ment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(18) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit allowed under subsection (2) or (3) to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(19) A qualified taxpayer or assignee under subsection (17) or (18) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d was based.

(20) In addition to the other credits allowed under this section and sections 37c and 37d, for tax years that begin after December 31, 1999 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, an eligible taxpayer may

credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority that is 1 of the following:

(a) For an eligible business under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 50% of 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to the eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of new capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an eligible business under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to eligible taxpayer's business multiplied by a fraction the numerator of which is the ratio of the value of capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(21) An eligible taxpayer shall not claim a credit under subsection (20) unless the Michigan economic growth authority has issued a certificate under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The eligible taxpayer shall attach the certificate to the return filed under this act on which a credit under subsection (20) is claimed.

(22) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit under subsection (20) for each tax year based on each written agreement whether or not a combined or consolidated return is filed.

(23) A credit shall not be claimed by a taxpayer under subsection (20) if the eligible taxpayer's initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, is issued after December 31, 2003.

(24) If the credit allowed under subsection (20)(a)(*ii*) or (b)(*ii*) for the tax year and any unused carryforward of the credit allowed by subsection (20)(a)(*ii*) or (b)(*ii*) exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(25) If the credit allowed under subsection (20)(a)(*i*) or (b)(*i*) exceeds the tax liability of the eligible taxpayer for the tax year, the excess shall be refunded to the eligible taxpayer.

(26) An eligible taxpayer that claims a credit under subsection (1)(a) or (b) is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under both subsections (1)(a) or (b) and (20) based on the same costs.

(27) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under subsection (2) or (3). Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under subsection (2) or (3).

(28) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under subsection (2) or (3). As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(29) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under subsection (2) or (3).

(30) The department annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsection (2). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsection (2) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsection (2) in the calendar year.

(31) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the project is completed, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the department for projects approved under subsection (2) or the Michigan economic growth authority for projects approved under subsection (3) to amend the project. The total of eligible investment for the project as amended shall not exceed the amount allowed in the preapproval letter for that project.

(32) A project under subsection (2) may be a multiphase project but only if the project is an industrial or manufacturing project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the state treasurer or the designee of the state treasurer who shall verify that the component is complete. When the completion of the component is verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a

proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 3 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter for the project under subsection (1)(a). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23 beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter for the entire project.

(33) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, which shall be 10% of the qualified taxpayer's credit amount approved under subsection (3).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Authorized business", "full-time job", "new capital investment", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Blighted", "brownfield plan", "eligible activities", "eligible property", "facility", "functionally obsolete", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(e) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and after the date that the preapproval letter is issued, except that the date that the preapproval letter is issued is not a limitation for 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without the Michigan economic growth authority determining that the project would not occur in this state without the tax credit offered under this section as provided in subsection (7), if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures.

(f) "Eligible taxpayer" means an eligible business that meets the criteria under section 8(5) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(g) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(h) "Multiphase project" means a project for which the total of all credits is $1,000,000.00 or less for a project approved under subsection (2) that has more than 1 component, each of which can be completed separately.

(i) "Payroll" and "tax rate" mean those terms as defined in section 37c.

(j) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(*i*) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(*ii*) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(k) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), all eligible investment on property not in a qualified local governmental unit that is a facility.

(*l*) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act.

(m) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(*i*) Owns or leases eligible property.

(*ii*) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(n) "Tax liability attributable to authorized business activity" means the tax liability imposed by this act after the calculation of credits provided in sections 36, 37, and 39.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 727]

(HB 6502)

AN ACT to amend 1996 PA 381, entitled "An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans

relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing," by amending sections 13 and 15 (MCL 125.2663 and 125.2665), as amended by 2000 PA 145.

The People of the State of Michigan enact:

125.2663 Brownfield plan; provisions.

Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. If more than 1 parcel of eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each parcel of eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues.

(b) A brief summary of the eligible activities that are proposed for each eligible property.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from each parcel of eligible property and in the aggregate. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(aa), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan, which shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of each parcel of eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied

residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(*l*) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under section 15.

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs of eligible activities attributable to the eligible property including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities on the eligible property, and the reasonable cost of preparing a work plan or remedial action plan for eligible property, and the actual cost of the department's review of the work plan or remedial action plan.

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs of eligible activities under subsection (3), or for not more than 5 years after the time that capture is required for the

purpose of paying the costs of eligible activities under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. Notice of the time and place of the

hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this subsection.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the brownfield plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

(13) Not less than 20 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan.

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) If a brownfield plan includes the capture of taxes levied for school operating purposes or the use of tax increment revenues related to a brownfield plan for the cost of eligible activities attributable to more than 1 eligible property that is adjacent and contiguous to all other eligible properties covered by the development agreement, whether or not the captured taxes are levied for school operating purposes, approval of a work plan by the Michigan economic growth authority before January 1, 2008 to use school operating taxes and a development agreement between the municipality and an owner or developer of eligible property are required if the revenues will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, or site preparation that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) A brownfield authority may reimburse reasonable and actual administrative and operating expenses that include, but are not limited to, baseline environmental assessments, due care activities, and additional response activities, related directly to work conducted

by the authority on prospective eligible properties prior to approval of the brownfield plan and on eligible properties and for eligible activities after the approval of the brownfield plan, only from captured local taxes not to exceed $75,000.00 for each authority in each fiscal year. Reasonable and actual administrative and operating expenses do not include reasonable costs of preparing a work plan or remedial action plan or the cost of the review of a work plan for which taxes may be used under section 13(3).

125.2665 Prohibited conduct; work plan or remedial action plan; documents to be submitted for approval; factors to be considered in plan review; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; reimbursement of costs to review work plan or remedial action plan; report; distribution of remaining funds.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan approved by the department after July 24, 1996 and before January 1, 2008.

(b) For eligible activities not described in section 13(15), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b) or remedial action plan, the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about

environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan or remedial action plan, or part of a work plan or remedial action plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan or remedial action plan under subsection (2) that pertains to baseline environmental assessment activities or due care activities, or both, or a portion of a work plan or remedial action plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan or remedial action plan, including, but not limited to, individual activities to be added or deleted from the work plan or remedial action plan and revision of costs.

(c) If the work plan or remedial action plan lacks sufficient information for the department to respond under subdivision (a) or (b), a letter stating with specificity the necessary additions or changes to the work plan or remedial action plan to be submitted before a plan will be considered by the department.

(4) In its review of a work plan or remedial action plan, the department shall consider all of the following:

(a) Whether the individual activities included in the work plan or remedial action plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan or remedial action plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, the authority may proceed with the baseline environmental assessment activities or due care activities, or both, as outlined in the work plan or remedial action plan as submitted for approval. Except as provided in subsection (6), baseline environmental assessment activities or due care activities, or both, conducted pursuant to a work plan or remedial action plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1).

(6) The department may issue a written response to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan or remedial action plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan or remedial action plan initially submitted under subsection (5). In addition, at the option of

the authority, these additional individual activities shall be considered part of the work plan or remedial action plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy the baseline environmental assessment or due care requirements, or both, of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the baseline environmental assessment or due care activities, or both, to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, and if the department's written response modifies an individual activity proposed by the work plan or remedial action plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities included in the baseline environmental assessment or due care activities, or both, in accordance with the department's response in order for that portion of the work plan or remedial action plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not require a work plan or remedial action plan for either baseline environmental assessment activities or due care activities, or both, to include additional response activities.

(9) The department may reject the portion of a work plan or remedial action plan that includes additional response activities and may consider the level of risk reduction that will be accomplished by the additional response activities in determining whether to approve or reject the work plan or remedial action plan or a portion of a plan.

(10) The department's approval or rejection of a work plan under subsection (1)(a) or (b) or remedial action plan for additional response activities is final.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) or remedial action plan under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(*l*) Whether the financial statements of the developer, landowner, or corporate entity indicate that the developer, landowner, or corporate entity is financially sound and that the project of the developer, landowner, or corporate entity that is included in the work plan is economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 728]

(HB 5728)

AN ACT to amend 1965 PA 314, entitled "An act to authorize the investment of assets of public employee retirement systems or plans created and established by the state or

any political subdivision; to provide for the payment of certain costs and investment expenses; to authorize investment in variable rate interest loans; to define and limit the investments which may be made by an investment fiduciary with the assets of a public employee retirement system; and to prescribe the powers and duties of investment fiduciaries and certain state departments and officers," by amending section 20h (MCL 38.1140h), as amended by 1996 PA 485, and by adding section 20m.

The People of the State of Michigan enact:

38.1140h Applicable law; actuarial valuation; supplemental actuarial analysis; "proposed pension benefit change" defined.

Sec. 20h. (1) In addition to the provisions of this act, a system is subject to the applicable accounting and reporting requirements contained in the following acts and parts of acts:

(a) 1919 PA 71, MCL 21.41 to 21.55.

(b) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.121 to 141.440a.

(c) Section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(2) Except as otherwise provided in subsection (4), a system shall have an annual actuarial valuation with assets valued on a market-related basis. A system shall prepare and issue a summary annual report. The system shall make the summary annual report available to the plan participants and beneficiaries and the citizens of the political subdivision sponsoring the system. The summary annual report shall include all of the following information:

(a) The name of the system.

(b) The names of the system's investment fiduciaries.

(c) The system's assets and liabilities.

(d) The system's funded ratio.

(e) The system's investment performance.

(f) The system's expenses.

(3) A system shall provide a supplemental actuarial analysis before adoption of pension benefit changes. The supplemental actuarial analysis shall be provided by the system's actuary and shall include an analysis of the long-term costs associated with any proposed pension benefit change. The supplemental actuarial analysis shall be provided to the board of the particular system and to the decision-making body that will approve the proposed pension benefit change at least 7 days before the proposed pension benefit change is adopted. For purposes of this subsection, "proposed pension benefit change" means a proposal to change the amount of pension benefits received by persons entitled to pension benefits under a system. Proposed pension benefit change does not include a proposed change to a health care plan or health benefits.

(4) A system that has assets of less than $20,000,000.00 is only required to have the actuarial valuation required under subsection (2) done every other year.

38.1140m Employer contribution.

Sec. 20m. The governing board vested with the general administration, management, and operation of a system or other decision-making body that is responsible for implementation and supervision of any system shall confirm in the annual actuarial valuation and the summary annual report required under section 20h(2) that each plan under this act provides for the payment of the required employer contribution as provided

in this section and shall confirm in the summary annual report that the system has received the required employer contribution for the year covered in the summary annual report. The required employer contribution is the actuarially determined contribution amount. An annual required employer contribution in a plan under this act shall consist of a current service cost payment and a payment of at least the annual accrued amortized interest on any unfunded actuarial liability and the payment of the annual accrued amortized portion of the unfunded principal liability. For fiscal years that begin before January 1, 2006, the required employer contribution shall not be determined using an amortization period greater than 40 years. For years that begin after December 31, 2005, the required employer contribution shall not be determined using an amortization period greater than 30 years. In a plan year, any current service cost payment may be offset by a credit for amortization of accrued assets, if any, in excess of actuarial accrued liability. A required employer contribution for a plan administered under this act shall allocate the actuarial present value of future plan benefits between the current service costs to be paid in the future and the actuarial accrued liability. The governing board vested with the general administration, management, and operation of a system or other decision-making body of a system shall act upon the recommendation of an actuary and the board and the actuary shall take into account the standards of practice of the actuarial standards board of the American academy of actuaries in making the determination of the required employer contribution.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 729]

(HB 5729)

AN ACT to amend 1968 PA 2, entitled "An act to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government," by amending section 4 (MCL 141.424), as amended by 2002 PA 250.

The People of the State of Michigan enact:

141.424 Annual financial report; contents; filing; extension; unauthorized investments prohibited; "pension" defined.

Sec. 4. (1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The state treasurer may require that an annual financial report by the pension system for any defined benefit plan of the local unit be submitted in electronic format after timely notice by the state treasurer. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department's internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, "pension" includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 730]

(HB 5730)

AN ACT to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the

violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 1998 PA 502.

The People of the State of Michigan enact:

46.12a Insurance; pension or retirement plan; effect of collective bargaining agreement; reemployment of retirant; adjusted pension or retirement benefit; payment of benefits subject to eligible domestic relations order; effect of divorce from spouse named as retirant's survivor beneficiary on election of reduced retirement allowance; employee of credit union as member of plan; written policy.

Sec. 12a. (1) A county board of commissioners at a lawfully held meeting may do 1 or more of the following:

(a) Provide group life, health, accident and hospitalization, and disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds for the insurance. For a county with 100 employees or more, self-insure for health, accident and hospitalization, and group disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds.

(b) Adopt and establish a plan by which the county purchases or participates in the cost of an endowment policy or retirement annuity for a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, to provide monthly pension or retirement benefits for each employee 60 years of age or older in an amount not to exceed $150.00 per month or 2% of the average monthly earnings of the employee for 5 years immediately before retirement times the years of service of the employee, whichever is the lesser sum. As an option, a county board of commissioners may adopt and establish a plan by which the county pays pension or retirement benefits to a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, who has been employed for not less than 25 years, or who is 60 years of age or older and has been employed for not less than 5 years, in monthly payments not to exceed 2.5% of the employee's highest average monthly compensation or earnings received from the county or county road fund for 5 years of service times the total number of years of service of the employee, including a fraction of a year, not to exceed 3/4 of the average final compensation of the employee. A plan may also pay early retirement benefits at 55 years of age or older to the extent of actuarially equivalent benefits not increasing the costs of the plan. Except as provided in subsection (27), endowment policies, retirement benefits, pensions, or annuity retirement benefits in excess of the amounts stipulated in this subdivision may be provided for by a plan of employee participation to cover the cost of the excess. If the employment or the pension or retirement benefits of an employee who participated in the cost of pension or retirement benefits are terminated before the employee receives pension or retirement benefits equal to the total amount of the employee's participation, the balance of the total participation shall be refunded to the employee at the time of termination, if living, or if deceased, to the employee's heir, estate, legal representative, or designated beneficiary as provided in the plan adopted and

established by the county board of commissioners. If a terminated employee is subsequently rehired by the county, the employee may repay the amount of participation refunded to the employee upon the employee's termination, together with compound interest from the date of refund to the dates of repayment at the rates provided in the plan. As conditions for repayment, the plan may require return to employment for a period not to exceed 3 years and may require that repayment be completed within a period of not less than 1 year following return to employment. A plan adopted for the payment of retirement benefits or a pension shall grant benefits to an employee eligible for pension or retirement benefits according to a uniform scale for all persons in the same general class or classification. An employee shall not be denied benefits by termination of his or her employment after the employee becomes eligible for benefits under the plan and this section. An endowment policy or annuity purchased pursuant to this section shall be purchased from an insurer authorized to write endowment policies or annuities in this state.

(2) In a plan adopted under this section, at least 60% of the total pension or retirement benefit granted to an employee from county funds shall consist of a percentage not to exceed 2.5% of the employee's average final compensation times the employee's years of service and shall be granted to each employee eligible for retirement under the plan uniformly and without restriction or limitation other than those prescribed in this section. As used in this section:

(a) "Average final compensation" means the annual average of the highest actual compensation received by a county employee, other than a county employee who is a judge of a municipal court of record subject to subsection (20) or a judge subject to subsection (23), during a period of 5 consecutive years of service contained within the employee's 10 years of service immediately before the employee's retirement or a period of 5 years of service as specified in the plan. In a county that adopts a plan for granting longevity pay, the county board of commissioners may exclude this longevity pay from average final compensation for the purpose of computing the rate of employee contribution and the amount of benefits payable to an employee upon retirement.

(b) "Longevity pay" means increments of compensation payable at annual or semiannual intervals and based upon years of service to the county, exclusive of compensation provided for a given class of positions.

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the county or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

(4) If the employment of a county employee eligible to receive a pension or retirement benefit under a plan established pursuant to this section is terminated after the employee has completed 8 or more years of service in county employment, the employee shall receive the amount of pension or retirement benefit to which the employee's service would have entitled the employee under the plan established, if the employee waives the employee's right to a refund of the employee's total participation upon the termination of employment. The payment of pension or retirement benefits shall begin, as provided in the plan, after the employee would have become eligible for retirement under the plan had the employee's employment not been terminated, but not later than 90 days after the employee becomes 65 years of age. The payment of pension or retirement benefits shall not begin until the employee has applied for pension or retirement benefits in the manner prescribed in the plan established.

(5) A plan established under this section may provide for pension or retirement benefits for a county employee who becomes totally disabled for work in the county service from any cause, after not less than 10 years of county employment, to the extent of the limitations provided in this section. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or $400.00 per month, whichever is the greater sum, for an employee who becomes totally disabled for work in the county service from causes that are the direct and proximate result of county employment, to continue for the duration of the disability or until the employee becomes eligible for retirement pursuant to other provisions of the plan authorized by this section. A plan may also provide for pension or retirement benefits, to the extent of the limitations provided in this section, for the actual dependents of a county employee who dies while still employed by the county after not less than 10 years of county employment, or who dies after leaving county employment with not less than the number of years of service required to vest in the plan but before becoming eligible to receive a pension or retirement benefit. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or $400.00 per month, whichever is greater, for the actual dependents of a deceased county employee whose death is the direct and proximate result of county employment. The plan may provide that the period from the end of the deceased or disabled employee's period of service to the date that employee would have become eligible for retirement be used as service for the sole purpose of computing the amount of disability or death pension.

(6) As used in this section, "county employee" includes a bailiff of the district court in the thirty-sixth district who serves pursuant to section 8322 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322, and a person who receives more than 50% of all compensation for personal services, rendered to governmental units, from a county fund or county road fund, except a person, other than a bailiff of the district court in the thirty-sixth district, engaged for special services on a contract or fee basis. Until December 31, 1979, a plan adopted under this section may include as a county employee a person on leave of absence from county employment who is not a member of another retirement system except as a retirant and who pays or arranges payment of contributions equal to the contributions that would have been required to be paid under the plan by both the county and the employee, based upon the compensation the employee would have received from the county, if the employee had not taken a leave of absence or a person who complies with the requirements of such a provision approved for inclusion in a plan by the county board of commissioners before January 1, 1976, who shall be considered to be a county employee during the period of compliance. A plan adopted under this section may exclude a person who is employed on a temporary basis and a person employed in a position normally requiring less than 1,000 hours, or some lesser specified number of hours, work per year. A bailiff serving in the district court in the thirty-sixth district is eligible to receive benefits under this section if a plan has been established by law by which the cost of benefits is payable from sources including charges on all legal instruments in which the service of process by a bailiff is required and earmarked by law for benefits, and contributions made by the city of Detroit and each bailiff pursuant to section 8322(6) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which a bailiff or former bailiff who served as bailiff as of January 1, 1967, may retire after 25 years of service regardless of age, with maximum benefits to be computed as follows: starting as of January 1, 1969, the average of any 5 years of earnings of the previous 10 years served in succession before retirement multiplied by 1.9% times the years of service; starting as of June 1, 1975, the average of any 5 years of earnings multiplied by 2% times the years of service. As used in this subsection, "earnings" means the salary and fees, other than mileage, received by a bailiff pursuant to section 8322(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which health, accident, and hospitalization

insurance premiums may be paid out of the earnings of this fund. These payments shall be made at the discretion of the pension board of trustees. A county that has a retirement fund for bailiffs under this section shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8274, and to the state court administrator.

(7) An employee while receiving a pension or retirement benefit because of disability, pursuant to this section, may be considered as employed in the county service for the purpose of retirement under this section.

(8) A county employee who is included by law in another pension or retirement system by reason of the compensation the employee receives from the county may be excluded from a plan established under this section or included only to the extent of the difference between benefits granted under this section and the other pension or retirement system.

(9) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of government service resulting from employment with the United States government, except military service, employment with a state, or employment with any of their political subdivisions under the following conditions:

(a) Employment by the county occurred within 15 years following the county employee's separation from service of the last unit of government by which the county employee was employed.

(b) Service rendered before the last break in service of more than 15 years shall not be credited.

(c) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(d) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee would have made had the service been acquired in the employ of the county, plus interest from the dates the contributions would have been made to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(e) The county employee has 8 or more years of credited service in county employment, has legal vesting in the county plan, and deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer would have made had the government service being credited under this section been acquired in the employ of the county.

(10) A plan adopted under this section may provide for annual or less frequent postretirement redetermination of a pension. The redetermined amount of pension shall be not greater than the amount of pension otherwise payable multiplied by the sum of 100% and the percentage the county board of commissioners determines appropriate for each full year, excluding a fraction of a year, in the period from the effective date of payments of the pension and the date as of which the redetermination is being made. The redetermined amount shall not be less than the amount of pension otherwise payable. A provision of this section that limits the amount of a pension shall not apply to the

operation of this subsection redetermining the amount of a pension. As used in this subsection, "the amount of pension otherwise payable" means the amount of pension that would be payable without regard to this subsection. The application of a provision redetermining pension amounts may be restricted to pensions that have an effective date of payment either before or after a specified date.

(11) The cost of pension or retirement benefits for a county employee under this section may be paid from the same fund from which the employee receives compensation, and the county board of commissioners may appropriate the necessary funds to carry out the purposes of this section. If a county establishes a plan by which the county pays pension or retirement benefits to an employee pursuant to this section, the county, pursuant to provisions for pension or retirement benefits that are incorporated in the plan, shall establish and maintain reserves on an actuarial basis in the manner provided in this subsection sufficient to finance the pension and retirement and death benefit liabilities under the plan and sufficient to pay the pension and retirement and death benefits as they become due. A county that adopts a retirement plan under this section and establishes reserves on an actuarial basis shall maintain the reserves as provided in this subsection. The reserves shall be determined by an actuarial valuation and established and maintained by yearly appropriations by the county and contributions by employees. The reserves shall be established, maintained, and funded to cover the pension and other benefits provided for in the plan in the same manner and within the same limits as to time as is provided for Benefit Program B in the municipal employees retirement system described in former section 14 of the municipal employees retirement act of 1984, 1984 PA 427. These reserves are trust funds and shall not be used for any other purpose than the payment of pension, retirement, and other benefits and refunds of employee contributions pursuant to the plan established in a county. An employee's contributions shall be kept and accumulated in a separate fund and used only for the payment of annuities and refunds to employees. This subsection does not apply to a county that adopted a retirement plan under this section and did not establish reserves on an actuarial basis before October 11, 1947.

(12) If a county establishes a plan for the payment of pension and retirement benefits to its employees pursuant to this section, the county board of commissioners may provide for a board of trustees to administer the plan and for the manner of election or appointment of the members of the board of trustees. The county board of commissioners may grant authority to the board of trustees to fully administer and operate the plan and to deposit, invest, and reinvest the funds and reserves of the plan within the limitations prescribed by the county board of commissioners in the plan. The county board of commissioners may authorize the investment of funds of a county retirement plan established under this section in anything in which the funds of the state employees' retirement system or the funds of the municipal employees retirement system may be invested, pursuant to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555. A county retirement plan established under this section may provide for financing, funding, and the payment of benefits in the same manner and to the same extent as is provided for in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, may provide for and require contributions by county employees, and may permit additional employee contributions on a voluntary basis.

(13) Upon the approval of the county board of commissioners, a member who entered the armed service of the United States before June 1, 1980 or who entered the armed service of the United States on or after June 1, 1980 during a time of war or emergency condition as described in section 1 of 1965 PA 190, MCL 35.61, may elect to receive credited service for not more than 5 years of active military service. Credit for military

service shall be given upon request and payment to the retirement system of an amount equal to 5% of the member's full-time or equated full-time annual compensation for the year in which payment is made multiplied by the number of years, and fraction of a year, of credited service that the member elects to purchase up to the maximum. Service shall not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, except for service that is or would be credited under the federal government for services in the reserve. Service shall not be credited under this subsection until the member has the number of years of credited service needed to vest under the plan. Only completed years and months of armed service shall be credited under this subsection.

(14) A member who enters or entered any armed service of the United States may purchase credited service for periods of continuous active duty lasting 30 days or more, subject to the following conditions:

(a) The county board of commissioners authorizes the purchase of credited service under this subsection by an affirmative vote of a majority of the members of the county board of commissioners. The county board of commissioners shall establish a written policy to implement the provisions of this subsection in order to provide uniform application of this subsection to all members of the plan.

(b) The member has at least the number of years of credited service needed to vest under the plan, not including any credited service purchased under this subsection and subsection (13).

(c) The member pays the plan 5% of the member's annual compensation multiplied by the period of credited service being purchased. As used in this subdivision, "annual compensation" means the aggregate amount of compensation paid the member during the 4 most recent calendar quarters for each of which the member was credited 3/12 of a year of credited service.

(d) Fractional months of armed service shall not be recognized for the purposes of this subsection.

(e) Armed service credited a member under subsection (13) shall not be the basis of credited service under this section.

(f) Armed service credited a member under this subsection shall not exceed either 5 years or the difference between 5 years and the armed service credited the member under subsection (13).

(g) Credited service shall not be granted for periods of armed service that are or could be used for obtaining or increasing a benefit from another retirement system, except for service that is or would be credited under the federal government for services in the reserve.

(15) As used in this subsection, "transitional public employment program" means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans' outreach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the former comprehensive employment and training act of 1973, Public Law 93-203. A person participating in a transitional public employment program shall not be eligible for membership in a retirement system or pension plan established under this section. If the person later becomes a member of a retirement system or pension plan established under this section within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment in the transitional public employment

program for purposes of determining a retirement allowance upon the payment by the person and the person's employer under the transitional public employment program from funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, as funds permit, to the retirement system of the contributions, plus regular interest, the person and the employer would have paid had the employment been rendered in a position covered by this section. During the person's employment in the transitional public employment program, the person's employer shall provide an opportunity by payroll deduction for the person to make his or her employee contribution to the applicable pension system. To provide for the eventual payment of the employer's contribution, the person's employer shall during this same period place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this section, but only for that number of employees that the employer determined would transfer from the transitional public employment program into positions covered by this section. If the funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(16) Subsection (15) does not exclude the participant in a transitional public employment program from the accident, disability, or other benefits available to members of the retirement system covered by this section.

(17) If a probate judge who is a member of a plan established under this section contributes for 20 years or more, the county board of commissioners may allow the probate judge to cease further contributions.

(18) An employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who became an employee of the state judicial council on September 1, 1981, and who was 44 years of age or older as of that date, and who will have accumulated 25 or more years of service credit by September 1, 1987, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. A person who was an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit on August 31, 1981, who last entered county employment before November 2, 1956, who became an employee of the state judicial council on September 1, 1981, and who accumulated not less than 24 years of service credit by August 31, 1981, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. An election to continue to be a member of a pension or retirement benefit plan established pursuant to this section as authorized by section 594(2) of the revised judicature act of 1961, 1961 PA 236, MCL 600.594, as that section read on February 8, 1985, or former section 36(2) of 1919 PA 369, is not effective unless the employee has made the election in the manner prescribed by those sections and has made the payments required by those sections.

(19) A plan adopted under this section may provide that an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who is a member of the Wayne county employees' retirement system on August 31, 1981, who becomes an employee of the state judicial council and a member of the state employees' retirement system on September 1, 1981, receive a benefit based on the annual average of the highest actual compensation received by the employee during a period of 5 years of county or state service.

(20) Beginning September 1, 1981, for determining the retirement benefit for a county employee who is a judge of a municipal court of record pursuant to subsection (2), "average final compensation" means the annual average of the highest actual compensation received by the judge as additional salary pursuant to former section 13(2) of 1919 PA 369, or section 9932(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9932, during a period of 5 years of service as specified in the plan. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(21) Beginning September 1, 1981, for each county employee who is a judge of a municipal court of record, or of the circuit or district court, the sum of the average final compensation determined for that county employee pursuant to this section and the final salary determined for that county employee as a member of the state of Michigan judges' retirement system created by former 1951 PA 198, or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(22) Beginning September 1, 1981, for each county employee who is a judge of the probate court, the sum of the average final compensation calculated for that employee pursuant to this section and the final salary calculated for that employee as a member of the state of Michigan probate judges retirement system created by former 1954 PA 165 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(23) Beginning September 1, 1981, for determining a retirement benefit pursuant to subsection (2) for a county employee who is a judge who receives an annuity pursuant to section 14(5) of former 1951 PA 198 or pursuant to section 503(2)(c) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final compensation" means the difference between the judge's total annual salary payable from all sources on August 31, 1981, and the judge's state base salary payable on August 31, 1981. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(24) Beginning January 1, 1983, the sum of the final salary determined for each county employee who is a judge of the probate court used as the basis for determining the judge's retirement allowance as a member of a retirement system established pursuant to this section and the salary or compensation figure used as the basis for determining the judge's retirement allowance as a member of the state of Michigan judges' retirement system created by former 1951 PA 198 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the judge's total annual salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(25) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of membership service that the county employee was previously credited with by the retirement system established under this section under the following conditions:

(a) The membership service previously credited to the county employee was service rendered for the same county.

(b) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(c) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee made at the time of the previous membership service plus interest from the date of withdrawal of the accumulated contributions to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(d) The county employee deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer made at the time of the previous membership service plus interest from the date of separation to the date of deposit, at rates determined by the county board of commissioners.

(26) A person participating in a program described in this subsection is not eligible for membership in a retirement system or pension plan established under this section. In addition, that person shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of the retirement system. This subsection applies to all of the following:

(a) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(b) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(c) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259 and sections 148 to 160 of 1984 PA 246.

(d) A person, not regularly employed by the county, who is hired by the county to administer a program described in subdivision (a), (b), or (c).

(27) If a county enters into a collective bargaining agreement pursuant to 1947 PA 336, MCL 423.201 to 423.217, that provides for retirement benefits that are in excess of the retirement benefits otherwise authorized to be provided under this section for employees of the county who are covered by a plan under this section, then the county board of commissioners may amend or adopt a plan under this section to provide those benefits to employees who are members of the bargaining unit covered by the agreement, and may, after December 31, 1987, amend or adopt a plan under this section to provide those benefits to other employees of the county.

(28) One of the following conditions applies to a retirant who is receiving a pension or retirement benefit from a plan under this section if the retirant becomes employed by a county that has established a plan under this section:

(a) Payment of the pension or retirement benefit to the retirant shall be suspended if the retirant is employed by the county from which the retirant retired and the retirant does not meet the requirements of subdivision (b) or (d). Suspension of the payment of the

pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retirant is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retirant shall not be a member of the plan during the period of employment.

(b) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if all of the following requirements are met:

(*i*) The retirant meets 1 of the following requirements:

(A) For any retirant, is employed by the county for not more than 1,000 hours in any 12-month period.

(B) For a retirant who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retirant's retirement allowance effective date.

(C) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date.

(D) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retirant retired for a term of office that begins 2 years or more after the retirant's retirement allowance effective date.

(*ii*) The retirant is not eligible for any benefits from the county other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.

(*iii*) The retirant is not a member of the plan during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

(c) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of the employment if the retirant becomes employed by a county other than the county from which the retirant retired. For the purposes of membership and potential benefit entitlement under the plan of the other county, the retirant shall be considered in the same manner as an individual with no previous record of employment by that county.

(d) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if the retirant was an employee of the state judicial council on September 30, 1996, and becomes a county-paid employee of the recorder's court of the city of Detroit or the third judicial circuit of the circuit court on October 1, 1996.

(29) A county may increase the percentage of the highest average monthly compensation or earnings that was used to calculate the pension or retirement benefit under subsection (1)(b) of a person receiving a pension or retirement benefit under this section on the date the county increases the percentage of compensation or earnings. The county shall recalculate the pension or retirement benefit using the increased percentage of compensation or earnings. The person receiving the pension or retirement benefit is eligible to receive an adjusted pension or retirement benefit based upon the recalculation effective the first day of the month following the date the county increases the percentage of compensation or earnings under this subsection.

(30) The payment of pension or retirement benefits under a plan established pursuant to this section is subject to an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(31) If a county retirement plan established under this section provides an optional form of payment of a retirement allowance and if a retirant receiving a reduced retirement allowance under that plan is divorced from the spouse who had been named the retirant's survivor beneficiary, the election of a reduced retirement allowance form of payment shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court dated after July 18, 1991 provides that the election of a reduced retirement allowance form of payment is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance form of payment is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on July 18, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(32) A county board of commissioners of a county having a population of more than 400,000 but less than 800,000, which county has an employee credit union organized under 1925 PA 285, MCL 490.1 to 490.31, may include as a member of a plan under this section a past or present employee of the credit union, if that past or present employee has 5 or more years of service credit with that credit union on or before June 30, 1990.

(33) The county board of commissioners shall establish a written policy to implement the provisions of this section in order to provide uniform application of this section to all members of the plan.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 731]

(HB 5829)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to

regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20180 (MCL 333.20180), as added by 1994 PA 52.

The People of the State of Michigan enact:

333.20180 Health facility or agency; person making or assisting in originating, investigating, or preparing report or complaint; immunity and protection from civil or criminal liability; disclosure of identity; notice; "hospital" defined.

Sec. 20180. (1) A person employed by or under contract to a health facility or agency or any other person acting in good faith who makes a report or complaint including, but not limited to, a report or complaint of a violation of this article or a rule promulgated under this article; who assists in originating, investigating, or preparing a report or complaint; or who assists the department in carrying out its duties under this article is immune from civil or criminal liability that might otherwise be incurred and is protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369. A person described in this subsection who makes or assists in making a report or complaint, or who assists the department as described in this subsection, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article.

(2) Unless a person described in subsection (1) otherwise agrees in writing, the department shall keep the person's identity confidential until disciplinary proceedings under this article are initiated against the subject of the report or complaint and the person making or assisting in originating, investigating, or preparing the report or complaint is required to testify in the disciplinary proceedings. If disclosure of the person's identity is considered by the department to be essential to the disciplinary proceedings and if the person is the complainant, the department shall give the person an opportunity to withdraw the complaint before disclosure.

(3) Subject to subsection (4), a person employed by or under contract to a hospital is immune from civil or criminal liability that might otherwise be incurred and shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment if that person reports to the department, verbally or in writing, an issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. The protections afforded under this subsection do not limit, restrict, or diminish, in any way, the protections afforded under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) Except as otherwise provided in subsection (5), a person employed by or under contract to a hospital is eligible for the immunity and protection provided under subsection (3) only if the person meets all of the following conditions before reporting to the

department the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article:

(a) The person gave the hospital 60 days' written notice of the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. A person who provides a hospital written notice as provided under this subdivision shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment. Within 60 days after receiving a written notice of an issue related to the hospital that is an unsafe practice or condition, the hospital shall provide a written response to the person who provided that written notice.

(b) The person had no reasonable expectation that the hospital had taken or would take timely action to address the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article.

(5) Subsection (4) does not apply if the person employed by or under contract to a hospital is required by law to report the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article before the expiration of the 60 days' notice required under subsection (4).

(6) A hospital shall post notices and use other appropriate means to keep a person employed by or under contract to the hospital informed of their protections and obligations under this section. The notices shall be in a form approved by the department. The notice shall be made available on the department's internet website and shall be posted in 1 or more conspicuous places where notices to persons employed by or under contract to a hospital are customarily posted.

(7) As used in this section, "hospital" means a hospital licensed under article 17.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 732]

(SB 719)

AN ACT to amend 1978 PA 389, entitled "An act to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; to prescribe powers and duties of the family independence agency; to prescribe immunities and liabilities of certain persons and officials; and to prescribe penalties for violations of this act," by amending section 11 (MCL 400.1511), as added by 2001 PA 192.

The People of the State of Michigan enact:

400.1511 Interagency domestic violence fatality review team.

Sec. 11. (1) The state or a county may establish an interagency domestic violence fatality review team. Two or more counties may establish a single domestic violence fatality review team for those counties. The purpose of a team is to learn how to prevent domestic violence homicides and suicides by improving the response of individuals and

agencies to domestic violence. Subject to the requirements of this section, each team may determine its structure and specific activities.

(2) The fatality review teams may review fatal and near-fatal incidents of domestic violence, including suicides. The review of a domestic violence incident may include a review of events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by the agencies and individuals related to the incident and the parties, and any other information considered relevant by the team. The team may determine the number and type of incidents it wishes to review and shall make policy and other recommendations as to how incidents of domestic violence may be prevented.

(3) A fatality review team and its members are entitled to the protections granted under this section if the fatality review team is convened under this section and in compliance with the requirements of this section.

(4) A fatality review team established under this section shall include, but is not limited to, the following:

(a) A health care professional with training and experience in responding to domestic violence.

(b) A medical examiner.

(c) A prosecuting attorney or a designated assistant prosecuting attorney.

(d) A representative of a domestic violence shelter that receives funding from the Michigan domestic violence prevention and treatment board.

(e) A law enforcement officer.

(5) If a state fatality review team is convened, the state fatality review team shall be convened by the Michigan domestic violence prevention and treatment board.

(6) Subject to subsection (9), information obtained or created by or for a fatality review team is confidential and not subject to discovery or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Documents created by or for the fatality review team are not subject to subpoena, except that documents and records otherwise available from other sources are not exempt from subpoena, discovery, or introduction into evidence from other sources solely because they were presented to or reviewed by a fatality review team. Information relevant to the investigation of a crime may be disclosed by a fatality review team only to the prosecuting attorney or to a law enforcement agency. Information required to be reported under the child protection law, 1975 PA 238, MCL 722.621 to 722.638, shall be disclosed by a fatality review team to the family independence agency. A prosecuting attorney, a law enforcement agency, and the family independence agency may use information received under this subsection in carrying out their lawful responsibilities. Individuals and the organizations represented by individuals who participate as members of a fatality review team shall sign a confidentiality agreement acknowledging the confidentiality provisions of this section.

(7) An individual who provides information to a fatality review team shall sign a confidentiality notice acknowledging that any information he or she provides to a fatality review team shall be kept confidential by the fatality review team, but is subject to possible disclosure to the prosecuting attorney, a law enforcement agency, or the family independence agency as provided in subsection (6).

(8) Fatality review team meetings are closed to the public and are not subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Information identifying a victim of domestic violence whose case is being reviewed, or that person's family members, or an alleged or suspected perpetrator of abuse upon the victim, or regarding the involvement of any agency with the victim or that person's family, shall not be disclosed in any report that is available to the public.

(9) Fatality review teams convened under this section shall prepare an annual report of findings, recommendations, and steps taken to implement recommendations. The report shall not contain information identifying any victim of domestic violence, or that person's family members, or an alleged or suspected perpetrator of abuse upon a victim, or regarding the involvement of any agency with a victim or that person's family. The report shall cover each calendar year or portion of a calendar year during which a fatality review team is convened and the report shall be provided to the Michigan domestic violence prevention and treatment board on or before March 1 of the following year. If the Michigan domestic violence prevention and treatment board develops a form for use by fatality review teams to report annual findings and recommendations, fatality review teams shall use that form.

(10) A person who violates the confidentiality provisions of this section is guilty of a misdemeanor.

(11) A fatality review team, any member of a fatality review team, any individual providing information to a fatality review team, or any other person or agency acting within the scope of this section is immune from all civil liability resulting from an act or omission arising out of and in the course of the team's, member's, individual's, person's, or agency's performance of that activity, unless the act or omission was the result of gross negligence or willful misconduct. This section shall not be construed to limit the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, or any other immunity provided by statute or common law.

(12) Subject to available funding, the Michigan domestic violence prevention and treatment board may do any of the following:

(a) Develop a protocol for use by state, county, and multicounty domestic violence fatality review teams.

(b) Develop a form for use by fatality review teams to report annual findings and recommendations as required in subsection (9).

(c) Develop and provide training concerning fatality review teams.

(d) Prepare a report to the governor, the senate, and the house of representatives summarizing the findings and recommendations of fatality review teams and making recommendations to reduce and eradicate the incidence of domestic violence.

(13) If the Michigan domestic violence prevention and treatment board develops a protocol for use by state, county, and multicounty fatality review teams, the teams shall follow that protocol.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 733]

(HB 4003)

AN ACT to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and

the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

338.3511 Short title.

Sec. 1. This act shall be known and may be cited as the "state plumbing act".

338.3513 Definitions; A to C.

Sec. 3. As used in this act:

(a) "Apprentice plumber" means an individual registered under this act as an apprentice.

(b) "Board" means the state plumbing board created in section 13.

(c) "Building sewer" means that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.

(d) "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(e) "Code" means the state construction code provided for in section 4 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1504, or a part of the code that is of limited application and includes a modification of or amendment to the code.

338.3515 Definitions; D to G.

Sec. 5. As used in this act:

(a) "Department" means the department of consumer and industry services.

(b) "Director" means the director of the department of consumer and industry services or an authorized representative of the director.

(c) "Domestic water treatment and filtering equipment" means residential water treatment and filtering equipment used in 1-family and 2-family dwellings.

(d) "Enforcing agency" means an enforcing agency as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

(e) "Governmental subdivision" means a governmental subdivision as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

338.3517 Definitions; L, M.

Sec. 7. As used in this act:

(a) "Journey plumber" means an individual, other than a plumbing contractor or master plumber, who is qualified to engage in the practical installation of plumbing and who is licensed as a journey plumber.

(b) "License" means the document issued to a person under this act enabling that person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act.

(c) "Licensee" means a person who has been issued a license under this act.

(d) "Master plumber" means an individual possessing the necessary skills and qualifications to plan and supervise the installation of plumbing and who is licensed as a master plumber.

(e) "Minor repair" means a repair which involves only the clearance of stoppages, repair, or replacement of a faucet, valve, reinstallation of that same plumbing fixture provided that no modifications are made to the plumbing system, or residential domestic water treatment and filtering equipment. Minor repair does not include any of the following:

(*i*) The repair or replacement of a backflow preventer and air admittance valves.

(*ii*) A repair or replacement that is only a part of a larger or major renovation or repair.

338.3519 Definitions; P.

Sec. 9. As used in this act:

(a) "Person" means an individual, sole proprietor, partnership, association, corporation, governmental subdivision, public or private school, or public or private organization.

(b) "Plumbing" means the practice, materials, and fixtures, in or adjacent to a building, structure, or premises, used in the installation, maintenance, extension, or alteration of all piping, fixtures, plumbing appliances, plumbing appurtenances, as defined by the code, in connection with the sanitary drainage or storm drainage facilities, plumbing venting systems, medical gas systems, backflow preventers, and public or private water supply systems.

(c) "Plumbing contractor" means a licensed master plumber or a person who employs a licensed master plumber full-time to directly supervise the installation of plumbing as his or her representative engaged in the business of plumbing for a fixed sum, price, fee percentage, valuable consideration, or other compensation and who is licensed as a plumbing contractor.

(d) "Probation" means a sanction which permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated by this act.

338.3521 Definitions; R to W.

Sec. 11. As used in this act:

(a) "Restitution" means the requirement that a person found to be in violation of this act, a rule promulgated under this act, or an order issued under this act has caused monetary damage to another and that the violator will be required to compensate the injured party by an amount equal to the amount of the monetary damage caused.

(b) "Stille-DeRossett-Hale single state construction code act" means the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(c) "Water service pipe" means the pipe from the water main or other source of potable water supply to the water distributing system of the building served.

338.3523 State plumbing board; creation; membership; appointment; qualifications; terms; compensation; meetings; quorum; election of officers; public meeting; availability of writings; access to files; maintenance; rules; licensure examination.

Sec. 13. (1) There is created a state plumbing board within the department. The governor, with the advice and consent of the senate, shall appoint 5 United States citizens who are residents of the state, 2 of whom shall be licensed plumbing contractors who hold

a master's license. One shall be a licensed master plumber securing permits, and 1 shall be a licensed journey plumber, each having 10 years' experience, and a person representative of the general public, who with the director of the department of environmental quality or his or her authorized representative, a member or employee of the drinking water and radiologic protection division of the department of environmental quality, selected by the director of the department of environmental quality as voting ex officio members, shall constitute the plumbing board. Upon the expiration of the term of office of each person so appointed, the governor shall, on or before July 1 in each year, appoint a successor to hold office for a term of 3 years.

(2) Per diem compensation of the members of the board, other than the director and the director of the department of environmental quality or their authorized representatives and the member or employee of the drinking water and radiologic protection division of the department of environmental quality, and the schedule for reimbursement of expenses shall be established annually by the legislature.

(3) The board shall meet as often as necessary to fulfill its duties under this act, but shall meet not less than 4 times a year. A majority of the members appointed and serving shall constitute a quorum. An approval, decision, or ruling of the board does not become effective unless supported by a majority of the members present constituting a quorum. A member of the board shall not vote by proxy.

(4) At the first meeting of each calendar year, the board shall elect 1 member as chairperson, another as vice-chairperson, another as secretary, and other officers as it determines appropriate, for the terms and with the duties and powers as the board determines. The chairperson, vice-chairperson, and secretary shall be elected from those members appointed to the board by the governor.

(5) The business which the board may perform 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. A member of the board who intentionally violates this subsection is subject to the penalties prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A 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 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The department shall maintain physical possession of the files of the board and shall ensure that applicable laws concerning public access to the files are met.

(7) The board shall recommend to the state construction code commission the promulgation of rules necessary for the safe design, construction, installation, alteration, and inspection of plumbing. The board may also recommend to the state construction code commission, after testing and evaluation, that it issue certificates of acceptability under the code for a material, product, method of manufacturing, or method of construction or installation of plumbing equipment.

(8) The department, in consultation with the board, shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of this act and to effectuate the purposes of this act including, but not limited to, the establishing of standards for license classifications under this act; the examination and licensing of plumbing contractors, master plumbers, and journey plumbers; and for the registration of plumbers' apprentices. Before an examination or other test required under this act is administered, the board, in consultation with the department, shall review and approve the form and content of the examination or test.

Each examination for a license as a plumbing contractor, master plumber, or journey plumber shall be conducted by the board and the department, acting jointly.

338.3525 Plumbing; license required; exceptions.

Sec. 15. (1) A person shall not engage in or work at the business of a plumbing contractor, master plumber, journey plumber, or apprentice plumber unless licensed or registered by the department. Except as provided in subsections (2), (3), (4), and (5), plumbing shall be performed by a licensed master or journey plumber. A licensed master plumber shall be in charge and responsible for proper installation and conformance with the code. Plumbing shall not be performed unless the plumbing contractor who is responsible has secured a permit from the state or a governmental subdivision authorized to issue permits.

(2) A license is not required for the following work:

(a) Minor repair work.

(b) The installation of a building sewer or water service pipe provided that a permit is secured from the responsible enforcing agency and inspections are performed. The installations shall comply with the applicable code.

(c) The installation of domestic water treatment and filtering equipment that requires modification to an existing cold water distribution supply and associated waste piping in buildings if a permit is secured, required inspections performed, and the installation complies with the applicable code. If the enforcing agency determines a violation exists, it shall be corrected by the responsible installer.

(3) A homeowner may install his or her own plumbing, building sewer, or private sewer in his or her single-family dwelling if a permit is secured.

(4) The installation of medical gas piping providing the installation shall be performed under the supervision of a licensed plumbing contractor.

(5) This act does not prevent a person from performing any activities within the scope of licensure or registration under any other licensure or registration act or applicable codes for that licensed or registered professional adopted pursuant to law.

338.3527 Plumbing contractor, master plumber, and journey plumber's examination.

Sec. 17. (1) The board shall grant licenses or registrations to qualified applicants for examination or registration. The character, experience, and fitness of an applicant for examination or registration shall also be taken into consideration. Each applicant shall be of good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(2) The plumbing contractor's examination shall consist of, but not be limited to, questions designed to test an individual's knowledge of this act, any rules promulgated under this act, the Stille-DeRossett-Hale single state construction code act, and the administration and enforcement procedures of the code. The department shall arrange for plumbing contractor examinations to be held in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 plumbing contractor examination to be held in the Upper Peninsula each year.

(3) The master plumber's examination shall consist of, but not be limited to, oral and written tests and shall cover the science and practice of plumbing, knowledge of the state plumbing code, laws, rules, regulations, interpretation of charts and blueprints, and plans of plumbing installations. The department shall arrange for master plumber examinations

in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 master plumber's examination to be held in the Upper Peninsula each year.

(4) The journey plumber's examination shall consist of, but not be limited to, oral, written, and practical tests and shall cover the theory and practice of plumbing and knowledge of the state plumbing code, rules, and regulations. The department shall arrange for journey plumber examinations to be held in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 journey plumber's examination to be held in the Upper Peninsula each year.

(5) An application to take an examination shall be submitted to the department no later than 20 days before the date of the examination.

338.3529 Plumbing contractor, master, or journey licensure; conditions for examination.

Sec. 19. Applicants for plumbing contractor, master, or journey licensure under this act may sit for examination upon doing both of the following:

(a) Filing an application with the department, on a form provided by the department, with the appropriate nonrefundable examination fee prescribed in section 31.

(b) Establishing, in a manner satisfactory to the board, the experience requirement or an equivalent of that experience requirement for the particular class of licensure by use of a notarized statement from current and past employers and master plumbers.

338.3531 Plumbing contractor's license; issuance; conditions; requirements.

Sec. 21. (1) To qualify for a plumbing contractor license, the applicant must either hold a master plumber license or employ the holder of a master plumber license as his or her representative. Only an owner of a sole proprietorship or partnership, or an officer of a corporation or limited liability company, may apply for licensure as a plumbing contractor.

(2) The department shall issue a plumbing contractor's license to a person who does all of the following:

(a) Files a completed application on a form provided by the department that includes the following information:

(*i*) A statement listing the complete address of each place where the applicant has resided and has been engaged in business during the last 5 years including the length of residences and types of businesses engaged in or employments.

(*ii*) The name of the applicant, the name of the business, and the location of the place for which the license is desired.

(*iii*) The name of the business owner or president of the corporation and the name of the applicant, if different from the name of the business owner or president, and his or her title.

(*iv*) The name, residence address, and license number of the licensed master plumber who represents the person.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(3) A licensed plumbing contractor may operate 1 or more branch offices in this state bearing the same firm name provided a licensed master plumber is in charge and has the responsibility of supervision at each branch.

(4) When a license is issued to a plumbing contractor represented by a master plumber, the plumbing contractor and the master plumber are jointly and severally responsible for exercising the supervision or control of the plumbing operations necessary to secure full compliance with this act, the rules promulgated under this act, and all other laws and rules related to the installation of plumbing.

(5) Both a person other than a plumbing contractor and the master plumber are jointly and severally responsible for exercising the supervision or control of the plumbing operations necessary to secure full compliance with this act, the rules promulgated under this act, and all other laws and rules related to the installation of plumbing.

(6) If a plumbing contractor is represented by a licensed master plumber who ceases to represent the plumbing contractor, the plumbing contractor has 30 days thereafter in which to designate another licensed master plumber as the representative of the plumbing contractor. The plumbing contractor shall notify the department in writing of the change.

(7) A person applying for a plumbing contractor license shall also pay any amount required to be paid under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305, which amount shall be paid to the department for deposit in the homeowner construction lien recovery fund. An assessment imposed upon a master plumber is considered sufficient to fulfill any assessment obligation that may exist for a plumbing contractor.

(8) A person who, on the effective date of this act, is licensed as a master plumber under former 1929 PA 266 or employing a licensed master plumber shall, upon payment of the plumbing contractor license fee and upon furnishing the department with satisfactory evidence of having been engaged in a business as a master plumber for a minimum of 3 out of the 5 years immediately preceding the effective date of this act, be granted a plumbing contractor license without examination if the person applies within 6 months after the effective date of this act.

(9) A licensed plumbing contractor shall display in a conspicuous place at the entrance of the place of business a sign bearing the company name and the name of the licensed master plumber and license number in letters not less than 3 inches high.

338.3533 Master plumber's license; issuance; conditions; requirements.

Sec. 23. (1) The department shall issue a master plumber's license to a person not less than 18 years of age who does all of the following:

(a) Files a completed application on a form provided by the department.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(d) Holds a journey plumber license issued under this act or former 1929 PA 266 and has gained 4,000 hours' experience in work as a journey plumber over a period of not less than 2 years immediately preceding the date of his or her application.

(2) As a condition of renewal of a master plumber's license, the master plumber shall demonstrate the successful completion of a course, approved by the board, concerning any update or change in the code within 12 months after the update or change in that code. This requirement applies only during or after those years that the code is updated or changed.

(3) A licensed master plumber shall represent only 1 plumbing contractor at any given time.

(4) A master plumber who is also a plumbing contractor is only liable for payment of the plumbing contractor license fee.

(5) If a master plumber representing a plumbing contractor ceases to represent the plumbing contractor, the master plumber shall notify the department in writing within 30 days after the representation ceases.

338.3535 Journey plumber's license; issuance; conditions; requirements.

Sec. 25. (1) The department shall issue a journey plumber's license to a person not less than 18 years of age who does all of the following:

(a) Files a completed application on a form provided by the department.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(d) Has at least 6,000 hours' experience gained over a period of not less than 3 years as an apprentice plumber in the practical installation of plumbing under the supervision of a master plumber.

(2) As a condition of renewal of a journey plumber's license, the journey plumber shall demonstrate the successful completion of a course, approved by the board, concerning any update or change in the code within 12 months after the update or change in that code. This requirement applies only during or after those years that the code is updated or changed.

338.3537 Apprentice plumber; registration; requirements.

Sec. 27. (1) An individual employed as an apprentice plumber shall register with the department on a form provided by the department within 30 days after employment.

(2) An apprentice registration is invalid after 5 years from the date of initial registration unless the registered apprentice applies for and takes the examination for journey license. The registration remains valid until either a license is issued or the apprentice fails to take the exam.

(3) Upon request by the apprentice to the board, the board may grant an extension of an apprentice registration for a period of time as determined appropriate by the board.

(4) An apprentice plumber shall, as his or her principal occupation, be engaged in learning and assisting in the installation of plumbing under the direct on-site jobsite supervision of a journey or master plumber.

338.3539 Master plumber; inactive license; issuance as active; holding active master and journey plumber license.

Sec. 29. (1) A person licensed as a master plumber may request that the master plumber license be retained by the department as an inactive license for a period not to exceed 3 years.

(2) An inactive master plumber license shall be issued as active upon the request of the licensee and the payment of the reinstatement fee as described in section 31 as long as the individual holds a journey plumber license and the individual's journey plumber license has been renewed each year.

(3) A person shall not simultaneously hold an active master and journey plumber license. An individual holding an active master plumber license may work as a journey plumber.

338.3541 License or registration renewal; fees.

Sec. 31. (1) A license or apprentice registration issued under this act must be renewed not more than 60 days after the renewal date. It is the responsibility of a licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. Every holder of a license or registration issued under this act shall promptly notify the department of a change in his or her business or residence address. The failure of a licensee or registrant to notify the department of a change of address does not extend the expiration date of a license or registration. The department may issue licenses for up to 3 years in duration.

(2) The annual fees for initial licensure, apprentice plumber registration, or renewal of a license and registration issued under this act are as follows:

(a) Journey plumber ..... $ 20.00.

(b) Apprentice plumber ..... $ 5.00.

(3) All licenses and apprentice registrations not renewed within 60 days of expiration may be reinstated only upon application to the board for reinstatement and the payment of the annual renewal fee and the following reinstatement fee:

(a) Journey plumber ..... $ 25.00.

(b) Apprentice plumber ..... $ 10.00.

(4) A person requesting renewal of a license within 3 years after the license is expired under subsection (3) shall not be subject to reexamination for the license but is required to pay the reinstatement fee and the annual renewal fee for each year not renewed. A person who fails to renew a license for more than 3 consecutive years is required to meet the experience and other requirements and take an examination for the class of license sought.

(5) Examination fees are as follows:

(a) Plumbing contractor ..... $ 50.00.

(b) Master plumber ..... $ 50.00.

(c) Journey plumber ..... $ 50.00.

(6) The department shall issue an initial master plumber and plumbing contractor license for a period of up to 3 years. The master plumber and plumbing contractor licenses are renewable for periods of 3 years. In the case of a person applying for initial or reinstatement license at a time other than between April 30 and June 30 of the year in which the department issues renewal licenses, the department shall compute and charge the license fee on a yearly prorated basis beginning the year of application until the last year of the 3-year license period.

(7) The initial and renewal fee for a master plumber and plumbing contractor license issued under this act are as follows:

(a) Plumbing contractor ..... $200.00.

(b) Master plumber ..... $200.00.

(8) All plumbing contractor and master plumber licenses not renewed within 60 days of expiration may be reinstated only upon application to the board and payment of the renewal fee and an $85.00 reinstatement fee.

338.3543 Licensure without examination; reciprocity.

Sec. 33. Upon payment of the required fee in section 31, the board may license without examination applicants licensed under the laws of other states having requirements for licensing plumbers and for regulating plumbing that the board determines are equivalent to the requirements of this state conditional upon that state offering reciprocity.

338.3545 Lost or destroyed license or registration.

Sec. 35. If a license or registration is lost or destroyed, a new license or registration shall be issued without examination, upon payment of a $20.00 fee and a written statement made by the licensee or registrant that the license or registration has been lost or destroyed.

338.3547 Disposition of license fees and income.

Sec. 37. All fees and money received by the department from the licensing of plumbers and any other income the board may receive under this act shall be paid into the state construction code fund as created by section 22 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1522.

338.3549 Plumbing inspector; prohibited conduct.

Sec. 39. An individual licensed under this act employed or acting as a plumbing inspector shall not engage in, or be directly or indirectly connected with, the plumbing business including, but not limited to, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building or the preparation of plans or specifications for the construction, alteration, or maintenance of a building and shall not engage in any work that conflicts with his or her official duties.

338.3551 Plumbing permits; issuance by state or governmental subdivision.

Sec. 41. (1) A governmental subdivision may not exempt itself from the licensing requirements of this act and may not engage in or require local licensing.

(2) Except as otherwise provided in subsection (3) and section 15(2), (3), (4), and (5), the state or a governmental subdivision shall issue a plumbing permit only to a licensed plumbing contractor. The state or a governmental subdivision shall require the plumbing contractor to record his or her current plumbing contractor license number on the permit application. A licensed plumbing contractor shall designate 1 or more licensed master plumbers employed full-time who directly supervise the installation of plumbing to obtain permits using the license number of the plumbing contractor. The master plumber's license number must also be recorded on the permit application.

(3) In those instances where business or industrial procedure requires the regular employment of a full-time licensed master plumber, a licensed master plumber shall be authorized to secure permits for installations of plumbing on the premises owned or occupied and used by the business provided the licensed master plumber physically supervises the plumbing work and represents only the business or industrial employer. An annual affidavit furnished by the department shall be signed by both the employer and the licensed master plumber and shall be kept on file in the department. The filing fee for

an affidavit shall be determined by the department. A new affidavit must be filed before permits will be issued if the licensed master plumber's employment is terminated. The affidavit shall contain the following:

(a) The name and business address of the person employing the licensed master plumber.

(b) The name, address, and license number of the licensed master plumber.

(c) A statement to the effect that the employer and licensed master plumber will comply with the provisions of the act regulating installation of plumbing in this state.

(4) A plumbing contractor licensed under this act who performs work in a governmental subdivision shall register his or her license with the enforcing agency which issues permits and provides inspection services if required by the enforcing agency. The registration is valid until the expiration date of the plumbing contractor license. Registration shall be granted by all governmental subdivisions in this state to a plumbing contractor licensed under this act upon payment of a fee not to exceed $15.00.

(5) Master plumbers, journey plumbers, and apprentice plumbers are required to carry their licenses and a photo-identification. Upon the request of an enforcing agency, licensees and apprentice registrants shall present their license or registration and photo-identification.

(6) If the plumbing, reconstruction, alteration, or repair of pipes, tanks, or fixtures is performed without compensation by a person licensed under this act for or on behalf of a charitable organization, the permit required under subsection (2) may be obtained by the owner of the property on which the work is performed. This subsection applies only to the reconstruction, renovation, or remodeling of a 1-family to 4-family dwelling. As used in this subsection, "charitable organization" means a not-for-profit tax-exempt religious, educational, or humane organization.

338.3553 Investigations; hearings; board action; grounds; suspension or revocation of license.

Sec. 43. (1) The department may investigate the activities of a person licensed or registered under this act which are related to the person's licensure or registration as a plumbing contractor, master plumber, journey plumber, or apprentice plumber for activities that include, but are not limited to, the grounds described in subsection (2)(a) through (f). The department may hold hearings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall report its findings to the board.

(2) After an administrative hearing, the board shall proceed under section 47 against a person if the board finds that 1 or more of the following grounds for board action exist:

(a) The practice of fraud or deceit in obtaining a license or registration under this act.

(b) The practice of fraud or deceit in the performance of work for which a license or registration is required under this act.

(c) An act of gross negligence.

(d) False advertising.

(e) An act that demonstrates incompetence.

(f) A violation of this act or rule promulgated under this act.

(3) Notwithstanding section 47, the board upon recommendation of the department shall suspend or revoke the license of a person whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305. The license shall not be renewed and a new license shall not be issued until that person has made full restitution

to the fund, including the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

(4) Activity regulated under this act shall not be performed by a person whose license or registration has been suspended or revoked or whose license or registration has expired.

338.3555 Violation of asbestos abatement contractors licensing act.

Sec. 45. The board shall review the license of a person upon notice by the department that the person has violated the asbestos abatement contractors licensing act, 1986 PA 135, MCL 338.3101 to 338.3319, and may suspend or revoke that person's license for a knowing violation of that act.

338.3557 Sanctions.

Sec. 47. (1) After finding the existence of a violation described in section 43 and after an opportunity for a hearing, the board, except as otherwise provided in section 43(3) and section 45, shall impose 1 or more of the following sanctions for a violation:

(a) Suspension of the license or registration.

(b) Denial of the license or registration.

(c) Denial of renewal of a license or registration.

(d) Censure.

(e) Probation.

(f) Revocation of the license or registration.

(g) Restitution.

(2) If restitution is required to be made under this section, the license or registration of the person required to make restitution may be suspended until restitution is made.

338.3559 Violation as misdemeanor; penalty.

Sec. 49. A person licensed or registered under this act who commits a violation of this act, or a person not licensed or registered under this act who is performing any activity regulated by this act and is not exempt from licensure or registration under this act, is guilty of a misdemeanor punishable by a fine of not less than $1,000.00 per day for each day the violation occurs except that a fine shall not exceed $5,000.00 in total per violation or punishable by imprisonment for not more than 90 days, or both.

338.3561 Enforcement action.

Sec. 51. The attorney general, a local prosecuting attorney, or an attorney representing a governmental subdivision may initiate an action to enforce this act or rules promulgated under this act.

338.3563 Provision in conflict with Stille-DeRossett-Hale single state construction code act.

Sec. 53. Any provision of this act which is inconsistent or in conflict with the Stille-DeRossett-Hale single state construction code act is superseded by that act to the extent of the inconsistency.

338.3565 References to other acts.

Sec. 55. (1) Any proceedings pending before the plumbing board under the authority of former 1929 PA 266 shall be continued and be conducted and determined in accordance with the former statute.

(2) A person licensed or registered under former 1929 PA 266 on the day immediately preceding the effective date of this act is considered licensed or registered until the expiration of the licensure or registration under that act.

(3) A reference in any other act to former 1929 PA 266 or 1901 PA 222 is considered a reference to this act.

(4) Those rules promulgated under former 1929 PA 266 and 1901 PA 222 remain in effect under this act.

338.3567 Liability.

Sec. 57. This act shall not be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling, or installing plumbing for damages to persons or property caused by any defect in the plumbing, and the state of Michigan is not to be held as assuming any such liability by reason of the inspection or the examination authorized in that plumbing, the certificate of approval, or the license and certificate issued under this act.

338.3569 Repeal of §§ 338.901 to 338.917 and 338.951 to 338.965.

Sec. 59. The following acts are repealed:

(a) 1929 PA 266, MCL 338.901 to 338.917.

(b) 1901 PA 222, MCL 338.951 to 338.965.

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[No. 734]

(SB 1121)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for

penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16261, 16401, and 16411 (MCL 333.16261, 333.16401, and 333.16411).

The People of the State of Michigan enact:

333.16261 Health profession; prohibited use of insignia, title, letter, word, or phrase.

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a health profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained a specialty certification or a health profession specialty field license.

(3) An individual shall not announce or hold himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless the individual is a chiropractor licensed under this article.

333.16401 Definitions; principles of construction.

Sec. 16401. (1) As used in this part:

(a) "Chiropractor", "chiropractic physician", "doctor of chiropractic", or "d.c." means an individual licensed under this article to engage in the practice of chiropractic.

(b) "Practice of chiropractic" means that discipline within the healing arts which deals with the human nervous system and its relationship to the spinal column and its interrelationship with other body systems. Practice of chiropractic includes the following:

(*i*) Diagnosis, including spinal analysis, to determine the existence of spinal subluxations or misalignments that produce nerve interference, indicating the necessity for chiropractic care.

(*ii*) A chiropractic adjustment of spinal subluxations or misalignments and related bones and tissues for the establishment of neural integrity utilizing the inherent recuperative powers of the body for restoration and maintenance of health.

(*iii*) The use of analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus regulated by rules promulgated by the board pursuant to section 16423, and the use of x-ray machines in the examination of patients for the purpose of locating spinal subluxations or misaligned vertebrae of the human spine. The practice of chiropractic does not include the performance of incisive surgical procedures, the performance of an invasive procedure requiring instrumentation, or the dispensing or prescribing of drugs or medicine.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.16411 License or authorization required; scope and effect of act.

Sec. 16411. (1) An individual shall not engage in the practice of chiropractic, including, but not limited to, performing a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless licensed, or otherwise authorized by a chiropractor, under this article.

(2) The 2002 amendatory act that added this subsection is intended to codify existing law and to clarify and cure any misinterpretation of the operation of sections 16261, 16401, and 16411 since the effective date of their enactment.

(3) The 2002 amendatory act that added this subsection is not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

(4) The 2002 amendatory act that added this subsection does not affect the scope of practice of medicine or osteopathic medicine and surgery provided for in parts 170 and 175. The 2002 amendatory act that added this subsection does not amend the scope of practice of physical therapy provided for in part 178.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 735]

(SB 213)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 1231 and 1236 (MCL 380.1231 and 380.1236), section 1236 as amended by 1995 PA 289, and by adding section 1236a.

The People of the State of Michigan enact:

380.1231 Hiring of teachers; teachers' contracts generally.

Sec. 1231. (1) The board of a school district shall hire and contract with qualified teachers. Contracts with teachers shall be in writing and signed on behalf of the school district by a majority of the board, by the president and secretary of the board, or by the superintendent of schools or an authorized representative of the board. The contracts shall specify the wages agreed upon.

(2) A teacher's contract shall be filed with the secretary of the board and a duplicate copy of the contract shall be furnished to the teacher.

(3) Except as otherwise provided under this act, a contract with a teacher is not valid unless the person holds a valid teaching certificate at the time the contractual period begins. A contract shall terminate if the certificate expires by limitation and is not renewed immediately or if it is suspended or revoked by proper legal authority.

(4) The board of a school district, after a teacher has been employed at least 2 consecutive years by the board, may enter into a continuing contract with a certificated teacher.

(5) As used in this section, "teacher" does not include a substitute teacher.

380.1236 Substitute teachers; leave time, salary, and privileges; applicability of subsections (1) and (2); contract; "day" defined.

Sec. 1236. (1) Subject to subsection (3), if a teacher is employed as a substitute teacher with an assignment to 1 specific teaching position, then after 60 days of service in that assignment the teacher shall be granted for the duration of that assignment leave time and other privileges granted to regular teachers by the school district, including a salary not less than the minimum salary on the current salary schedule for that district.

(2) Subject to subsections (3) and (4), a teacher employed as a substitute teacher for 150 days or more during a legal school year of not less than 180 days, or employed as a substitute teacher for 180 days or more by an intermediate school district that operates any program for 220 days or more as required by administrative rule, shall be given during the balance of the school year or during the next succeeding legal school year only the first opportunity to accept or reject a contract for which the substitute teacher is certified, after all other teachers of the school district are reemployed in conformance with the terms of a master contract of an authorized bargaining unit and the employer.

(3) Subsections (1) and (2) do not apply to a substitute teacher who is contracted or employed by a person or entity that contracts with a school district or intermediate school district pursuant to section 1236a.

(4) Subsection (2) does not apply to a substitute teacher who is fulfilling the teaching duties of a teacher who is unable to teach due to a terminal illness.

(5) As used in this section, "day" means the working day of the regular, full-time teacher for whom the substitute teacher substitutes. A quarter-day, half-day, or other fractional day of substitute service shall be counted only as that fraction. However, a fraction of a day that is acknowledged by the school district and paid as a full day shall be counted as a full day for purposes of this section.

380.1236a Person or entity furnishing substitute teachers; contract; "entity" defined.

Sec. 1236a. (1) The board of a school district or intermediate school district may enter into a contract with a person or entity to furnish substitute teachers to the school district or intermediate school district as necessary to carry out the operations of the school district or intermediate school district.

(2) A contract entered into under this section shall include the following provisions:

(a) Assurance that the person or entity will furnish the school district or intermediate school district with qualified teachers in accordance with this act and rules promulgated under this act.

(b) Assurance that the person or entity will not furnish to the school district or intermediate school district any teacher who, if employed directly by the school district or intermediate school district, would be ineligible for employment by the school district or intermediate school district as a substitute teacher under this act.

(c) A description of the level of compensation and fringe benefits to be provided to employees of the person or entity who are assigned to the school district or intermediate school district as substitute teachers.

(d) A description of the type and amounts of insurance coverage to be secured and maintained by the person or entity and the school district or intermediate school district under the contract.

(e) Assurance that the person or entity, before assigning an individual to serve as a substitute teacher in the school district or intermediate school district, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a substitute teacher and will provide the board of the school district or intermediate school district with the criminal history record information obtained under section 1230 and with the results of the criminal records check under section 1230a. The department of state police shall provide information to a person or entity requesting information under this subdivision to the same extent as if the person or entity were a school district making the request under section 1230 or 1230a.

(3) A school district or intermediate school district that contracts with a person or entity to furnish substitute teachers under this section may purchase liability insurance to indemnify and protect the school district or intermediate school district and the person or entity against losses or liabilities incurred by the school district or intermediate school district and person or entity arising out of any claim for personal injury or property damage caused by the school district or intermediate school district, its officers, employees, or agents. A school district or intermediate school district may pay premiums for the insurance out of its operating funds. The existence of any policy of insurance indemnifying the school district or intermediate school district and person or entity against liability for damages is not a waiver of any defense otherwise available to the school district or intermediate school district in the defense of the claim.

(4) As used in this section, "entity" means a partnership, nonprofit or business corporation, labor organization, limited liability company, or any other association, corporation, trust, or other legal entity.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 736]

(HB 4330)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending sections 2, 7, and 8 (MCL 390.1452, 390.1457, and 390.1458), sections 7 and 8 as amended by 2002 PA 537.

The People of the State of Michigan enact:

390.1452 Definitions.

Sec. 2. As used in this act:

(a) "Approved postsecondary educational institution" means any of the following:

(*i*) A degree or certificate granting public or private college or university, junior college, or community college.

(*ii*) A service academy.

(*iii*) An educational institution, other than an educational institution described in subparagraph (*i*) or (*ii*), granting degrees, certificates, or other recognized credentials and designated by the board as an approved postsecondary educational institution.

(*iv*) A program of an educational institution, other than an educational institution described in subparagraph (*i*) or (*ii*), granting degrees, certificates, or other recognized credentials and designated by the board as an approved postsecondary educational institution.

(b) "Assessment test" means the Michigan education assessment program (MEAP) subject area assessments or any successor assessment test designated by the board.

(c) "Board" means the Michigan merit award board established in this act.

(d) "Department of career development" means the department of career development created in Executive Order No. 1999-1.

(e) "Eligible costs" means tuition and fees charged by an approved postsecondary educational institution; related costs for room, board, books, supplies, transportation, or day care; and other costs determined by the board.

(f) "Fiscal year" means the fiscal year of this state.

(g) "Michigan merit award scholarship" means a scholarship awarded by the board under section 7.

(h) "Qualifying results" means assessment test results, scores, or ranges of scores determined by the board that qualify a student for a Michigan merit award scholarship under section 7.

(i) "Service academy" means the United States military academy, United States naval academy, United States air force academy, United States coast guard academy, or United States merchant marine academy.

(j) "State board" means the state board of education.

(k) "Superintendent" means the superintendent of public instruction.

(*l*) "Tobacco settlement revenue" means money received by this state that is attributable to the master settlement agreement incorporated into a consent decree and final judgment entered on December 7, 1998 in Kelley Ex Rel. Michigan v Philip Morris Incorporated, et al., Ingham county circuit court, docket no. 96-84281CZ.

(m) "Trust fund" means the Michigan merit award trust fund established in section 3.

390.1457 Michigan merit award scholarship program; establishment; administration; eligibility of students for award; requirements; adjustment of available amount; review and approval of assessment test; intent of legislature; additional award; failure to initially achieve qualifying results; nonpublic or home school student.

Sec. 7. (1) The Michigan merit award scholarship program is established. The board shall administer the Michigan merit award scholarship program.

(2) Subject to subsection (6), each student enrolled in grade 11 in or after the 1998-1999 school year who meets the requirements of subsection (4), and subject to adjustment under subsection (5), is eligible for the award of a $2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or in a service academy, or the award of a $1,000.00 Michigan merit award

scholarship if the student is enrolled in an approved postsecondary educational institution outside this state other than a service academy, if the board finds that the student while in high school has taken the assessment test in the subject areas of reading, writing, mathematics, and science and meets 1 of the following:

(a) Has received qualifying results in each of the subject areas of reading, writing, mathematics, and science.

(b) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(3) Subject to subsection (6) and to adjustment under subsection (5), a student who was enrolled in grade 7 in or after the 1999-2000 school year and who the board finds has taken the assessment test in each of the subject areas while in grades 7 and 8 is eligible for 1 of the following additional Michigan merit award scholarships:

(a) If the board finds that the student while in grades 7 and 8 received qualifying results in 2 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $250.00.

(b) If the board finds that the student while in grades 7 and 8 received qualifying results in 3 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $375.00.

(c) If the board finds that the student while in grades 7 and 8 received qualifying results in all of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $500.00.

(4) In addition to the requirements set forth in subsections (2) and (3), to be eligible for the award of 1 or both Michigan merit award scholarships under this section, the board must find that a student satisfies all of the following:

(a) The student has graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board.

(b) The student graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the student's application to receive his or her Michigan merit award scholarship money.

(*ii*) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship money, or if the student becomes a member of the United States armed forces or peace corps during this 4-year period and serves for 4 years or less, the 4-year period is extended by a period equal to the number of days the student served as a member of the United States armed forces or peace corps. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.