limitations do not apply to contracts or leases entered into under 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965, or to other contracts or leases between public corporations or municipalities. The contracts or agreements, and the purchase of property under the contracts or agreements are not subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The governing body of a village, township, city, or school district may include in its budget and pay a sum or sums as may be necessary each year to meet the payments of any installments, and the interest thereon, when and as

the installment becomes due, including overdue installments.

(3) The authority granted in this act shall not be construed to authorize the governing body of a city, village, township, or school district to levy taxes in excess of statutory or charter limitations without the approval of its electors.

(4) The limitations imposed by subsection (1) are not applicable to a contract for purchase of lands declared surplus by the United States government or one of its agencies, subject to the prior approval of the contract by the department of treasury.

**History:** 1933, Act 99, Imd. Eff. June 2, 1933 ;-- Am. 1937, Act 242, Imd. Eff. July 21, 1937 ;-- CL 1948, 123.721 ;-- Am. 1967, Act 290, Imd. Eff. Aug. 1, 1967 ;-- Am. 1969, Act 247, Imd. Eff. Aug. 11, 1969 ;-- Am. 1973, Act 121, Imd. Eff. Aug. 21, 1973 ;-- Am. 1997, Act 77, Imd. Eff. July 22, 1997 ;-- Am. 2002, Act 545, Imd. Eff. July 26, 2002

### **123.721a Purchase of telecommunication services for school purposes.**

#### **Sec. 1a.**

The governing body of a school district may enter into a contract for the purchase of telecommunication and related services for school purposes to be paid for in installments over a period not to exceed the useful life of the service or the term of the contract, whichever is shorter. However, if the governing body borrows funds to pay for telecommunication and related services, the total cost of principal, interest, and fees, and expenses of borrowed funds, shall not exceed the total amount of the original service installment contract.

**History:** Add. 1997, Act 77, Imd. Eff. July 22, 1997

### **123.722 Village, township and city property; use and leasing.**

#### **Sec. 2.**

Such property may be used for any useful public purpose, and by resolution of the legislative body of any village and/or township and/or city, any portion of any real estate or building, may be leased or otherwise let to the local school board for educational purposes, and may also be rented by day to day agreement for educational, charitable or entertainment purposes. The revenue from any such rentals shall be applied in the payment of any installment, and/or the interest thereon, until the purchase price of such property is wholly paid for, or for the maintenance and improvement of the same. Thereafter such revenues shall be covered into the general fund of such village and/or township and/or city.

**History:** 1933, Act 99, Imd. Eff. June 2, 1933 ;-- Am. 1937, Act 242, Imd. Eff. July 21, 1937 ;-- CL 1948, 123.722

### **123.723 Village, township, city or school district property; control and maintenance.**

#### **Sec. 3.**

The governing body of a village, township, city, or school district shall at all times have control of property purchased under this act and shall maintain the property for public use and purposes.

**History:** 1933, Act 99, Imd. Eff. June 2, 1933 ;-- Am. 1937, Act 242, Imd. Eff. July 21, 1937 ;-- CL 1948, 123.723 ;-- Am. 1997, Act 77, Imd. Eff. July 22, 1997

## COUNTY DEPARTMENT AND BOARD OF PUBLIC WORKS

### Act 185 of 1957

AN ACT to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of any municipality subject to the provisions of this act; to authorize the incurring of contract obligations and the issuance and payment of bonds or notes; to provide for a pledge by a municipality of its full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; and to prescribe a procedure for special assessments and condemnation.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973

*The People of the State of Michigan enact:*

#### Chapter 1

#### GENERAL PROVISIONS

### 123.731 Definitions.

#### Sec. 1.

As used in this act:

(a) "Members elect" means when applied to the county board of commissioners, both members elected and appointed.

(b) "Acquire" means acquisition by purchase, construction, or any other method.

(c) "Water supply system" means all plants, works, instrumentalities, and properties, used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water, or any portion or any combination thereof.

(d) "Sewage disposal system" means all sanitary sewers, storm sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties, used or useful in connection with the collection, treatment, or disposal of sewage including storm water, sanitary sewage, or industrial wastes, or any portion or any combination thereof.

(e) "Refuse system" means disposal, including all equipment and facilities for storing, handling, processing, and disposing of refuse, including plants, works, instrumentalities, and properties, used or useful in connection with the salvage or disposal of refuse and used or useful in the creation, sale, or disposal of by-products, including rock, sand, clay, gravel, or timber, or any portion or any combination thereof.

(f) "Refuse" means putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and industrial wastes.

(g) "Lake improvements" means any improvements now or hereafter authorized by law to be made to any waters of the state by a municipality or any board or body which may be established by a municipality for that purpose, or any portion or any combination thereof.

(h) "Erosion control" means installation of structures designed to control erosion or protect property adjacent to the great lakes or property affected by levels of the great lakes from erosion.

(i) "Municipality" means a county, city, village, township, charter township, district, or authority existing under the laws of this state.

(j) "Resolution" means a resolution or an ordinance, if the governing body of a municipality chooses to act by ordinance rather than by resolution.

(k) "Governing body" means, in the case of a county, the county board of commissioners; in the case of a city, the council, common council, commission, or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees, or other body having legislative powers; in the case of a township, the township board; in the case of a charter township, the township board; in the case of a drainage district, the drain commissioner or the drainage board; and in the case of another district or of an authority, the body in which is lodged general governing powers.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

**123.732 Establishment and control of department of public works; exception; board of public works; appointment, qualifications, terms, and removal of members; designation or removal as board; authority, powers, and duties of designee; board as agency of county; rules; compensation; status of department of public works in county organized under MCL 45.501 to 45.521; authority, powers, and duties of county executive or chief county administrative officer; authority and powers of county board of commissioners.**

Sec. 2.

(1) Except as provided by subsection (5), the county board of commissioners, by resolution adopted by a 2/3 vote of its elected members, may establish a department of public works for the administration of the powers conferred upon the county by this act. The department of public works shall be under the general control of the county board of commissioners and under the immediate control of a board of public works. Except as provided in this subsection and subsection (3), the board of public works shall consist of 5, 7, or 9 members. In a county with a population of more than 85,000 and less than 90,000 according to the latest federal decennial census, the board of public works may consist of 11, 13, or 15 members. The members shall be appointed or removed in the manner prescribed in this section.

(2) The initial terms of the appointed members shall be staggered for terms of not more than 3 years as prescribed by the county board of commissioners. Membership on the board of public works shall include the following:

(a) The county drain commissioner of the county in which the department of public works is established, if any.

(b) Except as otherwise provided in subdivision (c), 4, 6, or 8 other members appointed by the county board of commissioners, with the exception of a person named in subdivision (a). Members of the county board of commissioners may be appointed as members of the board of public works. Appointments of members of the county board of commissioners to the board of public works made before April 12, 1984, are valid.

(c) If the board of public works consists of 11, 13, or 15 members, 10, 12, or 14 other members appointed by the county board of commissioners, with the exception of a person named in subdivision (a). Members of the county board of commissioners may be appointed as members of the board of public works. In addition, the township supervisor of a township within the county or the township supervisor of a township that receives service by the department of public works may be appointed as a member of the board of public works. A township supervisor appointed as a member of the board of public works shall not be deemed to hold 2 or more incompatible offices at the same time.

(d) If a county does not have a drain commissioner, then the county board of commissioners shall appoint an additional member subject to the same appointment procedures provided in subdivisions (b), (c), and (e).

(e) If a county department of public works serves another county, or a portion of another county, each of the 4, 6, or 8 members, or 10, 12, or 14 members as provided in subdivision (c), shall be a resident of the geographic area served by the department of public works. If an area within a county does not utilize or is not otherwise serviced by the department of public works, a member of the board of public works shall not be a resident of the area not served. If a city, village, or township or a portion of a city, village, or township is located in another county, the chief elected official of the city, village, or township shall serve as an advisory board to the board of public works and shall consult with and advise the board of public works as to rate schedules, proposed expansion of services, and capital improvements.

(3) Except as provided by subsection (5), the county board of commissioners, by resolution adopted by a 2/3 vote of all its members, may designate as the board of public works or remove as the board of public works 1 of the following, and after the adoption of the resolution the person or body designated shall be the board of public works for that county with all the authority, powers, and duties conferred by law upon the board of public works:

(a) The board of county road commissioners.

(b) The drain commissioner.

(c) The public works commissioner designated or elected and holding office pursuant to section 21 of the drain code of 1956, 1956 PA 40, MCL 280.21.

(4) The board of public works shall be considered an agency of the county. The county board of commissioners shall make rules in respect to the department of public works which it considers advisable and as permitted by law. The members of the board of public works shall not be full-time officers of the county. The duties of the county drain commissioner, any county road commissioner, or any member of the county board of commissioners who serves on the board of public works are declared to be additional and separate duties not compensated for by the established salary or per diem of the commissioner. The compensation of members shall be fixed by the county board of commissioners.

(5) In any county organized under 1966 PA 293, MCL 45.501 to 45.521, a department of public works that is or was formed under this act and existing on the date the county charter is or was adopted and that has not been

discontinued or terminated, or had its duties transferred by charter, and a department of public works established by charter shall be considered established pursuant to this act with all authority, powers, and duties conferred by this act upon a department of public works and be under the control of and administered by the county executive or chief county administrative officer who shall have all the authority, powers, and duties conferred by this act upon the board of public works. The provisions of this act granting to a county board of commissioners authority over such a department of public works shall be subject to any county charter. All provisions of this act concerning actions by a board of public works shall require appropriate action only by the county executive or chief county administrative officer when this subsection applies. An action of the county executive or chief county administrative officer in regard to rate schedule changes, expansion or reduction of services, or proposed capital expenditures is not effective unless and until approved by a majority vote of the members of the county board of commissioners elected and serving. After submission by the county executive or chief county administrative officer, if the county board of commissioners fails to approve or reject within 45 days after the next regularly scheduled meeting of the county board of commissioners, the proposals are effective.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1959, Act 18, Eff. Mar. 19, 1960 ;-- Am. 1961, Act 214, Eff. Sept. 8, 1961 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1972, Act 92, Imd. Eff. Mar. 20, 1972 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974 ;-- Am. 1978, Act 580, Imd. Eff. Jan. 2, 1979 ;-- Am. 1983, Act 33, Imd. Eff. May 9, 1983 ;-- Am. 1984, Act 61, Imd. Eff. Apr. 12, 1984 ;-- Am. 1987, Act 214, Imd. Eff. Dec. 22, 1987 ;-- Am. 2011, Act 110, Imd. Eff. July 20, 2011

### **123.733 Board of public works; officers.**

#### **Sec. 3.**

The board of public works shall elect each year during the month of January from its own membership, a chairman, a vice-chairman and a secretary, and also at such time shall elect a deputy secretary who may or may not be a member of the board.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.734 Board of public works; action by motion or resolution; record of proceedings; signature; availability of record or other writings to public; quorum; regular meetings; notice of special meeting; waiver of notice; conducting business at public meeting; public notice of meeting or hearing.**

#### **Sec. 4.**

(1) An action taken by the board of public works shall be by motion or resolution adopted by the affirmative vote of a majority of the board's full membership. The board of public works shall keep a record of the proceedings taken at each meeting, which record shall be signed by the secretary or in case of the secretary's absence at a meeting by the deputy secretary or other person acting as secretary for the meeting. The record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A majority of the board's full membership shall be necessary for a quorum. Regular meetings may be held on a regularly scheduled basis as determined by the board, but shall be held at least 4 times a year. A special meeting may be called by the chairperson or any 2 members upon written notice served on each member or left at the member's place of residence, at least 24 hours before the meeting. A member may waive notice of a special meeting either before or after the holding of a meeting.

(2) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting or hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1977, Act 176, Imd. Eff. Nov. 17, 1977 ;-- Am. 1978, Act 580, Imd. Eff. Jan. 2, 1979

### **123.735 Expenses and expenditures of board of public works.**

#### **Sec. 5.**

The county board of commissioners shall provide each year in its annual budget for the expenses of the department of public works. The board of public works shall be limited in its expenditures to the amount appropriated unless a further appropriation shall be made by the county board of commissioners.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

### **123.736 Board of public works; director; project costs; civil service.**

#### **Sec. 6.**

The board of public works shall have authority to hire a director of public works, whose salary shall be fixed by the board of public works within the budget appropriation. The board of public works shall have power to employ such professional and lay personnel as it shall deem advisable, subject however to budget appropriations but no budget appropriation shall be necessary where services are employed in connection with acquiring any project and are to be included in the project cost and payable from the proceeds of bonds or special assessments. The cost of any project and of operating and maintaining the same, shall include amounts sufficient to cover the general administrative costs pertaining thereto. The provisions of this section shall be subject to any applicable statutory provisions relating to civil service.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.737 Powers of county; administration by board of public works.**

#### **Sec. 7.**

A county establishing a department of public works shall have the following powers to be administered by the board of public works subject to any limitations thereon:

(a) To acquire a water supply system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(b) To acquire a sewage disposal system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(c) To acquire a refuse system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the system.

(d) To make lake improvements within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the improvements.

(e) To acquire an erosion control system within 1 or more areas in the county and to improve, enlarge, extend, operate, and maintain the improvements.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

### **123.738 Acquiring systems or making lake improvements outside corporate limits.**

Sec. 8.

A county operating under this act may acquire outside its corporate limits any part of a water supply system which is necessary for the purpose of securing a source of supply and may acquire outside its corporate limits any part of a sewage disposal system or refuse system which is necessary for the purpose of disposing, including treatment or incineration, of its sewage or refuse. A county operating under this act may also acquire any part of a water supply system, a sewage disposal system, a refuse system or make lake improvements, or acquire erosion control systems in an adjoining county or counties upon the consent expressed by contract with or resolution of the governing body of the municipality or municipalities in such adjoining county or counties in which such part of the system or lake improvements is to be located or which is to be served by such part of the system. The exercise by any county of such powers outside its corporate limits shall be subject to all constitutional provisions relating thereto.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

**123.739 Water supply and sewage disposal or refuse systems; service to municipalities and individual users.**

Sec. 9.

No county shall have the power to furnish water service, sewage disposal service or refuse service to the individual users within any municipality without its consent. The foregoing shall not prevent the county from extending any sewage disposal system or refuse system into any municipality where in the opinion of a majority of the members elect of the board of supervisors the same is necessary to protect health or property in any adjacent municipality and from furnishing sewage disposal or refuse services to individual users therein. Any such extensions may be constructed along with the construction of the original system or thereafter.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967

**123.740 County water supply, sewage disposal or refuse system, lake improvements, or erosion control system; approval; plans and specifications; merger or combination of systems; resolution; contract.**

Sec. 10.

The establishment of a county water supply, sewage disposal or refuse system or the making of county lake improvements or erosion control systems shall be approved by a majority of the members elect of the county board of commissioners. Prior to approval of lake improvements the county board of commissioners shall submit to the department of natural resources preliminary plans which provide for making the lake improvements for the department of natural resources' review and approval. Before approval of erosion control systems the county board of commissioners shall submit to the department of natural resources preliminary plans for the department's review and approval. Before construction of erosion control systems final plans and specifications shall be approved by the department. After the county board of commissioners' approval, the board of public works shall have power to acquire the system or make improvements and to improve, enlarge, extend, operate, and maintain the same, subject to any restrictions placed thereon by the county board of commissioners in the resolution establishing the same or by this act. Any 2 or more systems established by a county and the areas served thereby may be merged or combined by resolution adopted by a majority of the members elect of its county board of commissioners after which the merged or combined systems may be improved, enlarged, extended, operated, and maintained under this act as a single system serving the total areas of the systems but a merger or combination shall not affect either the rights and obligations acquired by a municipality by any contract with respect to an established system or the security of any bonds or the prompt payment of principal or interest thereon. A resolution adopted by the governing body of any city, village, township, or charter township authorizing and approving a contract with a county acting through its board of public works with respect to the financing or location of or service from any sewage disposal or refuse system constitutes, notwithstanding any statutory or charter limitation to the contrary, a permit to acquire, improve, enlarge, extend, operate, and maintain the sewage disposal or refuse system within the corporate limits of



the city, village, township, or charter township, but no treatment or disposal plants, incinerators, works, grounds, filter beds, or other similar sewage or refuse disposal facilities, sanitary landfills, or dumps shall actually be located in any municipality without a resolution and contract.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

**Compiler's Notes:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919. For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

### **123.741 Methods of financing systems or improvements.**

#### **Sec. 11.**

(1) The acquirement of a water supply, sewage disposal or refuse system, or the making of lake improvements or erosion control systems, or the improvement, enlargement, or extension of any of these may be financed by 1 or more of the following methods:

(a) By the issuance of revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(b) By the issuance of bonds in anticipation of payments to become due under contracts where 1 or more municipalities agree to pay to the county operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act.

(c) By the issuance of bonds in anticipation of the payment of special assessments made by the board of public works.

(d) By money advanced by a county operating under this act under agreements with a municipality or municipalities for the repayment of the money.

(e) By money advanced, from time to time, before or during construction of a project by a public corporation, in which event the county operating under this act shall reimburse the corporation, with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for that purpose. The obligation of the county to make the reimbursement may be evidenced by a contract or note, the contract or note may be made payable out of the payments to be made by municipalities, under contracts as described in section 12 or 15, or out of the proceeds of bonds issued under this act by the county or out of any other available funds. The contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Bonds issued under this act shall be authorized by an ordinance or a resolution approved by the board of public works and adopted by the county board of commissioners of the county operating under this act. The county board of commissioners is authorized by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds issued under subsection (1)(a). If it becomes necessary for the county operating under this act to advance any money, other than its share of the cost of the project, for the payment of principal and interest, then it shall be entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. If the faith and credit of the county is pledged for the payment of principal of and interest on any bonds issued under this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the funds from its general fund or levy taxes without limitation as to rate or amount in addition to any other taxes that the county is authorized to levy but not in excess of the rate or amount necessary to make up the deficiency. The bonds shall be issued in the name of the county and shall be executed by the chairperson of the county board of commissioners and its county clerk, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued under this act are negotiable instruments and shall be serial bonds payable annually, with the first maturity due not more than 5 years and the last maturity not more than 40 years from the date of issue. This subsection shall apply to special assessment bonds as well as other bonds. Annual maturity payable after 5 years from the date of the bonds shall not be less than 1/4 of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from all taxation by this state or by any taxing authority within this state. The county board of commissioners may authorize the board of public works to sell the bonds in accordance with the laws of this state.



**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974 ;-- Am. 1976, Act 64, Imd. Eff. Mar. 30, 1976 ;-- Am. 2002, Act 407, Imd. Eff. June 3, 2002

### **123.742 Contracts authorized; methods of paying contractual obligations; special assessments; exercise of powers; validation of contracts.**

#### **Sec. 12.**

(1) A county operating under this act and any 1 or more municipalities including the county itself may enter into a contract or contracts for the acquisition, improvement, enlargement, or extension of a water supply, a sewage disposal, or a refuse system, or the making of lake improvements or erosion control systems and for the payment of the costs by the contracting municipalities, with interest, over a period not exceeding 40 years.

(2) In the contract, each contracting municipality may pledge its full faith and credit for the payment of its obligations under the contract. If the municipality has taxing power, it may each year levy a tax in an amount that will be sufficient for the prompt payment of all or part of the contract obligations due before the following year's tax collection. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contract obligation. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. For the payment of contractual obligations incurred under this act, a township shall levy a tax only on the taxable property in the unincorporated areas of the township unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase the capacity in the county system. If a contracting municipality at the time of its annual tax levy has on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, funds may be raised by a municipality by using 1 or more of the following methods:

(a) By service charges to users of the system or lake improvements.

(b) By special assessment upon lands benefited.

(c) By the exaction of charges for the connection of properties, directly or indirectly, to the system or for the availability of the system to serve properties, directly or indirectly, or at a present or future time.

(d) By setting aside any state collected funds disbursed to the municipality and usable therefor.

(e) By setting aside any other available money.

(3) For the purpose of obtaining the credit, municipalities contracting for the acquisition, improvement, enlargement, or extension of an erosion control system shall levy special assessments upon all lands benefited to cover not less than 3/4 of the total project cost contracted for by the local unit. A municipality may agree to raise all or any part of its contract obligation by any of the methods provided in this section that are available. The powers in this act granted to any municipality shall be exercised by its governing body. A contract entered into before May 12, 1959, which complies with this act, is validated.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1959, Act 34, Imd. Eff. May 12, 1959 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974 ;-- Am. 1979, Act 83, Imd. Eff. Aug. 1, 1979 ;-- Am. 2002, Act 407, Imd. Eff. June 3, 2002

### **123.743 Project special assessment district; municipal special assessments.**

#### **Sec. 13.**

(1) If the board of public works determines to spread all or part of the cost of a project to a special assessment district, it shall proceed as provided under chapter 2.

(2) If a municipality other than a county operating under this act elects to raise moneys to pay all or any portion of its share of the cost of a project by assessing the cost upon benefited lands, its governing body shall do so by

resolution and fix the district for assessment.

(3) The governing body shall cause a special assessment roll to be prepared and the proceedings of the special assessment roll and the making and collection of the special assessments shall be in accordance with the provisions of the statute or charter governing special assessments in the municipality, except that the total assessment may be divided into any number of installments not exceeding 40.

(4) Any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district established under this section.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 2006, Act 245, Imd. Eff. June 30, 2006

### **123.744 Methods of acquiring property; disposition of real property; condemnation procedure; use continued without resolution or contract.**

#### **Sec. 14.**

A county operating under this act, by action of its board of public works, may acquire property for a water supply, an erosion control system, a sewage disposal or a refuse system or for lake improvements by purchase, construction, lease, gift, devise, or condemnation, either within or without its corporate limits and may hold, manage, control, sell, exchange, or lease the property. Real estate shall not be disposed of without the approval of the county board of commissioners. For the purpose of condemnation it may proceed as provided in chapter 3. If the property acquired by a county is already being used for water supply, sewage or refuse disposal or lake improvement purposes, such use may be continued by the county without a resolution of or contract with the municipality in which the property is located.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967 ;-- Am. 1970, Act 234, Imd. Eff. Dec. 3, 1970 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

### **123.744a Validation of certain bonds or notes; contest prohibited.**

#### **Sec. 14a.**

All bonds or notes heretofore issued under this act, as amended, are validated. A county acting under this act, as amended, or any municipality, including the county, shall not contest the validity of any such bonds or notes or any contract which provides the security therefore, after they are sold and delivered and the county has received the consideration therefor.

**History:** Add. 1973, Act 89, Imd. Eff. Aug. 5, 1973

### **123.745 Water supply or sewage disposal or refuse systems; municipality service contract with county; county contracts.**

#### **Sec. 15.**

Any 1 or more municipalities or other public corporations, either within or without the county, shall have authority to contract for the purchase of water or sewage or refuse services or transportation from a county operating under this act. Any charges specified in any such contract shall be subject to increase by such county at any time, if necessary, in order to provide funds to meet the obligations of the project involved. The county operating under this act may enter into contract with any public or private corporation, for the purchase by such county from or for the sale by the county to the corporation of water or sewage or refuse services, and for the right to transport sewage through the sewers of the county or of the corporation or to use the facilities of the other. Any

contract authorized herein shall be for a period of not exceeding 50 years.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 63, Imd. Eff. June 20, 1967

### **123.746 Water supply or sewage disposal or refuse systems; project costs.**

Sec. 16.

There may be included as a part of the cost of any project, engineering and legal fees, administration expenses during the period of construction, financing costs, a reasonable amount for contingencies, interest on any bonds to be issued therefor for a period not exceeding the estimated construction period and 6 months thereafter, and any other costs incident to the acquisition and financing of the project.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.747 Failure to pay amounts required under contract or assessment; notice; deduction; other remedies for reimbursement; tax levy.**

Sec. 17.

A contract or assessment made under this act may provide that if a municipality shall fail to pay to a county operating under this act any amount required to be paid under any contract or assessment when due, then the county treasurer shall notify the state treasurer, or other appropriate disbursing official, who is hereby directed to deduct the amount from any moneys in his possession belonging to the municipality which are not pledged to the payment of debts, but the state treasurer or other official shall not withhold in any 1 year a sum greater than 25% of the total amount owed the county by the delinquent municipality as stated in the notice from the county treasurer. Nothing in this section shall permit the deduction of moneys in contravention of the constitution, but a municipality itself may authorize, in any contract with a county operating under this act, the deduction and transfer from moneys derived from unrestricted state funds returnable to the municipality. The right of deduction given by this act shall not operate to limit the county's right to pursue other legal remedies for the reimbursement of moneys paid by the county hereunder on behalf of a municipality other than the county and the county board of commissioners of a county which has paid any money on behalf of any other municipality and which was not reimbursed therefor, may order the municipality and its officers to levy upon its next tax roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent; and the municipality and its tax levying and collecting officials shall levy and collect the taxes and reimburse the county.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1964, Act 42, Eff. Aug. 28, 1964 ;-- Am. 1973, Act 89, Imd. Eff. Aug. 5, 1973 ;-- Am. 1974, Act 200, Imd. Eff. July 9, 1974

## **Chapter 2 SPECIAL ASSESSMENT PROCEDURE**

### **123.751 Special assessments for project.**

Sec. 21.

The board of public works shall have power to determine that the whole or any part of the cost of any project shall be defrayed by special assessments against the properties especially benefited thereby.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.752 Special assessments; plans, estimate of costs, designation of district, hearing on objections, notice, additions.**

Sec. 22.

The board of public works shall cause to be prepared by a registered engineer, plans showing the project and an estimate of the cost thereof. Upon receipt of such plans and estimate the board of public works shall order the same to be filed with the director of public works and if it shall desire to proceed with the said project, it shall by resolution tentatively so declare and also tentatively designate the special assessment district against which the cost of the project is to be assessed. The board of public works shall then fix a time and place when and where it will meet and hear any objections to the improvement and to the special assessment district therefor, and shall cause notice of the hearing to be given by the publication thereof twice prior to the hearing in a newspaper circulating in the special assessment district, the first publication to be at least 10 days prior to the time of the hearing. The notice shall state that the plans and estimate are on file with the director of public works for public examination and shall contain a description of the proposed special assessment district. At the time of the hearing, or at any adjournment thereof which may be without further notice, the board of public works shall hear any objections to the improvement and to the special assessment district. The board of public works may revise, correct, amend or change the plans, the estimate of cost or the special assessment district. No final action shall be taken in respect to the addition of any property to the district or to increasing the estimated cost in excess of 10% of the original estimate, until after a new hearing upon notice given as above provided.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.753 Special assessments; final determination of district; special assessment roll.**

Sec. 23.

After the completion of the hearing provided for in section 22, the board of public works, if it desires to proceed with the project, shall by resolution so determine and shall approve the plans and estimate of cost as originally presented or as revised, corrected, amended or changed, and shall finally determine the special assessment district. The board of public works shall then cause a special assessment roll to be prepared by the director of public works in which shall be entered and described all parcels of land to be assessed, with the names of the respective owners thereof, if known, and the amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against the special assessment district as the benefit to the parcel of land bears to the total benefits to all parcels of land in the special assessment district. When the director of public works shall have completed the assessment roll, he shall affix thereto his certificate stating that it was made pursuant to the resolution of the board of public works ordering its preparation and that in making such assessment roll he has according to his best judgment, conformed in all respects to the directions contained in such resolution and the statutes of the state.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.754 Special assessments; confirmation of roll.**

Sec. 24.

When any special assessment roll shall have been made the same shall be filed in the office of the director of public works. Before confirming the assessment roll the board of public works shall fix a time and place when it will meet and review the same and hear any objections thereto, and shall cause notice of the hearing and of the filing of the assessment roll, to be published twice prior to the hearing in a newspaper circulating in the special assessment

district, the first publication to be at least 10 days before the hearing. The hearing may be adjourned from time to time without further notice. Any person objecting to the assessment roll shall file his objection thereto in writing with the director of public works before the close of the hearing or within such further time as the board may grant. After the hearing the board of public works may confirm the special assessment roll as reported to it or corrected by it, or may refer it back for revision, or may annul it and direct a new roll to be made. When a special assessment roll shall have been confirmed the secretary of the board shall indorse thereon the date of confirmation. After the confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after the date of confirmation.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**Constitutionality:** This section fails to provide a proper method of notice in violation of Const 1963, art 1, Â§ 17, and US Const, amend. XIV, Â§ 1. *Ridenour v County of Bay*, 366 Mich 225; 114 NW2d 172 (1962).

### **123.755 Special assessments; annual installments; interest on unpaid installments; spreading installments on tax rolls; advance payment; issuance of bonds subject to revised municipal finance act.**

Sec. 25.

(1) The board of public works may provide that the assessments made on any roll shall be payable in 1 or more annual installments, not exceeding 40. The board may vary the principal amount of each installment but an installment shall not be less than 1/4 of the amount of a subsequent installment. Annual installments need not be extended upon the special assessment roll until after confirmation.

(2) All unpaid installments shall bear interest from the date fixed by the board of public works, payable annually, at a rate to be set by the board at the time the special assessment is established, which shall not exceed any of the following:

(a) If bonds are not issued, 8% per annum.

(b) If bonds are issued, the maximum rate permitted to be charged under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Installments of special assessments shall be spread as provided in this act, 1 each year, upon the tax rolls upon which county taxes are spread. The board of public works shall specify the first year of this spread, which shall not be later than the year following that in which the roll was confirmed. The board may provide the times and conditions upon which installments of special assessments may be paid in advance of their due dates.

(4) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1978, Act 68, Imd. Eff. Mar. 21, 1978 ;-- Am. 2002, Act 407, Imd. Eff. June 3, 2002 ;-- Am. 2006, Act 245, Imd. Eff. June 30, 2006

### **123.756 Special assessments; certification of amounts to be spread.**

Sec. 26.

The director of public works shall certify annually to the county clerk, on or before the first day of the annual meeting of the board of supervisors, the amount due on the special assessment installment against each parcel of land in the district, which is to be spread upon the tax rolls of that year, and the interest upon all unpaid installments computed to March 1 following. The certificate shall be divided as between the several townships and cities in which the assessed lands are located. The board of supervisors shall order the amounts so certified to be spread upon the tax rolls of the cities and townships in which the properties are located. The county clerk shall certify to each assessing officer the several amounts to be spread as ordered by the board of supervisors and it shall be his duty to spread upon the tax rolls of that year, separately and immediately following the proper land descriptions, in a column marked "County Assessment Roll Number", the amount so certified to him by the county clerk.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.757 Special assessments; collection.**

Sec. 27.

All assessments spread under the provisions of this act shall be subject to the same interest, collection and penalty charges and shall be collected in the same manner, as county taxes. All collecting officers are hereby vested with the same power and authority in the collection of such assessments as are or may be conferred upon them by law for collecting general county taxes. All collections of special assessments made by city and township treasurers shall be turned over to the county treasurer. All provisions of law in respect to the return of uncollected county taxes by the treasurers of cities and townships shall apply to the return of uncollected special assessments spread upon the tax rolls under the provisions of this act, and all provisions of law in respect to the sale of lands for the nonpayment of taxes and the redemption thereof, shall likewise apply in case of the nonpayment of special assessments.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.758 Special assessments; lien.**

Sec. 28.

Special assessments, including all installments thereof, contained in any special assessment roll, shall from the date of confirmation of the roll, constitute a lien upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for county taxes and shall include accrued interest, collection charges and penalties. No judgment or decree or any act of the board of public works vacating a special assessment shall destroy or impair the lien upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.759 Special assessments; apportionment on division of parcels.**

Sec. 29.

Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the board of public works may require the director of public works to apportion the uncollected amounts between the several divisions thereof and the report of the apportionment when confirmed by the board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then, before the confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.760 Special assessments; prorated deficiency or surplus of collection.**

Sec. 30.

Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the board of public works shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount collected on the assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next installment of the special assessment, or if there are no unpaid installments then it shall be refunded to the persons who are the record owners of the properties on the date of the passage of the resolution ordering the refund. Any surplus of 5% or less shall be retained by the county for use by the board of public works.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.761 Special assessments; curative proceedings.**

Sec. 31.

Whenever any special assessment, in the opinion of the board, shall be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge the assessment to be illegal, the board, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, shall have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on the reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessments and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.762 Special assessments; exempted lands; agreement to pay assessment.**

Sec. 32.

Any person, firm or corporation, public or private, whose lands are exempt by law from the payment of special assessments, may agree in writing to pay any special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.763 Delinquent special assessments; advancement by municipality; reimbursement; reassessment.**

Sec. 33.

Whenever lands in any municipality are assessed by the board of public works for all or any part of the cost of a project, the governing body of the municipality by resolution adopted by 3/5 of its members elect may agree that in the event of delinquency in the collection of assessments against lands within the municipality, it will advance the amount of the delinquency to the extent necessary to pay principal and interest on any bonds issued in anticipation of the assessments, as the same mature. If moneys are so advanced by any municipality, then it shall be reimbursed therefor from the collection of the delinquent assessments and if collections from special assessments are not sufficient to reimburse any municipality making such advancements, within a 5-year period from the date of advancement, then the board of public works shall reassess the district as in the first instance in order to provide for



the payment of the sum so advanced.

**History:** Add. 1964, Act 42, Eff. Aug. 28, 1964

### Chapter 3 CONDEMNATION PROCEDURE

#### **123.771 Condemnation; authority.**

Sec. 41.

A county operating under this act is hereby authorized to take private property necessary for any purpose within the scope of its powers under this act, for the use or benefit of the public and to institute and prosecute proceedings for that purpose.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

#### **123.772 Condemnation; declaration of necessity.**

Sec. 42.

Proceedings may be commenced and prosecuted under this chapter whenever the board of public works, acting as the agency of the county, shall have declared by resolution that it deems it necessary to take certain private property for a designated public improvement, and that such improvement is for the use or benefit of the public. It shall by resolution direct its attorney to institute the necessary proceedings in its behalf in the circuit court of the county where the private property sought to be taken is located.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

#### **123.773 Petition; contents.**

Sec. 43.

The board of public works shall make and deliver to its attorney a certified copy of the resolution and it shall be the duty of the attorney to prepare and file in the name of the county in the court having jurisdiction of the proceedings, a petition signed by him in his official capacity and duly verified by him, to which petition a certified copy of the resolution of the board of public works shall be annexed. The petition shall state among other things that it is made and filed pursuant to this chapter and the resolution as commencement of judicial proceedings by the county acting through its board of public works, to acquire the right to take the private property therein described for the use or benefit of the public, without the consent of the owners, for the designated public improvement, for a just compensation to be made. The petition shall set forth the names of all persons interested in said property insofar as they can be ascertained. The petition may state any other pertinent matter or matters and shall pray for the appointment of 3 special court commissioners to determine the necessity of taking for public use or benefit the property described in the petition and to appraise the damages to be paid as compensation for the taking of each piece or parcel of property.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957



### **123.774 Petition; court order for hearing.**

Sec. 44.

Upon filing of the petition the court shall make an order fixing a day for hearing on such petition which shall be not less than 25 days thereafter. The order shall recite the purpose of the petition and the description of the property to be taken and the names of the persons mentioned in the petition as parties interested therein. It shall order the persons to appear before the court at the time fixed therein for the hearing and show cause, if any they have, why the prayer in the petition should not be granted. If any person named in such petition shall be a minor or an insane or incompetent person who has no general guardian, then the court shall appoint a guardian ad litem for him.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.775 Petition; publication of order; service on named defendants.**

Sec. 45.

A copy of the order shall be published once in each week for 3 weeks in some newspaper circulated in the county, to be designated by the court, the first publication to be not less than 3 weeks before the hearing. A copy of the order shall also be served on each person named in the petition interested in the land described therein in the manner provided in section 54. The publication shall constitute service of the order upon all non-residents of the county and upon all persons who are absent from the county or are unknown or are evading service or who for any other reason cannot be found. Proof of publication and service may be made by affidavit of any person having knowledge of the facts. The proof shall be filed with the court on or before the day of hearing and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein. Service of the order in any mode herein prescribed shall be sufficient notice of the proceeding to bind the parties in interest named therein and the property represented by them as described in the petition.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.776 Court commissioners; appointment; discontinuance of proceedings.**

Sec. 46.

On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared; and unless sufficient cause to the contrary be shown, shall appoint 3 disinterested persons as court commissioners whose duty it shall be to determine whether it is necessary to take for public use or benefit the property described in the petition and, if so, to appraise the damages to be paid as compensation for such taking. The commissioners shall not be residents of the area to be served by the improvement for which the property is to be taken. The court shall fix the time and place for the first meeting of the court commissioners and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than a day to be named, and shall fix the time for filing their report. After the appointment of court commissioners, no discontinuance shall be filed and no order of discontinuance may be entered, except upon payment by the county of the expenses of the proceeding and reasonable attorney fees of all parties in interest who have appeared in the proceedings under the order of the court.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.777 Court commissioners; meetings; conducting business at public meeting; notice of meeting; adjournment; subpoenas; oaths; viewing premises; hearing proofs and allegations; availability of report and other writings to public.**

Sec. 47.

The court commissioners shall meet at the time and place ordered by the court and shall be sworn to faithfully discharge their duties. The business which the commissioners may perform shall be conducted at a public meeting of the commissioners held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. If all commissioners do not then appear, a smaller number may adjourn to a time certain, but an adjournment shall not be made to a day later than the time allowed by the court. An adjournment shall be publicly announced. The court or the clerk of the court may issue subpoenas to compel the attendance of witnesses before the court or before the court commissioners. A court commissioner may administer oaths to witnesses. The court commissioners shall view the premises described in the petition and shall hear the proofs and allegations of the parties. The report and any other writing prepared, owned, used, in the possession of, or retained by the commissioners in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957 ;-- Am. 1977, Act 176, Imd. Eff. Nov. 17, 1977

**123.778 Court commissioners; determination of necessity, damages, report.**

Sec. 48.

The court commissioners shall determine whether it is necessary to take for public use or benefit the property described in the petition, and if so, shall appraise the damages to be paid as compensation for each piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for the court commissioners to report on all of the property at one time.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.779 Multiple petitions; descriptions.**

Sec. 49.

It shall not be necessary for the board of public works to include in 1 determination the descriptions of all of the property necessary to be taken for any single project or to include in 1 petition the descriptions of all of the property described in the determination upon which such petition is based.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

**123.780 Report of court commissioners; court orders.**

Sec. 50.

Upon the filing of the report of the court commissioners, the court shall set a time for the consideration thereof and shall cause notice thereof to be given in the manner required by court rule in respect to the hearing of motions. At such time or at such other time to which it may adjourn the proceedings, the court on cause shown may set aside the report and refer it back to the court commissioners or appoint other commissioners to re-try the questions

involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; at any time, in its discretion, it may remove any or all of the commissioners for cause and fill the vacancy thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn the proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further accomplish the purpose thereof.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.781 Report of court commissioners; confirmation, orders for payment of witness fees, attorney fees, damages.**

Sec. 51.

After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the county to pay the several sums awarded for damages and it shall pay the same accordingly. The court may determine and include in the order an allowance to the persons, partnership or corporation from whom property is taken, for attorney fees and witness fees in an amount to be fixed by the court; such attorney fees and witness fees shall be paid in the same manner and at the same time as sums awarded for damages in such proceeding. It shall not be lawful for the court to make such order allowing witness and attorney fees to more than 1 title interest and such lien interests as are adverse thereto and to each other in any single parcel of real estate as set up and described in the determination of necessity on file. The payment shall be made in money or by an order drawn on the county treasurer to the several persons entitled thereto, and if refused, or if there is no person properly authorized to receive the same, or if the person entitled thereto is a non-resident of the county or cannot be found, it shall be deposited as directed by the court.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.782 Compensation of court commissioners; expenses.**

Sec. 52.

The court shall fix the compensation of the court commissioners and determine the amount of their necessary expenses incurred in connection with such proceeding.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.783 Review by certiorari; procedure; time limitation.**

Sec. 53.

Any proceeding taken under the provisions of this act shall be subject to review upon certiorari. The procedure therefor shall be the same as is required in case of certiorari to review judgment rendered by judges of the circuit courts. The application for certiorari must be filed within 20 days after the report of the court commissioners shall have been confirmed.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.784 Court orders; service.**

Sec. 54.

All court orders heretofore mentioned in this act, unless otherwise provided, may be served as follows:

- (a) By delivery of a true copy thereof to the person to be served; or
- (b) By leaving a true copy thereof at the residence of the person to be served; or
- (c) By mailing a true copy thereof by certified or registered mail to the last known post office address of the person to be served, so far as is known; or
- (d) If service upon any person is impossible by any of the above methods, then by posting a true copy thereof on the property of such person, which is sought to be taken in the proceedings.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

### **123.785 Repealed. 2018, Act 200, Eff. Sept. 18, 2018.**

**Compiler's Notes:** The repealed section pertained to prima facie evidence of ownership.

### **123.786 Lis pendens; filing.**

Sec. 56.

It shall be the duty of any attorney filing a petition under this chapter to file a lis pendens in the office of the register of deeds.

**History:** 1957, Act 185, Imd. Eff. June 4, 1957

## **POLICE DEPARTMENT LEAVES AND FURLOUGHS**

### **Act 178 of 1913**

AN ACT to fix the leave of absence and furlough of officers and men in the police department of cities having a population of over 25,000 inhabitants, and providing penalties for the violation thereof.

**History:** 1913, Act 178, Eff. Aug. 14, 1913 ;-- Am. 1925, Act 238, Eff. Aug. 27, 1925 ;-- Am. 1947, Act 287, Eff. Oct. 11, 1947

*The People of the State of Michigan enact:*

### **123.801 Police department employees; leaves, furlough; emergency; reduction of working days.**

Sec. 1.

In cities having over 25,000 inhabitants, unless now or hereafter otherwise provided by city ordinance or

charter, officers and men of the police department shall each be entitled to a leave of absence of 1 day of 24 hours off duty in every 7, and a furlough of not less than 14 days once in each year: Provided, however, That this shall not prohibit the head of a police department from suspending such leave of absence or furlough, temporarily, as a matter of discipline, for insubordination of any officer or man employed by said police department: Provided further, That this act shall not apply in case of an emergency: Provided further, That any city affected by this act may, by a majority vote of the members-elect of the legislative body of said city, reduce the number of working days and hours and/or increase the furlough of employees affected by this act, any charter provisions to the contrary notwithstanding.

**History:** 1913, Act 178, Eff. Aug. 14, 1913 ;-- CL 1915, 3473 ;-- Am. 1925, Act 238, Eff. Aug. 27, 1925 ;-- CL 1929, 2724 ;-- Am. 1937, Act 337, Imd. Eff. July 27, 1937 ;-- Am. 1947, Act 287, Eff. Oct. 11, 1947 ;-- CL 1948, 123.801

## **MUTUAL POLICE ASSISTANCE AGREEMENTS**

### **Act 236 of 1967**

AN ACT to authorize counties, cities, villages, and townships to enter into mutual police assistance agreements; to define the terms of the agreement; and to provide for the compensating of the counties, cities, villages, and townships entering into such agreements.

**History:** 1967, Act 236, Imd. Eff. July 10, 1967 ;-- Am. 1974, Act 342, Imd. Eff. Dec. 20, 1974

*The People of the State of Michigan enact:*

#### **123.811 Mutual police assistance agreements; authorized.**

##### **Sec. 1.**

Two or more counties, cities, villages, or townships, whether adjacent to each other or not, may enter into agreements to provide mutual police assistance to one another in case of emergencies.

**History:** 1967, Act 236, Imd. Eff. July 10, 1967 ;-- Am. 1974, Act 342, Imd. Eff. Dec. 20, 1974

#### **123.812 Mutual police assistance agreements; contents.**

##### **Sec. 2.**

The agreements, subject to the approval of the governing bodies of the counties, cities, villages, or townships, shall provide for the nature of the emergency, who shall declare the emergency, under what circumstances police assistance may be asked for, and by which county, city, village, or township officials; and shall provide for the payment of the services and what powers, duties, and responsibilities, and under whose authority, policemen called to duty under the terms of the mutual aid assistance agreement shall serve.

**History:** 1967, Act 236, Imd. Eff. July 10, 1967 ;-- Am. 1974, Act 342, Imd. Eff. Dec. 20, 1974

#### **123.813 Compensation, disability, retirement, and furlough payments; equipment and supplies charges.**

Sec. 3.

The agreements shall contain provisions relative to compensation and disability payments, retirement and furlough payments and charges to be made for equipment, supplies and materials used or expended while rendering assistance under the agreement.

**History:** 1967, Act 236, Imd. Eff. July 10, 1967

**123.814 Contracts or intermunicipal police authorities to provide police services.**

Sec. 4.

Two or more counties, cities, villages, or townships adjacent to each other may join together, by contract or by the establishment of an intermunicipal police authority, for the purposes of providing police services to the respective counties, cities, villages, and townships. The contracts or intermunicipal police authorities shall be approved by the governing bodies of the counties, cities, villages, and townships; shall be administered by a commission established in accordance with the agreements; and shall contain provisions relative to apportionment of the costs of the services among the counties, cities, villages, or townships making the agreements.

**History:** 1967, Act 236, Imd. Eff. July 10, 1967 ;-- Am. 1974, Act 342, Imd. Eff. Dec. 20, 1974

**MINIMUM SALARIES FOR POLICEMEN**

**Act 157 of 1941**

AN ACT to provide for the payment of minimum annual salaries to police officers and policemen in incorporated cities of this state; and to repeal all acts and parts of acts that are inconsistent with the provisions of this act.

**History:** 1941, Act 157, Eff. Jan. 10, 1942

*The People of the State of Michigan enact:*

**123.821 Policemen; minimum schedule of salaries.**

Sec. 1.

Hereafter minimum annual salaries and compensation shall be paid to police officers and policemen, in incorporated cities of this state, in accordance with the following schedule: in incorporated cities having more than 500,000 population, police officers and policemen with more than 3 years police service shall receive an amount not less than \$2,640.00 per year; in incorporated cities having a population of more than 75,000 but not exceeding 500,000, police officers and policemen with more than 3 years police service shall receive not less than \$2,000.00 per year; in incorporated cities having a population of more than 25,000 but not exceeding 75,000, police officers and policemen with more than 2 years police service shall receive not less than \$1,900.00 per year; in incorporated cities having a population of more than 12,500 but not exceeding 25,000, police officers and policemen with more than 2 years police service shall receive not less than \$1,800.00 per year; in incorporated cities having a population of more than 5,000 but not exceeding 12,500, police officers and policemen with more than 1 year police service shall receive not less than \$1,700.00 per year.

**History:** 1941, Act 157, Eff. Jan. 10, 1942 ;-- CL 1948, 123.821

**123.822 Policemen; cities in which schedule not applicable.**

Sec. 2.

The foregoing schedule shall apply to all incorporated cities of this state, except where incorporated cities having more than 40,000 population adjoin or lie within the boundaries of an incorporated city that has more than 500,000 population. In this case police officers and policemen of the smaller city and having 3 or more years police service shall receive not less than \$2,640.00 per year.

**History:** 1941, Act 157, Eff. Jan. 10, 1942 ;-- CL 1948, 123.822

**123.823 Policemen; census for ascertaining city population.**

Sec. 3.

The last federal decennial census or any federal decennial census hereafter taken shall be used in ascertaining the size of the city for the purpose of conforming with the foregoing schedules.

**History:** 1941, Act 157, Eff. Jan. 10, 1942 ;-- Am. 1945, Act 27, Eff. Sept. 6, 1945 ;-- CL 1948, 123.823

**123.824 Inapplicability of act.**

Sec. 4.

This act shall not apply to persons engaged in part time, emergency or special police service or to any person not actively engaged in said service.

**History:** 1941, Act 157, Eff. Jan. 10, 1942 ;-- CL 1948, 123.824

**MINIMUM STANDARDS FOR FIRE DEPARTMENTS**

**Act 327 of 1965**

AN ACT to set certain minimum standards for fire departments in certain municipalities; and to provide a time within which they must comply.

**History:** 1965, Act 327, Imd. Eff. July 23, 1965

*The People of the State of Michigan enact:*

**123.831 Fire departments in cities of 70,000; minimum standards.**

Sec. 1.

In each city, township or village which has or shall hereafter attain a population of 70,000 or more according to the last decennial census, the fire department shall meet the minimum standards set by the Michigan inspection bureau to qualify for class 6 fire classification.

**History:** 1965, Act 327, Imd. Eff. July 23, 1965

#### **123.832 Time within which standards must be met.**

##### **Sec. 2.**

These minimum standards shall be met within 1 year from the effective date of this act or within 1 year from the date the municipality attains a population of 70,000 or more.

**History:** 1965, Act 327, Imd. Eff. July 23, 1965

### **FIRE DEPARTMENT HOURS OF LABOR**

#### **Act 125 of 1925**

AN ACT to regulate the hours of labor of employes in the fire departments of municipalities, and providing penalties for the violation thereof.

**History:** 1925, Act 125, Eff. Aug. 27, 1925

*The People of the State of Michigan enact:*

#### **123.841 Fire department employees; period of duty; days off duty; work hours per week.**

##### **Sec. 1.**

It shall be unlawful for any municipality, or any officer or employee thereof, in municipalities which maintain or may hereafter maintain an organized paid or part-paid fire department, to require any person in the employ of the fire department who is engaged in fire fighting or subject to the hazards thereof to be on duty in such employment more than 24 hours, or to be off duty less than 24 consecutive hours out of any 48-hour period. All persons in the employ of any organized paid or part-paid fire department who are engaged in fire fighting or subject to the hazards thereof shall be entitled to an additional 24 consecutive hours off duty in every 12-day period, beginning July 1, 1966, thereby requiring firemen to work not more than an average of 63 hours per week, and effective July 1, 1967, an additional 24 consecutive hours off duty in every 6-day period, thereby requiring firemen to work not more than an average of 56 hours per week.

**History:** 1925, Act 125, Eff. Aug. 27, 1925 ;-- CL 1929, 2725 ;-- Am. 1937, Act 38, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 57, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 335, Eff. Oct. 11, 1947 ;-- CL 1948, 123.841 ;-- Am. 1965, Act 115, Eff. Mar. 31, 1966

#### **123.842 Exemptions.**

##### **Sec. 2.**



The provisions of section 1 shall not apply

(a) To the chief officer or the assistant chief officer in command of the fire department of a municipality.

(b) To employees of a fire department who are employed subject to call.

(c) To the members or employees of a fire department when required to remain on duty by the chief officer of such department, his aides or assistants, in cases of public necessity arising from great conflagration, riot, flood, epidemic of pestilence, or disease, necessary absence of regularly employed men due to military service, or for disciplinary measures.

(d) To the members of any volunteer fire department.

(e) To any municipality which, by agreement with the collective bargaining agent representing affected employees, does not require its employees engaged in fire fighting or subject to the hazards thereof, to be on duty more than 40 hours in any consecutive 7-day period.

**History:** 1925, Act 125, Eff. Aug. 27, 1925 ;-- CL 1929, 2726 ;-- Am. 1937, Act 38, Eff. Oct. 29, 1937 ;-- Am. 1947, Act 335, Eff. Oct. 11, 1947 ;-- CL 1948, 123.842 ;-- Am. 1973, Act 78, Imd. Eff. July 31, 1973

### **123.843 Penalty for violations.**

#### **Sec. 3.**

Any officer or employee or agent of such municipality who shall require any employee or other person in any such fire department, save as hereinbefore excepted in section 2 of this act, to be on duty in such employment for a longer time than that hereinbefore provided, or to be off duty for a lesser time than that hereinbefore provided, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 100 dollars or by imprisonment in the county jail for not more than 3 months, or by both such fine and imprisonment.

**History:** 1925, Act 125, Eff. Aug. 27, 1925 ;-- CL 1929, 2727 ;-- CL 1948, 123.843

## **ARMISTICE, INDEPENDENCE, AND MEMORIAL DAY**

### **Act 110 of 1905**

AN ACT to authorize townships, cities, and villages to appropriate money to defray the expenses of the proper observance of armistice, independence, and memorial or decoration day or a diamond jubilee or centennial.

**History:** 1905, Act 110, Imd. Eff. May 10, 1905 ;-- Am. 1931, Act 27, Eff. Sept. 18, 1931 ;-- Am. 1977, Act 271, Imd. Eff. Dec. 14, 1977

*The People of the State of Michigan enact:*

### **123.851 Observance of armistice day, independence day, memorial or decoration day, diamond jubilee, or centennial; appropriation; assessment, levy and collection.**

#### **Sec. 1.**

The township board of a township, the board of trustees of a village, or the common council of a city in this state, may appropriate money for the purpose of defraying the expenses of the proper observance of armistice, independence, and memorial or decoration day or for the proper observance of a diamond jubilee or centennial. The sums appropriated shall be assessed, levied, and collected in the same manner as other expenses of a township, village, or city are assessed, levied, and collected.

**History:** 1905, Act 110, Imd. Eff. May 10, 1905 ;-- CL 1915, 3296 ;-- Am. 1921, Act 48, Eff. Aug. 18, 1921 ;-- CL 1929, 2731 ;-- Am. 1931, Act 27, Eff. Sept. 18, 1931 ;-- Am. 1947, Act 57, Imd. Eff. Apr. 25, 1947 ;-- CL 1948, 123.851 ;-- Am. 1955, Act 30, Imd. Eff. Apr.

19, 1955 ;-- Am. 1975, Act 95, Imd. Eff. June 2, 1975 ;-- Am. 1977, Act 271, Imd. Eff. Dec. 14, 1977

### **123.852 Manner, extent, and expense of observance.**

#### **Sec. 2.**

The manner and extent of the observance authorized by section 1 shall be under the direction of the township board of the township, board of trustees of the village, or common council of the city, as the case may be, and the expense of the observance shall be paid in the same manner as other expenses of the township, village, or city are paid.

**History:** 1905, Act 110, Imd. Eff. May 10, 1905 ;-- CL 1915, 3297 ;-- CL 1929, 2732 ;-- Am. 1931, Act 27, Eff. Sept. 18, 1931 ;-- CL 1948, 123.852 ;-- Am. 1977, Act 271, Imd. Eff. Dec. 14, 1977

## **BAND**

### **Act 230 of 1923**

AN ACT to authorize and empower villages and townships of this state, also cities having a population not exceeding 50,000 inhabitants, to levy a tax for the maintenance and employment of a band for musical purposes for the benefit of the public, provided said special question is submitted to the duly qualified voters of such villages, townships or cities and adopted or agreed to by a majority vote of those participating in said election; and to prescribe penalties and provide remedies.

**History:** 1923, Act 230, Eff. Aug. 30, 1923 ;-- Am. 1998, Act 181, Eff. Mar. 23, 1999

*The People of the State of Michigan enact:*

### **123.861 Town band; consent of voters in referendum.**

#### **Sec. 1.**

The township board, village council, common council, commission, or other legislative body of any township or village of this state, or city having a population not exceeding 50,000 inhabitants, upon petition of 10 per centum of the qualified voters thereof, shall submit the question to the people as to whether such village, township or city, as the case may be, shall come under the provisions of this act and, if adopted or agreed to by a majority vote of the qualified voters participating in said election, then this act shall be in full force and effect.

**History:** 1923, Act 230, Eff. Aug. 30, 1923 ;-- CL 1929, 2733 ;-- CL 1948, 123.861

### **123.861a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

#### **Sec. 1a.**

A petition under section 1 or 3, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 181, Eff. Mar. 23, 1999

### **123.862 Band maintenance; annual tax, limit.**

#### **Sec. 2.**

In all such villages, townships or cities adopting the provisions of this act, the legislative body thereof is authorized and empowered to levy an annual tax not exceeding 2 mills on each dollar of the assessed valuation of such village, township or city as the case may be, for the maintenance and employment, under municipal control, of a band for musical purposes for the benefit of the public.

**History:** 1923, Act 230, Eff. Aug. 30, 1923 ;-- CL 1929, 2734 ;-- CL 1948, 123.862

### **123.863 Existing bands; adoption of provisions of act, procedure.**

#### **Sec. 3.**

Any such village, township or city, having previously adopted the provisions of this act, may at any time thereafter relinquish said authority or power by following the same procedure as provided in this act for adopting the provisions thereof: Provided, That such action may be taken by the legislative body aforesaid only after a petition signed by 10 per centum of the qualified voters residing in such village, township or city, as the case may be, duly filed with the legislative body thereof at least 60 days prior to the date of re-submission, asking that the question of relinquishment of said authority be re-submitted to the vote of the people.

**History:** 1923, Act 230, Eff. Aug. 30, 1923 ;-- CL 1929, 2735 ;-- CL 1948, 123.863

## **GIFTS OF PROPERTY**

### **Act 380 of 1913**

AN ACT to regulate gifts of real and personal property to cities, villages, townships, and counties, and the use of those gifts and other funds; and to validate all gifts made before the enactment of this act.

**History:** 1913, Act 380, Eff. Aug. 14, 1913 ;-- Am. 1985, Act 9, Imd. Eff. Apr. 15, 1985 ;-- Am. 2003, Act 122, Imd. Eff. July 29, 2003

*The People of the State of Michigan enact:*

### **123.871 Repealed. 2017, Act 38, Eff. Aug. 21, 2017.**

**Compiler's Notes:** The repealed section pertained to gift of real or personal property to city, village, township, or county.

### **123.872 Loan or grant to assist businesses or for public purposes; assignment of right to repayment; loan**

**revenue bonds; agreement with federal government or agency.**

**Sec. 2.**

(1) To provide a means and method to encourage and assist businesses in locating and expanding in this state, and if not prohibited by the terms of the grant or loan, a city, village, township, or county may receive and use a federal, state, or local grant or a loan from a federal agency as part of an intermediary relending program or the proceeds of a federal, state, or local grant or the proceeds of a loan from a federal agency as part of an intermediary relending program to make a secured or unsecured loan or to make a grant to a private person, to a corporation or other business association, to a city, village, township, or county, or to an instrumentality of a city, village, township, or county. A county may grant or loan funds to a township, village, or city located within that county for the purpose of encouraging and assisting businesses to locate and expand within the county. A grant or loan under this subsection shall not be derived from ad valorem taxes except for ad valorem taxes approved by a vote of the people for economic development. The county shall establish an application process for proposals to receive a grant or loan under this subsection. The awarding of a grant or loan under this subsection shall be made at a public hearing of the county board of commissioners. The grant or loan contract made by a county shall require a report to the county board of commissioners regarding the activities of the recipient and the degree to which the recipient has met the stated public purpose of the funding.

(2) A loan or grant made under subsection (1) may be used for local public improvements or to encourage and assist businesses in locating or expanding in this state, to preserve jobs in this state, to encourage investment in the communities in this state, or for other public purposes.

(3) The right to repayment of a loan made under subsection (1) may be assigned by a city, village, township, or county to an entity, agency, or authority created pursuant to law, or to a private corporation or association created to make and administer loans made under subsection (1).

(4) A city, village, township, or county may receive loans under subsection (1) and issue loan revenue bonds or notes secured by the repayment of loans made under subsection (1). For the purposes specified in subsection (2), bonds or notes issued pursuant to this section shall be approved by the department of treasury before their issuance, but shall not otherwise be subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. In determining whether the issuance of the bonds or notes shall be approved, the department of treasury shall take into consideration the following:

(a) Whether the bonds or notes conform to the provisions of law.

(b) Whether the probable revenue and properties pledged for payment of the bonds or notes will be sufficient to pay the principal of and interest on the bonds or notes when due.

(c) Whether the amount of the proposed issue is sufficient or excessive for the purpose for which the bonds or notes are to be issued.

(5) The loan revenue bonds or notes shall not be general obligations of the city, village, township, or county issuing the loan revenue bonds or notes. The loan revenue bonds or notes are declared to be issued for an essential public and governmental purpose, and, together with interest on those bonds or notes and income from those bonds or notes, shall be exempted from all taxes.

(6) A city, village, township, or county receiving a federal loan from a federal agency as part of an intermediary relending program may enter into an agreement with the federal government or an agency of the federal government respecting the repayment of principal and interest on the federal loan.

**History:** Add. 1985, Act 9, Imd. Eff. Apr. 15, 1985 ;-- Am. 2003, Act 122, Imd. Eff. July 29, 2003 ;-- Am. 2009, Act 108, Imd. Eff. Oct. 1, 2009

**123.873 Repealed. 2002, Act 555, Imd. Eff. July 26, 2002.**

**Compiler's Notes:** The repealed section pertained to commingling prohibited.

**123.874 Repealed. 2017, Act 38, Eff. Aug. 21, 2017.**

**Compiler's Notes:** The repealed section pertained to transfer of gift to community foundation.

## **SPECIAL TAX FOR ADVERTISING**

### **Act 359 of 1925**

AN ACT to empower the common council of any city, or the corporate authorities of any village, to levy a special tax to be used for advertising, publicity, recreation or exploitation, tending to encourage the industrial, commercial, educational or recreational advantages of the said city or village, for the purpose of encouraging immigration to, and increasing the trade, business and industries of the said city or village.

**History:** 1925, Act 359, Imd. Eff. May 27, 1925

*The People of the State of Michigan enact:*

### **123.881 Publicity tax; limit.**

Sec. 1.

The common council of any city, or the corporate authorities of any village, in this state, shall have the power to levy a special tax not to exceed in any 1 year 4 mills on the dollar of the assessed valuation of all taxable property within the said city or village, to be used for advertising, exploiting and making known the industrial, commercial, educational or recreational advantages of the said city or village, and to establish recreational and educational projects for the purpose of encouraging immigration to, and increasing the trade, business and industries of the said city or village: Provided, however, That such tax levy shall not exceed 50,000 dollars in any 1 year.

**History:** 1925, Act 359, Imd. Eff. May 27, 1925 ;-- CL 1929, 2712 ;-- CL 1948, 123.881

## **DETENTION OF WOMEN AND CHILDREN**

### **Act 109 of 1897**

123.891-123.899 Repealed. 1985, Act 137, Imd. Eff. Oct. 22, 1985.

## **MICHIGAN COMMUNITY FOUNDATION ACT**

### **Act 38 of 2017**

AN ACT to authorize, facilitate, and regulate the acquisition and disposal of certain property and gifts of certain property by certain entities to community foundations; to validate all transfers made before the enactment of this act; and to repeal acts and parts of acts.

**History:** 2017, Act 38, Eff. Aug. 21, 2017

*The People of the State of Michigan enact:*

### **123.901 Short title.**

#### **Sec. 1.**

This act shall be known and may be cited as the "Michigan community foundation act".

**History:** 2017, Act 38, Eff. Aug. 21, 2017

### **123.903 Definitions.**

#### **Sec. 3.**

As used in this act:

(a) "Community foundation" means an organization that meets all of the following requirements:

(i) Has been in existence for at least 10 years.

(ii) Has assets of at least \$5,000,000.00.

(iii) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

(iv) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality.

(v) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the geographic area served.

(vi) Is publicly supported, as defined by 26 CFR 1.170A-9(f).

(vii) Meets the requirements for treatment as a single entity under 26 CFR 1.170A-9(f)(11).

(viii) Is not an organization described in section 509(a)(3) of the internal revenue code, 26 USC 509(a)(3).

(ix) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(x) Maintains continually at least 1 part-time or full-time employee.

(xi) Is subject to an annual independent financial audit.

(xii) For a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing community foundation.

(b) "Component fund" means a component part of a community trust as described in 26 CFR 1.170A-9.

(c) "Condition, limitation, or requirement" does not include a material restriction or condition that violates 26 CFR 1.170A-9 or that restricts a community foundation's inherent power of modification described in 26 CFR 1.170A-9.

(d) "Gift" does not include state school aid or another grant from state or federal sources.

(e) "Intangible personal property" means incorporeal personal property including, but not limited to, cash, proceeds of the sale of real or personal property, deposits in banks or other financial institutions, negotiable instruments, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and choses in action generally. Intangible personal property does not include state school aid or another grant from state or federal resources.

(f) "Municipality" means a city, village, township, county, or a subdivision or instrumentality of any of these entities.

(g) "Public library" means a board of education, library commission, or other public corporation empowered to maintain a public library.

(h) "School board" and "intermediate school board" mean those terms as defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

**History:** 2017, Act 38, Eff. Aug. 21, 2017

### **123.905 Receipt of property by municipality, school board; intermediate school board, or public library; sale; disposal; use of proceeds.**

Sec. 5.

(1) A municipality may receive, own, and enjoy any gift of real, personal, or intangible personal property, made by grant, devise, or bequest, or in any other manner, for public parks, grounds, cemeteries, public buildings, or other public purposes, whether made directly or in trust, subject to the conditions, limitations, and requirements provided in the grant, devise, bequest, or other instrument. A gift shall not be invalid because of an informality in the instrument evidencing the gift, if the intent can be determined from the instrument, or by reason of its contravening a statute or rule against perpetuities. All gifts made prior to the effective date of this act, either by grant, devise, or bequest, or in any other manner, are declared valid, though they violate a statute or rule against perpetuities, the same as if this act had been in effect when made.

(2) A school board of a general powers school district may receive, own, and enjoy a gift of real, personal, or intangible personal property made by grant, devise, or bequest, or in any other manner, that is made for school purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. An intermediate school board of an intermediate school district may receive, own, and enjoy a gift of real or personal property made by grant, devise, or bequest, or in any other manner, that is made for intermediate school district purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(3) A public library may receive and accept gifts and donations of real, personal, or intangible personal property, for the library, and shall hold, use, and apply the property received for the purposes, in accordance with the provisions, and subject to the conditions and limitations, if any, set forth in the instrument of gift.

(4) Whenever any property, real, personal, or intangible personal, now or hereafter held and used for the purpose of a municipality, school board, intermediate school board, or public library by any municipality, school board, intermediate school board, or public library, in the judgment of that municipality, school board, intermediate school board, or public library, is no longer needed for that purpose, that property may be sold and disposed of by the municipality, school board, intermediate school board, or public library unless the sale and disposal are inconsistent with the terms and conditions upon which the property was acquired, at a price and upon terms and conditions as the municipality, school board, intermediate school board, or public library may deem proper, and the proceeds of that property shall be used and applied for the purpose of the municipality, school board, intermediate school board, or public library.

**History:** 2017, Act 38, Eff. Aug. 21, 2017

**123.907 Transfer of property from municipality, school board, intermediate school board, or public library to community foundation.**

Sec. 7.

(1) Subject to subsections (2), (3), and (7), a municipality, school board, intermediate school board, or public library may do the following:

(a) Transfer any gift of intangible personal property received pursuant to section 5 or the proceeds of any gift received pursuant to section 5 to a community foundation.

(b) Transfer any intangible personal property to a community foundation.

(2) If the gift or the intangible personal property to be transferred to a community foundation pursuant to this section was not subject to conditions, limitations, or requirements, the transfer shall be to an endowed or nonendowed component fund within the community foundation that imposes conditions, limitations, or requirements on the use of the property for 1 or more purposes provided in section 5 for municipalities, school boards, intermediate school boards, and public libraries, respectively.

(3) If a gift or the intangible personal property to be transferred to a community foundation pursuant to this section was subject to conditions, limitations, or requirements, the transfer shall be to an endowed or nonendowed component fund within the community foundation that incorporates conditions, limitations, or requirements that are substantially similar to those to which the gift or intangible personal property was subject.

(4) A transfer in accordance with this section that occurred before the effective date of this act is ratified and confirmed, and the transfer is considered valid as if it had been made under this act.

(5) A community foundation to which property is transferred pursuant to this act shall return the property to the entity that transferred the property if 1 or more of the following occur:

(a) The community foundation fails to meet all of the requirements for certification as a community foundation set forth in section 3.

(b) The community foundation is liquidated.

(c) The community foundation substantially violates any condition, limitation, or requirement imposed on the property.

(6) A municipality, school board, intermediate school board, or public library transferring property to a community foundation pursuant to this act may request that the community foundation establish a donor advisory committee for the component fund holding the transferred property. The donor advisory committee for the component fund that holds the property shall include a representative of the entity transferring the property and have advisory rights only with the investment, management, and use of the transferred property at the sole discretion of the community foundation in accordance with the purposes of the component fund holding the transferred property. The donor advisory committee may do the following:

(a) Report to the community foundation on whether any condition, limitation, or requirement on the use of the transferred property is being complied with.

(b) Make recommendations for the use of the transferred property.

(7) A school board or intermediate school board that transfers property to a community foundation pursuant to this act shall not impose any deed restriction prohibiting, or otherwise prohibit, property sold or transferred by the school board or intermediate school board from being used for any lawful public education purpose unless approved by the state board of education created by section 3 of article VIII of the state constitution of 1963. A municipality or public library that transfers property to a community foundation pursuant to this act shall not impose any deed restriction prohibiting, or otherwise prohibit, property sold or transferred by the municipality or public library from being used for any lawful public education purpose.

**History:** 2017, Act 38, Eff. Aug. 21, 2017

## **JOINT PUBLIC BUILDINGS**

### **Act 150 of 1923**

AN ACT to authorize and empower counties, cities, villages and townships or any combination of them, to singly or jointly acquire by gift, devise or public condemnation a site or sites and/or construct, erect, lease, sub-lease and maintain public buildings for the purpose of housing within the same building or buildings city, county, village or township offices, and/or for any other public uses and purposes, which may include a memorial hall for war veterans of the United States of America and for public assemblage.

**History:** 1923, Act 150, Eff. Aug. 30, 1923 ;-- Am. 1939, Act 293, Eff. Sept. 29, 1939

*The People of the State of Michigan enact:*

#### **123.921 Public buildings; joint maintenance and acquisition.**

##### **Sec. 1.**

That whenever the legislative body of any county or township within the state of Michigan and the legislative body of any village or city situated in such county or township shall deem it expedient and for the public convenience and welfare that the offices of the city or village and county or township can be best maintained in the same building and when such legislative bodies shall have so declared by resolution, appearing upon the minutes of said bodies, it shall be lawful for such city or village and county or township and they are hereby authorized and empowered to contract to and with each other, through their proper representatives, for the joint acquiring and maintaining of a building or the acquiring of a site or sites and the erection, construction and maintenance of a building erected for and dedicated to public uses.

**History:** 1923, Act 150, Eff. Aug. 30, 1923 ;-- CL 1929, 2362 ;-- CL 1948, 123.921



### **123.922 Public buildings; contracts.**

#### **Sec. 2.**

The cities, villages, townships and counties aforesaid, acting under the provisions of this act, shall have power and are hereby authorized, through their proper agents, servants and employes to enter into the necessary contracts with each other and with other persons for the acquiring and maintaining of a building or the acquiring of a site or sites and the erection, construction and maintenance, either jointly or severally, in any manner which may be necessary and which they shall deem expedient for the purpose of establishing and maintaining joint ownership, operation and maintenance of a building or buildings to be used for public purposes to the extent and in the manner now provided by law.

**History:** 1923, Act 150, Eff. Aug. 30, 1923 ;-- CL 1929, 2363 ;-- CL 1948, 123.922

### **123.923 Public buildings; financing obligations; joint ventures.**

#### **Sec. 3.**

The cities, villages, townships and counties aforesaid, acting under the provisions of this act, shall have power and they are hereby authorized to raise by taxation or loan in sum or sums necessary for the payment of obligations entered into under the provisions of this act in the manner and to the extent provided by law for the acquiring and maintenance of public buildings by such municipalities, it being the intent and purpose of this act that counties and cities may enter into joint adventures in the erection of buildings for public purposes to the same extent and with the same authority and power that is granted to counties and cities for the purpose of maintaining separate public buildings.

**History:** 1923, Act 150, Eff. Aug. 30, 1923 ;-- CL 1929, 2364 ;-- CL 1948, 123.923

### **123.924 Public buildings; approval of contracts.**

#### **Sec. 4.**

Whenever a village or city or cities and a county or township shall desire to act under the provisions of this law, the relationship established between such municipalities and governmental agencies shall be fixed by contract and such contracts may be made by cities and counties under the provisions of this act in the manner and to the extent that natural persons might make contracts for like purposes. Such contracts before becoming operative shall be approved by a vote of a majority of all the members-elect of the legislative bodies of the counties and cities operating under the provisions of this act.

**History:** 1923, Act 150, Eff. Aug. 30, 1923 ;-- CL 1929, 2365 ;-- CL 1948, 123.924

### **123.925 Public buildings; veterans' memorial hall; rent contracts; bonds; referendum, issuance; applicability of section to counties with certain population; bonds subject to revised municipal finance act.**

#### **Sec. 5.**

(1) A county, city, village, or township for itself and any other of the units of government may acquire, construct, lease, or maintain a building or buildings to house any of their offices, or facilities for any other public use and purpose of the units of government, which building may be or include a memorial hall for war veterans of

the United States of America and for public assemblage and to acquire a site or sites for those purposes. However, no county, city, village, or township shall for joint purposes and uses acquire a site or sites or erect any building or buildings unless the unit of government has entered into a contract or contracts for the rental of a portion of the site or sites and quarters or space with each of the other participating units of government in the amount or amounts and for the period or periods of time and in the form as will provide revenues from payments to it of a reasonably proportionate or equitable share of the total cost in relation to the portion, space, use, and public benefits provided in the contract or contracts for the lessee or lessees. The contract or contracts shall be executed following approval by a majority vote of the members elected to and serving in the legislative body of each unit of government participating in and a party to the contract. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The county, city, village, or township that singly acquires a site or sites or acquires, constructs, or leases a building or buildings for the purposes authorized in this section may obtain funds for those purposes by gift or by means of general obligation bonds or by the issuance of self-liquidating revenue bonds to be paid from the revenues derived in pursuance of a contract or contracts as provided in subsection (1) and under the provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. In the event that the revenues to be derived under the contract or contracts shall be only sufficient to permit the issuance of revenue bonds for a portion of the cost of the site or sites or building or buildings, authority is hereby granted to issue revenue bonds to the extent to which the revenue shall permit. However, the entire improvement or improvements on which revenue bonds are issued shall be subject to the provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. However, as a prerequisite to the lease or purchase of any property, the lease, purchase, or construction of any building or buildings or the issuance of any revenue or general obligation bonds under the provision of this section, the board of commissioners of the county involved shall submit the question to the qualified electors of the county at the next general election or at a special election to be called by the board of commissioners of the county. However, if the majority vote of the qualified electors in the largest city of the county and a majority vote of the qualified electors in all the rest of the county shall vote in favor of the question, the provisions of this section shall then become operative. However, no self-liquidating revenue bonds shall be sold unless prior to the sale an advertisement is made of the date of the sale, the number and amount of bonds, and other matters covering the revenue bonds. However, sealed bids shall be taken on the day of the sale of the bonds from any and all persons who may bid, and the bonds shall be sold to the highest bidder at the sale. The proceeds derived from the sale of any and all the bonds shall be used only for the purpose of acquiring a site or constructing building or buildings, as authorized in this act, and shall be used for no other purpose.

(3) The provisions of this section shall apply only to counties having a population of 300,000 or over according to the latest federal census. However, the provisions of this section shall not apply in a county unless and until the board of supervisors of the county shall adopt a resolution approved by a 2/3 vote of the members elected to and serving on the board.

(4) General obligation bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 1939, Act 293, Eff. Sept. 29, 1939 ;-- CL 1948, 123.925 ;-- Am. 2002, Act 312, Imd. Eff. May 13, 2002

**Compiler's Notes:** For provisions of Act 94 of 1933, referred to in this section, see MCL 141.101 et seq.

## POOLED INVESTMENTS

### Act 53 of 1994

AN ACT to authorize internally pooled investments by certain local governmental units.

**History:** 1994, Act 53, Imd. Eff. Mar. 31, 1994

*The People of the State of Michigan enact:*

#### **123.931 Investments; computerized pool; "local governmental unit" defined; authorization.**

Sec. 1.

(1) Notwithstanding the provisions of 1943 PA 20, MCL 129.91 to 129.96; the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118; the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150; the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140; the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; or 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965, a local governmental unit that maintains or intends to maintain various investments in or as part of a computerized pool and allocates or has allocated portions of the investments to various funds and accounts may continue to do so or may begin to do so if the fund has a written accounting issued at least monthly showing the status of money allocated to each fund and the principal amount of each investment. The interest on the investment may be transferred or expended through pooled concentrated checking accounts or by wire or other transfers. Investments of debt service funds, sinking funds, or other pledged funds relating to 1 or more issues of bonds, notes or other indebtedness of a local governmental unit, may be maintained in or as part of a computerized pool subject to the conditions described in this subsection, unless otherwise prohibited by law or contract, but a computerized pool for such funds shall be maintained separately from any computerized pool for other funds and accounts of the local governmental unit.

(2) As used in this section, "local governmental unit" means a county, city, village, township, drainage district, road commission, building authority, or other municipal or public corporation or authority, and any other governing body described in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) This act authorizes the holding and accounting of electronically pooled investments but is not intended to permit types or categories of investments not currently authorized by law or contract.

**History:** 1994, Act 53, Imd. Eff. Mar. 31, 1994 ;-- Am. 2002, Act 403, Imd. Eff. June 3, 2002

## **BUILDING AUTHORITIES**

### **Act 31 of 1948 (1st Ex. Sess.)**

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995 ;-- Am. 1998, Act 190, Eff. Mar. 23, 1999 ;-- Am. 2010, Act 243, Imd. Eff. Dec. 14, 2010

*The People of the State of Michigan enact:*

### **123.951 Local building authorities; incorporation; purposes; "transit-oriented development" and "transit-oriented facility" defined.**

Sec. 1.

(1) A county, city, village, or township may incorporate, as provided in this act, 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefore, together with appurtenant properties and facilities necessary or convenient for the effective use of the facilities, for use for any legitimate public purpose of the county, city, village, or township.

(2) As used in this section:

(a) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use.

(b) "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.951 ;-- Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954 ;-- Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 121, Imd. Eff. July 20, 1993 ;-- Am. 2010, Act 243, Imd. Eff. Dec. 14, 2010

### **123.952 Joint buildings and parking lots; authorities; incorporation; purposes.**

#### **Sec. 2.**

Any combination of 2 or more counties, cities, townships, or villages may incorporate 1 or more joint authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the incorporating units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.952 ;-- Am. 1964, Act 41, Imd. Eff. May 6, 1964 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

### **123.952a Joint buildings and parking lots of school districts and municipalities; authorities; incorporation; acquisition; operation; maintenance; use.**

#### **Sec. 2a.**

A school district and a city, village, or township wholly or partially within the district's boundaries, or a school district and any combination of 2 or more cities, villages, and townships wholly or partially within the district's boundaries, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of the local units.

**History:** Add. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1969, Act 46, Imd. Eff. July 17, 1969 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

### **123.952b Public buildings used for disabled, developmentally disabled, or mentally disturbed children; constituent school districts and intermediate school districts; authority; purpose; contract.**

#### **Sec. 2b.**

An intermediate school district and a constituent school district or districts wholly or partially within the intermediate school district's boundaries may incorporate an authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining a building or buildings as a facility for disabled, developmentally disabled, or mentally disturbed children, and the necessary site or sites therefor, for the use of the intermediate school district and a constituent school district or districts pursuant to a contract between the intermediate school district and constituent school district or districts.

**History:** Add. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1998, Act 25, Imd. Eff. Mar. 12, 1998 ;-- Am. 2014, Act 70, Imd. Eff. Mar. 28, 2014

### **123.953 Incorporating unit; definition.**

#### **Sec. 3.**

The term "incorporating unit" as used in this act shall be deemed to mean a county, city, village, township, intermediate school district or other school district incorporating an authority or joining in such incorporation.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.953 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968

### **123.954 Incorporation of authority; procedure.**

#### **Sec. 4.**

The incorporation of such an authority shall be accomplished by the adoption of articles of incorporation by the legislative body of each incorporating unit. For such adoption, the affirmative vote of the majority of the members elect of each such legislative body shall be required. The articles of incorporation shall be executed, for and on behalf of each incorporating unit by the following officers, to-wit: For the county, by the chairman of the board of commissioners and county clerk; for the city, by its mayor and city clerk; for the village, by its president and clerk; for the township, by its supervisor and clerk; and for the school district or intermediate school district, by the president and secretary of the board of education. The clerk or secretary of each incorporating unit shall also affix to the articles of incorporation following the signatures thereto, a certificate in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the .... of ..... County, Michigan, at a meeting duly held on the ..... day of ....., 19 .....

Dated: ....., 19 .....

..... (Clerk/Secretary)"

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.954 ;-- Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

### **123.955 County and municipal building authority; articles of incorporation; contents; eligibility of governing body member for membership or appointment.**

#### **Sec. 5.**

- (1) The articles of incorporation shall set forth all of the following:
  - (a) The name of the authority.
  - (b) The name or names of the unit or units incorporating the authority.
  - (c) The purpose for which the authority is incorporated.
  - (d) The number, terms, and manner of selection of the officers of the authority including its governing body,

which shall be known as the "commission".

(e) The powers and duties of the authority and of its officers.

(f) The date upon which the authority shall become effective.

(g) The officer required to publish the articles of incorporation and the name of the newspaper in which the articles of incorporation shall be published.

(h) The county with whose clerk the articles of incorporation shall be filed, which shall be a county that is an incorporating unit or in which an incorporating unit is located.

(i) Any other matters considered expedient.

(2) A member of the governing body of an incorporating unit of an authority is not eligible for membership or appointment to the authority.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.955 ;-- Am. 1955, Act 143, Eff. Oct. 14, 1955 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

**123.955a Joint building authority; commissioners; election and terms of members; chairperson; secretary; bylaws and rules of procedure; elected official as member; conducting business at public meeting; notice of meeting.**

Sec. 5a.

(1) A joint building authority under section 2 incorporated by a county and a city, township, or village shall be directed and governed by a commission of 3 members, 1 to be elected by the county board of commissioners of the county, 1 to be elected by the legislative body of the city, township, or village, and 1 to be elected by the joint action of the county board of commissioners of the county and the legislative body of the city, township, or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days after the election of the first member, then the third member shall be appointed by the governor.

(2) A joint building authority under section 2 not described by subsection (1) shall be directed and governed by a commission consisting of 1 member elected by the legislative body of each incorporating unit and such other members as may be provided by the articles of incorporation.

(3) The commissioners of a joint building authority under section 2 shall serve for 4-year terms.

(4) The commission shall designate 1 member as chairperson and 1 as secretary, and shall adopt bylaws and rules of procedure. A member of the commission of a joint building authority shall not be an elected official of the county, city, township, or village.

(5) The business that the commission of any building authority performs shall be conducted at a public meeting of the board of commissioners held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.955a ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1977, Act 181, Imd. Eff. Nov. 17, 1977 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

**123.955b Board of commissioners; compensation, per diem, mileage.**

Sec. 5b.

Members of the commission may be paid such compensation, and such per diem and mileage for attending meetings, as may be provided by the commission with the approval of the incorporating unit or units.

**History:** Add. 1968, Act 96, Imd. Eff. June 6, 1968

### **123.956 Articles of incorporation; publication; statement; filing; effective date; presumption.**

#### **Sec. 6.**

(1) The officer designated in the articles of incorporation shall cause a copy of the articles of incorporation or a summary of the articles to be published once in a newspaper designated in the articles of incorporation and circulating within the incorporating units accompanied by a statement that the right exists to question the incorporation in court as provided in this section. The officer shall file with the county clerk of the county designated under section 5(1)(h) and the secretary of state a certified copy of the articles of incorporation with a certificate of the date and newspaper of publication. The officer shall file with the recording officer of the authority, when selected, the original articles of incorporation with a certificate of the date and newspaper of publication.

(2) The authority shall become effective at the time provided in the articles of incorporation.

(3) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.956 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995

### **123.957 Building authority; body corporate; powers.**

#### **Sec. 7.**

Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.957

### **123.958 Contracts to acquire property; leases and subleases; acquisitions constituting public purpose; stadiums.**

#### **Sec. 8.**

The authority and its incorporating unit or units may only enter into a contract or contracts under which the authority will acquire property contemplated by the terms of this act and lease the same to the incorporating unit or units for a period not to exceed 50 years or, if the authority issues refunding bonds pursuant to section 11k, the authority may enter into a contract or contracts under which the authority will own or continue to own the property acquired, in part or in whole, from the sale of the bonds to be refunded and will lease the same to the incorporating unit or units for a period not to exceed 50 years from the date of issuance of the refunding bonds. Any incorporating unit or units to which the property is leased, may sublease the property or any part of the property to any 1 or more persons, firms, or corporations or may contract for the use of the property or any part of the property by any 1 or more persons, firms, or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the incorporating unit or units. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision. The acquisition of any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities by any authority and the contracting for the lease of that property by any incorporating unit or units, constitutes a benefit to and a legitimate public purpose of the authority and the incorporating unit or units. Where any stadium with appurtenant properties and facilities is acquired by an authority and leased to any incorporating unit or units, for the purpose of providing facilities for sports, recreational, and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations, whether amateur or professional, to utilize the facilities for games, contests, and other performances and attractions, the subleasing of the property to, or the contracting for the use of the property by, any sports, entertainment, or similar organization or by any owner of a franchise in any professional sports or athletic league or



association, in consideration of the agreement of the organization or owner and, if necessary, the league or association to hold, conduct, or produce games, contests, and other performances and attractions in the stadium, with or without admission charges, constitutes a benefit to a legitimate public purpose of the incorporating unit or units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.958 ;-- Am. 1967, Act 200, Imd. Eff. June 30, 1967 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

**123.958a Agreement in contract of lease to pay cash rental, costs, and expenses; general obligations; tax levy; other funds; setoff or abatement of cash rentals.**

**Sec. 8a.**

(1) The incorporating unit or units contracting under this act shall in the contract of lease agree to pay to the authority, as cash rental for the property, periodic amounts or their designated shares of periodic amounts that are sufficient to enable the authority to pay the principal of and the interest on the authorized bonds when due either at maturity of the bonds, or, in the case of term bonds, by the required prior redemption or maturity of the bonds. The incorporating unit or units may also agree to pay the costs and expenses of operation and maintenance of the property and the operating expenses of the authority including expenses incidental to the issuance and payment of the bonds. The obligations set forth in this subsection shall, unless specifically stated to the contrary in the contract of lease, be general obligations of the incorporating unit or units.

(2) If bonds are issued by the authority in anticipation of a full faith and credit contractual general obligation of the incorporating unit or units to pay the cash rental, as provided in this section, then the incorporating unit or units shall levy each year ad valorem taxes that are necessary for the payment of the cash rental in anticipation of which bonds are issued. These taxes may be levied without limitation as to rate or amount and shall be in addition to any other taxes that the incorporating unit or units may otherwise be authorized to levy, but not in an amount or at a rate exceeding that necessary to pay the contractual obligation. If the incorporating unit or units, at the time prescribed by law for the making of a tax levy, have other funds on hand that have been set aside and earmarked for payment of its obligations for which a tax levy would otherwise have to be made, then the tax levy shall be reduced by the amount of the other funds.

(3) The incorporating unit or units may raise and provide other funds from any lawful source, including but not limited to money received from the state or other governmental entity for use to pay rental to the authority, from the sublease or contract for the use of the property by any person, firm, or corporation, or from revenues earned by the incorporating unit from operation of the property. The contract of lease may provide the obligation of the incorporating unit for the payment of the cash rental shall not be subject to setoff by the incorporating unit nor shall there be an abatement of the cash rentals for any cause including, but not limited to, casualty that results in the property being untenable.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1978, Act 365, Imd. Eff. July 22, 1978 ;-- Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992

**123.958b Contract of lease; full faith and credit general obligation; resolution submitting contract to vote of electors; effective date; notice of intention; referendum petition; election.**

**Sec. 8b.**

(1) The governing body of an incorporating unit may, by a majority vote of its members, authorize the execution of a full faith and credit general obligation contract of lease with an authority.

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not earlier than the twelfth Tuesday after the date of the resolution or at a special election to be held not earlier than the twelfth Tuesday after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, 1954 PA 116, MCL 168.1 to



168.992. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body of the incorporating unit to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed on the petition and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

(4) An election under this section shall not be included in any statutory or charter limitation on the number of special elections to be called within a particular period of time.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995 ;-- Am. 2013, Act 256, Eff. Apr. 26, 2014

### **123.958c Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 8c.

A petition under section 8b, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 190, Eff. Mar. 23, 1999

### **123.959 Building authority; acquisition of property, condemnation.**

Sec. 9.

For the purpose of accomplishing the objects of its incorporation the authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

The legislative body of any incorporating unit, by a majority vote of the members thereof, may transfer any real property except cemetery property owned by the incorporating unit to an authority established pursuant to this act.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.959 ;-- Am. 1962, Act 14, Imd. Eff. Mar. 14, 1962 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968

### **123.960 Amendment of articles of incorporation.**

Sec. 10.

Amendments may be made to articles of incorporation if adopted by the legislative body of each incorporating unit: Provided, That no such amendment shall impair the obligation of any bond or other contract. Any city or village which is the county seat of a county incorporating an authority under the provisions of this act, may become an incorporating unit of the authority by amendment to the articles of incorporation adopted by the legislative body of such city or village and by the legislative body of the county. Any such city or village shall thereafter be deemed to be an incorporating unit. Each amendment shall be adopted, executed and published, and certified printed copies filed, in the same manner as above specified for the original articles of incorporation, in so far as applicable.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.960

### **123.961 Building authority bonds or building authority refunding bonds; purpose; conditions; issuance of negotiable bonds to make cash rental payments.**

Sec. 11.

(1) For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, furnishing and equipping the same, or refunding outstanding bonds, the authority, after execution and delivery of a full faith and credit general obligation contract of lease, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from the payments for payment of bonds and interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and until the contract of lease is fully effective. The bonds shall be called building authority bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority refunding bonds.

(2) For the purpose of defraying all or part of the cost of refunding capital appreciation bonds originally issued on May 17, 1990, or bonds issued to refund those bonds, the authority, pursuant to resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit to make cash rental payments to the authority under a full faith and credit general obligation contract of lease dated November 14, 1989, and may pledge the receipts from the contract of lease for payment of bonds and interest on the bonds. If issued before December 31, 2019, the refunding bonds are not subject to the requirements of section 305(2), (3), (5), or (6), 501, 503, or 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611. Notwithstanding the bond maturity dates contained in the notice of intention of entering into the full faith and credit general obligation contract of lease published by the incorporating unit as required by section 8b(3), the refunding bonds may be payable through 2039.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.961 ;-- Am. 1965, Act 5, Imd. Eff. Mar. 30, 1965 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980 ;-- Am. 2008, Act 452, Imd. Eff. Jan. 9, 2009 ;-- Am. 2014, Act 37, Imd. Eff. Mar. 20, 2014

### **123.961a Building authority revenue bonds or building authority revenue refunding bonds; purpose; prerequisites of issuance.**

Sec. 11a.

For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property; furnishing and equipping the same; or refunding outstanding bonds as provided in section 11k, the authority, after execution of a contract of lease which is not a full faith and credit general obligation, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from those payments for payment of the bonds and the interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and no maturity shall in any event be more than 40 years from the date of the bonds. The bonds shall be called building authority revenue bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority revenue refunding bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

### **123.961b Ordinance or resolution authorizing issuance of bonds; adoption; contents.**

Sec. 11b.

The ordinance or resolution authorizing issuance of bonds shall become effective upon its adoption unless otherwise specified in the ordinance or resolution and shall be recorded in the minutes of the commission as soon as practicable after its passage. The provisions of this section shall constitute the sole requirements with respect to the adoption of any such ordinance or resolution. The ordinance or resolution authorizing the bonds shall set forth a brief description of the contract of lease, the contemplated project, the estimated cost of the contemplated project, the estimated period of usefulness of the contemplated project, and the amount and maximum rate of interest and time of payment of the bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980

### **123.961c Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.**

**Compiler's Notes:** The repealed section pertained to payment, redemption, execution, and tax exemption of serial and term bonds.

### **123.961d Bonds; statutory lien.**

Sec. 11d.

There shall be created in the authorizing ordinance or resolution a lien by this act made a statutory lien upon the cash rental payments required to be paid by the contract of lease which are pledged to the payment of the principal of and interest on the bonds to and in favor of the holders of the bonds and the interest coupons pertaining thereto. The amounts so pledged shall be and remain subject to the statutory lien until the payment in full of the principal of and interest on the bonds. The holder or holders of bonds representing in the aggregate not less than 20% of the entire issue then outstanding may by suit, action, or other proceedings protect and enforce such statutory lien and enforce and compel the performance of all duties of the officials of the authority, including, but not limited to, compelling the incorporating unit or units by proceedings in a court of competent jurisdiction or other appropriate forum to make the cash rental payments required to be made by the contract of lease, and requiring the incorporating unit or units to certify, levy, and collect appropriate taxes as herein authorized and as may be required by the contract of lease to be so certified, levied, and collected by the incorporating unit or units for the payment of

the cash rental required to be paid by the contract of lease.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

### **123.961e Bonds; use and disposition of proceeds.**

Sec. 11e.

All moneys received from the sale of bonds shall be used solely for the purpose for which the bonds were authorized including any engineering, architectural, legal, and other expenses incident thereto and to the issuance of the bonds and including also the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and an amount required for the project for operation and maintenance, if appropriate, prior to the receipt of the first revenues from the operation of the project by the incorporating unit or units. Any unexpended balance of the proceeds of sale of the bonds remaining after completion of the project for which issued may be used for the improvements or enlargement of the project for which issued or for other projects of the authority leased to the incorporating unit or units if such use is approved by the department of treasury and the incorporating unit or units. Any remaining balance shall be paid into the bond and interest redemption fund of the authority for the bonds in which event the incorporating unit or units may be provided a credit against the cash rental payments next due under contract of lease to the extent of the moneys so deposited in the manner provided in the ordinance or resolution authorizing the bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1983, Act 29, Imd. Eff. May 6, 1983

### **123.961f Additional bonds.**

Sec. 11f.

The commission in the ordinance or resolution authorizing the bonds may provide for issuance of 1 or more series of additional bonds to complete the project for which the bonds are issued or to make improvements or additions thereto under the terms and conditions as shall be prescribed in the ordinance or resolution authorizing the bonds, one of which shall be a requirement of a sufficient increase in the cash rentals required to be paid under the contract of lease to permit payment of the principal and interest on the additional bonds. The additional bonds when sold and delivered shall have equal standing with those issued in the first instance. The provisions of this act providing for annual installments and the amount thereof and the due date of the first installment for serial bonds shall not be controlling as to additional series of bonds. The bonds issued in the original instance, any additional bonds of equal standing then outstanding, and the proposed additional bonds shall be treated as a single issue for purposes of complying with the requirements of this act for the due date of the first installment and for annual installments with respect to serial bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

### **123.961g Bond and interest redemption fund.**

Sec. 11g.

The ordinance or resolution authorizing the bonds shall establish a bond and interest redemption fund into which shall be paid all cash rentals required to be paid by the incorporating unit or units under the contract of lease which are pledged for the payment of bonds issued under this act and such other sums as shall be required by the ordinance or resolution to be paid therein and shall establish such other funds and accounts and provide for deposits thereto as the governing body shall prescribe in the ordinance or resolution authorizing the bonds. All moneys in the

funds and accounts established by the ordinance or resolution authorizing the bonds, including the proceeds of sale of the bonds, shall be deposited with 1 or more banks designated by the commission. Moneys in the bond and interest redemption fund shall be kept in a separate depository account kept with 1 or more of the banks or trust companies where the principal of and interest on the bonds are payable. Moneys in the several funds and accounts may be invested in United States government obligations or obligations the principal of and interest on which are guaranteed by the United States government or in interest bearing time deposits as shall be determined by the commission in the ordinance or resolution authorizing the bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

#### **123.961h Redemption of bonds prior to maturity.**

Sec. 11h.

The commission may make provision in the ordinance or resolution authorizing the bonds for the redemption thereof prior to maturity.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973

#### **123.961i Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.**

**Compiler's Notes:** The repealed section pertained to issuance of bonds by municipal finance commission or successor agency.

#### **123.961j Bonds subject to revised municipal finance act; tax exemption.**

Sec. 11j.

(1) All bonds authorized under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The principal and interest on bonds issued under this act are exempt from taxation by this state and by any other taxing authority within this state.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1978, Act 365, Imd. Eff. July 22, 1978 ;-- Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980 ;-- Am. 1983, Act 29, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 306, Imd. Eff. May 13, 2002

#### **123.961k Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.**

**Compiler's Notes:** The repealed section pertained to bonds issued to refund outstanding bonds.

#### **123.962 Tax exemption for property.**

Sec. 12.

All property owned by any authority shall be exempt from taxation by the state or any taxing unit therein.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.962

### **123.963 Bonds; retirement; conveyance of title to property.**

Sec. 13.

When all bonds issued pursuant to the provisions of this act shall have been retired, then the authority shall convey the title to the property acquired hereunder to the incorporating unit or units in accordance with the provisions therefor contained in the articles of incorporation, or contract of lease, or, if there be no such provisions, then in accordance with the directions of the governing body of the incorporating unit or any agreement adopted by the respective governing bodies of the incorporating units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.963 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

### **123.964 Construction of act.**

Sec. 14.

The powers herein granted shall be in addition to those granted by any statute or charter.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948 ;-- CL 1948, 123.964

### **123.965 Validation of prior authorities, actions, and bonds.**

Sec. 15.

All authorities heretofore incorporated, all actions heretofore taken, and all bonds heretofore issued under this act, as originally adopted or subsequently amended, and which incorporation actions and bonds do not violate the provisions of this act as amended by the 1968 or any subsequent amendatory act, are validated. No authority incorporated under this act, as originally adopted or subsequently amended, nor any incorporating unit or units thereof, shall contest the validity of any such bonds or any lease or contract which provides the security therefor after they have been sold and delivered and the authority has received the consideration therefor.

**History:** Add. 1955, Act 25, Imd. Eff. Apr. 7, 1955 ;-- Am. 1968, Act 96, Imd. Eff. June 6, 1968 ;-- Am. 1970, Act 47, Imd. Eff. July 2, 1970 ;-- Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973

## **ANNEXATION OF STATE-OWNED LAND**

### **Act 93 of 1957**

AN ACT to provide for the annexation of state owned land by cities operating under a special charter.

**History:** 1957, Act 93, Eff. Sept. 27, 1957

**123.981 Annexation of state-owned land by cities under special charter; election; date; manner; costs.**

Sec. 1.

When a petition signed by the state by the appropriate agency designated by the state administrative board which holds the record legal title to the entire area of the land in the territory to be annexed, which is adjacent to any city operating under a special charter, is filed with the governing body of the city and with the township board of the township in which the territory is situated, the annexation shall be accomplished by the affirmative majority vote of the qualified and registered electors of such city voting on the question, and the affirmative majority vote of the qualified and registered electors of such township voting on the question.

The date of such election shall be determined by joint resolution of the governing body of the city and the township board, which date shall be at least 60 but not more than 90 days following the filing of the petitions unless a city or township election shall be held at least 45 but not more than 120 days from the date of the filing of the petition in which case such election shall be held on the same day as such city or township election. The governing body of the city and the township board shall forward a copy of the joint resolution to the county clerk of the county in which such city and township are located and the county clerk shall conduct such election in the same manner as county elections are conducted. All costs of ballots and other election supplies shall be borne by the city and township in proportion to the votes cast for governor in the last gubernatorial election.

**History:** 1957, Act 93, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 50, Imd. Eff. Apr. 7, 1958

**123.982 Prorating of state funds distributable to cities and townships; stipulation.**

Sec. 2.

Whenever any state owned land is annexed to any city operating under a special charter as provided in section 1, the city shall be entitled to its proper share from any future distribution of gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, sales tax revenues or any other state funds, moneys or grants which by law are required to be distributed among cities, villages, townships or counties. The city and the township from which the territory was detached may agree by joint resolution of their governing bodies as to the prorating between them and between the city and any county agency receiving the funds, moneys or grants in respect to the population in the township of any funds, moneys or grants distributable by the state. A certified copy of the joint resolution shall be filed with the secretary of state and thereafter shall be binding on all parties to the annexation.

**History:** Add. 1958, Act 50, Imd. Eff. Apr. 7, 1958

**123.983 Prorating of state funds; official special census.**

Sec. 3.

If within 45 days from the effective date of the annexation, the city and township from which the territory was detached cannot agree to a joint resolution as provided in section 2, an official special census shall be taken of the area detached from the township and of the entire township from which the area was detached. The census shall be taken by enumerators appointed by the secretary of state upon application of either the city or township. Each enumerator appointed to take such census shall receive for his services not to exceed \$10.00 per day, together with his actual and necessary expenses therefor which sum shall be paid by the city or township within which the services of such enumerator were rendered. The ratio of population between the areas detached from the township and the

remainder of the township shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed. The township from which the territory was detached or the county agency receiving the funds, moneys or grants in respect of population in the township shall be liable to the city for its proper pro rata share of any state funds, moneys or grants received by the township or county agency after the date of the annexation.

**History:** Add. 1958, Act 50, Imd. Eff. Apr. 7, 1958

## REAPPORTIONMENT OF WARDS OR DISTRICTS

### Act 285 of 1968

AN ACT to prohibit the requiring of cities to reapportion wards or districts based on census data earlier than the 1970 decennial census.

**History:** 1968, Act 285, Imd. Eff. July 1, 1968

*The People of the State of Michigan enact:*

#### **123.991 Reapportioning wards or districts; cities nominating or electing governing bodies not required to reapportion.**

##### Sec. 1.

No city which nominates or elects all or part of its governing body from wards or districts shall be required to reapportion its wards or districts based on census data earlier than that contained in the 1970 decennial census.

**History:** 1968, Act 285, Imd. Eff. July 1, 1968

## STATE BOUNDARY COMMISSION

### Act 191 of 1968

AN ACT to create a state boundary commission; to prescribe its powers and duties; to provide for municipal incorporation, consolidation, and annexation; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 1998, Act 191, Eff. Mar. 23, 1999

**Compiler's Notes:** For transfer of powers and duties of the state boundary commission from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

#### **123.1001 Definitions.**

##### Sec. 1.

As used in this act:



- (a) "Adjusted boundaries" means the total area that would be encompassed by a municipality if a municipal boundary adjustment is approved as proposed in a petition or resolution.
- (b) "Commission" means the state boundary commission.
- (c) "Secretary" means the executive secretary of the commission.
- (d) "Municipality" means an incorporated city or village.
- (e) "Municipal boundary adjustment" means incorporation of a new city or village, consolidation of 2 or more cities, villages or townships as a new city, and the annexation of territory to a city where the commission has jurisdiction over annexation proceedings.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**Compiler's Notes:** For transfer of powers and duties of the state boundary commission from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

### **123.1002 State boundary commission; creation; appointment, qualifications, terms, and removal of members; vacancy; compensation; expenses; chairman.**

#### **Sec. 2.**

The state boundary commission is created consisting of 3 members appointed by the governor with the advice and consent of the senate. The term of office of members shall be 3 years and until their successors are appointed and qualified. A member of the commission may be removed in the manner provided by law for removal of a public officer. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members appointed by the governor shall be known as state members and shall qualify by taking and filing the constitutional oath of office. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature. The governor shall designate a state member as chairman of the commission.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1975, Act 72, Imd. Eff. May 20, 1975

**Compiler's Notes:** For transfer of State Boundary Commission from the Department of Treasury to the Department of Commerce, see E.R.O. No. 1980-1, compiled at MCL 16.732 of the Michigan Compiled Laws.

### **123.1003 State boundary commission; employees and consultants.**

#### **Sec. 3.**

The commission may appoint such employees and retain such consultants as may be necessary, but who shall not be members of the commission, within limits of appropriations made for this purpose.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

### **123.1004 State boundary commission; offices and facilities; rules, regulations, and procedures; meetings; records; oaths.**

#### **Sec. 4.**

The commission shall be furnished with suitable office space and facilities in Lansing by the department of administration. The state members shall make rules and regulations and prescribe procedures necessary or desirable in carrying out the intent and purpose of this act, including forms of petitions for municipal boundary adjustments, and the documents, maps and supporting statements deemed to be necessary, establish rules for public hearings, for the submission of supplementary documents and statements, and governing the holding of elections where necessary. The state members shall meet when there are matters pending for their consideration and keep a record

of all proceedings. The rules and regulations of the commission shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The state members of the commission may administer oaths to persons appearing before the commission.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**Admin Rule:** R 123.1 et seq. of the Michigan Administrative Code.

### **123.1004a State boundary commission; conducting business at public meeting; notice; availability of writings to public.**

#### **Sec. 4a.**

(1) The business which a commission created pursuant to this act may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by a commission created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1978, Act 599, Imd. Eff. Jan. 4, 1979

### **123.1005 Municipal boundary adjustments; appointment of county members and alternates to serve on commission; residency requirement; vacancy; term; per diem and expenses; oath.**

#### **Sec. 5.**

The presiding probate judge in each county shall appoint 2 persons and 2 alternates for those persons residing in that county to serve on the commission when the commission considers municipal boundary adjustments for territory lying within his or her county. One appointee and his or her alternate shall reside in a township, and 1 appointee and his or her alternate shall reside in a city. If there is no city in a county at the time of the filing of a petition for a municipal boundary adjustment, the presiding probate judge shall appoint 2 county members and alternates from the county at large. Within 30 days after notice from the commission that a municipal boundary adjustment is pending in the county and the office of 1 or more of the county members is vacant, the presiding probate judge shall make original appointments and any appointment to fill a vacancy. A county member shall serve for 3 years and until his or her successor is appointed and qualified. Notwithstanding the appointment and qualification of a successor, a county member shall continue to serve until the conclusion of all boundary adjustment matters which were filed during his or her term or the filing of which gave rise to his or her appointment. If a municipal boundary adjustment involves territory lying in more than 1 county, the county members of the county in which the greater part of the territory to be included within the adjusted boundaries lies shall serve on and be voting members of the commission. A county member shall receive per diem and expenses as authorized and paid by the county board of commissioners when serving on the commission on matters involving territory within his or her county. A county member shall qualify by taking and filing the constitutional oath of office.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 1988, Act 39, Imd. Eff. Mar. 7, 1988

### **123.1006 Order of processing petitions and resolutions.**

Sec. 6.

Except as otherwise provided in this act, the commission shall process all petitions and resolutions in the order in which they are filed and shall finally dispose of a petition or resolution before taking up any other petitions or resolutions which deal with all or any part of the same territory. With respect to petitions for annexation proceedings filed with the board of supervisors or the secretary of state and petitions or resolutions for boundary adjustment proceedings filed with the commission, covering all or any part of the same territory, the petition or resolution first filed shall be processed before and take precedence over a petition or resolution subsequently filed.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**123.1007 Incorporation of village or city; initiation; petitions; signatures and filing; powers and duties of commission; census; other means of incorporation; incorporation of general law village or home rule village without change of boundaries.**

Sec. 7.

(1) Except as otherwise provided in this act, the incorporation of a village shall be initiated as prescribed in and shall be subject to Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.28 of the Michigan Compiled Laws, and the incorporation of a city shall be initiated as prescribed in and shall be subject to Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Michigan Compiled Laws.

(2) Except as provided in section 10a, petitions proposing the incorporation of a city shall be signed by a number of persons who are qualified electors and freeholders residing within the affected territory equal to at least 5% of the population of the territory affected by the proposed new incorporation, or 100, whichever number is greater.

(3) Except as provided in subsection (6) and section 10a, petitions for incorporation shall be filed with the commission. The commission shall exercise the powers and carry out the duties of the board of supervisors, the village council, or the secretary of state in relation to incorporations.

(4) A census of the territory affected by an incorporation or consolidation as provided in section 2 of Act No. 278 of the Public Acts of 1909, as amended, being section 78.2 of the Michigan Compiled Laws, or by section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Michigan Compiled Laws, shall not be taken unless a proper petition for the incorporation or consolidation has been filed with the commission and the census has been specifically ordered by the commission.

(5) Except as provided in subsection (6) and section 10a, while this act is in effect no other means of incorporation of a city or village shall be effective.

(6) The incorporation of a general law village as a home rule village without a change of boundaries shall be initiated as prescribed in and subject to Act No. 278 of the Public Acts of 1909, as amended.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 1981, Act 67, Imd. Eff. June 23, 1981 ;-- Am. 1982, Act 457, Imd. Eff. Dec. 30, 1982

**123.1007a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 7a.

A petition under section 10(3) or 12a(3), including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 191, Eff. Mar. 23, 1999

**123.1008 Review of proposed incorporations; certifying nonconformance of petition; return of petition; public hearing; commencement of time period; notice of hearing; sufficiency or legality of petition.**

Sec. 8.

(1) The commission shall review proposed incorporations considering the criteria established by section 9.

(2) If the commission finds that a petition does not conform to this act, to Act No. 278 of the Public Acts of 1909, as amended, or Act No. 279 of the Public Acts of 1909, as amended, to the extent that the requirements are not superseded by this act, or to the rules of the commission, it shall certify the nonconformance, stating the reasons for the nonconformance, and return the petition to the person from whom it was received with the certificate.

(3) At least 60 days but not more than 220 days after the filing with the commission of a sufficient petition proposing incorporation, the commission shall hold a public hearing at a convenient place in the area proposed to be incorporated. At the public hearing the reasonableness of the proposed incorporation based on the criteria established in this act shall be considered. If section 6 prohibits the commission's acting on a petition because 1 or more petitions or resolutions have priority the time period provided in this section shall commence on the date upon which the prohibition ceases.

(4) The commission shall give notice of the hearing in the manner required by section 4a(1) and by publication in a newspaper of general circulation in the area at least 7 days before the date of the hearing, and by certified mail to the clerks of municipalities and townships affected, at least 30 days before the date of the hearing. After the commission has entered its order for a public hearing on an incorporation proposal, neither the sufficiency nor legality of the petition shall be questioned in a proceeding.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 1978, Act 599, Imd. Eff. Jan. 4, 1979

**Compiler's Notes:** For provisions of Act 278 of 1909 and Act 279 of 1909, referred to in this section, see MCL 78.1 et seq. and MCL 117.1 et seq.

**Admin Rule:** R 123.1 et seq. of the Michigan Administrative Code.

**123.1009 Review of proposed incorporation; criteria.**

Sec. 9.

Criteria to be considered by the commission in arriving at a determination shall be:

(a) Population; population density; land area and land uses; assessed valuation; topography, natural boundaries and drainage basins; the past and probable future urban growth, including population increase and business, commercial and industrial development in the area. Comparative data for the incorporating municipality, and the remaining portion of the unit from which the area will be detached shall be considered.

(b) Need for organized community services; the present cost and adequacy of governmental services in the area to be incorporated; the probable future needs for services; the practicability of supplying such services in the area to be incorporated; the probable effect of the proposed incorporation and of alternative courses of action on the cost and adequacy of services in the area to be incorporated and on the remaining portion of the unit from which the area will be detached; the probable increase in taxes in the area to be incorporated in relation to the benefits expected to accrue from incorporation; and the financial ability of the incorporating municipality to maintain urban type services in the area.

(c) The general effect upon the entire community of the proposed action; and the relationship of the proposed action to any established city, village, township, county or regional land use plan.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**123.1010 Denial or approval of proposed incorporation; revision of boundaries; referendum on question of incorporation.**

Sec. 10.

(1) After the public hearing on a proposed incorporation and review thereof by the commission, the commission may deny the proposed incorporation, approve the petition, or revise the boundaries of the area proposed for incorporation and approve the proposal as revised.

(2) If an incorporation proposal is denied by the commission, its order is final immediately and the secretary shall transmit a certified copy of the order to the petitioner and the clerk of each city, village, and township affected.

(3) If an incorporation proposal is approved with or without a revision of the boundaries, the commission's order is final 45 days after the date of the order unless within that 45 days a petition for a referendum is filed with the commission that contains the signatures of at least 5% of the registered electors residing in the area to be incorporated as approved by the commission. If a petition is not filed and the commission's order becomes final, the secretary shall send a certified copy of the order to the petitioner, to the clerk of each county, city, village, or township affected, and to the secretary of state. Charter commission elections and proceedings under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28, or the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, shall follow.

(4) If a referendum petition is filed, the commission, after determining the validity of the petition, shall order a referendum on the question of incorporation to be held in the area approved for incorporation and shall specify a date later than the referendum on which the commission's order shall become final if the proposal is approved at the referendum.

(5) If a majority of the electorate voting on the question in the territory approved for incorporation voting collectively approves the incorporation, the commission's order shall become final on the date specified therein, the secretary shall send a certified copy of the order to the petitioner, to the clerk of each county, city, village, or township affected, and to the secretary of state. Charter commission elections and proceedings under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28, or the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, and except as provided in subsection (6), shall follow. Otherwise the incorporation shall not take effect and no further proceedings on the petition shall take place.

(6) If on submission of a second charter, a favorable vote by a majority of the electors residing in the area proposed for incorporation is not obtained, the incorporation proceedings shall end and the charter commission shall have no further authority to act or to submit another charter to the electors. If a charter has not been adopted within a period of 3 years following the date the commission's order becomes final, or if within the 3-year period the charter commission does not reconvene within 90 days after the election at which the first proposed charter was defeated, the incorporation proceedings are ended.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 2008, Act 419, Imd. Eff. Jan. 6, 2009

**Compiler's Notes:** For provisions of Act 278 of 1909 and Act 279 of 1909, referred to in this section, see MCL 78.1 et seq. and MCL 117.1 et seq.

**123.1010a Incorporation of village as city; population and other incorporation requirements; initiation; submittal to electors; election of charter commissioners; effective date of incorporation; stay of proposed change of boundaries after incorporation approved by electors; division of assets and liabilities.**

Sec. 10a.

(1) In compliance with section 20 of article 7 of the state constitution of 1963, if all the territory of an organized township is included within the boundaries of a village or villages, the village or villages, without boundary changes, may be incorporated as a city or cities as provided in this section. The incorporation shall include all the territory within the boundaries of a village notwithstanding that the village includes territory within another organized township a part of which township lies without the boundaries of the village.

(2) Except as otherwise provided in this section, incorporation under this section is not governed by the population and other incorporation requirements of Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Michigan Compiled Laws.

(3) Incorporation under this section is initiated by a resolution of the village council which resolution shall call for a referendum on the incorporation. The proposed incorporation shall be submitted to the qualified electors of the village at the next regular village election occurring not less than 40 days after adoption of the resolution. If the next regular village election will not occur within 90 days, the resolution may fix a date preceding the next regular village election for a special election on the proposed incorporation.

(4) The resolution proposing incorporation may also call for an election of charter commissioners as provided in Act No. 279 of the Public Acts of 1909, as amended.

(5) Incorporation under this section is effective when a charter is adopted and filed as provided in Act No. 279 of the Public Acts of 1909, as amended.

(6) After an incorporation under this section is approved by a majority of the electors voting on the question, a proposed change of boundaries by incorporation, consolidation, or annexation shall be stayed until proceedings under this section are finished.

(7) Assets and liabilities of the township, townships, or parts of townships affected by the incorporation of a city shall be divided on the effective date of incorporation as provided in section 14 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.14 of the Michigan Compiled Laws.

**History:** Add. 1982, Act 457, Imd. Eff. Dec. 30, 1982

### **123.1011 Succession to property and liabilities; division of properties; sharing of revenues; tax assessment and collection.**

Sec. 11.

Succession to property and liabilities, division of properties, sharing in revenue from various taxes and state funds distributable among local units and assessment and collection of taxes in newly incorporated municipalities shall be governed by the existing provisions of law.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

### **123.1011a Jurisdiction over annexation petitions or resolutions.**

Sec. 11a.

The commission shall have jurisdiction over petitions or resolutions for annexation as provided in section 9 of Act No. 279 of the Public Acts of 1909, as amended.

**History:** Add. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**Compiler's Notes:** For provisions of section 9 of Act 279 of 1909, referred to in this section, see MCL 117.9.

### **123.1011b Resolution calling for referendum on question of annexation; conditions; filing; order; referendum and election resolution not passed; approval of annexation; applicability of section; section as alternative to referendum and election process provided for in MCL 117.9(5).**

Sec. 11b.

(1) If the commission, after determining the validity of a petition or resolution for annexation, has ordered a public hearing pursuant to section 9 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.9 of the Michigan Compiled Laws, and if on the date the petition or resolution was filed more than 100 persons resided in the area proposed for annexation, the legislative body of each city and township affected by the proposed annexation may pass a resolution calling for a referendum on the question of annexation. If a copy of each resolution passed by the legislative body of each affected city and township is filed with the commission and the commission approves the annexation, the commission, in its order approving the annexation, shall order that a referendum on the question of annexation be held in each affected city and township. If a resolution calling for a referendum on the question of annexation is not passed by each affected city and township and filed with the commission, the referendum and election shall be subject to section 9(5) of Act No. 279 of the Public Acts of 1909, as amended. However, if a referendum in each affected city and township is ordered pursuant to this section and if the majority of the electorate voting on the question in each city and township in which a referendum was held,



voting separately, approve the annexation, the annexation shall be effective on a date set by order of the commission, otherwise the annexation shall not take effect.

(2) This section shall apply to all petitions or resolutions for annexation filed with the commission after May 1, 1982.

(3) This section is an alternative to the referendum and election process provided for in section 9(5) of Act No. 279 of the Public Acts of 1909, as amended, and does not supersede section 9(5) of Act No. 279 of the Public Acts of 1909, as amended.

**History:** Add. 1982, Act 192, Imd. Eff. June 24, 1982

### **123.1012 Petition for consolidation; filing; inclusion of township; contents of petition; rejection of petition.**

#### **Sec. 12.**

(1) Proceedings for consolidation may be initiated by the filing of a petition with the commission signed by a number of registered electors who are residents of 1 or more of the affected municipalities at least equal to 5% of the total population of the affected municipalities:

Provided, however, That no new city may be created by the consolidation process unless at least 1 of the municipalities to be consolidated is an incorporated city.

(2) Any township having a common boundary that is contiguous with a city or village proposed for consolidation may be included in the consolidation if no village is incorporated within the territorial boundaries of the township or, if 1 or more villages are incorporated within the territorial boundaries of the township, then such village or villages shall be included within the consolidation. When any township is included in a consolidation, the term "municipality" as used in sections 12 to 17 shall include the township and the procedures set forth in such sections shall be altered as may be necessary to provide for the township.

(3) The petition shall name the municipalities proposed to be consolidated and shall request the commission to take the proceedings necessary for consolidation under this act. The commission shall reject a petition for consolidation if a proposition to consolidate the identical municipalities has been voted on within the 2 years immediately preceding the filing of the later petition. This shall not prevent the consolidation of 2 or more municipalities, which were included in a proposed consolidation voted on in the preceding 2 years, with or without additional territory, if the prior proposition included 1 or more municipalities which are not included in the later proposition.

(4) If the commission finds that a petition does not conform to the provisions of this act, Act No. 278 of the Public Acts of 1909, as amended, or of Act No. 279 of the Public Acts of 1909, as amended, to the extent that provisions thereof are not superseded by this act, or to the rules promulgated by the commission, the commission shall return the petition to the person from whom it was received together with a certified copy of its reasons for rejecting the petition. If the commission finds that the petition is proper it shall proceed in the manner specified for the processing of petitions which propose incorporation.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**Compiler's Notes:** For provisions of Act 278 of 1909 and Act 279 of 1909, referred to in this section, see MCL 78.1 et seq. and MCL 117.1 et seq.

**Admin Rule:** R 123.1 et seq. of the Michigan Administrative Code.

### **123.1012a Denial or approval of consolidation; revision of boundaries; referendum on question of consolidation; notice.**

#### **Sec. 12a.**

(1) After the public hearing on a proposed consolidation and review by the commission, the commission may deny the proposed consolidation, revise the boundaries of the territory to be consolidated and approve the proposal, or approve the consolidation without any change.

(2) If a consolidation proposal is denied by the commission its order is final immediately and the secretary shall transmit a certified copy thereof to the petitioner and the clerk of each city, village or township affected.

(3) If a consolidation proposal is approved with or without a revision of the boundaries the commission's order becomes final 45 days after the date of the order unless within that 45 days a petition for a referendum is filed with the commission which contains the signatures of at least 5% of the registered electors residing in the area to be consolidated as approved by the commission. If a petition is not filed and the commission's order becomes final the secretary shall send a certified copy of the order to the petitioner and the clerk of each county, city, village or township affected and to the secretary of state. If the petition is filed, the commission after determining the validity of the petition shall submit the proposition to a vote of the electors of the affected municipalities and shall specify a date later than the referendum on which the commission's order becomes final.

(4) In order to be adopted, the proposition to consolidate shall receive an affirmative majority vote in each municipality affected voting separately. If a majority of the votes cast in each municipality affected are in favor of the proposed consolidation the commission's order becomes final and proceedings may be conducted in accordance with sections 13 to 17. Otherwise the proceedings on the consolidation proposal shall terminate.

(5) The secretary shall notify the clerk of each municipality affected by the consolidation of the date for the election and the question to be submitted. Each clerk shall arrange for an election on the question of the proposed consolidation and for the election of the charter commissioners to be elected from his municipality and he shall follow the procedure prescribed in the state election law except as otherwise provided in this act.

**History:** Add. 1972, Act 362, Imd. Eff. Jan. 9, 1973

### **123.1012b Jurisdiction of commission over reannexation of detached territory.**

Sec. 12b.

The commission shall have jurisdiction over reannexation of territory detached under section 9b of Act No. 279 of the Public Acts of 1909, being section 117.9b of the Michigan Compiled Laws, only to the extent provided in section 9b of Act No. 279 of the Public Acts of 1909.

**History:** Add. 1982, Act 457, Imd. Eff. Dec. 30, 1982

### **123.1013 Proposed consolidation including portion of township; "municipality" defined; order; election and number of charter commissioners; appointment of charter commissioners; resolution; eligibility; applicability of subsection (2).**

Sec. 13.

(1) If a proposed consolidation includes a portion of a township, the term "municipality" as defined in sections 1 and 12 when used in this section and sections 14, 15, and 17 means only that portion included within the proposed consolidated city. Except as provided in subsection (2), when its order approving a proposed consolidation becomes final, the commission shall call an election of 9 charter commissioners who shall be registered electors of the municipalities proposed for consolidation, each having a residence of at least 2 years in the municipality from which he or she is to be elected immediately before the election. The commission shall determine the number of charter commissioners to be elected from each municipality proposed for consolidation, which number shall be as nearly proportionate as possible to the municipality's population. Each municipality proposed for consolidation is entitled to a minimum of 1 charter commissioner, regardless of population. If charter commissioners are elected at the same election at which the proposition to consolidate is submitted, the election of the charter commissioners is void if the proposition to consolidate is not adopted. If charter commissioners are not elected at the election at which the proposition to consolidate is submitted they shall be elected at a separate election to be held within 60 days after a favorable vote on the proposition to consolidate, which election date shall be set by the commission. A municipal officer or employee, elected or appointed, shall not be eligible for election to the charter commission.

(2) The municipalities proposed for consolidation may, by resolution of their respective governing bodies, choose to appoint their charter commissioners pursuant to this subsection. If the municipalities proposed for consolidation choose to appoint their charter commissioners pursuant to this subsection, the commission, when its order approving a proposed consolidation becomes final, shall instruct the governing bodies of the municipalities proposed for consolidation to appoint not less than 8 and not more than 10 charter commissioners. The governing



body of each municipality proposed for consolidation shall appoint an equal number of charter commissioners. The appointees for charter commissioner shall be residents of the municipalities from which they are to be appointed for not less than 2 years immediately preceding the appointment and shall also be registered electors in the municipalities from which they are to be appointed. The charter commissioners shall be appointed within 180 days after the commission's order approving a proposed consolidation becomes final as determined pursuant to section 12a(3). A municipal officer or employee, elected or appointed, shall not be eligible for appointment to the charter commission. This subsection shall apply to all municipalities whose proposals for consolidation are approved by the commission after January 1, 1982.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 1982, Act 192, Imd. Eff. June 24, 1982

### **123.1014 Election on consolidation; form of ballot; expenses; canvass; returns; commissioners.**

#### **Sec. 14.**

The ballot to be used in an election on consolidation shall be substantially in the following form:

"For consolidation of the cities (and villages) of ..... and ..... (naming each city or village) [ ] yes [ ] no"

Each municipality proposed for consolidation shall bear its own election expenses, the results shall be canvassed by the canvassing board of each municipality, and the returns thereof made to the commission. The nominations, qualifications of commissioners, form of ballot, election and all other things to be done in the election of commissioners, shall be as provided in section 15 of Act No. 279 of the Public Acts of 1909, as amended. The nomination and election in each municipality shall be separate, and the members of the charter commission from each municipality shall be the sole judge of the membership and qualifications of the commissioners elected from such municipality. If only 1 commissioner is to be elected from a municipality and his qualifications are challenged, not less than a majority of the other charter commissioners elected and serving shall be the sole judges of the qualifications of such commissioner.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**Compiler's Notes:** For provisions of section 15 of Act 279 of 1909, referred to in this section, see MCL 117.15.

### **123.1015 Meeting of charter commission; notice; procedure for adopting charter; power, duties, and procedure of commission; submission of charter to electors.**

#### **Sec. 15.**

The charter commission shall meet for organization at the time and place to be designated by the secretary, who shall notify each member elected in writing thereof. The procedure for adopting a charter and the powers, duties and procedure of the charter commission shall be as prescribed in Act No. 278 of the Public Acts of 1909, as amended, or of Act No. 279 of the Public Acts of 1909, as amended, except as otherwise prescribed in this act. When the charter commission has been elected, it shall proceed to formulate and prepare a charter, and agree upon a name or a choice of names for the consolidated city, which charter, when prepared, shall be submitted to the electors of the municipalities proposed for consolidation, for rejection or adoption. If the charter is adopted by a majority of the electors of each municipality proposed for consolidation, voting separately, the consolidation in the charter shall be operative at such time as shall be stated in the charter.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973

**Compiler's Notes:** For provisions of Act 278 of 1909 and Act 279 of 1909, referred to in this section, see MCL 78.1 et seq. and MCL 117.1 et seq.

**123.1016 Charter of consolidated city; preparation, contents; effect of adoption of provisions in charter.**

Sec. 16.

In the preparation of a charter of a consolidated city, any power, limitation or provision granted to any of the cities or villages affected by the consolidation in any charter previously adopted by such city or village or granted or passed by the legislature for the government of such city or village and contained in the charter of the city or village at the time of the vote to consolidate may be included in the charter of the consolidated city, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when adopted by the city or village or granted or passed by the legislature in the first instance.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**123.1017 Corporate status of municipalities; submission of revised charter to electors; effect of unfavorable vote; termination of proceedings.**

Sec. 17.

(1) The corporate status of the cities and villages proposed for consolidation shall not be changed or in any way affected until the charter takes effect.

(2) If the charter first submitted for adoption is not approved on the first vote taken by the electors, the charter commission may reconvene and prepare a new charter or prepare modifications or amendments to the first charter as they consider necessary, and shall submit the revised charter to the electors in the same manner and on a date to be fixed as in the first instance.

(3) If on submission of the second charter a favorable vote by a majority of the electors voting separately in the municipalities proposed for consolidation is not obtained, the consolidation proceedings shall end and the charter commission shall have no further authority to act or to submit another charter to the electors.

(4) If a charter has not been adopted within 3 years following the date the commission's order became final, or if within the 3-year period the charter commission does not reconvene within 90 days after the election at which the first proposed charter was defeated, the consolidation proceedings shall end.

**History:** 1968, Act 191, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 362, Imd. Eff. Jan. 9, 1973 ;-- Am. 2008, Act 419, Imd. Eff. Jan. 6, 2009

**123.1018 Judicial review.**

Sec. 18.

Every final decision by the commission shall be subject to judicial review in a manner prescribed in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**123.1019 State boundary commission within department of treasury; establishment.**

Sec. 19.

The commission is established within the department of treasury.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**Compiler's Notes:** For transfer of State Boundary Commission from the Department of Treasury to the Department of Commerce, see E.R.O.

No. 1980-1, compiled at MCL 16.732 of the Michigan Compiled Laws.

**123.1020 Repeals.**

Sec. 20.

Act No. 390 of the Public Acts of 1913, being sections 123.21 and 123.22 of the Compiled Laws of 1948, is repealed.

**History:** 1968, Act 191, Eff. Nov. 15, 1968

**JOINT ENVIRONMENTAL MANAGEMENT AUTHORITIES**

**Act 199 of 1991**

123.1031-123.1037 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

**EDUCATIONAL INSTRUCTION ACCESS ACT**

**Act 98 of 2017**

AN ACT to create the educational instruction access act; to limit the powers of local governmental bodies regarding the selling, transferring, leasing, or renting of property; and to provide remedies and penalties.

**History:** 2017, Act 98, Imd. Eff. July 13, 2017

*The People of the State of Michigan enact:*

**123.1041 Short title.**

Sec. 1.

This act shall be known and may be cited as the "educational instruction access act".

**History:** 2017, Act 98, Imd. Eff. July 13, 2017

**123.1043 Definitions.**

Sec. 3.

As used in this act:

(a) "Educational institution" means any of the following:

(i) A school district, an intermediate school district, or a public school academy as those terms are defined in sections 4 to 6 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6.

(ii) A community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to 380.1607.

(b) "Local governmental body" means any local government or its subdivision, including, but not limited to, a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision.

(c) "Private school" means a private, denominational, or parochial school as described in section 2 of 1921 PA 302, MCL 388.552.

**History:** 2017, Act 98, Imd. Eff. July 13, 2017

**123.1045 Sale, lease, or transfer of property by local governmental body for use by educational institution or private school; imposition, enforcement, or application of deed restriction or affirmative use deed restriction.**

**Sec. 5.**

(1) Except as otherwise provided in this subsection, a local governmental body shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. This subsection does not apply to either of the following:

(a) A zoning ordinance adopted by the local governmental body under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

(b) The administrative review of a site plan as provided in section 1263(4) of the revised school code, 1976 PA 451, MCL 380.1263.

(2) A local governmental body shall not impose, enforce, or apply any deed restriction that expressly, or by its operation, prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. Any deed restriction or affirmative use deed restriction that affirmatively allows for only 1 or more specified uses or purposes that do not include an educational use or purpose is prohibited under this subsection. Any deed restriction or affirmative use deed restriction in effect on the effective date of the amendatory act that amended this section that prohibits or does not permit property previously used for an educational purpose from being used for any future educational purpose is void.

(3) If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body shall not refuse to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose, if the intent of the educational institution or private school is to use the property for a lawful educational purpose. If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body is not required to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose. This subsection does not require a local governmental body to do either of the following:

(a) Provide special notice of property offers to an educational institution or a private school.

(b) Provide a right of first refusal to an educational institution or a private school.

**History:** 2017, Act 98, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 7, Imd. Eff. Jan. 26, 2018

**123.1047 Noncompliance with act; civil action or injunctive relief; court costs and attorney fees.**

**Sec. 7.**

(1) If a local governmental body is allegedly not complying with this act, the attorney general, prosecuting attorney of the county in which the local governmental body serves, or educational institution or private school aggrieved by the local governmental body may provide written notice of noncompliance to the local governmental

body. If the local governmental body fails to cure the noncompliance within 30 days after receiving the written notice of noncompliance, the attorney general, prosecuting attorney of the county in which the local governmental body serves, or educational institution or private school aggrieved by the local governmental body may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local governmental body must be commenced in the circuit court, and venue is proper in any county in which the local governmental body serves. If an educational institution or private school commences an action for injunctive relief, that educational institution or private school is not required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) If a local governmental body is not complying with this act, and an educational institution or private school commences a civil action against the local governmental body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the educational institution or private school may recover court costs and reasonable attorney fees for the action.

**History:** 2017, Act 98, Imd. Eff. July 13, 2017

## **COMMUNITY SWIMMING POOL AUTHORITY**

### **Act 425 of 1994**

AN ACT to provide for the creation of community swimming pool authorities; to provide powers and duties of the authorities; to provide for the levy of a tax by the authorities; and to provide for the collection and distribution of the tax.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

*The People of the State of Michigan enact:*

#### **123.1061 Definitions.**

##### **Sec. 1.**

As used in this act:

- (a) "Articles" means the articles of incorporation of an authority.
- (b) "Authority" means a community swimming pool authority created under section 3.
- (c) "Board" means the board of directors of the authority.
- (d) "Community swimming pool" means an artificial body of water owned or operated by an authority or a district that is used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms.
- (e) "District" means a school district that serves a municipality whose population is not less than 15,000 and whose territory is located in not less than 2 counties, each of which has at least 15% of the municipality's population.
- (f) "Municipality" means a city, village, or township.
- (g) "Participating municipality" means a municipality that has adopted a resolution providing for the establishment of and the municipality's participation in an authority.
- (h) "Superintendent" means the superintendent of the board of education of a district.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

#### **123.1063 Community swimming pool authority; joint establishment by two or more municipalities;**

**territory subject to taxation; public corporate body; powers as autonomous entity.**

Sec. 3.

(1) Two or more municipalities may jointly establish a community swimming pool authority if the following requirements are met:

(a) There is a single district in which all or part of the territory of each municipality is located.

(b) The legislative body of each municipality adopts a resolution providing for the establishment of and participation in the authority pursuant to this act.

(2) The resolution required under subsection (1) shall provide that only that portion of the municipality's territory located within the district is subject to the levy and collection of the tax authorized in section 13.

(3) A community swimming pool authority established pursuant to this act is a public corporate body and is an authority under section 6 of article IX of the state constitution of 1963.

(4) An authority shall exercise its powers as an autonomous entity.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

**123.1065 Board of directors; appointment; terms; ex officio member; eligibility; vacancy; quorum; compensation and reimbursement for expenses; public meetings; availability of writings; election of officers; meetings.**

Sec. 5.

(1) An authority shall be governed by a board of directors appointed by the participating municipalities.

(2) The legislative body of the participating municipality with the greatest population in the district shall appoint 4 members to the board. The legislative body of each of the other participating municipalities shall appoint 1 member to the board. Appointed members of the board shall serve a term of 4 years, except that, of the 4 board members initially appointed by the participating municipality with the greatest population in the district, 1 shall serve a term of 1 year, 1 shall serve a term of 2 years, and 1 shall serve a term of 3 years.

(3) The superintendent of the district or his or her designated representative shall serve on the board as an ex officio member without the right to vote.

(4) A member of the legislative body of a participating municipality or the board of education of the district is not eligible to become a member of the board.

(5) A vacancy shall occur on the board as provided in section 3 of chapter 15 of the Revised Statutes of 1846, being section 201.3 of the Michigan Compiled Laws. A vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(6) A majority of the members of the board constitutes a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the bylaws of the authority require a larger number.

(7) Members of the board shall not receive compensation for services as members of the board but shall be reimbursed by the authority for necessary expenses, including travel expenses previously authorized by the board, incurred in the discharge of their duties.

(8) The business that an authority may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(9) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(10) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary. A board shall meet at least quarterly.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

### **123.1067 Articles of incorporation and bylaws.**

#### **Sec. 7.**

- (1) A board shall draft articles of incorporation and bylaws for the administration of the authority.
- (2) An authority's articles shall state the following:
  - (a) The name of the authority.
  - (b) The name of each participating municipality.
  - (c) The name of the district.
  - (d) The purposes for which the authority is formed.
  - (e) The powers, duties, and limitations of the authority and its board.
  - (f) Any other matters that the board considers advisable.
- (3) The articles of an authority shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the board.
- (4) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published at least once in a newspaper generally circulated within the participating municipalities.
- (5) The adoption of articles or amendments to the articles by the board shall be evidenced by an endorsement on the articles or amendments by the secretary of the board in a form substantially as follows:

"These articles of incorporation (or amendments to the articles of incorporation) were adopted by an affirmative vote of a majority of the members serving on the board of the \_\_\_\_\_ community swimming pool authority at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_."
- (6) Upon adoption of the articles or amendments to the articles by the board, a printed copy of the articles or the amended articles shall be filed with the secretary of the district, the clerk of each participating municipality, and the secretary of state.
- (7) An authority is established when its articles of incorporation are adopted by the board and are filed with the secretary of state.
- (8) The geographical boundaries of an authority are coterminous with the geographical boundaries of the district within each participating municipality and become fixed when the authority is established. After an authority is established, its geographical boundaries shall not automatically change as a result of a change in a district's geographical boundaries. After an authority is established, its geographical boundaries may only be altered by a majority vote of the board.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

### **123.1069 Authority; general powers.**

#### **Sec. 9.**

- (1) An authority has all the powers necessary to own or operate a community swimming pool, including, but not limited to, the following:
  - (a) Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the boundaries of the district. The property may include franchises, easements, or rights of way on, under, or above any property. The authority may pay for the property from, or pledge for the payment of the property, revenue of the authority.
  - (b) Apply for and accept grants or contributions from individuals, the federal government or any of its agencies, this state, a municipality, or other public or private agencies to be used for any of the purposes of this act.
  - (c) Retain full-time or part-time employees.
  - (d) Provide for the maintenance of all of the real and personal property of the authority.
  - (e) Assess and collect fees for its services and expenses.
  - (f) Levy the tax described in section 13 and distribute the proceeds of the tax.
  - (g) Enter into contracts incidental to or necessary for the operation of a community swimming pool.
  - (h) Subject to the limitations in section 11, borrow money and issue notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the tax authorized in section 13.
  - (i) Subject to the limitations in section 11, issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the district or this state. A participating municipality may by majority vote pledge its full faith and credit to support the authority's revenue bonds.



(j) Subject to the limitations in section 11, issue general obligation unlimited tax bonds and authorize and levy taxes necessary to pay the principal of and interest on the bonds.

(k) Subject to the limitations in section 11, issue general obligation limited tax bonds by resolution of the board, without submitting the question to the electors of the participating municipalities. The board shall not authorize or levy a tax to pay the principal of or interest on the general obligation limited tax bonds that exceeds the tax levy authorized by a vote of the qualified electors of the district as provided in section 13.

(2) Money for an authority shall be paid to the board and deposited in a fund known as the community swimming pool fund. The board shall exclusively control the expenditure of money deposited in the community swimming pool fund.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2002, Act 232, Imd. Eff. Apr. 29, 2002

### **123.1071 Borrowing money or issuing notes or bonds.**

Sec. 11.

(1) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 5% of the state equalized valuation of the taxable property within the geographical boundaries of the authority.

(2) An authority shall not issue general obligation unlimited tax bonds unless all of the following conditions are met:

(a) The board adopts a resolution submitting the question of issuing general obligation unlimited tax bonds to the electors of the participating municipalities residing within the geographical boundaries of the authority.

(b) The question of issuing general obligation unlimited tax bonds is certified by the board and the election is conducted in the manner provided in section 13 for an election for a tax.

(c) A majority of the qualified electors voting on the question approve the issuing of the general obligation unlimited tax bonds.

(3) The question of issuing general obligation unlimited tax bonds under subsection (2) shall be submitted by ballot in substantially the following term:

"Shall the community swimming pool authority, formed by the municipalities of \_\_\_\_\_, borrow the sum of not to exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of \_\_\_\_\_?"

Yes [ ] No [ ]".

(4) Refunding bonds or the refunding part of a bond issue is not within the 5% limitation of subsection (1), but is authorized in addition to the 5% limitation.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2002, Act 232, Imd. Eff. Apr. 29, 2002

### **123.1073 Taxation for purposes of owning or operating community swimming pool.**

Sec. 13.

(1) An authority formed under this act may levy a tax on all of the taxable property in a participating municipality located within the district for the purposes of owning or operating a community swimming pool.

(2) The tax authorized in this section shall not exceed 1 mill of the state equalized valuation on each dollar of assessed valuation of taxable property within the limits of each participating municipality.

(3) The tax authorized under this section shall not be levied except upon the approval of a majority of the qualified and registered electors of the participating municipalities who reside in the district voting on the tax at an annual or special school election. The election may be called by resolution of the board. The secretary of the board shall file a copy of the resolution of the board calling the election with the clerk of any participating municipality not later than 4 p.m. on the twelfth Tuesday before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. All appropriate clerks and all appropriate



officials shall take all necessary steps to properly submit the proposition to the electors of the participating municipalities who reside in the district at the election specified in the resolution of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The results of the election shall be certified to the board promptly after the date of the election. No more than 2 elections may be held in a calendar year for approval of the tax authorized under this section. The authority shall pay its share of the costs of the election.

(4) The taxes authorized by this section may be levied at a rate and for a period, not more than 5 years, as determined by the authority in the resolution calling the election and as set forth in the proposition submitted to the electors.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2013, Act 255, Eff. Apr. 26, 2014

### **123.1075 Collection and distribution of tax.**

#### **Sec. 15.**

The tax under section 13 shall be collected and distributed by the local tax collecting units under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, at the same time and in the same manner as taxes levied by the district for school operating purposes.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

### **123.1077 Withdrawal of municipality from authority.**

#### **Sec. 17.**

(1) A participating municipality in which the tax authorized by section 13 is in effect may withdraw from an authority if all of the following requirements are satisfied:

(a) Not less than 2 months before the next regularly scheduled election of the municipality, the legislative body of the municipality adopts a resolution to withdraw from the authority on a date specified in the resolution. The date specified shall be not less than 6 months after the next regularly scheduled election of the municipality.

(b) Notice of an election on the resolution is published in a newspaper of general circulation in the municipality not less than 10 days before the next regularly scheduled election of the municipality following adoption of the resolution.

(c) The resolution is approved by a majority of the electors of the municipality that reside within the district voting on the resolution at the next regularly scheduled election of the municipality following adoption of the resolution.

(d) After approval of the resolution by the electors, the clerk of the municipality files with the secretary of state a copy of the official canvass statement and a certified copy of the resolution and files with the board a copy of the official canvass statement and a number of certified copies of the resolution sufficient for distribution to the legislative body of each of the participating municipalities.

(e) Payment or the provision for payment to the authority or its creditors of all obligations of the municipality seeking to withdraw is made.

(2) A tax authorized by section 13 before the adoption of the resolution to withdraw shall be levied in the municipality for its original purpose but only for the period of time originally authorized and only so long as the board continues in existence. In addition, a municipality that withdraws from an authority shall continue to receive community swimming pool services so long as the tax authorized to be levied by section 13 before the withdrawal of the municipality continues to be levied in the municipality and the community swimming pool remains in operation.

(3) A participating municipality in which no tax authorized by section 13 is in effect may withdraw from an authority if all of the following requirements are satisfied:

(a) The legislative body of the municipality adopts a resolution to withdraw from the authority on a date specified in the resolution. The withdrawal date shall follow the date of the resolution by not less than 1 year.

(b) The clerk of the municipality files with the secretary of state a certified copy of the resolution and files with the board a number of certified copies of the resolution sufficient for distribution to the legislative bodies of each of the participating municipalities.

(c) Payment or the provision for payment to the authority or its creditors of all obligations of the municipality seeking to withdraw is made.

(4) After the withdrawal of a municipality, the articles of incorporation shall be amended to reflect the withdrawal.

**History:** 1994, Act 425, Imd. Eff. Jan. 6, 1995

## **FIREARMS AND AMMUNITION**

### **Act 319 of 1990**

AN ACT to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols, other firearms, or pneumatic guns, ammunition for pistols or other firearms, or components of pistols or other firearms.

**History:** 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

*The People of the State of Michigan enact:*

#### **123.1101 Definitions.**

##### **Sec. 1.**

As used in this act:

(a) "Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

(b) "Local unit of government" means a city, village, township, or county.

(c) "Pistol" means that term as defined in section 222 of the Michigan penal code, 1931 PA 328, MCL 750.222.

(d) "Pneumatic gun" means any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

**History:** 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

#### **123.1102 Regulation of pistols, other firearms, pneumatic guns, or ammunition.**

##### **Sec. 2.**

A local unit of government shall not impose special taxation on, enact or enforce any ordinance or regulation pertaining to, or regulate in any other manner the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols, other firearms, or pneumatic guns, ammunition for pistols or other firearms, or components of pistols or other firearms, except as otherwise provided by federal law or a law of this state.

**History:** 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

### **123.1103 Local unit of government; permissible prohibitions or regulation.**

#### **Sec. 3.**

This act does not prohibit a local unit of government from doing any of the following:

(a) Prohibiting or regulating conduct with a pistol, other firearm, or pneumatic gun that is a criminal offense under state law.

(b) Prohibiting or regulating the transportation, carrying, or possession of pistols, other firearms, or pneumatic guns by employees of that local unit of government in the course of their employment with that local unit of government.

(c) Regulating the possession of pneumatic guns within the local unit of government by requiring that an individual below the age of 16 who is in possession of a pneumatic gun be under the supervision of a parent, a guardian, or an individual 18 years of age or older, except that an ordinance shall not regulate possession of a pneumatic gun on or within private property if the individual below the age of 16 is authorized by a parent or guardian and the property owner or legal possessor to possess the pneumatic gun.

(d) Prohibiting an individual from pointing, waving about, or displaying a pneumatic gun in a threatening manner with the intent to induce fear in another individual.

**History:** 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

### **123.1104 City or charter township; permissible prohibitions or regulation.**

#### **Sec. 4.**

This act does not prohibit a city or a charter township from doing any of the following:

(a) Prohibiting the discharge of a pistol or other firearm within the jurisdiction of that city or charter township.

(b) Prohibiting the discharge of pneumatic guns in any area within the jurisdiction of the city or charter township that is so heavily populated as to make that conduct dangerous to the inhabitants of that area, except that an ordinance shall not prohibit the discharge of pneumatic guns at authorized target ranges, on other property where firearms may be discharged, or on or within private property with the permission of the owner or possessor of that property if conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

**History:** 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

### **123.1105 Conditional effective date.**

#### **Sec. 5.**

This act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

(a) House Bill No. 6009.

(b) House Bill No. 6010.

**History:** 1990, Act 319, Eff. Mar. 28, 1991

**Compiler's Notes:** House Bill No. 6009, referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 320, Eff. Mar. 28, 1991. House Bill No. 6010, also referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 321, Eff. Mar. 28, 1991.

## **DEMONSTRATIONS AT FUNERAL SERVICES**

## Act 152 of 2006

AN ACT to allow the requiring of a permit before demonstrating outside of locations in which a funeral service is being held; to allow local units of government to prohibit certain conduct at or near the locations in which a funeral service is being held; to prescribe the powers and duties of certain local governments and officials; and to provide for penalties.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006

*The People of the State of Michigan enact:*

### **123.1111 Funeral or memorial service; ordinances.**

#### **Sec. 1.**

A local unit of government may pass such ordinances as it considers necessary to protect and preserve the peace and respect toward those attending or conducting a funeral or memorial service.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006

### **123.1112 Demonstration; permit required; fee.**

#### **Sec. 2.**

(1) An ordinance authorized under section 1 may include the requiring of a permit before a person can demonstrate on public property outside of any funeral home, church, synagogue, mosque, any other place of worship, cemetery, or any other location at which a funeral service or memorial service is being held.

(2) The local unit of government may assess a reasonable fee for the processing and granting of a permit allowed under this act.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006

### **123.1113 Ordinance; additional provisions.**

#### **Sec. 3.**

The ordinance authorized under section 1 may also include such other provisions the local unit of government considers necessary, including, but not limited to, prohibiting any person from doing any of the following within 500 feet of the property line of a building or other location where a funeral, memorial service, burial, or viewing of a deceased person is being conducted or within 500 feet of a funeral procession in the hour immediately before, or during, or in the 2 hours immediately following:

(a) Making loud and raucous noise and continuing to do so after being asked to stop.

(b) Making any statement or gesture that would make a reasonable person under the circumstances feel intimidated, threatened, or harassed.

(c) Engaging in any other conduct that the person knows or should reasonably know will disturb, disrupt, or adversely affect the funeral, memorial service, viewing of the deceased person, funeral procession, or burial.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006 ;-- Am. 2008, Act 166, Imd. Eff. June 26, 2008

**123.1114 Fines.**

Sec. 4.

The local unit of government shall impose reasonable fines for violations of an ordinance adopted under this act.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006

**123.1115 "Local unit of government" defined.**

Sec. 5.

As used in this act, "local unit of government" means a city, village, township, or county.

**History:** 2006, Act 152, Imd. Eff. May 24, 2006

**BILLING ERRORS CAUSED BY COMPUTER DATE FAILURE**

**Act 243 of 1999**

123.1121-123.1124 Repealed. 1999, Act 243, Eff. Jan. 1, 2003.

**RECREATIONAL AUTHORITIES ACT**

**Act 321 of 2000**

AN ACT to provide for the establishment of recreational authorities; to provide powers and duties of an authority; to authorize the assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

*The People of the State of Michigan enact:*

**123.1131 Short title.**

Sec. 1.

This act shall be known and may be cited as the "recreational authorities act".

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1133 Definitions.**

#### **Sec. 3.**

As used in this act:

- (a) "Articles" means the articles of incorporation of an authority.
- (b) "Authority" means a recreational authority established under section 5.
- (c) "Board" means the board of directors of the authority.
- (d) "District" means a portion of a municipality having boundaries coterminous with those of a precinct used for general elections.
- (e) "Electors of the authority" means the qualified and registered electors of the participating municipalities who reside within the territory of the authority.
- (f) "Largest county" means, of those counties in which a participating municipality is located, the county having the greatest population.
- (g) "Municipality" means a city, county, village, township, or school district.
- (h) "Park" means an area of land or water, or both, dedicated to 1 or more of the following uses:
  - (i) Recreational purposes, including, but not limited to, landscaped tracts; picnic grounds; playgrounds; athletic fields; camps; campgrounds; zoological and botanical gardens; living historical farms; boating, hunting, fishing, and birding areas; swimming areas; and foot, bicycle, and bridle paths.
  - (ii) Open or scenic space.
  - (iii) Environmental, conservation, nature, or wildlife areas.
- (i) "Participating municipality" means a municipality or district that is named in articles of incorporation or proposed articles of incorporation as joining in the original establishment of an authority, or a municipality or district that joins an existing authority and is added to the articles of incorporation, and that has not withdrawn from the authority.
- (j) "Public historic farm" means a parcel of public land and its buildings that are accessible to the public, and provides, but is not limited to, agricultural and historical programs, farming activities and animal husbandry, community recreation activities and events, programs held in common areas, meeting rooms, and community gardens, and access to surrounding parkland.
- (k) "Swimming pool" includes equipment, structures, areas, and enclosures intended for the use of individuals using or operating a swimming pool, such as equipment, dressing, locker, shower, and toilet rooms.
- (l) "Territory of the authority" means the combined territory of the participating municipalities that is served by an authority.

**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003 ;-- Am. 2016, Act 174, Eff. Sept. 12, 2016

### **123.1135 Recreational authority; establishment; articles of incorporation; adoption; applicability of subsection (3); publication; filing copy with secretary of state; effect.**

#### **Sec. 5.**

- (1) Two or more municipalities or districts may establish a recreational authority. A recreational authority is an authority under section 6 of article IX of the state constitution of 1963.
- (2) To initiate the establishment of an authority, articles of incorporation shall be prepared. The articles of incorporation shall include all of the following:
  - (a) The name of the authority.
  - (b) The names of the participating municipalities.
  - (c) A description of the territory of the authority.
  - (d) The size of the board of the authority, which shall be comprised of an odd number of members; the qualifications, method of selection, and terms of office of board members; and the filling of vacancies in the office of board member. If board members are elected in at-large elections by the qualified and registered electors of the participating municipalities, voting collectively, the election of board members shall be conducted pursuant to the same procedures that govern an election for a tax under sections 13 to 17.
  - (e) The purposes for which the authority is established, which shall be the acquisition, construction, operation, maintenance, or improvement of 1 or more of the following:

- (i) A public swimming pool.
- (ii) A public recreation center.
- (iii) A public auditorium.
- (iv) A public conference center.
- (v) A public park.
- (vi) A public museum.
- (vii) A public historic farm.

(f) The procedure and requirements for a municipality or district to become a participating municipality in, and for a participating municipality to withdraw from, an existing authority or to join in the original formation of an authority. For a municipality or district to become a participating municipality in an existing authority or to join in the original formation of an authority, a majority of the electors of the municipality or district proposed to be included in the territory of the authority and voting on the question shall approve a tax that the authority has been authorized to levy by a vote of the electors of the authority under section 11. A municipality or district shall not withdraw from an authority during the period for which the authority has been authorized to levy a tax by the electors of the authority.

(g) Any other matters considered advisable.

(3) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of each participating municipality. If a participating municipality is a district, the articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of the entire municipality. Unless the articles provide otherwise, the requirements of this subsection do not apply to an amendment to the articles to allow a municipality or district to become a participating municipality in, or to allow a participating municipality to withdraw from, an existing authority.

(4) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated within the participating municipalities. The adoption of articles or amendments to the articles by a municipality or district shall be evidenced by an endorsement on the articles or amendments by the clerk of the municipality.

(5) Upon adoption of the articles or amendments to the articles by each of the participating municipalities, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the last participating municipality to adopt the articles or amendments.

(6) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003

### **123.1137 Board of directors; vacancy; quorum; voting; reimbursement for expenses; conduct of public meeting; availability of writing; election of officers; adoption of bylaws.**

#### **Sec. 7.**

(1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Appointed members of the board, if any, may be removed by the appointing authority for good cause after a public hearing. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

(2) A majority of the members of the board constitutes a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the authority adopts bylaws requiring a larger number.

(3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

(4) The business that an authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary. A board shall meet at least quarterly.

- (7) A board may adopt bylaws to govern its procedures.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1139 Powers of authority.**

#### **Sec. 9.**

An authority may do 1 or more of the following:

- (a) Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the territory of the authority. The property may include franchises, easements, or rights of way on, under, or above any property. The authority may pay for the property from, or pledge for the payment of the property, revenue of the authority.
- (b) Apply for and accept grants or contributions from individuals, the federal government or any of its agencies, this state, a municipality, or other public or private agencies to be used for any of the purposes of the authority.
- (c) Hire full-time or part-time employees and retain professional services.
- (d) Provide for the maintenance of all of the real and personal property of the authority.
- (e) Assess and collect fees for services provided by and expenses incurred by the authority.
- (f) Receive revenue as appropriated by the legislature of this state or a participating municipality.
- (g) Enter into contracts incidental to or necessary for the accomplishment of the purposes of the authority.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1141 Public swimming pool, public recreation center, public auditorium, or conference center, or public park; tax levy; ballot proposal; vote; authorization; number of elections; proceeds; use.**

#### **Sec. 11.**

(1) An authority may levy a tax of not more than 1 mill for a period of not more than 20 years on all of the taxable property within the territory of the authority for the purposes of acquiring, constructing, operating, maintaining, and improving a public swimming pool, public recreation center, public auditorium or conference center, or public park. The authority may levy the tax only upon the approval of a majority of the electors in each of the participating municipalities of the authority voting on the tax on November 6, 2001 or, thereafter, at a statewide general or primary election. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall state the amount and duration of the millage and the purposes for which the millage may be used. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of each county in which all or part of the territory of the authority is located for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in each of the participating municipalities of the authority voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

(4) The proceeds of a tax levied under this section shall only be used by the authority for those purposes described in this section and shall not be used by the authority for either of the following:

- (a) Except as otherwise provided in subsection (5), any general fund purposes by any participating municipality.
- (b) Any school operating purposes, as that term is defined in section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, by any participating municipality that is a school district.

(5) The proceeds of a tax levied under this section may be used for general fund purposes by a participating municipality if the proceeds used are directly related to managing the operation of the business of the authority pursuant to a contract between the authority and that participating municipality.



**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003 ;-- Am. 2016, Act 173, Eff. Sept. 12, 2016

**123.1142 Preferences or benefits to be offered to residents.**

**Sec. 12.**

If a majority of electors in each of the participating municipalities of the authority voting on the question of a tax as provided in section 11 approve the tax, the authority shall consider offering preferences or benefits for the residents of the participating municipalities that include, but are not limited to, any of the following:

- (a) Discounted admission fees.
- (b) Discounted membership fees.
- (c) Discounts for school children.
- (d) Access to educational programs.

**History:** Add. 2016, Act 173, Eff. Sept. 12, 2016

**123.1143 Tax election; ballots provided by county election commission; conduct; list of qualified electors.**

**Sec. 13.**

(1) The county election commission of each county in which all or part of a participating municipality is located shall provide ballots for an election for a tax under section 11 for each participating municipality or part of a participating municipality located within the county.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the territory of the authority.

(3) If an election on a proposal for a tax is to be held in conjunction with a general election or state primary election and if a participating village is located within a nonparticipating township, the township clerk and election officials shall conduct the election. Not later than 45 days preceding the election, the village clerk shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village residing in the territory of the authority. Not later than 15 days before the election, the village clerk shall provide to the township clerk information updating the list as of the close of registration. A person appearing on the list as updated is eligible to vote in the election by special ballot.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

**123.1145 Notices of close of registration and election; publication; certification of election results.**

**Sec. 15.**

(1) If an election for a tax under section 11 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of each county in which a participating municipality is located. The board of county canvassers of a county in which a participating municipality is located and that is not the largest county shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the participating municipalities in that county and the certified results of the board of county canvassers of every other county in which a participating municipality is located. The board of county canvassers of the largest county shall certify the results of the election

to the board of the authority.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1147 Tax election; costs; reimbursement; basis.**

Sec. 17.

(1) A county clerk shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in an election for a tax under section 11 that occurs on November 6, 2001.

(2) If a participating municipality conducts an election for a tax, the clerk of that participating municipality shall charge the authority and the authority shall reimburse the participating municipality for the actual costs the participating municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) In addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1149 Collection and distribution of tax.**

Sec. 19.

The tax shall be collected with county taxes and distributed by the local tax collecting unit under the provisions of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

### **123.1151 Borrowing money or issuing bonds or notes.**

Sec. 21.

(1) An authority may borrow money and issue bonds or notes to finance the acquisition, construction, and improvement of a public swimming pool, a public recreation center, a public auditorium, a public conference center, or a public park, including the acquisition of sites and the acquisition and installation of furnishings and equipment for these purposes.

(2) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 2 mills of the taxable value of the taxable property within the district as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(3) Bonds or notes issued by an authority are a debt of the authority and not of the participating municipalities.

(4) A tax levied to pay a bond or note obligation by a recreational authority under this act shall not exceed 5 years without the approval of a majority of the electors in each of the participating municipalities of the authority.

(5) All bonds or notes issued by a recreational authority under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2002, Act 233, Imd. Eff. Apr. 29, 2002 ;-- Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003

**123.1153 Issuance of general obligation unlimited tax bonds; submission of proposal for vote; ballot language; conduct of election; authorization and levy of tax.**

Sec. 23.

(1) An authority may issue general obligation unlimited tax bonds upon approval of a majority of the electors in each of the participating municipalities of the authority voting on the question of issuing the bonds. The proposal to issue general obligation unlimited tax bonds shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) The language of the ballot proposal shall be in substantially the following form:

"Shall [name of authority], formed by [names of participating municipalities], borrow the sum of not to exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of \_\_\_\_\_?"

This is expected to result in an increase of \_\_\_\_\_ in the tax levied on property valued at \_\_\_\_\_ for a period of \_\_\_\_\_ years.

Yes [ ] No [ ]".

(3) The election shall be conducted in the manner provided in sections 11 to 17 for an election for a tax. Not more than 2 elections on the question of issuing general obligation unlimited tax bonds may be held in a calendar year.

(4) If an authority issues general obligation unlimited tax bonds under this section, the board, by resolution, shall authorize and levy the taxes necessary to pay the principal of and interest on the bonds.

**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003

**123.1155 Refunding outstanding debt obligations.**

Sec. 25.

(1) An authority may borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations of the district by resolution of the board, without submitting the question to the electors of the authority.

(2) Refunding bonds or the refunding part of a bond issue shall be considered to be within the 2-mill limitation of section 21(2).

(3) An authority may borrow money and issue bonds or notes for refunding all or part of existing bonded or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded, as calculated using a method approved by the department of treasury.

**History:** 2000, Act 321, Eff. Dec. 1, 2000

**123.1157 Audit; timing; preparation of budgets and appropriations acts; powers, duties, and immunities; filing financial plan to correct deficit condition; investment or deposit of funds.**

Sec. 27.

(1) A board shall obtain an audit of the authority as required in this section, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit must also be in accordance with generally accepted government auditing standards as promulgated by the United States Government Accountability Office and must satisfy federal regulations relating to federal grant compliance audit requirements.

(2) If an authority levies and collects a tax, or if an authority does not levy or collect a tax and has \$100,000.00 or more in yearly expenditures, the board shall obtain an annual audit of the authority.

(3) If an authority does not levy or collect a tax and has less than \$100,000.00 in yearly expenditures, the board shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially. However, if any audit under this subsection discloses a material deviation from generally accepted accounting practices or from applicable rules and regulations of a state department or agency or discloses any fiscal irregularity, defalcation, misfeasance, nonfeasance, or malfeasance, the department of treasury may require an audit to be conducted in the next year.

(4) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(5) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person has the same powers, duties, and immunities with respect to the authority as provided for local units in sections 6 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.440.

(6) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(7) The board may authorize funds of the authority to be invested or deposited in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

**History:** 2000, Act 321, Eff. Dec. 1, 2000 ;-- Am. 2019, Act 128, Imd. Eff. Nov. 21, 2019

## **ZOOLOGICAL AUTHORITIES ACT**

### **Act 49 of 2008**

AN ACT to provide for the establishment of zoological authorities; to provide powers and duties of a zoological authority; to authorize the levy of a property tax by a zoological authority; and to provide for the powers and duties of certain government officials.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

*The People of the State of Michigan enact:*

#### **123.1161 Short title.**

##### **Sec. 1.**

This act shall be known and may be cited as the "zoological authorities act".

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

#### **123.1163 Definitions.**

##### **Sec. 3.**

As used in this act:

(a) "Accredited zoological institution" means an institution located in this state that is accredited by the association of zoos and aquariums.

- (b) "Articles" means the articles of incorporation of an authority.
- (c) "Authority" means a zoological authority established under section 5.
- (d) "Board" means the board of directors of the authority.
- (e) "Electors of the authority" means the qualified and registered electors of the county.
- (f) "Zoological services" means the operation of an accredited zoological institution that is open to the general public.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1165 Formation; authority as public corporate body; powers; limitation.**

#### **Sec. 5.**

- (1) Any county may form a zoological authority.
- (2) A zoological authority is an authority under section 6 of article IX of the state constitution of 1963. A zoological authority is a public corporate body with the power to sue and be sued in any court of this state.
- (3) A zoological authority possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of an authority, consistent with its articles.
- (4) An authority shall not obtain an interest in real property or participate in the governance of an accredited zoological institution.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1167 Articles of incorporation; preparation; contents; adoption; publication; filing; effect upon filing.**

#### **Sec. 7.**

- (1) To initiate the establishment of an authority, articles of incorporation shall be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation shall include all of the following:
  - (a) The name of the authority.
  - (b) The size of the board of the authority, which shall be composed of an odd number of members and shall not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the members of the board of the authority; and the filling of vacancies in the office of board member.
  - (c) The purpose of the authority.
  - (d) The method of dissolution of the authority.
  - (e) Any other matters considered advisable.
- (2) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members of the county board of commissioners of the county establishing the authority.
- (3) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated within the county. The adoption of articles or amendments to the articles by the county shall be evidenced by an endorsement on the articles or amendments by the clerk of the county.
- (4) Upon adoption of the articles or amendments to the articles by the county, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the county.
- (5) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

**123.1169 Vacancy; removal; quorum; compensation; business conducted at public meeting; notice; availability of writings; election of officers; adoption of bylaws.**

Sec. 9.

(1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Members of the board may be removed by the county board of commissioners for good cause after a public hearing. Vacancies shall be filled in the manner as provided for in the authority's articles of incorporation.

(2) A majority of the members of the board constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the authority adopts bylaws requiring a larger number.

(3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

(4) The business that an authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary.

(7) A board may adopt bylaws to govern its procedures.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

**123.1171 Authority; powers.**

Sec. 11.

An authority may do 1 or more of the following:

- (a) Contract for zoological services with an accredited zoological institution.
- (b) Levy a tax as provided in section 13.
- (c) Enter into contracts incidental or necessary for the accomplishment of this act.
- (d) Contract for or retain professional services.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

**123.1171a Contract; time for entering.**

Sec. 11a.

An authority and an accredited zoological institution shall enter into a contract for zoological services before the vote for a tax levy under section 13 occurs.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1172 Contract; preferences or benefits for residents.**

#### **Sec. 12.**

If a majority of electors in the county voting on the question of a tax as provided in section 13 approve the tax, the contract for zoological services between the authority and an accredited zoological institution shall include preferences or benefits for the residents of the county that may include, but are not limited to, any of the following:

- (a) Discounted admission fees.
- (b) Discounted membership fees.
- (c) Discounts for schoolchildren.
- (d) Access to educational programs.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1173 Tax levy; limitation; submission of tax proposal to electors; ballot proposal; authorization.**

#### **Sec. 13.**

(1) An authority may levy a tax of not more than 0.2 mills for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an accredited zoological institution that is an accredited zoological institution as of the date of the electors' approval of the levy. The authority may levy the tax only if a majority of the electors in the county voting on the tax at a statewide general or primary election approve the tax. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall comply with the requirements of section 24f of the general property tax act, 1893 PA 206, MCL 211.24f. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of the county for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in the county voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008 ;-- Am. 2010, Act 328, Imd. Eff. Dec. 21, 2010

### **123.1175 Ballots to be provided by county election commission; conduct of election.**

#### **Sec. 15.**

(1) The county election commission of the county shall provide ballots for an election for a tax under section 13.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the county.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1177 Notice of close of registration and election; final canvass by board of county canvassers; certification.**

#### **Sec. 17.**

(1) If an election for a tax under section 13 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of the county. The board of county canvassers of the county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers of the county shall certify the results of the election to the board of the authority.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1179 Tax levy and collection.**

#### **Sec. 19.**

A tax authorized to be levied by an authority under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1180 Transfer of funds to accredited zoological institution; requirements.**

#### **Sec. 20.**

Within 10 business days of the receipt of the funds from the local property tax collecting unit for the tax levied under this act, the authority is required to transfer the funds to an accredited zoological institution.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

### **123.1181 Election costs; reimbursement to county or municipality.**

#### **Sec. 21.**

(1) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the county clerk of the county shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in the election for the tax under section 13.

(2) If a municipality conducts the election and a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the clerk of that municipality shall charge the authority and the authority shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, in addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008



**123.1183 Annual audit; preparation of budgets and appropriations acts; immunities; filing financial plan to correct deficit condition; investment or deposit of funds.**

Sec. 23.

(1) A board shall obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(2) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(3) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person shall have the same powers, duties, and immunities with respect to the authority as provided for local units in sections 6 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.440.

(4) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(5) The board may authorize funds of the authority to be invested or deposited in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

**History:** 2008, Act 49, Imd. Eff. Mar. 27, 2008

**LOCAL GOVERNMENT FILMING LOCATION ACCESS ACT**

**Act 84 of 2008**

AN ACT to authorize local units of government to provide free use of local government property for film production.

**History:** 2008, Act 84, Imd. Eff. Apr. 8, 2008

*The People of the State of Michigan enact:*

**123.1191 Short title.**

Sec. 1.

This act shall be known and may be cited as the "local government filming location access act".

**History:** 2008, Act 84, Imd. Eff. Apr. 8, 2008

**123.1193 Definitions.**

Sec. 3.

As used in this act:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) "Local unit of government" means a political subdivision of this state, including, but not limited to, a county, city, village, township, district, local authority, intergovernmental authority, or intergovernmental entity.

(c) "Michigan film office" or "film office" means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(d) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

**History:** 2008, Act 84, Imd. Eff. Apr. 8, 2008

### **123.1195 Use of property for production of film; authorization by local unit of government; exception; cooperation with Michigan film office.**

#### **Sec. 5.**

(1) Except as provided under subsection (2), a local unit of government may authorize a person engaged in the production of a film in this state to use, without charge, property owned by or under the control of the local unit of government for the purpose of producing a film under the terms and conditions established by the local unit of government. The economic and other benefits to the local unit of government and this state of film production located in the local unit of government or this state shall be considered the value received by the local unit of government and this state in exchange for the use of the property owned by or occupied by the local unit of government under this act.

(2) A local unit of government shall not authorize the use of property owned by or under the control of the local unit of government for the production of a film that includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer as provided in 18 USC 2257.

(3) A local unit of government shall cooperate with the Michigan film office by providing the film office with information about potential film locations within the local unit of government and the use of property owned by or under the control of the local unit of government.

**History:** 2008, Act 84, Imd. Eff. Apr. 8, 2008

## **ART INSTITUTE AUTHORITIES ACT**

### **Act 296 of 2010**

AN ACT to provide for the establishment of art institute authorities; to provide for the powers and duties of an art institute authority; to authorize the levy and collection of a property tax by an art institute authority; and to provide for the powers and duties of certain government officials.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

*The People of the State of Michigan enact:*

### **123.1201 Short title.**

#### **Sec. 1.**

This act shall be known and may be cited as the "art institute authorities act".

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1203 Definitions.**

#### **Sec. 3.**

As used in this act:

- (a) "Art institute" means an encyclopedic art museum whose primary art collection and facility, at the date an authority is established, are owned by a municipality located in this state.
- (b) "Art institute services" means the operation or support of an art institute.
- (c) "Art institute services provider" means a nonprofit entity qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), that, as its primary purpose, provides art institute services to an art institute.
- (d) "Articles" means the articles of incorporation of an authority.
- (e) "Authority" means an art institute authority established under section 5.
- (f) "Board" means the board of directors of the authority.
- (g) "Electors of the authority" means the qualified and registered electors of the county.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1205 Art institute authority; formation; public corporate body; powers; prohibitions.**

#### **Sec. 5.**

- (1) Any county may form an art institute authority.
- (2) An art institute authority is an authority under section 6 of article IX of the state constitution of 1963. An art institute authority is a public corporate body with the power to sue and be sued in any court of this state.
- (3) An art institute authority possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of an authority, consistent with its articles.
- (4) An authority shall not obtain an interest in real property or participate in the governance of an art institute.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1207 Articles of incorporation; contents; adoption; amendment; publication; filing; effectiveness.**

#### **Sec. 7.**

(1) To initiate the establishment of an authority, articles of incorporation shall be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation shall include all of the following:

- (a) The name of the authority.
- (b) The size of the board of the authority, which shall be composed of an odd number of members and shall not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the members of the board of the authority; and the filling of vacancies in the office of board member.

- (c) The purpose of the authority.
  - (d) The method of dissolution of the authority.
  - (e) Any other matters considered advisable.
- (2) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members of the county board of commissioners of the county establishing the authority.
- (3) Before the proposed articles or proposed amendments to the articles are adopted, the proposed articles or amendments shall be published not less than once in a newspaper generally circulated within the county. The adoption of proposed articles or amendments by the county shall be evidenced by an endorsement on the articles or amendments by the clerk of the county.
- (4) Upon adoption of the articles or amendments to the articles by the county, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the county.
- (5) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

**123.1209 Board; vacancy; removal of member; quorum; official action; compensation; expenses; business conducted at public meeting; writings; election of officers; bylaws.**

**Sec. 9.**

- (1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Members of the board may be removed by the county board of commissioners for good cause after a public hearing. Vacancies shall be filled in the manner as provided for in the authority's articles of incorporation.
- (2) A majority of the members of the board constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the authority adopts bylaws requiring a larger number.
- (3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.
- (4) The business that an authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
- (5) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary.
- (7) A board may adopt bylaws to govern its procedures.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

**123.1211 Powers of authority.**

**Sec. 11.**

An authority may do 1 or more of the following:

- (a) Provide funding to an art institute services provider to support the provision of art institute services.
- (b) Levy a tax as provided in section 17.
- (c) Enter into contracts incidental or necessary for the accomplishment of this act.
- (d) Contract for or retain professional services.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1213 Replacement of initial art institute services provider; contract for use of funds.**

Sec. 13.

Before a vote for a tax levy under section 17 occurs or, if an initial art institute services provider is replaced, before any funds are transferred under section 25 to a replacement art institute services provider, the art institute services provider shall enter into a contract with the authority requiring the art institute services provider to use the funds received from the authority exclusively to support the provision of art institute services to an art institute.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1215 Approval of tax; preferences or benefits for residents.**

Sec. 15.

If a majority of electors in the county voting on the question of a tax as provided in section 17 approve the tax, the contract as provided in section 13 shall require the art institute services provider to offer or to exercise its best efforts to cause the art institute to offer preferences or benefits for the residents of the county that may include, but are not limited to, any of the following:

- (a) Discounted admission fees.
- (b) Discounted membership fees.
- (c) Discounts for schoolchildren.
- (d) Access to educational programs.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1217 Tax levy; limitation; ballot proposal; adoption of proposal by resolution; authorization of tax levy; limitation on number of elections held on proposal.**

Sec. 17.

(1) An authority may levy a tax of not more than 0.2 mill for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an art institute services provider that will be used exclusively for the benefit of the art institute with respect to which the art institute services provider renders services. The authority may levy the tax only if a majority of the electors in the county voting on the tax at a statewide general or primary election approve the tax. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall comply with the requirements of section 24f of the general property tax act, 1893 PA 206, MCL 211.24f. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of the county for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in the county voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1219 Election; ballots; conduct.**

Sec. 19.

(1) The county election commission of the county shall provide ballots for an election for a tax under section 17.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the county.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1221 Close of registration and election; notices; results; final canvass; certification.**

Sec. 21.

(1) If an election for a tax under section 17 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of the county. The board of county canvassers of the county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers of the county shall certify the results of the election to the board of the authority.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1223 Levy and collection of tax.**

Sec. 23.

A tax authorized to be levied by an authority under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1225 Transfer of funds to art institute services provider.**

Sec. 25.

Within 10 business days of the receipt of the funds from the local property tax collecting unit for the tax levied under this act, the authority shall transfer the funds, less the amount necessary to fund the payment of obligations incurred by the authority in accordance with this act, to the art institute services provider.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1227 Reimbursement of election costs to county or to municipality.**

Sec. 27.

(1) If a majority of the electors in the county voting on the question of a tax as provided in section 17 approve the tax, the county clerk of the county shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in the election for the tax under section 17.

(2) If a municipality conducts the election and a majority of the electors in the county voting on the question of a tax as provided in section 17 approve the tax, the clerk of that municipality shall charge the authority and the authority shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) If a majority of the electors in the county voting on the question of a tax as provided in section 17 approve the tax, in addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

### **123.1229 Audit; financial plan; investment or deposit of funds.**

Sec. 29.

(1) A board shall obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(2) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(3) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person shall have the same powers, duties, and immunities with respect to the authority as provided for local units in sections 6 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.440.

(4) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(5) The board may authorize funds of the authority to be invested or deposited on a temporary basis before being transferred under section 25 in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

**History:** 2010, Act 296, Imd. Eff. Dec. 16, 2010

## **LOCAL UNIT OF GOVERNMENT ESSENTIAL SERVICES SPECIAL ASSESSMENT ACT**

### **Act 406 of 2012**

123.1241-123.1247 Repealed. 2014, Act 92, Eff. Aug. 22, 2014.

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The

amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

## **MUNICIPAL LIGHTING AUTHORITY ACT**

### **Act 392 of 2012**

AN ACT to provide for the creation of certain lighting authorities for the purpose of operating lighting systems; to provide for the powers and duties of the authorities; to provide for the conveyance of operational jurisdiction over certain operations to authorities; to provide for the assumption of certain contracts, bonds, notes, and other evidences of indebtedness and liabilities related to the provision of lighting authorities; to authorize expenditures from certain funds; to finance the acquisition of property and the development of certain public improvements or related facilities; to provide for the issuance of bonds and notes; to authorize certain investments; and to impose certain powers and duties upon state and local departments, agencies, and officers.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

*The People of the State of Michigan enact:*

#### **123.1261 Short title.**

Sec. 1.

This act shall be known and may be cited as the "municipal lighting authority act".

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

#### **123.1263 Definitions.**

Sec. 3.

As used in this act:

(a) "Ancillary facility" means any revolving credit agreement, agreement establishing a line of credit, or a letter of credit; reimbursement agreement; interest rate exchange or similar agreement; currency exchange agreement; commodity exchange agreement; interest rate floor or cap; option, put, call, or similar agreement to hedge payment, currency, commodity, rate, spread, or similar exposure; investment agreement; float agreement; forward agreement or other investment arrangement; insurance contract; surety bond; commitment to purchase or sell securities; purchase or sale agreement or commitment; or other contract or agreement or other security agreement approved by an authority under this act, including without limitation any arrangement referred to in this act.

(b) "Authority" means a lighting authority incorporated under this act.

(c) "Best value" means a contract and procurement process to be followed by an authority that encourages and considers bids from locally headquartered companies and that considers use of the local workforce.

(d) "Board" means the board of directors of an authority.

(e) "Chief executive officer" means the mayor of the city.

(f) "Lighting system" or "system" means plants, works, instrumentalities, and properties used or useful in connection with providing lighting and necessary resources and appurtenances for the system.



(g) "Local government" means a city with a population of more than 600,000.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1265 Legislative intent; authority; manner of carrying out powers; public municipal corporation; lighting system assets; transfer of ownership or operational control.**

Sec. 5.

(1) It is the intent of this act to provide an equitable and reasonable method and means of financing, operating, and maintaining a lighting system to supply lighting in sufficient quantities to a local government.

(2) The powers of the authority shall be carried out in a manner authorized by this act.

(3) A local government, by majority vote of its governing body, may incorporate an authority comprising the territory within its respective limits for acquiring, constructing, consolidating, purchasing, operating, or maintaining a municipally owned lighting system. The authority is a public municipal corporation with the rights, powers, and duties as provided in this act.

(4) Nothing in this act, nor the creation of an authority, shall be construed as transferring the ownership of any lighting system assets to the authority unless the transfer is specified in the articles of incorporation of the authority as provided in section 9 and the transfer is ratified in accordance with all applicable laws.

(5) A transfer of ownership or operational control of a lighting system to an authority shall not be considered a sale, lease, or disposal of any kind of an asset by the local government under any state or local law.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1267 Alteration of laws and regulations of utility franchise.**

Sec. 7.

Nothing in this act shall be considered to alter the laws and regulations regarding utility franchises unless explicitly stated. The creation of an authority shall not be considered to create a new franchise as long as the authority only provides service within its own territory, which shall be composed of the territory within the local government and any area that the local government may be serving or permitted to serve under law on the effective date of this act.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1269 Articles of incorporation.**

Sec. 9.

(1) A local government may adopt articles of incorporation by a majority vote of its governing body and incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending, constructing, operating, or maintaining a lighting system and providing lighting services.

(2) The articles of incorporation adopted under subsection (1) shall be signed by the mayor and clerk of that local government.

(3) The articles of incorporation adopted by a local government under subsection (1) shall be in a form substantially as follows:

"The foregoing articles of incorporation were adopted by the \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ County, Michigan, at a meeting held on the \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_ of the  
\_\_\_\_\_"

(4) The articles of incorporation shall specify best value objectives.

(5) One printed copy of the articles of incorporation certified as a true copy by the person or persons designated by the certification, with the date and place of the publication, shall be filed with the secretary of state and the clerk of the county in which the authority provides services. The authority becomes effective at the time provided in the articles of incorporation, but shall not be effective before the filing with the secretary of state and the county clerk.

(6) The validity of an authority is conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation of the authority. The court of appeals has original jurisdiction to hear an action under this subsection. The court of appeals shall hear the action in an expedited manner.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1271 Authority as public municipal corporation and public body corporate; powers; maintenance of books and records; implementation of best value supply chain and procurement practice.**

#### **Sec. 11.**

(1) An authority is a public municipal corporation. The authority is a public body corporate with the power to sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purposes of its incorporation. The enumeration of any powers in this act shall not be construed as a limitation on an authority's general powers.

(2) An authority may do any of the following:

(a) Adopt bylaws for the regulation of the authority's affairs and the conducting of its business.

(b) Adopt an official seal and alter the seal at its pleasure.

(c) Maintain an office at a place or places within this state as it may designate.

(d) Sue and be sued in its own name, plead, and be impleaded.

(e) Determine the location of any project constructed by it under this act and determine, in its discretion and without reference to any other provisions of this act or any other law, the design, standards, and the materials of construction, and construct, maintain, repair, and operate the project.

(f) Issue bonds of the authority for any of its corporate purposes under those means as provided in this act.

(g) Adopt and promulgate rules and regulations for the use of any project operated or constructed by it under the provisions of this act.

(h) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

(i) Engage engineering, legal, and other professional services as considered necessary to effectuate the purposes of the authority.

(3) The authority shall maintain its books and records and its funds on an enterprise fund basis. An authority shall not pay any net proceeds or profits to its local government, but may pay the local government for services provided.

(4) Following the appointment of the authority board, the board shall implement a best value supply chain and procurement practice and shall annually report to the governing body of the local government.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1273 Board of directors; appointment; expiration of term; qualifications; certification to be signed by board member; report by attorney general; failure of board member to make required certification.**

#### **Sec. 13.**

(1) An authority created under this act shall be directed and governed by a board of directors consisting of 5

members appointed as provided in this section.

(2) The board shall be appointed as follows:

(a) Two members who are residents of the local government appointed by the chief executive officer of the local government for a term of service of 3 years, except that for the first appointments to the board, 1 of the members shall be appointed for a term of service of 4 years. If the chief executive officer of the local government fails to make an appointment to the board of directors within 42 days after the authority is created or fails to fill a vacancy on the authority within 70 days of the vacancy occurring, then the governing body of the local government has the power to make the appointment.

(b) Two members who are residents of the local government appointed by the governing body of the local government for a term of service of 3 years, except that for the first appointments to the board, 1 of the members shall be appointed for a term of service of 4 years. If the governing body of the local government fails to make an appointment to the board of directors within 42 days after the authority is created or fails to fill a vacancy on the authority within 70 days of the vacancy occurring, then the chief executive officer of the local government has the power to make the appointment.

(c) One member who is a resident of the local government appointed by the governing body of the local government, from a list of 3 names provided by the chief executive officer of the local government, for a term of service of 3 years.

(3) Notwithstanding any other provision of this act, the term of a member appointed to the board of directors under subsection (2) shall expire upon expiration of the term of the chief executive officer or the governing body of the local government.

(4) At least 1 board member appointed to an authority board shall be a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(5) At least 1 board member appointed to an authority board shall be a certified public accountant who is licensed as a certified public accountant under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, or shall qualify as a financial expert as that term is defined by rule by the United States securities and exchange commission pursuant to section 407 of the Sarbanes-Oxley act of 2002, Public Law 107-204.

(6) At least 1 board member appointed to an authority board shall be an attorney licensed to practice in this state.

(7) At the time of his or her appointment to a board of directors, and no later than January 31 of each year, a board member of an authority board shall make a certification, signed under penalty of perjury, to the attorney general that states all of the following:

(a) Except as otherwise provided in this subdivision, he or she is not currently employed by or receiving a pension or any other form of income from any entity that has sought or received a contract with the authority. For purposes of this subdivision, income does not include stock dividends from or the sale of stock of publicly traded shares constituting less than 0.1% ownership in the entity.

(b) Except as otherwise provided in this subdivision, he or she does not own an interest in any entity that has sought or received a contract with the authority. For purposes of this subdivision, own does not include the ownership in the form of publicly traded shares constituting less than 0.1% ownership in the entity.

(c) He or she does not serve as an officer, director, or in a similar decision-making role in any entity that has sought or received a contract with the authority or that has a financial interest contrary to the authority in connection with any financing of the authority.

(8) A person shall not begin service as a board member until he or she completes and files the certification with the attorney general as required under this section.

(9) The attorney general shall publish a report no later than the last day of February of each year stating whether each member of an authority's board has filed the required certification and whether the certification was complete. The report shall be made available to the public on the office of attorney general's website as soon as practicable. If a report indicates that a board member has failed to make the required certification, a copy of the report shall be sent to the chief executive officer of each local government that authorized the incorporation of the authority and to the board member who failed to make the required certification. The local government shall provide the last known address for that board member to the attorney general upon request.

(10) If the required certification is not filed by a board member by the third day of March following the publication of the report by the attorney general, the term of office for that board member who fails to make the required certification under this section shall automatically terminate on the last day of March following the publication of the report by the attorney general.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1275 Meeting; selection of officers; bond; employees and other professional services; quorum; rules and**

**bylaws; business conducted at public meeting; compliance with freedom of information act; annual audit; progress reports.**

Sec. 15.

(1) Within 30 days following the appointment of the last board member to the board, the board shall hold its first meeting.

(2) At its first meeting, the board shall select a chairperson, treasurer, and any other officers as the board considers necessary. The board shall require the treasurer to post a suitable bond of not less than \$100,000.00 issued by a responsible bonding entity, with the cost of the premium of the bond paid for by the authority.

(3) The board shall select, employ, and fix the compensation for employees of the board and contract for those engineering, legal, and other professional services that the board considers necessary to effectuate the purposes of the authority.

(4) A majority of the members of the board constitute a quorum for the purpose of conducting business and exercising powers of the authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the articles of incorporation or authority bylaws require a larger number.

(5) The board shall adopt rules and bylaws governing its procedures and the holding of meetings. The board shall designate an office or location as its principal place of business.

(6) The business of the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time.

(7) A board shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) A board shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of the authority. The board shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(9) The board shall provide a monthly progress report to the chief executive officer and the governing body of the local government and shall make that monthly progress report available on the authority's internet website.

(10) The board shall provide an annual progress report to the chairpersons of the senate and house government operations committees and shall make that annual progress report available on the authority's internet website. The annual progress report shall detail the authority's operating revenues, expenditures, vendor contracts, and all major decisions on lighting within the local government, including all rulings concerning the future locations of streetlights within the local government.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1277 Plan for next 3 succeeding years; contents; acceptance or rejection by local governing body; revised plan; rejection; final proposed plan; adoption.**

Sec. 17.

(1) On or before March 15 after the creation of the authority, and on or before March 15 of every second year after the creation of the authority, the board shall prepare and submit to the governing body of the local government a plan for the next 3 succeeding fiscal years. The plan shall contain all of the following:

(a) The number and placement of streetlights in the local government composing the authority.

(b) A budget that includes, but is not limited to, the following:

(i) Anticipated expenses of administration, operation, and maintenance of the authority and the lighting system.

(ii) Any reserve to be established for the administration, operation, and maintenance of the authority and the lighting system.

(iii) A statement showing the amounts necessary to retire all principal and interest on any bonds of the authority maturing during the applicable fiscal years.

(iv) A plan to implement best value practices.

(v) Any other item specified in the articles of incorporation of the authority.

(c) The budget prepared by the authority shall provide that any money derived from the collection of rates and charges shall be applied and used by the authority in the following manner and in the following priority:

(i) To provide for the payment during each fiscal year of all current expenses of administration, operation, and maintenance as may be necessary to preserve the lighting system in good repair and working order, including payments required under bonded indebtedness incurred in accordance with the authorization contained in this act.

(ii) In the discretion of the board, there may be set aside during each fiscal year money to provide a reserve fund for replacements or major repairs and improvements not anticipated or considered to be a part of current expenses of administration, operation, or maintenance of the lighting system.

(2) The governing body of the local government composing the authority may vote to accept or reject the plan. The governing body of the local government does not have the power to amend the plan in any respect. Unless the governing body of the local government votes to reject the plan within 45 days of its submittal, the plan is considered approved.

(3) If the governing body of the local government rejects the plan as provided in subsection (2), the authority shall revise the plan and shall submit the revised plan to the governing body of the local government within 30 days of the vote that rejected the plan.

(4) The governing body of the local government may vote to accept or reject the revised plan within 30 days of its submittal. Unless the governing body of the local government votes to reject the revised plan, the revised plan is considered approved.

(5) If the governing body of the local government votes to reject the revised plan, the governing body of the local government must contemporaneously adopt, by a vote of at least 2/3 of the members of the governing body of the local government elected and serving, a resolution that includes a list of items that, if altered, would result in a vote to adopt the plan. Failure to adopt a resolution in compliance with this subsection is considered acceptance of the revised plan by the governing body of the local government.

(6) If the governing body of the local government votes to reject the revised plan and submits the required resolution as provided in subsection (5), the authority shall prepare a final proposed plan not more than 20 days following the vote to reject the revised plan. The final proposed plan shall be sent to the chief executive officer of the local government, and the chief executive officer shall make the final proposed plan available on the local government's internet website as soon as is practicable. The final proposed plan shall also be made available at a public hearing to be held not more than 10 days after the final proposed plan is complete. Public comment shall be taken at the public hearing concerning the final proposed plan. On or after the tenth day after the public hearing, the authority shall vote on the final proposed plan.

(7) Except as otherwise provided in this subsection, if 2/3 of the board members of the authority vote to adopt the final proposed plan, it is adopted. If the final proposed plan incorporates a majority of the items identified in the appropriate resolution or resolutions adopted by the governing body of the local government, then the final proposed plan is adopted if approved by a majority vote of the board of directors of the authority.

(8) If a plan is not adopted on or before July 1 of the year in which a plan is required to be prepared under subsection (1), then the adopted plan shall be the final proposed plan, except that all changes identified in the resolution of the governing body submitted under this act are considered amendments to the final proposed plan so that the plan as adopted contains all changes listed in the resolution from the governing body.

(9) A plan adopted by the board may be amended by a vote of 4 of the 5 members on the board.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1279 Fiscal year; commencement; ending.**

Sec. 19.

Unless the board, by resolution, establishes a different fiscal year, the fiscal year of the authority shall commence on July 1 of each year and end on the following June 30.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1280 Collective bargaining agreement; employment relationship between existing employees of local government and proposed authority; transfer of employees to authority; representation by labor organization; single seniority list; employee entering military service.**

Sec. 20.

(1) The local government has the responsibility, authority, and right to manage and direct on behalf of the public the services performed or exercised as provided in the articles of incorporation to the extent the articles of incorporation are consistent with, and not otherwise limited by, this act.

(2) The contents or language of the articles of incorporation under this act shall be a permissive subject of collective bargaining between the local government and a bargaining representative of its employees. If the local government and a bargaining representative of its employees engage in collective bargaining before the articles of incorporation are approved and the local government and that bargaining representative reach an agreement on issues that would obligate an entity that will function as an employer in the authority, the articles of incorporation shall include those obligations.

(3) Nothing in this act creates an employment relationship between the existing employees of the local government and the proposed authority.

(4) An authority is effective through its articles of incorporation at least 180 days before the actual transfer of personnel and equipment. Before the authority's effective date, the local government shall affirm in writing to the authority those employees, if any, who will be transferred to the authority.

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

(6) Subject to subsection (7), a representative of the employees or group of employees who previously represented or was entitled to represent the employees or group of employees under 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employees or group of employees if those employees or group of employees are transferred to the authority.

(7) This section does not limit the rights of employees, under applicable law, to assert that a bargaining representative protected by subsection (6) is no longer their representative. The employees of the authority are eligible as of the day the authority becomes effective through its articles of incorporation to choose their representative under 1947 PA 336, MCL 423.201 to 423.217. This subsection does not extend the time limits as provided in subsection (4).

(8) If multiple labor organizations assert the right to represent all or part of the authority's workforce or where a substantial portion of the transferred employees were not previously represented, in the absence of a voluntary mutual agreement, at the request of any party or on the initiative of the Michigan employment relations commission, the Michigan employment relations commission shall conduct a representation election.

(9) In the absence of a voluntary mutual agreement, the authority's workforce shall be merged by using a single seniority list for each of the same or similar classifications. The single seniority list shall be composed of all employees from the local government employed or having recall rights on the date of transfer and shall be used for purposes that include, but are not limited to, initial assignments, layoffs, recalls, and job bidding. Disputes concerning the single seniority list or use of the single seniority list shall be heard by a single arbitrator appointed by the Michigan employment relations commission.

(10) Nothing in this section requires a local government or an authority to assume a collective bargaining agreement between another local government and its employees.

(11) An employee who left the employ of the local government to enter the military service of the United States shall have the same employment rights as to the local government or the authority as he or she would have had under 1951 PA 263, MCL 35.351 to 35.356.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1281 Issuance of bonds.**

Sec. 21.

(1) For the purpose of constructing, acquiring, improving, enlarging, or extending a lighting system, including the payment of engineering, legal, and financing expenses, and after the establishment of the initial service rates and



the execution of contracts for the provision of construction services, purchase of power, and other related activities within the corporate limits of the authority, the authority may borrow money and issue revenue bonds and notes for the purposes provided in this section. The aggregate principal amount of the bonds and notes at no time shall exceed 5% of the total state equalized valuation of the property assessed in the local government comprising the authority.

(2) Revenue bonds are payable upon the terms and conditions specified by the authority in the resolution under which the authority issues the bonds or in a related trust agreement or trust indenture. The board of directors in the resolution authorizing the bonds, a trust indenture, ancillary facility, or other agreement entered into with respect to bonds of the authority may pledge any funds received or to be received by the authority for the payment of the bonds or other obligations of the authority under the agreement and create a first lien in favor of the holders of the bonds or a party subject to the agreement, including, but not limited to, funds received pursuant to a contract entered into under section 25. The principal of and interest on the bonds shall be payable, except as provided in this act, solely from the proceeds described in the resolution authorizing the bonds or trust indenture, and the proceeds may include revenues pledged directly to authority bonds pursuant to a contract entered into under section 25 by the local government.

(3) The resolution authorizing the issuance of bonds under this section shall include all of the following:

(a) A statement that the bonds are revenue bonds.

(b) A statement briefly describing the lighting system to be constructed, acquired, improved, or extended and the estimated cost of the lighting system.

(c) A statement that the contracts for services of the authority have been entered into with the local government comprising the authority.

(d) In the case of refunding bonds, identification of the parameters under which the bonds can be issued.

(e) Delegation for a time period at the board of directors' discretion to an officer, employee, or designated agent of the authority the power to issue, sell, and deliver bonds within the limits on those bonds established by the authority as to any of the following:

(i) Form.

(ii) Maximum interest rates.

(iii) Maturity dates.

(iv) Purchase price.

(v) Denominations.

(vi) Redemption dates and premiums, if any.

(vii) Nature of the security.

(viii) Selection of an applicable interest rate index.

(ix) The terms of ancillary facilities entered into in connection with the issuance of bonds.

(x) Other terms and conditions with respect to the bond issue that the authority prescribes.

(f) Specification of other details and matters that are considered necessary or advisable to provide for the prompt and orderly retirement of the bonds and the interest on the bonds at maturity.

(g) Provision for the deposit of revenues pledged for the payment of bonds issued under this section into a separate account for the purpose of paying principal and interest on those bonds, the administrative costs associated with those bonds, and any other bonds issued by the authority that are secured by those revenues. For purposes of this subdivision, principal and interest may include any fees related to an ancillary facility, if any.

(4) An authority may issue bonds under this section to refund any bonds by issuing new bonds if it considers the refunding expedient, whether or not the bonds to be refunded have matured, and may issue bonds partly to refund bonds that are outstanding and partly for restructuring or any of the authority's other authorized purposes.

(5) Bonds issued under this act shall not mature more than 30 years from the date of the original issuance.

(6) An authority may issue bond anticipation notes secured by the issuance of revenue bonds issued under this section in addition to the revenues that the authority is permitted to pledge as provided in this section.

(7) Any bonds issued under this act shall be sold to the Michigan finance authority created by Executive Reorganization Order No. 2010-2, MCL 12.194.

(8) Bonds issued by an authority under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds issued by an authority under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1283 Ancillary facility.**

Sec. 23.

(1) An authority may enter into, amend, or terminate, as it determines necessary or appropriate, any ancillary facility for any of the following purposes:

(a) To facilitate the issue, sale, resale, purchase, repurchase, or payment of bonds, or the making or performance of swap contracts, including without limitation bond insurance, letters of credit, and liquidity facilities.

(b) To attempt to hedge risk or achieve a desirable effective interest rate or cash flow.

(2) An authority may enter into, amend, or terminate any ancillary facility as it determines necessary or appropriate or to place the obligations or investments of the authority, as represented by the bonds or the investment of bond proceeds, in whole or in part, on the interest rate, cash flow, or other basis desired by the authority. The ancillary facility may include without limitation contracts commonly known as interest swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. The authority may enter into these contracts or arrangements in connection with, or incidental to, entering into, or maintaining any agreement that secures bonds of the authority or any investment of reserves, or contract providing for investment of reserves, or similar ancillary facility guaranteeing an investment rate for a period of years.

(3) An authority's determination that an ancillary facility, or the amendment or termination of an ancillary facility, is necessary or appropriate is conclusive. The authority may determine the terms and conditions of an ancillary facility, including without limitation provisions as to security, default, termination, payments, remedy, and consent to service of process.

(4) Before an authority enters into any ancillary facility, the authority must have the consent of the Michigan finance authority.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

**123.1285 Contracts; trust agreement; definitions.**

Sec. 25.

(1) An authority and the local government comprising the authority may enter into a contract providing for the construction, acquisition, improvement, enlargement, or extension of a lighting system, including the payment of engineering, legal, and financing expenses in connection with the lighting system, and after the establishment of the initial service rates and the execution of contracts for the provision of construction services, purchase of power, and other related activities within the corporate limits of the authority. Contracts shall provide for the rates and charges for the local government. The local government may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract. If the local government makes this pledge, it may include in its annual tax levy an amount sufficient so the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection, subject to constitutional, statutory, and charter limitations. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of the local government, the tax may be in addition to any tax that the local government may otherwise be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If, at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, credit for those funds may be taken upon the annual levy for the payment of the obligation. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The contract may provide for other funds to be raised and pledged by the local government by the use of 1 or more of the following additional methods:

(a) The levy of special assessments to the extent legally permitted by the local government. The procedures relative to the levying and collection of the special assessments shall conform as nearly as is applicable to charter or statutory provisions for the levying and collection, except that a petition is not required from property owners.

(b) The levy and collection of charges to users and beneficiaries of the service or services furnished by the lighting system.

(c) A pledge of revenue that would otherwise be received by the local government under the city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177, as provided in subsection (3).

(d) The receipt of money derived from the imposition of taxes by this state, except to the extent that the use of the money for this purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for this purpose.

(3) If an authority issues bonds pursuant to this section to be paid from revenues from a contract entered into



pursuant to this section, the local government, in furtherance of its obligations under the contract, may by resolution or order pledge revenues to be received by the local government pursuant to the city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177, to bonds of the authority issued pursuant to the contract. If the local government pledges these revenues, all of the following apply:

- (a) Before the pledge and the contract become effective, the local government shall do all of the following:
  - (i) Enter into a trust agreement with the authority, the Michigan finance authority, and a trustee to provide for both of the following:
    - (A) Collection of pledged revenues by public utilities and resale customers.
    - (B) Direct payment of those pledged revenues to the trustee for the purposes provided in this act.
  - (ii) Levy the tax.
  - (iii) Send a notice to each public utility and resale customer collecting the tax to remit those collections to the trustee designated in the trust agreement, pursuant to the city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.
  - (iv) Take all other steps necessary and convenient to arrange for and ensure the orderly collection of the taxes.
- (b) After the pledge and contract become effective, the local government shall continue to do all of the following:
  - (i) Levy the tax at not lower than the rate at which the tax is levied when the contract becomes effective.
  - (ii) Take all other steps necessary and convenient to ensure orderly collection of the taxes.
  - (iii) Perform all of its other lawful obligations under the contract.
  - (c) The pledged revenues collected or to be collected by public utilities and resale customers shall be held in trust to be applied for the sole and exclusive benefit of authority bondholders to the extent and in the manner provided for by this act, the contract, and the trust agreement, and may not be commingled with any other funds.
  - (d) The pledged revenues are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the local government other than for payment of debt service on the authority bonds and related administrative costs to which the contract and trust agreement apply. The pledged revenues shall be exempt from any further taxes or special assessments of this state or a political subdivision of this state.
  - (e) Although the pledged revenues are held in trust, to the extent that the local government or authority retains any interest in the pledged revenues, and solely to that extent, the pledged revenues shall be subject to a lien in favor of the authority bondholders. This lien is paramount and superior to all other liens and interests of any kind, including any interest of the local government or the authority, and shall be for the sole purpose of ensuring payment of the principal, interest, and related administrative costs of authority bonds secured by the contract and the trust agreement. The lien created is effected and perfected without delivery, recording, or notice.
- (4) A trust agreement may provide that, should the trustee determine that it holds funds in excess of those it reasonably considers necessary to make bond payments obligated under the contract and trust agreement, the trustee may release some or all of the excess funds from the trust and distribute them to the local government.
- (5) The local government may not enter into a contract pledging revenues pursuant to subsection (3) that would result in outstanding bonds secured by those pledged revenues having an aggregate annual debt service that exceeds \$12,500,000.00 in any 1 year taking into account any anticipated federal credits as determined by the authority.
- (6) As used in this section:
  - (a) "Bonds" includes any ancillary facility or other financing instruments entered into by the authority if the facilities are permitted by the contract entered into between the local government and the authority.
  - (b) "Pledged revenues" means all money to be received by the local government pursuant to the city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177, to the extent pledged for repayment of authority bonds under the contract.
  - (c) "Public utilities" and "resale customers" mean those terms as defined in the city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1287 Property as public property; exemption from taxes.**

Sec. 27.

- (1) The property of an authority created under this act is public property devoted to an essential public and governmental purpose. Income of an authority is for a public and governmental purpose.
- (2) Except as otherwise provided in this subsection, the property of an authority created under this act and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political

subdivision of this state. Property of an authority and its income, activities, and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of an authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. An authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1289 Acquisition of property.**

Sec. 29.

An authority may acquire property for a lighting system by purchase, construction, lease, gift, or devise, either within or outside its corporate limits. The authority may hold, manage, control, sell, exchange, or lease the property, except that if the property at issue was purchased, constructed, gifted, devised, leased, or otherwise came into the authority's ownership or control from the local government, the authority may not sell, exchange, or otherwise dispose of the property unless the other party to the transaction is the local government that previously owned the property so that the property will return to the ownership of the local government that owned the property before the transfer to the authority.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1291 Advance or loan of money from local governing body to authority.**

Sec. 31.

The governing body of the local government comprising the authority may advance or loan to the authority any money required for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications, and cost estimates of a proposed lighting system. An advance or loan may be included as a part of any bond issue by the authority under this act and repaid to the local government upon the sale of the bonds.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1293 Powers in addition to charter or statute.**

Sec. 33.

The powers granted under this act are in addition to those granted by any charter or statute.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

### **123.1295 Construction of act.**

Sec. 35.

This act shall be liberally construed in the interest of the public health, safety, and welfare of the persons and property within an authority created under this act.

**History:** 2012, Act 392, Imd. Eff. Dec. 19, 2012

## MICHIGAN METROPOLITAN AREAS METROPOLITAN AUTHORITY ACT

### Act 407 of 2012

123.1311-123.1330 Repealed. 2014, Act 86, Eff. Aug. 22, 2014.

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

## LOCAL COMMUNITY STABILIZATION AUTHORITY ACT

### Act 86 of 2014

AN ACT to create a metropolitan authority; to prescribe the powers, duties, and jurisdictions of the metropolitan authority; to prescribe the powers and duties of certain state officials; to levy, collect, and distribute a tax; and to repeal acts and parts of acts.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

*The People of the State of Michigan enact:*

### 123.1341 Short title.

#### Sec. 1.

This act shall be known and may be cited as the "local community stabilization authority act".

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### 123.1343 Legislative findings; declarations; purpose of act.

#### Sec. 3.

(1) The legislature finds and declares all of the following:

(a) That there exists in this state a continuing need to strengthen and revitalize the economy of this state and to organize the activities of local government in metropolitan areas in a manner that reduces governmental barriers to economic growth, facilitates economic development, helps small businesses grow, preserves communities and strengthens neighborhoods, prevents or reduces unemployment, and creates jobs.

(b) That under section 27 of article VII of the state constitution of 1963, the legislature may establish in metropolitan areas additional forms of government or authorities with power, duties, and jurisdictions as the legislature shall provide.

(c) That it is necessary and appropriate for the promotion of the health, safety, and welfare of the people of this state to enable the formation of metropolitan governments designed to perform multipurpose functions.

(d) That the formation of a metropolitan government under this act and the powers conferred by this act constitute a necessary program and serve a necessary public purpose.

(2) The purpose of this act is to do all of the following:

(a) Establish an authority to perform multipurpose functions in the metropolitan areas of this state.

(b) Promote the public health, safety, welfare, convenience, and prosperity of this state and its metropolitan areas.

(c) Modernize the tax system to help small businesses grow and create jobs in this state.

(d) Dedicate revenue for local purposes, including, but not limited to, police safety, fire protection, and ambulance emergency services.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by

### 123.1345 Definitions.

#### Sec. 5.

As used in this act:

(a) "Acquisition cost" means that term as defined in section 3 of the state essential services assessment act, 2014 PA 92, MCL 211.1053, multiplied by the following percentages:

(i) For eligible personal property reported to the department and described in section 5(2)(a) of the state essential services assessment act, 2014 PA 92, MCL 211.1055, 100%.

(ii) For eligible personal property reported to the department and described in section 5(2)(b) of the state essential services assessment act, 2014 PA 92, MCL 211.1055, 52.1%.

(iii) For eligible personal property reported to the department and described in section 5(2)(c) of the state essential services assessment act, 2014 PA 92, MCL 211.1055, 37.5%.

(b) "Ambulance services" means patient transport services, nontransport prehospita1 life support services, and advanced life support, paramedic, and medical first-responder services.

(c) "Authority" means the local community stabilization authority, a metropolitan authority established under section 7.

(d) "Captured value" means 1 or more of the following:

(i) For a tax increment finance authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670, captured taxable value as determined in sections 2 and 7 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652 and 125.2657.

(ii) For a tax increment finance authority under part 2 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to 125.4230, captured assessed value as defined in section 201 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201.

(iii) For a tax increment finance authority under part 3 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4301 to 125.4329, captured assessed value as defined in section 301 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4301.

(iv) For a tax increment finance authority under part 4 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4401 to 125.4420, captured assessed value as defined in section 402 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4402.

(v) For a tax increment finance authority under part 6 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4602 to 125.4629, captured assessed value as defined in section 602 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4602.

(vi) For a tax increment finance authority under part 8 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4802 to 125.4821, captured assessed value as defined in section 802 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4802.

(vii) For a tax increment finance authority under part 7 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4702 to 125.4722, captured assessed value as defined in section 702 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4702.

(viii) For a tax increment finance authority under part 5 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4503 to 125.4527, captured assessed value as defined in section 523 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4523.

(e) "Commercial personal property" means, except as otherwise provided in subparagraph (iii), all of the following:

(i) Personal property classified as commercial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Personal property subject to the industrial facilities tax under section 14(1) or (4) of 1974 PA 198, MCL 207.564, that is sited on land classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(iii) Commercial personal property does not include personal property that after 2012 was classified in the municipality where it is currently located as real property or utility personal property.

(f) "Council" means the council established for the authority under section 9.

(g) "Debt loss" means, for a municipality that is not a local school district, intermediate school district, or tax increment finance authority, the amount of ad valorem property taxes and any specific tax levied for the payment of principal and interest of obligations either approved by the voters before January 1, 2013 or incurred before January 1, 2013 pledging the unlimited or limited taxing power of the municipality that are lost as a result of the exemption



of industrial personal property and commercial personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o.

(h) "Department" means the department of treasury.

(i) "Eligible personal property" means personal property described in section 3(e)(i), (iii), and (iv) of the state essential services assessment act, 2014 PA 92, MCL 211.1053.

(j) "Essential services" means all of the following:

(i) Ambulance services.

(ii) Fire services.

(iii) Police services.

(iv) Jail operations.

(v) The funding of pensions for personnel providing services described in subparagraphs (i) to (iv).

(k) "Fire services" means services in the prevention and suppression of fire, homeland security response, hazardous materials response, rescue, fire marshal, and medical first-responder services.

(l) "Fiscal year" means either an annual period that begins on October 1 and ends on September 30 or the fiscal year for the authority established by the council.

(m) "Increased captured value" means the anticipated increase in captured value for all industrial personal property and commercial personal property in a tax increment finance authority that would have occurred as a result of either the addition of personal property as part of a specific project or the expiration of an exemption under section 7k, 7ff, or 9f of the general property tax act, 1893 PA 206, MCL 211.7k, 211.7ff, and 211.9f, after 2013 if the exemptions under section 9m, 9n, or 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, were not in effect. For calculations made under section 16a prior to calendar year 2018, in order for an anticipated increase in captured value to qualify as increased captured value, the tax increment financing plan must have demonstrated before 2013 that the tax increment finance authority was relying on this anticipated increase in captured value to pay 1 or more qualified obligations by specifically projecting the anticipated increase in captured value that would be used to pay the qualified obligations and the plan must meet all of the requirements in subdivisions (i) through (vii). For calculations made under section 16a in calendar year 2018 and after, in order for an anticipated increase in captured value related to the expiration of an exemption under section 7k, 7ff, or 9f of the general property tax act, 1893 PA 206, MCL 211.7k, 211.7ff, and 211.9f, after 2013 if the exemptions under section 9m, 9n, or 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, were not in effect, to qualify as increased captured value, the tax increment finance authority or the municipality in which the authority is located must have documentation demonstrating that before or during 2013 the tax increment finance authority was relying on this increase in captured value to pay 1 or more qualified obligations. For calculations made under section 16a in calendar year 2018 and after, in order for an anticipated increase in captured value related to the addition of personal property as part of a specific project to qualify as increased captured value, the tax increment financing plan must have demonstrated before 2013 that the tax increment finance authority was relying on this increase in captured value to pay 1 or more qualified obligations by specifically projecting the anticipated increase in captured value that would be used to pay the qualified obligations and the plan must meet all of the following:

(i) The tax increment financing plan was fully approved by the governing body of the applicable local government not later than December 31, 2012. This does not prevent subsequent amendment to the tax increment financing plan, provided the amendment does not change the amount of any obligation under the plan, the scope of the project or projects described in the plan, or the time needed to repay any obligation.

(ii) If the tax increment financing plan is part of a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670, any needed work plans were also approved by the appropriate state agencies not later than December 31, 2012. This does not prevent subsequent amendment to a work plan, provided the amendment does not change the amount of any obligation under the plan, the scope of the project or projects described in the plan, or the time needed to repay any obligation.

(iii) The tax increment financing plan identifies a particular site owner and site occupant that is engaged in industrial processing or direct integrated support, as defined in section 9m of the general property tax act, 1893 PA 206, MCL 211.9m. This does not preclude a change in the site owner or occupant, provided that change in the site owner or occupant did not result from a financial difficulty encountered during the construction and installation of the project and provided change in the site owner or occupant will not result in any change in the project.

(iv) The tax increment financing plan identifies a particular project on a specific parcel and that project includes the addition of particular personal property that is eligible manufacturing personal property, as defined in section 9m of the general property tax act, 1893 PA 206, MCL 211.9m, that is also identified in the tax increment financing plan.

(v) The personal property that is eligible manufacturing personal property, as defined in section 9m of the general property tax act, 1893 PA 206, MCL 211.9m, and is identified in the tax increment financing plan comprises not less than 20% of the true cash value of the improvements to be made as part of the specific project identified in the tax increment financing plan.

(vi) Before December 31, 2012, the specific project identified in the tax increment financing plan had obtained all

necessary local zoning approvals, including any necessary rezoning, special land use, and site plan approvals for that project.

(vii) Before December 31, 2012, orders had been placed and significant investments made in the personal property that is eligible manufacturing personal property, as defined in section 9m of the general property tax act, 1893 PA 206, MCL 211.9m, to be located on the site.

(n) "Increased value from expired tax exemptions" means the increase in taxable value subject to tax of industrial personal property and commercial personal property placed in service before 2013 that would have occurred after 2013 if the exemptions under section 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, were not in effect as a result of the expiration of an exemption under section 7k, 7ff, or 9f of the general property tax act, 1893 PA 206, MCL 211.7k, 211.7ff, and 211.9f, that had been in effect in 2013, assuming an exemption under section 7k of the general property tax act, 1893 PA 206, MCL 211.7k, was not extended under section 11a of 1974 PA 198, MCL 207.561a, and an exemption under section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, was not extended under section 9f(8) of the general property tax act, 1893 PA 206, MCL 211.9f.

(o) "Industrial personal property" means, except as otherwise provided in subparagraph (iii), all of the following:

(i) Personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Personal property subject to the industrial facilities tax under section 14(1) or (4) of 1974 PA 198, MCL 207.564, that is sited on land classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(iii) Industrial personal property does not include personal property that after 2012 was classified in the municipality where it is currently located as real property or utility personal property.

(p) "Jail operations" means all of the following:

(i) The operation of a jail, holding cell, holding center, or lockup as those terms are defined in section 62 of the corrections code of 1953, 1953 PA 232, MCL 791.262.

(ii) The operation of a juvenile detention facility by a county juvenile agency as authorized under section 7 of the county juvenile agency act, 1998 PA 518, MCL 45.627.

(q) "Local authority" means any authority, excluding an authority created under this act or a tax increment finance authority.

(r) "Local community stabilization share" means that portion of the use tax levied by the authority and authorized under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(s) "Municipality" includes, but is not limited to, the following:

(i) Counties.

(ii) Cities.

(iii) Villages.

(iv) Townships.

(v) Local authorities.

(vi) Local school districts.

(vii) Intermediate school districts.

(viii) Community college districts.

(ix) Libraries.

(x) Tax increment finance authorities.

(xi) Other local and intergovernmental taxing units.

(t) "Personal property exemption loss" means 1 of the following:

(i) For a municipality that is not a local school district, intermediate school district, or tax increment finance authority, the 2013 taxable value of commercial personal property and industrial personal property minus the current year taxable value of commercial personal property and industrial personal property and minus the small taxpayer exemption loss if, for years after 2017, the small taxpayer exemption loss is greater than zero. For calendar years 2016 and 2017, the 2013 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in 2016 and 2017, respectively, except as provided in section 14. Beginning for calendar year 2018, the 2013 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015. The calculation under this subparagraph must be modified for municipality boundary changes to the extent that the boundary changes affect the property taxes levied by the municipality. For millages from which renaissance zone property is exempt, the calculation under this subparagraph must be adjusted to exclude the taxable values of commercial personal property and industrial personal property exempt under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(ii) For a municipality that is a local school district, intermediate school district, or tax increment finance authority, the 2013 taxable value of commercial personal property and industrial personal property minus the current year taxable value of commercial personal property and industrial personal property. For calendar years 2016 and 2017, the 2013 taxable values of commercial personal property and industrial personal property are the

values reported under section 13(3) by the county equalization director in 2016 and 2017, respectively, except as provided in sections 15, 16, and 16a. Beginning for calendar year 2018, the 2013 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015. The calculation under this subparagraph must be modified for municipality boundary changes to the extent that the boundary changes affect the property taxes levied by the municipality. For millages from which renaissance zone property is exempt, the calculation under this subparagraph must be adjusted to exclude the taxable values of commercial personal property and industrial personal property exempt under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(u) "Police services" means law enforcement services for the prevention and detection of crime, the enforcement of laws and ordinances, homeland security response, and medical first-responder services.

(v) "Qualified loss" means the amounts calculated under section 14(1) that are not distributed to the municipality under section 17(4)(a). The qualified loss cannot be less than zero.

(w) "Qualified obligation" means a written promise to pay by a tax increment finance authority, whether evidenced by a contract, agreement, lease, sublease, bond, resolution promising repayment of an advance, or note, or a requirement to pay imposed by law. A qualified obligation does not include a payment required solely because of default upon an obligation, employee salary, or consideration paid for the use of municipal offices. A qualified obligation does not include bonds that have been economically defeased by refunding.

(x) "Qualified school debt millage rate" means the following:

(i) For calendar years before calendar year 2018, the millage rate specifically levied by the local school district or intermediate school district in the current year for the payment of principal and interest of obligations approved by the electors before January 1, 2013 or obligations pledging the unlimited taxing power of a local school district or intermediate school district incurred before January 1, 2013.

(ii) For calendar years 2018 and 2019, and for calendar years after 2020, either the millage rate described in sub-subparagraph (A), if a local school district or intermediate school district has elected to use the millage rate described in sub-subparagraph (A) and subparagraph (iii)(A) in the current year and all prior years after 2017 and has reported the millage rate described in sub-subparagraph (A) and subparagraph (iii)(A) to the department under section 13(4) in the current year and all prior years after 2017, or the total of all debt millage rates prescribed in sub-subparagraph (B), if the local school district or intermediate school district has not elected to use the millage rate described in sub-subparagraph (A) and subparagraph (iii)(A) in the current year and all prior years after 2017 or has not reported the millage rate described in sub-subparagraph (A) and subparagraph (iii)(A) to the department under section 13(4) in the current year and all prior years after 2017:

(A) The millage rate specifically levied by the local school district or intermediate school district in the current year for the payment of principal and interest of obligations approved by the electors before January 1, 2015 or obligations pledging the unlimited taxing power of a local school district or intermediate school district incurred before January 1, 2015.

(B) The lesser of the following:

(I) The highest total of all debt millage rates levied by the local school district or intermediate school district in a single year for the period 2012 through 2014.

(II) The total of all debt millage rates levied by the local school district or intermediate school district in the year immediately preceding the current calendar year.

(iii) For calendar year 2020 only, either the millage rate described in sub-subparagraph (A), if a local school district or intermediate school district has elected to use the millage rate described in subparagraph (ii)(A) in calendar years 2018 and 2019 and has elected to use the millage rate described in sub-subparagraph (A) in the current year and has reported under subparagraph (ii)(A) to the department under section 13(4) in calendar years 2018 and 2019 and has reported under sub-subparagraph (A) to the department under section 13(4) in the current year, or the total of all debt millage rates described in sub-subparagraph (B), if the local school district or intermediate school district has not elected to use the millage rate described in subparagraph (ii)(A) in calendar years 2018 and 2019 or has not elected to use the millage rate described in sub-subparagraph (A) in the current year or has not reported under subparagraph (ii)(A) to the department under section 13(4) in calendar years 2018 and 2019 or has not reported under sub-subparagraph (A) to the department under section 13(4) in the current year:

(A) The millage rate specifically levied by the local school district or intermediate school district in the current year for the payment of principal and interest of obligations approved by the electors before January 1, 2013 or obligations pledging the unlimited taxing power of a local school district or intermediate school district incurred before January 1, 2013.

(B) The lesser of the following:

(I) The highest total of all debt millage rates levied by the local school district or intermediate school district in a single year for the period 2012 through 2014.

(II) The total of all debt millage rates levied by the local school district or intermediate school district in the year immediately preceding the current calendar year.

(y) "School operating loss not reimbursed by the school aid fund" means the amount of revenue lost from ad



valorem property taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as a result of the exemption of industrial personal property and commercial personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, for mills other than basic school operating mills, as that term is defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c.

(z) "Small taxpayer exemption loss" means 1 of the following:

(i) For a municipality, the 2013 taxable value of commercial personal property and industrial personal property minus the 2014 taxable value of commercial personal property and industrial personal property. For the 2014 calendar year, the 2013 and 2014 taxable values of commercial personal property and industrial personal property are the values reported under section 13(2) by the county equalization director in calendar year 2014. For the 2015, 2016, and 2018 calendar years and subsequent calendar years, the 2013 and 2014 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015. For the 2017 calendar year, the 2013 and 2014 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015, except as provided in section 14. The calculation under this subparagraph must be modified for municipality boundary changes to the extent that the boundary changes affect the property taxes levied by the municipality. For millages from which renaissance zone property is exempt, the calculation under this subparagraph must be adjusted to exclude the taxable value of commercial personal property and industrial personal property exempt under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(ii) For the 2015 calendar year and subsequent calendar years, for a municipality, the greater of the amount calculated under subparagraph (i) and the 2013 taxable value of commercial personal property and industrial personal property minus the 2015 taxable value of commercial personal property and industrial personal property. For the 2015, 2016, and 2018 calendar years and subsequent calendar years, the 2013 and 2015 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015. For the 2017 calendar year, the 2013 and 2015 taxable values of commercial personal property and industrial personal property are the values reported under section 13(3) by the county equalization director in calendar year 2015, except as provided in section 14. The calculation under this subparagraph must be modified for municipality boundary changes to the extent that the boundary changes affect the property taxes levied by the municipality. For millages from which renaissance zone property is exempt, the calculation under this subparagraph must be adjusted to exclude the taxable value of commercial personal property and industrial personal property exempt under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(aa) "Specific tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(bb) "Tax increment finance authority" means an authority created under 1 or both of the following:

(i) The brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

(ii) The recodified tax increment financing act, 2018 PA 57, MCL 125.4101 to 125.4915.

(cc) "Tax increment small taxpayer loss" means the amount of revenue lost by a municipality that is a tax increment finance authority due to the exemption provided by section 9o of the general property tax act, 1893 PA 206, MCL 211.9o.

(dd) "Taxable value" means all of the following:

(i) Except as otherwise provided in subparagraph (ii), that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(ii) For real or personal property subject to the industrial facilities tax under section 14(3) or (4) of 1974 PA 198, MCL 207.564, 50% of that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(ee) "Total qualified loss" means the total amount of qualified losses of all municipalities, as determined by the department.

(ff) "Utility personal property" means that term as described in section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2020, Act 194, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR

DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ] Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

**123.1347 Local community stabilization authority; establishment; public body corporate and special authority; property of authority as public property; exemption from taxes and special assessments; presumption of validity; jurisdiction.**

Sec. 7.

(1) The local community stabilization authority is established as a metropolitan government for the metropolitan areas of this state under section 27 of article VII of the state constitution of 1963. The authority is a public body corporate and a special authority. The authority is not an agency or instrumentality of state government.

(2) The property of the authority is public property devoted to an essential public and governmental purpose. Any income of the authority is for a public and governmental purpose.

(3) Property of the authority and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of the authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. The authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

(4) The validity of the creation of the authority is presumed unless held invalid by the court of appeals in an original action filed in the court of appeals not later than 60 days after the establishment of the authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ] Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

**123.1349 Authority council; establishment as governing body; membership; appointment; terms; vacancy; chairperson; oath of office; compensation; reimbursement for travel and expenses; discharge of duties; meeting; election of officers; conduct of business at public meeting; special meeting; availability of records to public; system of accounts; annual audit; budget; procurement policy; members as public servants; ethics manual; conflict of interest; removal from office.**

Sec. 9.

(1) The authority council is established as the governing body of the authority. The powers, duties, functions, and responsibilities of the authority are vested in the council. The council shall consist of 5 residents of this state appointed by the governor. Not less than 3 members of the council shall be residents of separate metropolitan areas within this state. An officer or employee of this state may not serve as a member of the council.

(2) Of the members of the council initially appointed by the governor, 1 member shall be appointed for an initial term of 5 years, 1 member shall be appointed for an initial term of 4 years, 1 member shall be appointed for an initial term of 3 years, 1 member shall be appointed for an initial term of 2 years, and 1 member shall be appointed for an initial term of 1 year. After the initial appointments, a member of the council shall be appointed for a term of 6 years. If a vacancy on the council occurs other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the council may continue to serve until a successor is appointed and qualified. The governor shall designate a member of the council to serve as its chairperson at the pleasure of the governor.

(3) An individual appointed as a member of the council shall take the oath of office as provided under section 1 of article XI of the state constitution of 1963.

(4) A member of the council shall serve without compensation but may be reimbursed by the authority for necessary travel and expenses to the extent not prohibited by law and consistent with a reimbursement policy adopted by the council.

(5) A member of the council shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the council, when acting in good faith, may rely upon any of the following:

(a) The opinion of legal counsel for the authority.

(b) The report of an independent appraiser selected by the council.

(c) Financial statements of the authority represented to the member of the council to be correct by the officer of the authority having charge of its books of account or stated in a written report by an auditor or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(6) Within not more than 30 days following appointment of the initial members of the council, the council shall hold its first meeting at a date and time determined by the chairperson of the council. The council shall elect from among the members of the council an individual to serve as vice-chairperson of the council and secretary of the council and may elect other officers as the council considers necessary. All officers under this subsection shall be elected annually by the council.

(7) The council shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the council may be called by the chairperson of the council or as provided in bylaws adopted by the council. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) The council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The council shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of the authority. The council shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards.

(10) Before the beginning of each fiscal year, the council shall prepare a budget for the authority containing an itemized statement of the estimated expenses and revenue of the authority from all sources for the next fiscal year. Before final adoption of the budget, the council shall hold a public hearing as required by 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt a budget for the fiscal year in compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(11) The council shall adopt a procurement policy consistent with the requirements of state law relating to procurement. The procurement policy shall address all of the following:

(a) The purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority.

(b) That the council shall make all discretionary decisions concerning the solicitation, award, amendment,

cancellation, and appeal of authority contracts.

(c) Control, supervision, management, and oversight of each contract to which the authority is a party.

(d) Monitoring of contracts to assure the contract is being performed in compliance with the terms of the contract and applicable law.

(12) Members of the council are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The council shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The council shall require that a member of the council with a direct interest in any matter before the authority disclose the member's interest before the council takes any action with respect to the matter. The council shall establish an ethics manual for the authority governing authority business and the conduct of authority officers and employees. The authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving officers or employees of the authority. At a minimum, the policies shall include compliance by each officer or employee who regularly exercises significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.

(b) Withdrawal by an officer or employee from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that officer or employee.

(13) The governor may remove a member of the council from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1351 Powers, duties, functions, and responsibilities of authority.**

Sec. 11.

(1) The authority may exercise all of the following powers, duties, functions, and responsibilities:

(a) Powers, duties, functions, and responsibilities vested in the authority under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(b) Exercise the powers, duties, functions, and responsibilities vested in the authority or the metropolitan extension telecommunications rights-of-way oversight authority under this act or the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120, and other laws of this state. The authority may exercise the powers, duties, functions, and responsibilities under this subdivision through a director hired by the authority.

(2) When exercising the powers, duties, functions, and responsibilities vested in the authority under subsection (1), the authority may do 1 or more of the following:

(a) Establish and maintain an office.

(b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(c) Sue and be sued in its own name and plead and be impleaded.

- (d) Solicit, receive, and accept gifts or grants from any public or private source.
  - (e) Employ personnel, contract for goods and services, and enter into agreements with other governmental entities.
  - (f) Establish 1 or more depositories for authority money and invest authority money under an investment policy consistent with this act and 1943 PA 20, MCL 129.91 to 129.97a.
  - (g) Acquire, hold, and dispose of interests in property.
  - (h) Incur indebtedness, but only in the manner and to the extent authorized by law.
- (3) The powers, duties, functions, and responsibilities of the authority may be exercised throughout this state, including all the metropolitan areas of this state. The authority possesses the jurisdiction to exercise its functions on a statewide basis and may do other things and take other action necessary or convenient to the exercise of the powers, duties, functions, and responsibilities of the authority under this section if they relate to the purposes and jurisdiction of the authority.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1352 Local community stabilization share; power of authority to levy; limitation; receipt and collection by department; generated money as money of authority.**

Sec. 12.

(1) The authority has the exclusive power to levy the local community stabilization share under the use tax act, 1937 PA 94, MCL 205.91 to 205.111. The authority is authorized to levy the local community stabilization share under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and shall levy the local community stabilization share at the rate provided under section 3 of the use tax act, 1937 PA 94, MCL 205.93, but is not authorized to increase the rate of the local community stabilization share. The authority is not authorized to increase any other tax.

(2) The department shall administer under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, the receipt and collection of the local community stabilization share on behalf of the authority as an agent of the authority. The authority may enter into an agreement with the department relating to the receipt and collection of the local community stabilization share and the payment of the authority revenue generated by the local community stabilization share to the authority.

(3) Money generated by the local community stabilization share is money of the authority, not state funds, and shall not be credited to the state treasury as state funds.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The



amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

**123.1353 Report by city and township assessor to county equalization director; report by county equalization director to department; compilation of municipality's information; calculation of millage rate and debt loss or school debt loss; report of increased value from expired tax exemptions; exclusion of enhancement millage; report of millage for essential services.**

Sec. 13.

(1) Not later than June 5, 2014, the assessor for each city and township shall report to the county equalization director all of the following:

(a) The 2013 taxable value of commercial personal property and industrial personal property for each municipality in the city or township.

(b) The 2014 taxable value of commercial personal property and industrial personal property for each municipality in the city or township.

(c) The small taxpayer exemption loss for each municipality in the city or township.

(2) Not later than June 20, 2014, the equalization director for each county shall report to the department the information described in subsection (1) for each municipality in the county. For each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable value under section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, shall compile the municipality's information described in subsection (1).

(3) Not later than June 5, 2015, June 5, 2016, June 5, 2017, and each May 15 thereafter, the assessor for each city and township shall report to the county equalization director the current year taxable value of commercial personal property and industrial personal property for each municipality in the city or township. Not later than June 20, 2015, the equalization director for each county shall report to the department the 2013, 2014, and 2015 taxable values of commercial personal property and industrial personal property for each municipality in the county. Not later than June 20, 2016, the equalization director for each county shall report to the department the 2013 and 2016 taxable values of commercial personal property and industrial personal property for each municipality in the county. Not later than June 20, 2017, the equalization director for each county shall report to the department the 2013 and 2017 taxable values of commercial personal property and industrial personal property for each municipality in the county. Each May 31 thereafter, the equalization director for each county shall report to the department the current year taxable value of commercial personal property and industrial personal property for each municipality in the county. For calendar years 2015 through 2017, the 2013, 2014, and current year taxable values of commercial personal property and industrial personal property shall be the current taxable values as of the reporting deadline for the county equalization director. For calendar year 2018 and thereafter, the current year taxable value of commercial personal property and industrial personal property shall be the current taxable value on May 10. Not later than June 20, 2015, for each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable value under section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, shall compile and report to the department the municipality's 2013, 2014, and 2015 taxable values of commercial personal property and industrial personal property. Not later than June 20, 2016, for each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable values under section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, shall compile and report to the department the municipality's 2013 and 2016 taxable values of commercial personal property and industrial personal property. Not later than June 20, 2017, for each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable values under section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, shall compile and report to the department the municipality's 2013 and 2017 taxable values of commercial personal property and industrial personal property. Each June 7 thereafter, for each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable value under section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, shall compile and report to the department the municipality's current year taxable value of commercial personal property and industrial personal property.

(4) Not later than August 15, 2014, August 15, 2015, August 15, 2016, and August 15, 2017, each municipality shall report to the department the millage rate levied or to be levied that year for a millage described in section 5(g)

or (x) that is used to calculate an appropriation under section 17(1)(a) or a distribution under section 17(4)(a)(i). For 2014 and 2015, the rate of that millage shall be calculated using the sum of the municipality's taxable value and the municipality's small taxpayer exemption loss. For 2016 and 2017, the rate of that millage shall be calculated using the sum of the municipality's taxable value and the municipality's personal property exemption loss. For calendar year 2018 and subsequent years, a local school district and intermediate school district shall reduce its debt millage rate to reflect the payment to be received under section 17(4)(a)(i). By August 1, 2018 and by each August 1 thereafter, a local school district and intermediate school district may report its millage rate calculated under section 5(x)(ii)(A) or (iii)(A) and a local school district shall report the operating mills levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, on industrial personal property as that term is defined in section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, levied or to be levied that year. For 2014 and 2015, the department shall calculate each municipality's debt loss or school debt loss by multiplying the municipality's millage rate reported under this subsection by the municipality's small taxpayer exemption loss. For 2016 and 2017, the department shall calculate each municipality's school debt loss by multiplying the municipality's millage rate reported under this subsection by the municipality's personal property exemption loss. For calendar year 2018 and subsequent years, the department shall calculate the municipality's school debt loss by multiplying the municipality's qualified school debt millage rate by the municipality's personal property exemption loss.

(5) Not later than May 1 of each year, the department shall do the following:

(a) For the 2014, 2015, 2016, and 2017 calendar years' calculations, calculate and make available to each municipality that municipality's sum of the lowest rate of each individual millage levied in the period between 2012 and the year immediately preceding the current year. For a municipality, other than a municipality described in section 14, the calculation shall exclude debt millage and millage levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, on industrial personal property as that term is defined in section 1211 of the revised school code, 1976 PA 451, MCL 380.1211. For an individual millage rate not levied in 1 of the years, the lowest millage rate is zero. A millage used to make the calculations under this act must be levied against both real property and personal property.

(b) For the calendar year 2018 and subsequent years' calculations, for a municipality that is not a local school district or tax increment finance authority:

(i) Calculate each municipality's total millage levied in 2012, 2013, and 2014, respectively.

(ii) Calculate each municipality's eligible millage cap as the highest total millage levied in 2012, 2013, or 2014.

(iii) Calculate each municipality's total millage levied in the year immediately preceding the current year.

(iv) Calculate each individual millage rate for each municipality as follows:

(A) If the eligible millage cap, as calculated under subparagraph (ii), exceeds the total millage levied in the year immediately preceding the current year, as calculated under subparagraph (iii), then use each individual millage levied in the year immediately preceding the current year.

(B) If the total millage levied in the year immediately preceding the current year, as calculated under subparagraph (iii), exceeds the eligible millage cap, as calculated under subparagraph (ii), then prorate each individual millage levied in the year immediately preceding the current year downward to equal the eligible millage cap, as calculated under subparagraph (ii).

(v) For an intermediate school district, the calculations in this subdivision shall exclude debt millage and, for calendar year 2021 and subsequent years, the calculations in this subdivision shall exclude enhancement millage. A millage used to make the calculations under this act must be levied against both real property and personal property.

(c) For the calendar year 2018 and subsequent years' calculations, for a local school district:

(i) Calculate each individual millage rate levied by each local school district in 2012, 2013, and 2014, respectively.

(ii) Calculate each local school district's eligible millage cap as the highest rate levied in 2012, 2013, or 2014 for each individual millage.

(iii) Calculate each individual millage rate for each local school district to be the lesser of the millage cap calculated under subparagraph (ii) and the millage rate levied in the year immediately preceding the current year for that individual millage.

(iv) The calculations in this subdivision shall exclude debt millage and operating mills levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, on industrial personal property as that term is defined in section 1211 of the revised school code, 1976 PA 451, MCL 380.1211. A millage used to make the calculations under this act must be levied against both real property and personal property.

(d) For the calendar year 2021 and subsequent years' calculations, for enhancement millage levied by an intermediate school district:

(i) Calculate the individual enhancement millage rate levied by each intermediate school district in 2012, 2013, and 2014, respectively.

(ii) Calculate each intermediate school district's eligible millage cap as the highest rate levied in 2012, 2013, or 2014 for enhancement millage.

(iii) Calculate the individual enhancement millage rate for each intermediate school district to be the lesser of the

millage cap calculated under subparagraph (ii) and the millage rate levied in the year immediately preceding the current year for the individual enhancement millage.

(iv) A millage used to make the calculations under this act must be levied against both real property and personal property.

(6) Not later than June 5, 2016, June 5, 2017, June 5, 2018, May 31, 2019, and May 31, 2020, the assessor for each city and township shall report to the department and the county equalization director the increased value from expired tax exemptions for each municipality that is subject to section 14(2) and that levies taxes in the city or township.

(7) For a millage that is not general operating millage and that is dedicated in part, but not solely, for the cost of essential services, a county, township, village, city, or local authority shall annually report the portion of the rate calculated for that millage under subsection (5) that is dedicated for the cost of essential services. This report shall be submitted to the department, in a form and manner prescribed by the department, by August 1, 2018, and by each August 1 thereafter. If the county, township, village, city, or local authority fails to report to the department by August 1, the department shall determine that the millage is dedicated solely for the cost of essential services.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2020, Act 194, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1354 Municipality not local school district, intermediate school district, or tax increment finance authority; municipality that is county, township, village, city, or authority providing essential services; duties of department.**

#### **Sec. 14.**

(1) Not later than November 7, 2017, and each October 7 thereafter, for each municipality that is not a local school district, intermediate school district, or tax increment finance authority, the department shall do all of the following:

(a) Calculate the municipality's personal property exemption loss.

(b) Multiply the municipality's personal property exemption loss by the millage rates calculated under section 13(5).

(c) For calendar year 2017 calculations only, adjust the amount calculated under subdivision (b) by the amount required to reflect changes in prior year taxable values that affect any prior year calculation under this subsection and that can be calculated from taxable values reported under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(d) Subtract from the amount calculated under subdivision (b), as adjusted by subdivision (c), the amount calculated under section 16a(2) for captured taxes levied by the municipality not including taxes attributable to increased captured value.

(2) Not later than November 7, 2017, and each October 7 thereafter, for each municipality that is a county, township, village, city, or local authority that provides essential services, the department shall do all of the following:

(a) For calendar year 2016, 2017, 2018, 2019, and 2020 calculations only, add to the amount calculated under



subsection (1)(a) any increased value from expired tax exemptions for the current year.

(b) Multiply the millage rate calculated under section 13(5) for general operating millage by the percentage of the municipality's general operating millage used to fund the cost of essential services in the municipality's fiscal year ending in 2012. The department shall calculate each municipality's percentage of general operating millage used to fund the cost of essential services in the municipality's fiscal year ending in 2012, unless the municipality includes the calculation in its comprehensive annual financial report for the municipality's fiscal year ending in either 2014 or 2015 or otherwise reports the calculation to the department in a form and in a manner prescribed by the department.

(c) Multiply the result of the calculation in subdivision (a) by the result of the calculation in subdivision (b).

(d) Multiply the amount calculated under section 16a(2) for captured taxes from the general operating millage levied by the municipality not including taxes attributable to increased captured value by the percentage of the municipality's general operating millage used to fund the cost of essential services in the municipality's fiscal year ending in 2012 and subtract the resulting amount from the amount calculated under subdivision (c).

(e) Add to the result of the calculation in subdivision (d) an amount calculated by multiplying the millage rate calculated under section 13(5) for each millage that is not general operating millage and that is dedicated in whole or in part for the cost of essential services by 1 or by the portion reported for that millage under section 13(7), as applicable, multiplying the resulting product for each millage by the amount calculated under subdivision (a), and adding the results. A millage levied to fund a pension under the fire fighters and police officers retirement act, 1937 PA 345, MCL 38.551 to 38.562, is dedicated for the cost of essential services.

(f) Subtract from the result of the calculation in subdivision (e) the amount calculated under section 16a(2) for captured taxes from the portion of millage dedicated for the cost of essential services levied by the municipality not including taxes attributable to increased captured value.

(3) Not later than May 24, 2016, for each municipality that is a city, the department shall do all of the following:

(a) Calculate the municipality's 2014 and 2015 small taxpayer exemption loss.

(b) Multiply the 2014 small taxpayer exemption loss if greater than zero by the millage rates calculated under section 13(5) for 2014, excluding debt millage.

(c) Multiply the 2015 small taxpayer exemption loss if greater than zero by the millage rates calculated under section 13(5) for 2015, excluding debt millage.

(d) Add the amounts calculated under subdivisions (b) and (c).

(e) Calculate the sum of the municipality's debt loss for 2014 and 2015 reimbursed under section 17(1)(a) for millages used to calculate the amounts under subdivisions (b) and (c).

(f) Calculate the amount of any tax increment small taxpayer loss for captured taxes levied by the municipality in 2014 and 2015 for millages used to calculate the amounts under subdivisions (b) and (c).

(4) Not later than November 7, 2017, and each October 7 thereafter, for each municipality that is not a local school district, intermediate school district, or tax increment finance authority, the department shall do all of the following:

(a) Calculate the municipality's 2015 small taxpayer exemption loss.

(b) Multiply the municipality's 2015 small taxpayer exemption loss by the millage rates calculated under section 13(5).

(c) For calendar year 2017 calculations only, adjust the amount calculated under subdivision (b) by the amount required to reflect changes in prior year taxable values that affect any prior year calculation under this subsection and that can be calculated from taxable values reported under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(d) Subtract from the amount calculated under subdivision (b), as adjusted by subdivision (c), the amount calculated under section 16a(2) for captured taxes levied by the municipality not including taxes attributable to increased captured value. The subtraction under this subdivision shall only be made to the extent that the subtraction made under subsection (1)(d) did not fully account for all captured taxes levied by the municipality not including taxes attributable to increased captured value.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015 ;-- Am. 2016, Act 124, Imd. Eff. May 19, 2016 ;-- Am. 2017, Act 102, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2020, Act 194, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax

for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1355 Municipality that is local school district; duties of department.**

#### **Sec. 15.**

Not later than November 7, 2017, and each October 7 thereafter, for each municipality that is a local school district, the department shall do all of the following:

(a) Calculate the municipality's personal property exemption loss.

(b) Multiply the result of the calculation in subdivision (a) by the individual millage levied under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, and section 2 of 1917 PA 156, MCL 123.52, as calculated under section 13(5).

(c) For calendar year 2017 calculations only, adjust the amount calculated under subdivision (b) by the amount required to reflect changes in prior year taxable values that affect any prior year calculation under this section and that can be calculated from taxable values reported under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(d) Subtract from the result of the calculation in subdivision (b), as adjusted by subdivision (c), the amount calculated under section 16a(2) for captured taxes levied by the municipality under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, and section 2 of 1917 PA 156, MCL 123.52, not including taxes attributable to increased captured value.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2017, Act 102, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]" Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1356 Municipality that is intermediate school district; duties of department.**

#### **Sec. 16.**

Not later than November 7, 2017, and each October 7 thereafter, for each municipality that is an intermediate school district, the department shall do all of the following:

(a) Calculate the municipality's personal property exemption loss.

(b) Multiply the result of the calculation in subdivision (a) by the millage rates calculated under section 13(5).

(c) For calendar year 2017 calculations only, adjust the amount calculated under subdivision (b) by the amount required to reflect changes in prior year taxable values that affect any prior year calculation under this section and that can be calculated from taxable values reported under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(d) Subtract from the result of the calculation in subdivision (b), as adjusted by subdivision (c), the amount

calculated under section 16a(2) for captured taxes levied by that municipality not including taxes attributable to increased captured value.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2017, Act 102, Imd. Eff. July 13 2017 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1356a Municipality that is tax increment finance authority; calculation of municipality's tax increment small taxpayer loss; duties of municipality; report.**

Sec. 16a.

(1) Not later than June 15, 2014 and June 15, 2015, each municipality that is a tax increment finance authority shall calculate and report to the department the municipality's tax increment small taxpayer loss for the current calendar year.

(2) Not later than June 15, 2016, and each June 15 thereafter, each municipality that is a tax increment finance authority shall do all of the following for each of its tax increment financing plans:

(a) Calculate separately for each category of property the captured value of all industrial personal property and commercial personal property in the municipality that is a tax increment finance authority in 2013 and add any increased captured value for the current year.

(b) For the 2016, 2017, 2018, 2019, and 2020 calendar years' calculations, from each amount calculated in subdivision (a), subtract the captured value of all industrial personal property and commercial personal property in the municipality that is a tax increment finance authority in the current year for that category of property and multiply the resulting amount by each individual millage rate calculated under section 13(5), to the extent the millage is subject to capture by that tax increment finance authority for that category of property. For the calendar year 2021 and subsequent years' calculations, from each amount calculated in subdivision (a), subtract the captured value of all industrial personal property and commercial personal property in the municipality that is a tax increment finance authority in the current year for that category of property and multiply the resulting amount by each individual millage rate calculated under section 13(4) and (5) and the state education tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to the extent the millage is subject to capture by that tax increment finance authority for that category of property.

(c) Add all of the amounts calculated under subdivision (b). If the estimated amount of tax increment revenue for the current year for all property in the municipality that is a tax increment finance authority is negative, the sum of the subdivision (b) amounts calculated under this subdivision shall be reduced by that negative amount.

(d) For calendar year 2017 calculations only, adjust the amount calculated under subdivision (c) by the amount required to reflect changes in prior year taxable values that affect any prior year calculation under this section and that can be calculated from taxable values reported under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(e) For an obligation refinanced after 2012, estimate for the term of the obligation:

(i) The cumulative school district operating tax and state education tax that would have been captured to repay the obligation had the obligation not been refinanced.

(ii) The cumulative amount calculated under subdivision (c), as adjusted by subdivision (d), for school district operating tax and state education tax for the obligation had it not been refinanced.

(f) Once the amount included in subdivision (c), as adjusted by subdivision (d), for the current and prior years for school operating tax and state education tax for the refinanced obligation equals the amount estimated in

subdivision (e)(ii), subtract from the amount calculated under subdivision (c), as adjusted by subdivision (d), the amount calculated under subdivision (c), as adjusted by subdivision (d), for school district operating tax and state education tax for the refinanced obligation.

(g) Once the amount of school district operating tax and state education tax captured for the current and prior years to pay the refinanced obligation equals the amount estimated under subdivision (e)(i), subtract from the amount calculated in subdivision (c), as adjusted by subdivision (d), the amount of school operating tax and state education tax captured to repay the refinanced obligation.

(3) Not later than June 15, 2016, and each June 15 thereafter, each municipality that is a tax increment finance authority shall report to the department the results of the calculations under subsection (2) for each tax increment financing plan.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2020, Act 197, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1356b Calculation by municipality that is tax increment finance authority; form and manner; extension of calculation and reporting date; exclusion.**

Sec. 16b.

(1) Each municipality that is a tax increment finance authority shall report to the department the calculation required under section 16a on a form and in a manner prescribed by the department.

(2) If a municipality that is a tax increment finance authority fails to make the calculation and report it to the department by the date provided in section 16a, the department may extend the calculation and reporting date upon good cause as determined by the department.

(3) The department shall exclude from the calculations under sections 14, 15, and 16 the taxable value of property exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, for millages subject to the exemption.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by

**123.1357 Appropriation of funds; purposes; distribution to municipalities; distribution of local community stabilization share revenue; priority; payments, overpayments, and underpayments; insufficient funds; use of revenue; distribution; amounts.**

Sec. 17.

(1) The legislature shall appropriate funds for all of the following purposes:

(a) For fiscal year 2014-2015 and fiscal year 2015-2016, to the authority, an amount equal to all debt loss for municipalities that are not a local school district, intermediate school district, or tax increment finance authority, an amount equal to all school debt loss for municipalities that are a local school district or intermediate school district, and an amount equal to all tax increment small taxpayer loss for municipalities that are a tax increment finance authority. Funds appropriated under this subdivision for fiscal year 2015-2016 may be used to pay a corrected tax increment small taxpayer exemption loss for 2014 if a tax increment finance authority submits before June 1, 2016 a correction to a report that was filed under section 16a before October 1, 2014.

(b) For fiscal years after 2013-2014, to the department, an amount equal to the necessary expenses incurred by the department in implementing this act.

(c) Beginning in fiscal year 2019-2020 and each fiscal year thereafter, an amount sufficient to allow the authority to continue exercising its powers, duties, functions, and responsibilities under section 11(1)(b), including, for fiscal year 2019-2020, an amount sufficient for the creation of a database.

(2) In fiscal year 2014-2015 and fiscal year 2015-2016, the authority shall distribute to municipalities those funds appropriated under subsection (1)(a). However, in fiscal year 2014-2015, if the authority is not able to make the distribution under this subsection, the department shall make the distribution under this subsection on behalf of the authority.

(3) For calendar years 2014 and 2015, the authority shall distribute local community stabilization share revenue to each city in an amount determined by multiplying the sum of the local community stabilization share revenue for the calendar years and the amounts calculated under section 14(3)(e) and (f) by a fraction, the numerator of which is that city's amount calculated under section 14(3)(d) and the denominator of which is the total amount calculated under section 14(3)(d), and subtracting from the result each city's amounts calculated under section 14(3)(e) and (f).

(4) Beginning for calendar year 2016, after any distributions under subsection (10), the authority shall distribute local community stabilization share revenue as follows in the following order of priority:

(a) The authority shall distribute to each municipality an amount equal to all of the following:

(i) 100% of that municipality's school debt loss in the current year as calculated under section 13(4) and 100% of its amount calculated under section 15.

(ii) 100% of that municipality's amount calculated under section 16.

(iii) 100% of that municipality's school operating loss not reimbursed by the school aid fund in the current year, calculated by multiplying the operating millage rate reported under section 13(4) or the operating millage rate calculated under section 13(5) for mills other than basic school operating mills, as that term is defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c, by the local school district's personal property exemption loss for the personal property subject to the respective millage.

(iv) 100% of the amount calculated in section 14(2). For calendar years 2016 and 2017 only, however, the amount distributed to a municipality under this subparagraph shall not exceed the amount calculated in section 14(1)(d). For all calendar years, all distributions under this subparagraph shall be used to fund essential services.

(v) For a municipality that is a tax increment finance authority, 100% of its amount calculated under section 16a(2), as confirmed or adjusted by the department. For calculations made under section 16a(2), as modified by section 16b(2), in calendar years 2016 and 2017 only, amounts claimed for increased captured value shall be included as claimed.

(vi) 100% of that municipality's amount calculated under section 14(4).

(vii) Beginning for calendar year 2019, for municipalities with state facilities under 1977 PA 289, MCL 141.951 to 141.956, 100% of the amount calculated under 1977 PA 289, MCL 141.951 to 141.956. The department of licensing and regulatory affairs shall certify to the department and the authority the amount to be paid to each municipality under this subparagraph.

(viii) Beginning for calendar year 2019, for municipalities that incur certain reasonable and allowable costs of required and allowable health services described in section 2475 of the public health code, 1978 PA 368, MCL 333.2475, \$10,000,000.00 of those costs not otherwise reimbursed pursuant to section 2475 of the public health code, 1978 PA 368, MCL 333.2475, or other appropriation. The department of health and human services shall



certify to the department and the authority the amount to be paid to each municipality under this subparagraph.

(b) Beginning for calendar year 2021, after the distributions under subdivision (a), and subject to subparagraph (viii), the authority shall distribute an amount equal to 10% of the total qualified loss for the current calendar year to each municipality that is not a local school district, intermediate school district, tax increment finance authority, or a local authority that first levied a millage rate after 2013 in an amount determined as follows:

(i) Calculate the total acquisition cost of all eligible personal property in the municipality.

(ii) Multiply the result of the calculation in subparagraph (i) by each individual millage levied by the municipality as calculated under section 13(5) that is not used to calculate a distribution under subdivision (a)(i) to (iv).

(iii) Divide the sum of the amounts calculated under subparagraph (ii) for all municipalities subject to the calculation by total qualified loss.

(iv) Multiply the result of the calculation in subparagraph (iii) by the difference between the amount calculated under section 16a(2) for captured taxes for each individual millage levied by the municipality not including taxes attributable to increased captured value and the subtraction amounts calculated under section 14(2)(d), (2)(f), and (4)(d) for that millage.

(v) Subtract from the amount calculated under subparagraph (ii) the amount calculated under subparagraph (iv) for the individual millage levied.

(vi) Divide the result of the calculation in subparagraph (v) by the sum of the calculation under subparagraph (v) for all millages for all municipalities.

(vii) Multiply the result of the calculation in subparagraph (vi) by the amount to be distributed under this subdivision.

(viii) For calendar year 2022, and each calendar year thereafter, the percentage amount described in this subdivision shall be increased an additional 10% each year, not to exceed 100%.

(c) For calendar years 2016 and 2017, after the distributions in subdivision (a), the authority shall distribute the remaining balance of the local community stabilization share fund for a calendar year to each municipality in an amount determined by multiplying the remaining balance by a fraction, the numerator of which is that municipality's qualified loss and the denominator of which is the total qualified loss. Beginning for calendar year 2018, after the distributions in subdivisions (a) and (b), the authority shall distribute local community stabilization share revenue under this subdivision to each municipality in an amount determined by multiplying total qualified loss minus the total amount distributed in subdivision (b) for a calendar year by a fraction, the numerator of which is that municipality's qualified loss and the denominator of which is the total qualified loss.

(d) After the distributions under subdivisions (a) to (c), beginning for calendar year 2018, the department shall adjust the amounts calculated under subdivisions (b) and (c) for a municipality that is a county, township, village, city, or community college district by the amount of any overpayment to that municipality under those subdivisions for that calendar year and the authority shall distribute the following:

(i) To a municipality, the amount of any underpayment calculated under subsection (5) for calendar years after 2016.

(ii) For calendar year 2018 only, a total of \$13,600,000.00 to municipalities with state facilities under 1977 PA 289, MCL 141.951 to 141.956. The department of licensing and regulatory affairs shall certify to the department the amount to be paid to each municipality under this subparagraph.

(e) Except as otherwise provided in this subdivision, after the distributions under subdivisions (a) to (d), the authority shall distribute the remaining balance of the local community stabilization share fund for the calendar year to each municipality that is a county, township, village, city, or community college district in an amount determined by multiplying the remaining balance by a fraction, the numerator of which is the sum of that municipality's amount received under subdivisions (b), (c), and (d), only to the extent that the distribution under subdivision (d) is for an underpayment of the current calendar year's subdivision (b) or (c) amount, and the overpayment adjustment under subdivision (d), and the denominator of which is the sum of the total amount distributed to all counties, townships, villages, cities, and community college districts under subdivisions (b), (c), and (d), only to the extent that the distribution under subdivision (d) is for an underpayment of the current calendar year's subdivision (b) or (c) amount, and the total overpayment adjustments for all counties, townships, villages, cities, and community college districts under subdivision (d). For any municipality that, in total, was overpaid under subdivisions (a), (b), and (c), the distribution under this subdivision, which for purposes of this calculation for any municipality other than a county, township, village, city, or community college district shall be \$0, shall be reduced by any positive amount determined by subtracting the corrected amounts under subdivisions (a) to (c) for that municipality from the distributed amounts under subdivisions (a) to (c) for that municipality and subtracting \$10,000.00. If the resulting distribution amount is negative, the municipality has been overpaid for the year by the amount of the negative balance. The municipality shall pay to the authority the amount of the overpayment in 3 equal annual payments, due by September 20 1 year following notice of the overpayment and by September 20 of the subsequent 2 years. A municipality may pay the amount of the overpayment at any time during the 3-year period. If a municipality fails to repay the amount of the overpayment as provided in this subdivision, the authority shall add interest to the entire amount of the original overpayment from the date of notice of the overpayment and may reduce subsequent distributions to the municipality under this section to recover the outstanding balance of the overpayment and

interest. Interest added under this subdivision shall be at the rate determined under section 23 of 1941 PA 122, MCL 205.23. Any overpayment amounts repaid to the authority under this subdivision by September 30 of each year shall be added to the local community stabilization share revenue available for distribution for the calendar year. If reductions to distributions calculated under this section result in the authority having a year-end balance of local community stabilization share revenue, that revenue shall be added to the local community stabilization share revenue available for distribution for the subsequent calendar year.

(5) The department and authority shall administer overpayments and underpayments as follows:

(a) For calendar years before 2016, if a municipality received an overpayment under this section due to an error in reporting or calculation, the authority may reduce a subsequent payment to the municipality or bill the municipality to recover the overpayment.

(b) Before November 7, 2017, the department shall recalculate 2016 payments to correct any errors in reporting under section 13(3) or (4) and any calculation errors made by the department, and adjust the 2017 payment to each municipality for any change in its 2016 payment.

(c) For calendar year 2018, for any errors in reporting under section 13(3) or (4) in calendar year 2017 or 2018, any calculation errors made by the department in calendar year 2017 or 2018, or any prior year error adjustment used in the calculation of the calendar year 2017 distributions, that resulted in an underpayment or overpayment under this section to a municipality for the prior calendar year or current calendar year, the department shall calculate the amount of underpayment or overpayment. For each municipality, the department shall add together the calendar year 2016 and calendar year 2017 underpayment and overpayment amounts. If a municipality has a net underpayment for calendar years 2016 and 2017, the amount of the net underpayment shall be added to the calendar year 2018 underpayment or overpayment amount for that municipality. If a municipality has a net overpayment for calendar years 2016 and 2017, the amount of the net overpayment shall be excused by the authority and shall not be added to the calendar year 2018 underpayment or overpayment amount for that municipality. The following apply to determining underpayment or overpayment amounts:

(i) For calendar year 2016, the underpayment or overpayment of a municipality's qualified loss shall be calculated by multiplying the municipality's qualified loss by 261.3820%.

(ii) For calendar year 2017, the underpayment or overpayment of a municipality's qualified loss shall be calculated by multiplying the municipality's qualified loss by 292.4677%.

(d) Beginning for calendar year 2019, for any errors in reporting under section 13(3) or (4), and for any calculation errors made by the department, that resulted in an underpayment or overpayment under this section to a municipality for the current calendar year, the department shall calculate the amount of underpayment or overpayment. A calculation made under this subdivision shall not recalculate a prior year payment.

(e) Except as provided in subsection (6), any underpayment shall be paid to the municipality as provided in subsection (4)(d). Any underpayment amount determined by the department to be the fault of that municipality, by either the municipality reporting inaccurate information or filing information after the reporting due dates, shall not be included in any payment made under subsection (4)(d) or (6).

(f) For any overpayment for which the state treasurer determines that the municipality was at fault and acted in bad faith, the department may calculate the amount of the overpayment for all years to which the bad faith applied without any adjustment and the municipality shall immediately repay the amount of the overpayment and interest to the authority within 30 days following notice of the overpayment. If a municipality fails to repay the amount of the overpayment and interest to the authority, the authority shall reduce subsequent payments to the municipality under this section to recover the outstanding balance of the overpayment and interest. Interest added under this subsection shall be at the rate determined under section 23 of 1941 PA 122, MCL 205.23. Any overpayment amounts repaid to the authority under this subsection by September 30 of each year shall be added to the local community stabilization share revenue available for distribution for the calendar year. Any reduction of subsequent payments due to municipalities failing to repay the amount of the overpayment and interest shall be added to the local community stabilization share revenue available for distribution for the subsequent calendar year.

(6) If a municipality received an underpayment under this section of \$500,000.00 or more for calendar year 2017 due to an error in reporting under section 13(3) or (4), or a calculation error made by the department, including a prior year error adjustment used in the calculation of the calendar year 2017 distributions, the municipality may notify the department of any errors identified by providing substantiating documentation to support an adjustment to the payment amount by August 1, 2018. Upon the department's review of the substantiating documentation and verification of the errors, the department shall calculate an underpayment amount in accordance with subsection (5) (c). The underpayment amount shall be calculated using the appropriate proration factor provided for under subsection (5)(c). The department shall determine if the substantiating documentation is sufficient. The department shall notify the authority to make an advance 2018 payment to the municipality for the amount of the 2017 underpayment. The advance payment shall be deducted from the municipality's payment for calendar year 2018 that includes the distribution under subsection (4)(d).

(7) For payments received beginning October 20, 2018, a municipality shall do all of the following:

(a) Allocate payments received, up to 100% reimbursement, under this section based on the portion of the municipality's payment attributable to each millage levied by the municipality. The portion of the payment allocated



to each millage other than the general operating millage shall be considered restricted and recorded by the municipality in the same manner as the millage levied. As used in this subsection, "100% reimbursement" means the amounts received under subsection (4)(a)(i) to (vi), (b), (c), and (d)(i), only to the extent that the distribution under subsection (4)(d)(i) is for an underpayment of the current calendar year's subsection (4)(a)(i) to (vi), (b), or (c) amount.

(b) For millage levied by a county under section 20b of 1909 PA 283, MCL 224.20b, the governing bodies of the cities and villages in the county and the board of county road commissioners shall agree to a formula that allocates a portion of the payments under this section to each city and village based on the city and village share of the losses and acquisition cost used to calculate the payment to the county described in this subdivision and each city's and village's portion of that share. The formula once established will be in effect until the effective date of any subsequent agreement. If the governing bodies of the cities and villages and the board of county road commissioners described in this subdivision do not agree on a formula by March 31 following the receipt of the subsection (8)(b) payment, the department may prescribe a formula for allocating the payments under this section.

(c) Payments under this section, except for the payments under subsection (4)(a)(vii) and (viii) and subsection (4)(d)(ii), to a municipality that is participating in an intergovernmental conditional transfer by contract under 1984 PA 425, MCL 124.21 to 124.30, or any other interlocal agreement that provides for a millage-based sharing of revenue, shall be allocated between the parties based on the proportionate share of the payment as it is attributable to the area subject to the agreement.

(8) The authority shall make the payments required by subsection (3) not later than June 20, 2016, payments required by subsection (6) not later than October 20, 2018, and payments required by subsection (4) not later than on the following dates:

(a) Except as provided in subdivision (d), for county allocated millage, November 20, 2017, and thereafter October 20 of the year the millage is levied.

(b) Except as provided in subdivision (d), for county extra-voted millage, township millage, and other millages levied 100% in December of a year, February 20 of the following year.

(c) Except as provided in subdivision (d), for other millages, November 20, 2017, and thereafter October 20 of the year the millage is levied.

(d) For payment under subsection (4)(d)(i) and (e), May 20 of the year following the calendar year for which the payments are calculated.

(e) For payment under subsection (4)(d)(ii), November 30, 2018, and for payment under subsection (4)(a)(vii) and (viii), November 30 every year.

(9) If the authority has insufficient funds to make the payments on the dates required in subsection (8), the department shall advance to the authority the amount necessary for the authority to make the required payments. The authority shall repay the advance to the department from the local community stabilization share.

(10) For each fiscal year from fiscal year 2015-2016 through fiscal year 2018-2019, the authority may use up to \$300,000.00 of the local community stabilization share revenue for purposes consistent with implementing and administering this act. For each fiscal year after fiscal year 2018-2019, the authority may use, for purposes consistent with implementing and administering this act, local community stabilization share revenue up to the amount of local community stabilization share revenue authorized for use under this subsection for the prior fiscal year multiplied by 1.01. For each fiscal year after fiscal year 2018-2019, before any distributions under subsection (4), the authority shall distribute the local community stabilization share revenue authorized for use in this subsection to an operating fund created within the authority.

(11) The authority shall distribute local community stabilization share revenue under this section as follows:

(a) From fiscal year 2015-2016 local community stabilization share revenue, \$19,200,000.00 for calendar years 2014 and 2015 and \$76,900,000.00 for calendar year 2016.

(b) From fiscal year 2016-2017 local community stabilization share revenue, \$297,400,000.00 for calendar year 2016 and \$83,200,000.00 for calendar year 2017.

(c) From fiscal year 2017-2018 local community stabilization share revenue, \$321,500,000.00 for calendar year 2017 and \$89,000,000.00 for calendar year 2018.

(d) From fiscal year 2018-2019 local community stabilization share revenue, \$341,800,000.00 for calendar year 2018 and \$95,900,000.00 for calendar year 2019.

(e) From fiscal year 2019-2020 local community stabilization share revenue, \$364,500,000.00 for calendar year 2019 and \$101,400,000.00 for calendar year 2020.

(f) From fiscal year 2020-2021 local community stabilization share revenue, \$383,500,000.00 for calendar year 2020 and \$108,000,000.00 for calendar year 2021.

(g) From fiscal year 2021-2022 local community stabilization share revenue, \$405,700,000.00 for calendar year 2021 and \$115,600,000.00 for calendar year 2022.

(h) From fiscal year 2022-2023 local community stabilization share revenue, \$428,300,000.00 for calendar year 2022 and \$119,700,000.00 for calendar year 2023.

(i) From fiscal year 2023-2024 local community stabilization share revenue, \$438,900,000.00 for calendar year 2023 and \$122,800,000.00 for calendar year 2024.

(j) From fiscal year 2024-2025 local community stabilization share revenue, \$445,800,000.00 for calendar year 2024 and \$124,000,000.00 for calendar year 2025.

(k) From fiscal year 2025-2026 local community stabilization share revenue, \$447,100,000.00 for calendar year 2025 and \$124,300,000.00 for calendar year 2026.

(l) From fiscal year 2026-2027 local community stabilization share revenue, \$447,700,000.00 for calendar year 2026 and \$124,500,000.00 for calendar year 2027.

(m) From fiscal year 2027-2028 local community stabilization share revenue, \$448,000,000.00 for calendar year 2027 and \$124,600,000.00 for calendar year 2028.

(n) From the local community stabilization share revenue for fiscal year 2028-2029 and each fiscal year thereafter, the authority shall increase the prior fiscal year's 2 distribution amounts under this subsection by the personal property growth factor, the first amount for the calendar year in which the fiscal year begins and the second amount for the calendar year in which the fiscal year ends. As used in this subdivision, "personal property growth factor" means that term as defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015 ;-- Am. 2016, Act 124, Imd. Eff. May 19, 2016 ;-- Am. 2017, Act 102, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 248, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 616, Imd. Eff. Dec. 28, 2018 ;-- Am. 2020, Act 195, Imd. Eff. Oct. 15, 2020 ;-- Am. 2020, Act 196, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1358 Distributions; determination by department; submission of information by municipality; availability; municipality review and reporting.**

#### **Sec. 18.**

(1) Beginning in fiscal year 2015-2016, and each fiscal year thereafter, the department shall determine the amount of the distributions under this act, except for the payments under section 17(4)(a)(vii) and (viii) and section 17(4)(d)(ii).

(2) Each municipality shall submit to the department sufficient information for the department to make its calculations under this act, except for the payments under section 17(4)(a)(vii) and (viii) and section 17(4)(d)(ii), as determined by the department.

(3) The department shall annually make the distribution calculations, except for the payments under section 17(4)(a)(vii) and (viii) and section 17(4)(d)(ii), and the commercial personal property and industrial personal property taxable values available on the internet.

(4) For calendar year 2018, each municipality may review the prior year distribution calculations that the department posted on the internet to determine if there are any errors in reporting under section 13(4) or any calculation errors made by the department. For calendar year 2018 and subsequent calendar years, each municipality may review the current year distribution calculations that the department posted on the internet to determine if there are any errors in reporting under section 13(4) or any calculation errors made by the department. A municipality may notify the department of any errors identified, in a form and manner prescribed by the department, by providing substantiating documentation to support an adjustment to the payment amount by March 31 of the year following the calendar year for which the payments are calculated, except that for errors identified in calculations under section 13(5) for the current calendar year, a municipality shall notify the department by August 1 of the calendar year for which the payments are calculated. Upon the department's review of the substantiating

documentation and verification of the errors, the department shall calculate an underpayment or overpayment amount in accordance with section 17(5). The department shall determine if the substantiating documentation is sufficient.

(5) Each municipality may review the annual commercial personal property and industrial personal property taxable values posted by the department on the internet to determine if there are any errors in reporting under section 13(3) or any calculation errors made by the department. A municipality may notify the department of any errors identified, in a form and manner prescribed by the department, by providing substantiating documentation to support an adjustment to the payment amount, as described in subdivisions (a) to (e). Upon the department's review of the substantiating documentation and verification of the errors, the department shall calculate an underpayment or overpayment amount in accordance with section 17(5). The department shall determine if the substantiating documentation is sufficient. Error notifications under this subsection are subject to the following, as applicable:

(a) For the 2013, 2014, and 2015 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2015 under section 13(3), if a municipality identifies an inaccurate commercial personal property or industrial personal property taxable value, the municipality must report the error to the county equalization director by November 30, 2021, except as provided in section 17(6), by providing substantiating documentation to support the corrected value. County equalization directors shall review all reported inaccurate commercial personal property and industrial personal property taxable values and determine all municipalities affected by the inaccurate commercial personal property and industrial personal property taxable values. If a county equalization director identifies an inaccurate commercial personal property or industrial personal property taxable value, the county equalization director shall determine all municipalities affected by the inaccurate commercial personal property or industrial personal property taxable value. County equalization directors shall notify the department by December 30, 2021, of any corrected 2013, 2014, and 2015 commercial personal property and industrial personal property taxable values for each affected municipality. County equalization directors shall provide to the department substantiating documentation to support the corrected values.

(b) For the 2013 and 2016 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2016 under section 13(3), municipalities must report any inaccurate commercial personal property and industrial personal property taxable values to the county equalization director by February 28, 2019, except as provided in section 17(6). County equalization directors shall notify the department by March 29, 2019, of any corrected 2013 and 2016 commercial personal property and industrial personal property taxable values by providing substantiating documentation to support the corrected values.

(c) For the 2013, 2014, 2015, and 2016 commercial personal property and industrial personal property taxable values, as reported on July 10, 2017, under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751, municipalities must report any inaccurate commercial personal property and industrial personal property taxable values to the county treasurer by February 28, 2019, except as provided in section 17(6). County treasurers shall notify the department by March 29, 2019, of any corrected 2013, 2014, 2015, and 2016 commercial personal property and industrial personal property taxable values by providing substantiating documentation to support the corrected values. For purposes of this subdivision, the corrected 2013, 2014, 2015, and 2016 commercial personal property and industrial personal property taxable values shall be the current taxable values on July 10, 2017.

(d) For the 2013 and 2017 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2017 under section 13(3), municipalities must report any inaccurate commercial personal property and industrial personal property taxable values to the county equalization director by February 28, 2019, except as provided in section 17(6). County equalization directors shall notify the department by March 29, 2019, of any corrected 2013 and 2017 commercial personal property and industrial personal property taxable values by providing substantiating documentation to support the corrected values.

(e) For 2018 and subsequent years' commercial personal property and industrial personal property taxable values, as reported by the county equalization director by May 31 of each year under section 13(3), if a municipality identifies an inaccurate commercial personal property or industrial personal property taxable value for the current year, the municipality must report the error to the county equalization director by February 28 of the following year, by providing substantiating documentation to support the corrected value. County equalization directors shall review all reported inaccurate commercial personal property and industrial personal property taxable values and determine all municipalities affected by the inaccurate commercial personal property and industrial personal property taxable values. If a county equalization director identifies an inaccurate commercial personal property or industrial personal property taxable value, the county equalization director shall determine all municipalities affected by the inaccurate commercial personal property or industrial personal property taxable value. County equalization directors shall notify the department by March 31 of each year of any corrected prior year commercial personal property and industrial personal property taxable values for each affected municipality. County equalization directors shall provide to the department substantiating documentation to support the corrected values.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 248, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 616, Imd. Eff. Dec. 28, 2018 ;-- Am. 2020, Act 198, Imd. Eff. Oct. 15, 2020

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1359 Bonds or other obligations; issuance.**

Sec. 19.

(1) A local unit of government may issue bonds or other obligations in anticipation of the distribution of local community stabilization share revenue under section 17(4)(a)(iv).

(2) Bonds or other obligations issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) If authorized by a majority vote of the qualified electors of the local unit of government, the local unit of government may, at the time of issuance, pledge the full faith and credit of the local unit of government for the payment of bonds or other obligations issued under this section.

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### **123.1360 Repealed. 2016, Act 124, Eff. May 19, 2016.**

**Compiler's Notes:** The repealed section pertained to loss replacement from certain exemptions.

### 123.1361 Debt payment.

Sec. 21.

(1) If a municipality does not adjust its debt millage rate to reflect reimbursement for the small taxpayer exemption loss under section 17(1)(a), the reimbursement under section 17(1)(a) shall be reduced by the excess debt taxes levied.

(2) A municipality shall use the amount received under section 17(4) for debt millage to pay debt. If a payment under section 17(4) for debt millage is not used to pay debt, the amount not used to pay debt shall be deducted from a subsequent payment under section 17(4), unless all debts have been repaid, in which case the amount received under section 17(4) for debt millage may be used by the municipality in any manner and shall not be deducted from a subsequent payment under section 17(4).

**History:** 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2016, Act 124, Imd. Eff. May 19, 2016 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

### 123.1362 Construction of act.

Sec. 22.

This act shall be construed to effectuate the legislative intent and the purposes of this act as complete and independent authorization for the performance of each and every act and thing authorized in the act, and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as to limitation of powers.

**History:** 2014, Act 86, Eff. Aug. 22, 2014

**Compiler's Notes:** Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

**Compiler's Notes:** Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [ ] NO [ ]". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.



## LOCAL GOVERNMENT LABOR REGULATORY LIMITATION ACT

### Act 105 of 2015

AN ACT to limit the powers of local governmental bodies regarding the regulation of terms and conditions of employment within local government boundaries for employees of nonpublic employers.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

*The People of the State of Michigan enact:*

#### 123.1381 Short title.

##### Sec. 1.

This act shall be known and may be cited as the "local government labor regulatory limitation act".

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

#### 123.1382 Legislative findings and declarations.

##### Sec. 2.

The legislature finds and declares that regulation of the employment relationship between a nonpublic employer and its employees is a matter of state concern and is outside the express or implied authority of local governmental bodies to regulate, absent express delegation of that authority to the local governmental body.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1383 Definitions.**

#### **Sec. 3.**

As used in this act:

(a) "Educational institution" means any of the following:

(i) A school district, an intermediate school district, or a public school academy as those terms are defined in sections 4 to 6 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6.

(ii) A community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to 380.1607.

(b) "Employee" means a person employed in this state by an employer.

(c) "Employer" means a person or entity engaging in or intending to engage in a commercial activity, enterprise, or business in this state, but excludes a local governmental body or an educational institution.

(d) "Local governmental body" means any local government or its subdivision, including, but not limited to, a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision. Local governmental body does not include an authority established by interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, to which this state is a party.

(e) "Ordinance, local policy, or local resolution" does not include the terms of an agreement voluntarily offered to a local governmental body by an owner, purchaser, or developer of property.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1384 Information employer must request, require, or exclude on employment application or during interview process; regulation by local governmental body prohibited.**

#### **Sec. 4.**

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating information an employer or potential employer must request, require, or exclude on an application for employment or during the interview process from an employee or a potential employee. This section does not prohibit an ordinance, local policy, or local resolution requiring a criminal background check for an employee or potential employee in connection with the receipt of a license or permit from a local governmental body.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015 ;-- Am. 2018, Act 84, Eff. June 24, 2018

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."



**123.1385 Payment of wage higher than state minimum wage; requirement by local governmental body prohibited.**

Sec. 5.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to pay to an employee a wage higher than the state minimum hourly wage rate determined under section 4 of the workforce opportunity wage act, 2014 PA 138, MCL 408.414, or, if applicable to the employer, the minimum wage provisions of the fair labor standards act of 1938, 29 USC 201 to 219, unless those federal minimum wage provisions would result in a lower minimum hourly wage than provided under state law.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

**123.1386 Payment of wage or fringe benefit based on local prevailing rates; requirement by local governmental body prohibited.**

Sec. 6.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to pay to an employee a wage or fringe benefit based on wage and fringe benefit rates prevailing in the locality. This section does not apply to state projects subject to 1965 PA 166, MCL 408.551 to 408.558.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

**123.1387 Work stoppage or strike activity of employers and employees; organization by employees; regulation by local governmental body prohibited.**

Sec. 7.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating work stoppage or strike activity of employers and their employees or the means by which employees may organize.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a

local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1388 Providing employee paid or unpaid leave time; requirement by local governmental body prohibited.**

Sec. 8.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to provide to an employee paid or unpaid leave time.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1389 Regulation of hours and scheduling provided by employer to employees; regulation by local governmental body prohibited.**

Sec. 9.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating hours and scheduling that an employer is required to provide to employees. This section does not prohibit an ordinance, local policy, or local resolution that limits the hours a business may operate.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1390 Participation in educational apprenticeship or apprenticeship training program; requirement by local governmental body prohibited.**

Sec. 10.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer or its employees to participate in any educational apprenticeship or apprenticeship training program that is not required by state or federal law.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1391 Providing employee with specific fringe benefit; requirement by local governmental body prohibited.**

Sec. 11.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution requiring an employer to provide to an employee any specific fringe benefit or any other benefit for which the employer would incur an expense, including, but not limited to, those enumerated in sections 6 to 10.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1392 Wage, hour, or benefit dispute; administrative or judicial remedies; regulation by local governmental body prohibited.**

Sec. 12.

A local governmental body shall not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating or creating administrative or judicial remedies for wage, hour, or benefit disputes, including, but not limited to, any benefits described in sections 6 to 11.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1393 Severability of invalid or inoperative provision.**

Sec. 13.

If any parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, or federal law permit. Any provision held invalid or inoperative is severable from the remaining portions of this act.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1394 Employment discrimination; prohibition by local governmental body.**

#### **Sec. 14.**

This act does not prohibit a local governmental body from adopting or enforcing an ordinance, policy, or resolution prohibiting employment discrimination.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1395 Voluntary agreement between employer and local governmental body.**

#### **Sec. 15.**

Subject to sections 5 to 8 and 11, this act does not prohibit a local governmental body from adopting, enforcing, or administering an ordinance, local policy, or local resolution that provides for the terms and conditions of a voluntary agreement between an employer and the local governmental body in connection with the provision of services directly to the local governmental body or in connection with the receipt of a grant, tax abatement, or tax credit from the local governmental body.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

### **123.1396 Voluntary written agreement in effect prior to October 1, 2015.**

Sec. 16.

This act does not prohibit a local governmental body from enforcing a written agreement voluntarily entered into and in effect prior to October 1, 2015.

**History:** 2015, Act 105, Imd. Eff. June 30, 2015

**Compiler's Notes:** Enacting section 1 of Act 105 of 2015 provides: "Enacting section 1. This act applies to ordinances, local policies, and local resolutions adopted after December 31, 2014. Nothing in this act shall be considered as an explicit or implicit authorization or recognition of the validity of any ordinance, local policy, or local resolution adopted before January 1, 2015. Nothing in this act authorizes a local governmental body to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act, and nothing in this act shall be construed as an express or implied recognition of any such authority that may or may not exist elsewhere in state law. Whether a local governmental body had the authority, before January 1, 2015, to adopt an ordinance, local policy, or local resolution regulating the employment relationship as to matters described in this act is a separate question that this act does not address. This act is not intended to be construed to impact the reasoning or outcome of pending litigation in any way, for or against any particular legal position."

## **MOTOR VEHICLE STORAGE FACILITIES**

### **Act 327 of 2018**

AN ACT to prohibit a local government or law enforcement agency from operating a motor vehicle storage facility or towing operation; to prohibit a local government or law enforcement agency from accepting consideration from an authorized vendor that operates a motor vehicle storage facility; to prohibit a local government or law enforcement agency from requiring an authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor; to provide for exceptions; to prescribe the powers and duties of certain state and local departments, entities, and officials; to prescribe the powers and duties of certain law enforcement agencies; and to provide for remedies and penalties.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

*The People of the State of Michigan enact:*

### **123.1401 Definitions.**

Sec. 1.

As used in this act:

(a) "Authorized vendor" means an individual or entity that a local government or law enforcement agency designates through contract, permit, practice, or license to have authority to remove or store motor vehicles at the request of the local government or law enforcement agency.

(b) "Law enforcement agency" means the department of state police, the department of natural resources, or a law enforcement agency of a county, township, city, village, or airport authority, that is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state.

(c) "Local government" means a county, city, village, township, or an authority established by law.

(d) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(e) "Motor vehicle storage facility" means a facility operated to hold motor vehicles that have been taken into custody for safekeeping.

(f) "Towing operation" means the moving or removing of motor vehicles by providing wrecker, towing, or other recovery services.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

### **123.1402 Prohibited acts by local government or law enforcement agency.**

#### **Sec. 2.**

Except as otherwise provided in section 3 or 3a, beginning on the effective date of this act, a local government or law enforcement agency shall not do any of the following:

- (a) Operate a motor vehicle storage facility or towing operation.
- (b) Accept any consideration, financial or other, from an authorized vendor that operates a motor vehicle storage facility.
- (c) Require an authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

### **123.1403 Exceptions; existing vehicle storage facility or towing operation.**

#### **Sec. 3.**

(1) If, on or before the effective date of this act, a local government or law enforcement agency is operating a motor vehicle storage facility or towing operation, that local government or law enforcement agency may continue to operate that motor vehicle storage facility or towing operation after the effective date of this act.

(2) If, on or before the effective date of this act, a local government or law enforcement agency accepts consideration, financial or other, from any authorized vendor that operates a motor vehicle storage facility, that local government or law enforcement agency may continue to accept consideration, financial or other, from any authorized vendor after the effective date of this act.

(3) If, on or before the effective date of this act, a local government or law enforcement agency requires any authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor, that local government or law enforcement agency may continue to require any authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor after the effective date of this act.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

### **123.1403a Application of section 2.**

#### **Sec. 3a.**

The prohibition in section 2(a) does not apply to a local government or law enforcement agency if that local government or law enforcement agency issues a request for proposals for operating a motor vehicle storage facility or towing operation and the request for proposals does not yield a bona fide bid. A local government or law enforcement agency shall use the standard or customary request for proposals process used by that local government or law enforcement agency for all other procurement matters when issuing the request for proposals for operating a motor vehicle storage facility or towing operation.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

### **123.1404 Violation; injunctive relief; fine; costs and attorney fees.**

#### **Sec. 4.**

If a local government or law enforcement agency violates section 2, an individual or entity may bring an action seeking injunctive relief against the local government or law enforcement agency. If a court determines a local government or law enforcement agency is violating section 2, the court shall issue an injunctive order requiring the local government or law enforcement agency to cease and desist from violating section 2. An injunctive order issued under this section becomes effective 60 days after the injunctive order is entered by the court. Any action taken by a local government or law enforcement agency to ensure compliance with section 2 or any injunctive order issued under this section is not considered a violation of the injunctive order for purposes of any fine under this section. A local government or law enforcement agency that violates an injunctive order under this section is subject to a civil fine of not more than \$1,000.00 for each day of violation, up to a maximum of \$10,000.00. An individual or entity that brings an action under this section may recover costs and reasonable attorney fees.

**History:** 2018, Act 327, Eff. Sept. 30, 2018

## **LOCAL GOVERNMENT OCCUPATIONAL LICENSING ACT**

### **Act 493 of 2018**

AN ACT to limit the authority of political subdivisions to impose licensing regulation.

**History:** 2018, Act 493, Imd. Eff. Dec. 27, 2018

**Compiler's Notes:** Enacting section 1 of Act 493 of 2018 provides: "Enacting section 1. This act is retroactive and takes effect January 1, 2018."

*The People of the State of Michigan enact:*

### **123.1421 Short title.**

#### **Sec. 1.**

This act shall be known and may be cited as the "local government occupational licensing act".

**History:** 2018, Act 493, Imd. Eff. Dec. 27, 2018

**Compiler's Notes:** Enacting section 1 of Act 493 of 2018 provides: "Enacting section 1. This act is retroactive and takes effect January 1, 2018."

### **123.1423 Definitions.**

#### **Sec. 3.**

As used in this act:

(a) "Licensing" means any training, education, or fee required for an individual to perform work in a specific occupation in a political subdivision, in this state, or in any other governmental unit in this state. The term includes registration.

(b) "Licensing authority" means an agency, examining board, credentialing board, or other office of a political subdivision or other governmental unit that has the authority to impose fees or other licensing requirements on an individual as a condition to performing work in a specific occupation in that governmental unit.



- (c) "Political subdivision" means a city, township, village, or county of this state.
- (d) "Registration" means an authorization to use a designated title while performing work in a specific occupation in a political subdivision, in this state, or in any other governmental unit in this state.

**History:** 2018, Act 493, Imd. Eff. Dec. 27, 2018

**Compiler's Notes:** Enacting section 1 of Act 493 of 2018 provides: "Enacting section 1. This act is retroactive and takes effect January 1, 2018."

### **123.1425 Prohibited licensing requirements by local government; limitation on enforcement.**

#### **Sec. 5.**

(1) Beginning January 1, 2018, a political subdivision shall not impose any licensing requirements on any individuals who perform a specific occupation if the political subdivision does not already impose licensing requirements on that occupation. However, a political subdivision may continue to regulate any occupation that is subject to licensing requirements in that political subdivision before January 1, 2018.

(2) If an occupation is subject to licensing requirements imposed by the department of licensing and regulatory affairs or any other licensing authority of this state, a political subdivision of this state shall not impose any regulations on that occupation that add additional licensing requirements to those already imposed by the licensing authority of this state.

(3) Beginning January 1, 2018, if the department of licensing and regulatory affairs or any other licensing authority of this state imposes any new licensing requirements on any occupation that was previously unregulated by the state, and if the political subdivision has licensing requirements that regulate that occupation in effect at the time the new state licensing requirements take effect, the political subdivision may not continue to enforce its licensing requirements for that occupation on or after the date when the state licensing requirements take effect.

**History:** 2018, Act 493, Imd. Eff. Dec. 27, 2018

**Compiler's Notes:** Enacting section 1 of Act 493 of 2018 provides: "Enacting section 1. This act is retroactive and takes effect January 1, 2018."

### **123.1431 Applicability of act.**

#### **Sec. 11.**

This act does not apply to any licensing requirements that are subject to any of the following laws of this state:

- (a) Sections 733 and 735 of the skilled trades regulation act, 2016 PA 407, MCL 339.5733 and 339.5735.
- (b) Section 2 of 1976 PA 333, MCL 338.2152.
- (c) Section 6 of the security alarm systems act, 2012 PA 580, MCL 338.2186.

**History:** 2018, Act 493, Imd. Eff. Dec. 27, 2018

**Compiler's Notes:** Enacting section 1 of Act 493 of 2018 provides: "Enacting section 1. This act is retroactive and takes effect January 1, 2018."