

Act No. 407
Public Acts of 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Rep. Gilbert

ENROLLED HOUSE BILL No. 6025

AN ACT to create a metropolitan authority; to prescribe the powers, duties, and jurisdictions of the metropolitan authority; to prescribe the powers and duties of certain state officials; and to levy, collect, and distribute a tax.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “Michigan metropolitan areas metropolitan authority act”.

Sec. 3. (1) The legislature finds and declares all of the following:

(a) That there exists in this state a continuing need to strengthen and revitalize the economy of this state and to organize the activities of local government in metropolitan areas in a manner that reduces governmental barriers to economic growth, facilitates economic development, preserves communities and strengthens neighborhoods, prevents or reduces unemployment, and creates new employment opportunities.

(b) That under section 27 of article VII of the state constitution of 1963, the legislature may establish in metropolitan areas additional forms of government or authorities with power, duties, and jurisdictions as the legislature shall provide.

(c) That it is necessary and appropriate for the promotion of the health, safety, and welfare of the people of this state to enable the formation of metropolitan governments designed to perform multipurpose functions.

(d) That the formation of a metropolitan government under this act and the powers conferred by this act constitute a necessary program and serve a necessary public purpose.

(2) The purpose of this act is to do all of the following:

(a) Establish an authority to perform multipurpose functions in the metropolitan areas of this state.

(b) Promote the public health, safety, welfare, convenience, and prosperity of this state and its metropolitan areas.

Sec. 5. As used in this act:

(a) "Authority" means the metropolitan areas metropolitan authority established under section 7.

(b) "Commercial personal property" means personal property classified as commercial property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(c) "Commercial real property" means real property classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(d) "Council" means the metropolitan areas council established under section 9.

(e) "Debt loss" means, for a municipality that is not a local school district or intermediate school district, the amount of ad valorem property taxes and tax increment revenues required to pay the principal and interest of obligations incurred before 2013 pledging the tax increment revenues or the unlimited or limited taxing power of the municipality, that are lost from the exemptions provided by sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o.

(f) "Department" means the department of treasury.

(g) "Fiscal year" means either an annual period that begins on October 1 and ends on September 30 or the fiscal year for the authority established by the council.

(h) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(i) "Industrial real property" means real property classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(j) "Metropolitan areas component tax" means that portion of the use tax levied by the authority under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(k) "Municipality" includes, but is not limited to, the following:

(i) Counties.

(ii) Cities.

(iii) Villages.

(iv) Townships.

(v) Authorities, excluding an authority created under this act.

(vi) Local school districts.

(vii) Intermediate school districts.

(viii) Community college districts.

(ix) Libraries.

(x) Other local and intergovernmental taxing units.

(l) "Qualified loss" means the amounts calculated under sections 14, 15, and 16 that are not distributed to the municipality under section 17(3)(a).

(m) "Qualified municipality" means a municipality that is a community college district or a municipality that experienced a reduction in taxable value of more than 2.3% as a result of the exemption of industrial personal property and commercial personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o. A municipality's reduction in taxable value shall be calculated in the following manner:

(i) Calculate the total taxable value of all industrial personal property and commercial personal property in the municipality in 2013.

(ii) From the amount determined in subparagraph (i), subtract the total taxable value of all industrial personal property and commercial personal property in the municipality in the current year.

(iii) From the amount determined in subparagraph (ii), add the total taxable value of all property in the municipality in the current year.

(iv) Divide the result of subparagraph (ii) by the result of subparagraph (iii).

(n) "School debt loss" means the amount of revenue lost from ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors before January 1, 2013 or obligations pledging the unlimited taxing power of a local school district or intermediate school district incurred before January 1, 2013, as a result of the exemption of industrial personal property and commercial personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n and 211.9o.

(o) "School operating loss not reimbursed by the school aid fund" means the amount of revenue lost from ad valorem property taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as a result of the exemption of industrial personal property and commercial personal property under sections 9m, 9n, and 9o of the

general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, for mills other than basic school operating mills, as that term is defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c.

(p) "Taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(q) "Total qualified loss" means the total amount of qualified losses of all municipalities, as determined by the department.

(r) "Total restricted qualified loss" means the total amount of qualified losses for all qualified municipalities, as determined by the department.

Sec. 7. (1) The metropolitan areas metropolitan authority is established as a metropolitan government under section 27 of article VII of the state constitution of 1963. The authority is a public body corporate and a special authority. The authority is not an agency or instrumentality of state government.

(2) The property of the authority is public property devoted to an essential public and governmental purpose. Any income of the authority is for a public and governmental purpose.

(3) Property of the authority and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of the authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. The authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

(4) The validity of the creation of the authority is presumed unless held invalid by the court of appeals in an original action filed in the court of appeals not later than 60 days after the creation of the authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

Sec. 9. (1) The metropolitan areas council is established as the governing body of the authority. The powers, duties, functions, and responsibilities of the authority are vested in the council. The council shall consist of 5 residents of this state appointed by the governor. Not less than 3 members of the council shall be residents of separate metropolitan areas within this state. An officer or employee of this state may not serve as a member of the council.

(2) Of the members of the council initially appointed by the governor, 1 member shall be appointed for an initial term of 5 years, 1 member shall be appointed for an initial term of 4 years, 1 member shall be appointed for an initial term of 3 years, 1 member shall be appointed for an initial term of 2 years, and 1 member shall be appointed for an initial term of 1 year. After the initial appointments, a member of the council shall be appointed for a term of 6 years. If a vacancy on the council occurs other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the council may continue to serve until a successor is appointed and qualified. The governor shall designate a member of the council to serve as its chairperson at the pleasure of the governor.

(3) An individual appointed as a member of the council shall take the oath of office as provided under section 1 of article XI of the state constitution of 1963.

(4) A member of the council shall serve without compensation but may be reimbursed by the authority for necessary travel and expenses to the extent not prohibited by law and consistent with a reimbursement policy adopted by the council.

(5) A member of the council shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the council, when acting in good faith, may rely upon any of the following:

(a) The opinion of legal counsel for the authority.

(b) The report of an independent appraiser selected by the council.

(c) Financial statements of the authority represented to the member of the council to be correct by the officer of the authority having charge of its books of account or stated in a written report by an auditor or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(6) Within not more than 30 days following appointment of the initial members of the council, the council shall hold its first meeting at a date and time determined by the chairperson of the council. The council shall elect from among the members of the council an individual to serve as vice-chairperson of the council and secretary of the council and may elect other officers as the council considers necessary. All officers under this subsection shall be elected annually by the council.

(7) The council shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the council may be called by the chairperson of the council or as provided in bylaws adopted by the council. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) The council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The council shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of the authority. The council shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards.

(10) Before the beginning of each fiscal year, the council shall prepare a budget for the authority containing an itemized statement of the estimated expenses and revenue of the authority from all sources for the next fiscal year. Before final adoption of the budget, the council shall hold a public hearing as required by 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt a budget for the fiscal year in compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(11) The council shall adopt a procurement policy consistent with the requirements of state law relating to procurement. The procurement policy shall address all of the following:

(a) The purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority.

(b) That the council shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of authority contracts.

(c) Control, supervision, management, and oversight of each contract to which the authority is a party.

(d) Monitoring of contracts to assure the contract is being performed in compliance with the terms of the contract and applicable law.

(12) Members of the council are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The council shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The council shall require that a member of the council with a direct interest in any matter before the authority disclose the member's interest before the council takes any action with respect to the matter. The council shall establish an ethics manual for the authority governing authority business and the conduct of authority officers and employees. The authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving officers or employees of the authority. At a minimum, the policies shall include compliance by each officer or employee who regularly exercises significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.

(b) Withdrawal by an officer or employee from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that officer or employee.

(13) The governor may remove a member of the council from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

Sec. 11. (1) The authority may exercise all of the following powers, duties, functions, and responsibilities:

(a) Levy and distribute the metropolitan areas component tax as provided under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(b) Exercise the powers, duties, functions, and responsibilities vested in the authority or the metropolitan extension telecommunications rights-of-way oversight authority under this act or the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120, and other laws of this state.

(2) When exercising the powers, duties, functions, and responsibilities vested in the authority under subsection (1), the authority may do 1 or more of the following:

- (a) Establish and maintain an office.
- (b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.
- (c) Sue and be sued in its own name and plead and be impleaded.
- (d) Solicit, receive, and accept gifts or grants from any public or private source.
- (e) Employ personnel, contract for goods and services, and enter into agreements with other governmental entities.
- (f) Establish 1 or more depositories for authority money and invest authority money under an investment policy consistent with this act and 1943 PA 20, MCL 129.91 to 129.97a.
- (g) Acquire, hold, and dispose of interests in property.
- (h) Incur indebtedness, but only in the manner and to the extent authorized by law.

(3) The powers, duties, functions, and responsibilities of the authority may be exercised throughout this state, including all the metropolitan areas of this state. The authority possesses the jurisdiction to exercise its functions on a statewide basis and may do other things and take other action necessary or convenient to the exercise of the powers, duties, functions, and responsibilities of the authority under this section if they relate to the purposes and jurisdiction of the authority.

Sec. 13. (1) The authority has the exclusive power to levy the metropolitan areas component tax under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(2) The department shall administer under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, the receipt and collection of the metropolitan areas component tax on behalf of the authority as an agent of the authority. The authority may enter into an agreement with the department relating to the receipt and collection of the metropolitan areas component tax and the payment of the authority revenue generated by the metropolitan areas component tax to the authority.

(3) Money generated by the metropolitan area component tax is money of the authority, not state funds, and shall not be deposited in the state treasury as state funds.

Sec. 14. Not later than June 15, 2016, and each June 15 thereafter, each municipality that is not a local school district or intermediate school district shall do all of the following:

- (a) Calculate the total taxable value of all industrial personal property and commercial personal property in the municipality in 2013.
- (b) From the amount determined in subdivision (a), subtract the total taxable value of all industrial personal property and commercial personal property in the municipality in the current year.
- (c) Multiply the result of the calculation in subdivision (b) by the sum of the lowest rate of each individual millage levied by that municipality in the period between 2012 and the year immediately preceding the current year.
- (d) Subtract from the result of the calculation in subdivision (c) the amount of revenue the municipality is authorized to levy for that year under section 4(1) of the local unit of government essential services special assessment act, as adjusted by the limitation provided in section 4(2) of the local unit of government essential services special assessment act.
- (e) Submit to the department the amount calculated under this section.

Sec. 15. Not later than June 15, 2016, and each June 15 thereafter, each municipality that is a local school district shall do all of the following:

- (a) Calculate the total taxable value of all industrial personal property and commercial personal property in the municipality in 2013.
- (b) From the amount determined in subdivision (a), subtract the total taxable value of all industrial personal property and commercial personal property in the municipality in the current year.
- (c) Multiply the result of the calculation in subdivision (b) by the sum of the lowest rate of each individual millage levied under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, and section 2 of 1917 PA 156, MCL 123.52, levied by that municipality in the period between 2012 and the year immediately preceding the current year.
- (d) Submit to the department the amount calculated under subdivision (c) and that municipality's school debt loss.

Sec. 16. Not later than June 15, 2016, and each June 15 thereafter, each municipality that is an intermediate school district shall do all of the following:

(a) Calculate the total taxable value of all industrial personal property and commercial personal property in the municipality in 2013.

(b) From the amount determined in subdivision (a), subtract the total taxable value of all industrial personal property and commercial personal property in the municipality in the current year.

(c) Multiply the result of the calculation in subdivision (b) by the sum of the lowest rate of each individual millage levied by the municipality, excluding debt millage, in the period between 2012 and the year immediately preceding the current year.

(d) Submit to the department the amount calculated under subdivision (c) and that municipality's school debt loss.

Sec. 17. (1) The legislature shall appropriate funds for all of the following purposes:

(a) For fiscal year 2013-2014 and fiscal year 2014-2015, an amount equal to all debt loss for municipalities that are not a local school district or intermediate school district, and an amount equal to all school debt loss for municipalities that are a local school district or intermediate school district.

(b) Beginning in fiscal year 2013-2014 and each fiscal year thereafter, an amount equal to the necessary expenses incurred by the authority and the department in implementing this act.

(2) In fiscal year 2013-2014 and fiscal year 2014-2015, the authority shall distribute to municipalities those funds appropriated under subsection (1)(a).

(3) Beginning in fiscal year 2015-2016, the authority shall distribute metropolitan areas component tax funds as follows in the following order of priority:

(a) The authority shall distribute to each municipality an amount equal to 100% of that municipality's school debt loss, 100% of that municipality's amount calculated under section 16(c), and 100% of that municipality's school operating loss not reimbursed by the school aid fund.

(b) Beginning in fiscal year 2017-2018, 5% of the amount remaining after the distribution under subdivision (a) shall be distributed to each municipality as follows:

(i) Calculate the total taxable value of all industrial real property in the municipality on which is located personal property exempt under sections 9m and 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

(ii) Multiply the result of the calculation in subparagraph (i) by the sum of the lowest rate of each individual millage levied by the municipality in the period between 2012 and the year immediately preceding the current year that is not used to calculate a distribution under subdivision (a) and that is not used to calculate the distribution under section 21(3) of the use tax act, 1937 PA 94, MCL 205.111.

(iii) Divide the result of the calculation in subparagraph (ii) by the sum of the calculation under subparagraph (ii) for all municipalities.

(iv) Multiply the result of the calculation in subparagraph (iii) by the amount to be distributed under this subdivision.

(v) For fiscal year 2018-2019, and each fiscal year thereafter, the percentage amount described in this subdivision shall be increased an additional 5% each year, not to exceed 100%.

(c) After the distributions in subdivisions (a) and (b), the authority shall distribute the remaining balance of that fiscal year's metropolitan areas component tax fund to each qualified municipality in an amount determined by multiplying the remaining balance by a fraction, the numerator of which is that qualified municipality's qualified loss and the denominator of which is the total restricted qualified loss.

Sec. 18. (1) Beginning in fiscal year 2015-2016, and each fiscal year thereafter, the department shall determine the amount of the distributions under this act.

(2) Each municipality shall submit to the department sufficient information for the department to make its calculations under this act, as determined by the department.

Sec. 19. From the amount received under section 17, a municipality shall first replace debt loss or school debt loss, as applicable. A municipality shall not receive a distribution under this act if it has increased its millage rate to replace a debt loss or school debt loss, as applicable.

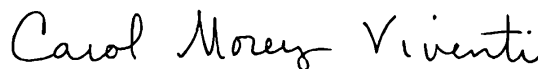
Sec. 20. This act shall be construed to effectuate the legislative intent and the purposes of this act as complete and independent authorization for the performance of each and every act and thing authorized in the act, and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as to limitation of powers.

Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014.

Enacting section 2. If House Bill No. 6026 of the 96th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2013-2014 and fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriations described in section 17(1)(a).



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor