207.629.amended Distribution of fund; "qualified local governmental unit" defined; certain payments prohibited.

Sec. 9. (1) Except as provided in subsection (4), on or before the thirtieth day of each month, the state treasurer shall make a distribution from the convention facility development fund to a qualified local governmental unit. The distribution shall be an amount equal to the sum of the collections from the excise tax levied for accommodations under this act for the previous month from the convention hotels in the county in which the convention facility is located or to be located and in any county in which convention hotels are located that is contiguous to the county in which the convention facility is located, or is to be located, the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, for the previous month received in the fund, and any distribution received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, and from the 21st century jobs trust fund under section 8(4).

However, distributions for any state fiscal year to any qualified local governmental unit under this section shall not exceed an amount equal to the amount pledged, assigned, or dedicated by the qualified local governmental unit pursuant to section 11 for the payment during that state fiscal year of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act or the regional convention facility authority act, plus operating deficit cost expenditures under section 10, plus any amount necessary to maintain a fully funded debt reserve or other reserves intended to secure the principal and interest on the bonds, obligations, or other evidences of indebtedness as contained in the resolution or ordinance authorizing their issuance.

(2) Notwithstanding the distributions provided by subsection (1), if a local governmental unit becomes a qualified local governmental unit entitled to receive distributions from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, or from the tax imposed by this act in counties in which the convention facility is located or in a county in which a convention hotel is located that is contiguous to the county in which the convention facility is located, and from any distribution under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, no other qualified local governmental unit is entitled to distributions pursuant to this section for which that qualified local governmental unit has previously become entitled, until such time as that qualified local governmental unit ownership or leasehold interest described in subsection (3) is transferred to another local governmental unit. If that transfer renders the transferee a qualified local governmental unit, the transferee shall, immediately upon that transfer, be entitled to the distributions to a qualified local governmental unit provided in subsection (1) and the priority provided to a qualified local governmental unit in this subsection, notwithstanding that the amount of the distributions may increase as a result of that transfer.

(3) As used in this act, "qualified local governmental unit" means a city, village, township, county, or authority that is located in, or includes within its territory or jurisdiction, a county in which convention hotels are located and that either is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space on July 30, 1985 or, if such a convention facility does not exist, will be the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space through the application of distributions under this section to the purchase or lease of a convention facility.

(4) Before the 2015-2016 fiscal year, collections from the excise tax levied for accommodations under this act and collections from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, shall not be paid to a qualified local governmental unit for the repayment of bonds, obligations, or other evidences of indebtedness incurred after 2007.
"3) Ordering the assignments of a public act number to Senate Bill 537. In accordance with that resolution, an amended complaint was filed on July 14, 1993, adding the Michigan Senate as a plaintiff and requesting the court to enter judgment in plaintiffs' favor, as follows:

1. Declaring that Senate Bill 537 has not become law, and will not become law until such time as the newly enrolled bill has been duly signed by the Governor, or until such time as the bill is passed by a two-thirds vote of both houses of the Legislature, in the event that the newly enrolled bill should be vetoed by the Governor, or until such time as the newly enrolled bill has remained in the possession of the Governor for a period of more than 14 days, during which time the Legislature has remained in session, without having been signed, vetoed, or otherwise returned to the Legislature by the Governor;

2. Declaring that Senate Bill 537 was lawfully returned to the Senate, and its enrollment lawfully vacated, on May 18, 1993, and that the bill rightfully remained before the Michigan Senate from that date until its subsequent presentment to the Governor on July 6, 1993;

3. Declaring that any action taken by the Defendants inconsistent with the above declarations is unauthorized and unlawful;

4. Ordering the Defendant RICHARD H. AUSTIN to vacate the enrollment of Senate Bill 537 as a Public Act of 1993.

5. Ordering any and all other relief declared appropriate by this Court.

On July 1, 1993, the Senate voted to reconsider its vote giving the bill immediate effect and then defeated a motion to give the bill immediate effect. Senate Bill 537 was ordered enrolled on the same date and presented to the Governor at 3:23 p.m. on July 6, 1993.

Also on July 1, 1993, the Senate adopted Senate Resolution No. 179 authorizing the Michigan Senate to seek legal action to vacate the assignment of a public act number to SB 537. In accordance with that resolution, an amended complaint was filed on July 14, 1993, adding the Michigan Senate as a plaintiff and requesting the court to enter judgment in plaintiffs' favor, as follows:

1. Declaring that Senate Bill 537 has not become law, and will not become law until such time as the newly enrolled bill has been duly signed by the Governor, or until such time as the bill is passed by a two-thirds vote of both houses of the Legislature, in the event that the newly enrolled bill should be vetoed by the Governor, or until such time as the newly enrolled bill has remained in the possession of the Governor for a period of more than 14 days, during which time the Legislature has remained in session, without having been signed, vetoed, or otherwise returned to the Legislature by the Governor;

2. Declaring that Senate Bill 537 was lawfully returned to the Senate, and its enrollment lawfully vacated, on May 18, 1993, and that the bill rightfully remained before the Michigan Senate from that date until its subsequent presentment to the Governor on July 6, 1993;

3. Declaring that any action taken by the Defendants inconsistent with the above declarations is unauthorized and unlawful;


5. Declaring that Senate Bill 537 shall not take effect until the expiration of 90 days after the final adjournment of the current legislative session, in accordance with Article IV, § 27 of the Michigan Constitution, if the newly enrolled bill is signed by the Governor, is passed by a two-thirds vote of both houses of the Legislature, overriding a gubernatorial veto, or if the newly enrolled bill remains in the possession of the Governor for a period of more than 14 days, during which time the Legislature has remained in session, without having been signed, vetoed, or otherwise returned to the Legislature by the Governor;

6. Ordering the Defendant RICHARD H. AUSTIN to assign a new public act number to Senate Bill 537 if the newly enrolled bill is signed by the Governor, is passed by a two-thirds vote of both houses of the Legislature, overriding a gubernatorial veto, or if the newly enrolled bill remains in the possession of the Governor for a period of more than 14 days, during which time the Legislature has remained in session, without having been signed, vetoed, or otherwise returned to the Legislature by the Governor, in accordance with Article IV, § 33 of the Michigan Constitution.

7. Ordering any and all other relief declared appropriate by this Court.

The Governor signed enrolled Senate Bill 537 at 8:10 a.m. on July 16, 1993, and filed it with the Secretary of State at 11:02 a.m. on that date. A public act number was not assigned to this filing.

On September 7, 1993, the Ingham County Circuit Court, Giddings J., determined that Plaintiffs lacked standing and that Defendants had raised a meritorious defense and were entitled to judgment as a matter of law. Defendants' Motion for Summary Disposition was granted.

Plaintiffs filed an appeal of the Circuit Court ruling with the Michigan Court of Appeals on September 13, 1993. (Court of Appeals Docket No. 168092). This appeal is currently pending.

Sec. 9 of Act 106 of 1985, being 207.629 of the Michigan Compiled Laws, as originally enacted, reads:

"Sec. 9. (1) On or before the thirtieth day of each month, the state treasurer shall make a distribution from the convention facility development fund to a qualified local governmental unit. The distribution shall be an amount equal to the sum of the collections from the excise tax levied for accommodations pursuant to this act for the previous month from the convention hotels in the county in which the convention facility is or is to be located and in any county in which convention hotels are located that is contiguous to the county in which the convention facility is located, or is to be located, and the additional liquor tax received pursuant to the convention facility promotion tax act for the previous month received in the fund. However, distributions for any state fiscal year to any qualified local governmental unit shall not exceed an amount equal to the amount pledged by the qualified local governmental unit for the payment during that state fiscal year of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act, plus any amount necessary to maintain a fully funded debt reserve or other reserves intended to secure the principal and interest on the bonds, obligations, or other evidences of indebtedness as contained in the resolution or ordinance authorizing their issuance.

(2) Notwithstanding the distributions provided by subsection (1), if a local governmental unit becomes a qualified local governmental unit entitled to receive distributions from the tax imposed by the convention facility promotion tax act or from the tax imposed by this act in counties in which the convention facility is located or in a county in which a convention hotel is located that is contiguous to the county in which the convention facility is located, no other qualified local governmental unit shall be entitled to distributions pursuant to this section for which that qualified local governmental unit has previously become entitled.

(3) A qualified local governmental unit shall be a city, village, township, county, or authority that is located in a county in which convention hotels are located and that either is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space on the effective date of this act or, if such a convention facility does not exist, will be the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space through the application of distributions under this section to the purchase or lease of a convention facility."