

SUBSTITUTE FOR
HOUSE BILL NO. 5688

A bill to provide for the creation of certain lighting authorities for the purpose of operating lighting systems; to provide for the powers and duties of the authorities; to provide for the conveyance of operational jurisdiction over certain operations to authorities; to provide for the assumption of certain contracts, bonds, notes, and other evidences of indebtedness and liabilities related to the provision of lighting authorities; to authorize expenditures from certain funds; to finance the acquisition of property and the development of certain public improvements or related facilities; to provide for the issuance of bonds and notes; to authorize certain investments; and to impose certain powers and duties upon state and local departments, agencies, and officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "municipal lighting authority act".

3 Sec. 3. As used in this act:

4 (a) "Ancillary facility" means any revolving credit agreement,
5 agreement establishing a line of credit, or a letter of credit;
6 reimbursement agreement; interest rate exchange or similar
7 agreement; currency exchange agreement; commodity exchange
8 agreement; interest rate floor or cap; option, put, call, or
9 similar agreement to hedge payment, currency, commodity, rate,
10 spread, or similar exposure; investment agreement; float agreement;
11 forward agreement or other investment arrangement; insurance
12 contract; surety bond; commitment to purchase or sell securities;
13 purchase or sale agreement or commitment; or other contract or
14 agreement or other security agreement approved by an authority
15 under this act, including without limitation any arrangement
16 referred to in this act.

17 (b) "Authority" means a lighting authority incorporated under
18 this act.

19 (c) "Best value" means a contract and procurement process to
20 be followed by an authority that encourages and considers bids from
21 locally headquartered companies and that considers use of the local
22 workforce.

23 (d) "Board" means the board of directors of an authority.

24 (e) "Chief executive officer" means any of the following:

25 (i) The city manager of a city or, if the city does not employ
26 a city manager, the mayor of the city.

1 (ii) The manager of a village or, if the village does not
2 employ a manager, the president of the village.

3 (iii) The manager of a township or the manager or superintendent
4 of a charter township or, if the township does not employ a manager
5 or superintendent, the supervisor of the township.

6 (f) "Constituent local governments" includes each of the local
7 governments that sign or are signatories of the articles of
8 incorporation of an authority incorporated under this act.

9 (g) "Lighting system" or "system" means plants, works,
10 instrumentalities, and properties used or useful in connection with
11 providing lighting and necessary resources and appurtenances for
12 the system.

13 (h) "Local government" means a city, village, or township.

14 Sec. 5. (1) It is the intent of this act to provide an
15 equitable and reasonable method and means of financing, operating,
16 and maintaining a lighting system to supply lighting in sufficient
17 quantities to constituent local governments.

18 (2) The powers of the authority shall be carried out in a
19 manner authorized by this act.

20 (3) A city, village, or township, or any combination thereof,
21 by majority vote of its respective governing body, may incorporate
22 an authority comprising the territory within its respective limits
23 for acquiring, constructing, consolidating, purchasing, operating,
24 or maintaining a municipally owned lighting system. The authority
25 is a public municipal corporation with the rights, powers, and
26 duties as provided in this act.

27 (4) Nothing in this act, nor the creation of an authority,

1 shall be construed as transferring the ownership of any lighting
2 system assets to the authority unless the transfer is specified in
3 the articles of incorporation of the authority as provided in
4 section 9 and the transfer is ratified in accordance with all
5 applicable laws.

6 (5) A transfer of ownership or operational control of a
7 lighting system to an authority shall not be considered a sale,
8 lease, or disposal of any kind of an asset by the local government
9 under any state or local law.

10 Sec. 7. Nothing in this act shall be considered to alter the
11 laws and regulations regarding utility franchises unless explicitly
12 stated. The creation of an authority shall not be considered to
13 create a new franchise as long as the authority does either of the
14 following:

15 (a) The authority only provides service within its own
16 territory, which shall be composed of the territory within the
17 constituent local governments and any area that the local
18 government may be serving or permitted to serve under law on the
19 effective date of this act.

20 (b) The authority provides service in accordance with the
21 territorial limitations as provided in subdivision (a) and
22 additionally provides service to constituent local governments that
23 do not serve private customers under a contractual agreement.

24 Sec. 9. (1) One or more local governments may adopt articles
25 of incorporation by a majority vote of their governing bodies and
26 incorporate an authority for the purpose of acquiring, owning,
27 improving, enlarging, extending, constructing, operating, or

1 maintaining a lighting system and providing lighting services.

2 (2) The articles of incorporation adopted under subsection (1)
3 shall be signed by 1 of the following:

4 (a) For a city, by the mayor and clerk of that city.

5 (b) For a village, by the president and clerk of that village.

6 (c) For a township, by the supervisor and clerk of the
7 township.

8 (3) The articles of incorporation adopted by a local
9 government under subsection (1) shall be in a form substantially as
10 follows:

11 "The foregoing articles of incorporation were adopted by the
12 _____ of the _____ of
13 _____ County, Michigan, at a meeting held on the ____
14 day of _____, ____.

15 _____
16 _____ of the
17 _____."

18 (4) The articles of incorporation shall specify best value
19 objectives.

20 (5) One printed copy of the articles of incorporation
21 certified as a true copy by the person or persons designated by the
22 certification, with the date and place of the publication, shall be
23 filed with the secretary of state and the clerk of any county in
24 which the authority provides services. The authority becomes
25 effective at the time provided in the articles of incorporation,
26 but shall not be effective before the filing with the secretary of
27 state and the clerk of all applicable counties.

1 (6) The validity of an authority is conclusively presumed
2 unless questioned in an original action filed in the court of
3 appeals within 60 days after the creation of the authority. The
4 court of appeals has original jurisdiction to hear an action under
5 this subsection. The court of appeals shall hear the action in an
6 expedited manner.

7 Sec. 11. (1) An authority is a public municipal corporation.
8 The authority is a public body corporate with the power to sue and
9 be sued in any court of this state. The authority possesses all the
10 powers necessary to carry out the purposes of its incorporation.
11 The enumeration of any powers in this act shall not be construed as
12 a limitation on an authority's general powers.

13 (2) An authority may do any of the following:

14 (a) Adopt bylaws for the regulation of the authority's affairs
15 and the conducting of its business.

16 (b) Adopt an official seal and alter the seal at its pleasure.

17 (c) Maintain an office at a place or places within this state
18 as it may designate.

19 (d) Sue and be sued in its own name, plead, and be impleaded.

20 (e) Determine the location of any project constructed by it
21 under this act and determine, in its discretion and without
22 reference to any other provisions of this act or any other law, the
23 design, standards, and the materials of construction, and
24 construct, maintain, repair, and operate the project.

25 (f) Issue bonds of the authority for any of its corporate
26 purposes under those means as provided in this act.

27 (g) Adopt and promulgate rules and regulations for the use of

1 any project operated or constructed by it under the provisions of
2 this act.

3 (h) Acquire, hold, lease, and dispose of real and personal
4 property in the exercise of its powers and the performance of its
5 duties under this act.

6 (i) Engage engineering, legal, and other professional services
7 as considered necessary to effectuate the purposes of the
8 authority.

9 (3) The authority shall maintain its books and records and its
10 funds on an enterprise fund basis. An authority shall not pay any
11 net proceeds or profits to its constituent local governments, but
12 may pay the constituent local governments for services provided.

13 (4) Following the appointment of the authority board, the
14 board shall implement a best value supply chain and procurement
15 practice and shall annually report to the governing body of each
16 constituent local government.

17 Sec. 13. (1) An authority created under this act shall be
18 directed and governed by a board of directors consisting of 5
19 members appointed as provided in this section.

20 (2) If an authority has only 1 local government as a member,
21 the board shall be appointed as follows:

22 (a) Three members who are residents of the local government
23 appointed by the chief executive officer of the local government
24 for a term of service of 3 years, except that for the first
25 appointments to the board, 1 of the members shall be appointed for
26 a term of service of 6 years. If the chief executive officer of the
27 local government fails to make an appointment to the board of

1 directors within 42 days after the authority is created or fails to
2 fill a vacancy on the authority within 70 days of the vacancy
3 occurring, then the governing body of that local government has the
4 power to make the appointment.

5 (b) Two members who are residents of the local government
6 appointed by the governing body of the local government for a term
7 of service of 3 years, except that for the first appointments to
8 the board, 1 of the members shall be appointed for a term of
9 service of 6 years. If the governing body of the local government
10 fails to make an appointment to the board of directors within 42
11 days after the authority is created or fails to fill a vacancy on
12 the authority within 70 days of the vacancy occurring, then the
13 chief executive officer of that local government has the power to
14 make the appointment.

15 (3) If an authority has more than 1 local government as a
16 member, the board shall be appointed as provided in the articles of
17 incorporation of the authority.

18 (4) At least 1 board member appointed to an authority board
19 shall be a professional engineer licensed under article 20 of the
20 occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

21 (5) At least 1 board member appointed to an authority board
22 shall be a certified public accountant who is licensed as a
23 certified public accountant under article 7 of the occupational
24 code, 1980 PA 299, MCL 339.720 to 339.736, or shall qualify as a
25 financial expert as that term is defined by rule by the United
26 States securities and exchange commission pursuant to section 407
27 of the Sarbanes-Oxley act of 2002, Public Law 107-204.

1 (6) At least 1 board member appointed to an authority board
2 shall be an attorney licensed to practice in this state.

3 (7) At the time of his or her appointment to a board of
4 directors, and no later than January 31 of each year, a board
5 member of an authority board shall make a certification, signed
6 under penalty of perjury, to the attorney general that states all
7 of the following:

8 (a) Except as otherwise provided in this subdivision, he or
9 she is not currently employed by or receiving a pension or any
10 other form of income from any entity that has sought or received a
11 contract with the authority. For purposes of this subdivision,
12 income does not include stock dividends from or the sale of stock
13 of publicly traded shares constituting less than 0.1% ownership in
14 the entity.

15 (b) Except as otherwise provided in this subdivision, he or
16 she does not own an interest in any entity that has sought or
17 received a contract with the authority. For purposes of this
18 subdivision, own does not include the ownership in the form of
19 publicly traded shares constituting less than 0.1% ownership in the
20 entity.

21 (c) He or she does not serve as an officer, director, or in a
22 similar decision-making role in any entity that has sought or
23 received a contract with the authority or that has a financial
24 interest contrary to the authority in connection with any financing
25 of the authority.

26 (8) A person shall not begin service as a board member until
27 he or she completes and files the certification with the attorney

1 general as required under this section.

2 (9) The attorney general shall publish a report no later than
3 the last day of February of each year stating whether each member
4 of an authority's board has filed the required certification and
5 whether the certification was complete. The report shall be made
6 available to the public on the office of attorney general's website
7 as soon as practicable. If a report indicates that a board member
8 has failed to make the required certification, a copy of the report
9 shall be sent to the chief executive officer of each local
10 government that authorized the incorporation of the authority and
11 to the board member who failed to make the required certification.
12 The local government shall provide the last known address for that
13 board member to the attorney general upon request.

14 (10) If the required certification is not filed by a board
15 member by the third day of March following the publication of the
16 report by the attorney general, the term of office for that board
17 member who fails to make the required certification under this
18 section shall automatically terminate on the fifth day of March
19 following the publication of the report by the attorney general.

20 Sec. 15. (1) Within 30 days following the appointment of the
21 fifth board member to the board, the board shall hold its first
22 meeting.

23 (2) At its first meeting, the board shall select a
24 chairperson, treasurer, and any other officers as the board
25 considers necessary. The board shall require the treasurer to post
26 a suitable bond of not less than \$100,000.00 issued by a
27 responsible bonding entity, with the cost of the premium of the

1 bond paid for by the authority.

2 (3) The board shall select, employ, and fix the compensation
3 for employees of the board and contract for those engineering,
4 legal, and other professional services that the board considers
5 necessary to effectuate the purposes of the authority.

6 (4) A majority of the members of the board constitute a quorum
7 for the purpose of conducting business and exercising powers of the
8 authority. Official action may be taken by an authority upon the
9 vote of a majority of the board members present, unless the
10 articles of incorporation or authority bylaws require a larger
11 number.

12 (5) The board shall adopt rules and bylaws governing its
13 procedures and the holding of meetings. The board shall designate
14 an office or location as its principal place of business.

15 (6) The business of the board shall be conducted at a public
16 meeting of the board held in compliance with the open meetings act,
17 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
18 and place of the meeting shall be given in the manner required by
19 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. After
20 organization, a board shall adopt a schedule of regular meetings
21 and adopt a regular meeting date, place, and time.

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

1 (8) A board shall provide for a system of accounts for the
2 authority to conform to a uniform system required by law and for
3 the auditing of the accounts of the authority. The board shall
4 obtain an annual audit of the authority by an independent certified
5 public accountant and report on the audit and auditing procedures
6 in the manner provided by sections 6 to 13 of the uniform budgeting
7 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
8 also shall be in accordance with generally accepted government
9 auditing standards and shall satisfy federal regulations relating
10 to federal grant compliance audit requirements.

11 (9) The board shall provide a monthly progress report to the
12 chief executive officer and the governing body of each constituent
13 local government and shall make that monthly progress report
14 available on the authority's internet website.

15 Sec. 17. (1) On or before March 15 after the creation of the
16 authority, and on or before March 15 of every second year after the
17 creation of the authority, the board shall prepare and submit to
18 the governing bodies of the constituent local governments a plan
19 for the next 3 succeeding fiscal years. The plan shall contain all
20 of the following:

21 (a) The number and placement of street lights in the
22 constituent local governments composing the authority.

23 (b) A budget that includes, but is not limited to, the
24 following:

25 (i) Anticipated expenses of administration, operation, and
26 maintenance of the authority and the lighting system.

27 (ii) Any reserve to be established for the administration,

1 operation, and maintenance of the authority and the lighting
2 system.

3 (iii) A statement showing the amounts necessary to retire all
4 principal and interest on any bonds of the authority maturing
5 during the applicable fiscal years.

6 (iv) A plan to implement best value practices.

7 (v) Any other item specified in the articles of incorporation
8 of the authority.

9 (c) The budget prepared by the authority shall provide that
10 any money derived from the collection of rates and charges shall be
11 applied and used by the authority in the following manner and in
12 the following priority:

13 (i) To provide for the payment during each fiscal year of all
14 current expenses of administration, operation, and maintenance as
15 may be necessary to preserve the lighting system in good repair and
16 working order, including payments required under bonded
17 indebtedness incurred in accordance with the authorization
18 contained in this act.

19 (ii) In the discretion of the board, there may be set aside
20 during each fiscal year money to provide a reserve fund for
21 replacements or major repairs and improvements not anticipated or
22 considered to be a part of current expenses of administration,
23 operation, or maintenance of the lighting system.

24 (2) The governing body of the constituent local governments
25 composing the authority may vote to accept or reject the plan. The
26 governing body of a local government does not have the power to
27 amend the plan in any respect. Unless 1 or more of the governing

1 bodies of the the constituent local governments vote to reject the
2 plan within 45 days of its submittal, the plan is considered
3 approved.

4 (3) If the governing body of a local government rejects the
5 plan as provided in subsection (2), the authority shall revise the
6 plan and shall submit the revised plan to the governing body of the
7 constituent local governments within 30 days of the vote that
8 rejected the plan.

9 (4) The governing body of each local government may vote to
10 accept or reject the revised plan within 30 days of its submittal.
11 Unless 1 or more of the governing bodies of the the constituent
12 local governments vote to reject the revised plan, the revised plan
13 is considered approved.

14 (5) If the governing body of a local government votes to
15 reject the revised plan, the governing body of that local
16 government must contemporaneously adopt, by a vote of at least 2/3
17 of the members of the governing body of that local government
18 elected and serving, a resolution that includes a list of items
19 that, if altered, would result in a vote to adopt the plan. Failure
20 to adopt a resolution in compliance with this subsection is
21 considered acceptance of the revised plan by the governing body of
22 that local government.

23 (6) If the governing body of a local government votes to
24 reject the revised plan and submits the required resolution as
25 provided in subsection (5), the authority shall prepare a final
26 proposed plan not more than 20 days following the vote to reject
27 the revised plan. The final proposed plan shall be sent to each

1 chief executive officer of the constituent local governments, and
2 each chief executive officer shall make the final proposed plan
3 available on that local government's internet website as soon as is
4 practicable. The final proposed plan shall also be made available
5 at a public hearing to be held not more than 10 days after the
6 final proposed plan is complete. Public comment shall be taken at
7 the public hearing concerning the final proposed plan. On or after
8 the tenth day after the public hearing, the authority shall vote on
9 the final proposed plan.

10 (7) Except as otherwise provided in this subsection, if 2/3 of
11 the board members of the authority vote to adopt the final proposed
12 plan, it is adopted. If the final proposed plan incorporates a
13 majority of the items identified in the appropriate resolution or
14 resolutions adopted by the governing bodies of the local
15 governments, then the final proposed plan is adopted if approved by
16 a majority vote of the board of directors of the authority.

17 (8) If a plan is not adopted on or before July 1 of the year
18 in which a plan is required to be prepared under subsection (1),
19 then the adopted plan shall be the final proposed plan, except that
20 all changes identified in the resolution of the rejecting governing
21 body submitted under this act are considered amendments to the
22 final proposed plan so that the plan as adopted contains all
23 changes listed in the resolution from the rejecting governing body.

24 (9) A plan adopted by the board may be amended by a vote of 4
25 of the 5 members on the board

26 Sec. 19. Unless the board, by resolution, establishes a
27 different fiscal year, the fiscal year of the authority shall

1 commence on July 1 of each year and end on the following June 30.

2 Sec. 21. (1) For the purpose of constructing, acquiring,
3 improving, enlarging, or extending a lighting system, including the
4 payment of engineering, legal, and financing expenses, and after
5 the establishment of the initial service rates and the execution of
6 contracts for the provision of construction services, purchase of
7 power, and other related activities within the corporate limits of
8 the authority, the authority may borrow money and issue revenue
9 bonds and notes for the purposes provided in this section. The
10 aggregate principal amount of the bonds and notes at no time shall
11 exceed 5% of the total state equalized valuation of the property
12 assessed in the local governments comprising the authority.

13 (2) Revenue bonds are payable upon the terms and conditions
14 specified by the authority in the resolution under which the
15 authority issues the bonds or in a related trust agreement or trust
16 indenture. The board of directors in the resolution authorizing the
17 bonds, a trust indenture, ancillary facility, or other agreement
18 entered into with respect to bonds of the authority may pledge any
19 funds received or to be received by the authority for the payment
20 of the bonds or other obligations of the authority under the
21 agreement and create a first lien in favor of the holders of the
22 bonds or a party subject to the agreement, including, but not
23 limited to, funds received pursuant to a contract entered into
24 under section 25. The principal of and interest on the bonds shall
25 be payable, except as provided in this act, solely from the
26 proceeds described in the resolution authorizing the bonds or trust
27 indenture, and the proceeds may include revenues pledged directly

1 to authority bonds pursuant to a contract entered into under
2 section 25 by a local government.

3 (3) The resolution authorizing the issuance of bonds under
4 this section shall include all of the following:

5 (a) A statement that the bonds are revenue bonds.

6 (b) A statement briefly describing the lighting system to be
7 constructed, acquired, improved, or extended and the estimated cost
8 of the lighting system.

9 (c) A statement that the contracts for services of the
10 authority have been entered into with all the local governments
11 comprising the authority.

12 (d) In the case of refunding bonds, identification of the
13 parameters under which the bonds can be issued.

14 (e) Delegation for a time period at the board of directors'
15 discretion to an officer, employee, or designated agent of the
16 authority the power to issue, sell, and deliver bonds within the
17 limits on those bonds established by the authority as to any of the
18 following:

19 (i) Form.

20 (ii) Maximum interest rates.

21 (iii) Maturity dates.

22 (iv) Purchase price.

23 (v) Denominations.

24 (vi) Redemption dates and premiums, if any.

25 (vii) Nature of the security.

26 (viii) Selection of an applicable interest rate index.

27 (ix) The terms of ancillary facilities entered into in

1 connection with the issuance of bonds.

2 (x) Other terms and conditions with respect to the bond issue
3 that the authority prescribes.

4 (f) Specification of other details and matters that are
5 considered necessary or advisable to provide for the prompt and
6 orderly retirement of the bonds and the interest on the bonds at
7 maturity.

8 (g) Provision for the deposit of revenues pledged for the
9 payment of bonds issued under this section into a separate account
10 for the purpose of paying principal and interest on those bonds,
11 the administrative costs associated with those bonds, and any other
12 bonds issued by the authority that are secured by those revenues.
13 For purposes of this subdivision, principal and interest may
14 include any fees related to an ancillary facility, if any.

15 (4) An authority may issue bonds under this section to refund
16 any bonds by issuing new bonds if it considers the refunding
17 expedient, whether or not the bonds to be refunded have matured,
18 and may issue bonds partly to refund bonds that are outstanding and
19 partly for restructuring or any of the authority's other authorized
20 purposes.

21 (5) Bonds issued under this act shall not mature more than 30
22 years from the date of the original issuance.

23 (6) An authority may issue bond anticipation notes secured by
24 the issuance of revenue bonds issued under this section in addition
25 to the revenues that the authority is permitted to pledge as
26 provided in this section.

27 (7) Any bonds issued under this act shall be sold to the

1 Michigan finance authority created by Executive Reorganization
2 Order No. 2010-2, MCL 12.194.

3 (8) Bonds issued by an authority under this act are not
4 subject to the revised municipal finance act, 2001 PA 34, MCL
5 141.2101 to 141.2821. Bonds issued by an authority under this act
6 are not subject to the revenue bond act of 1933, 1933 PA 94, MCL
7 141.101 to 141.140.

8 Sec. 23. (1) An authority may enter into, amend, or terminate,
9 as it determines necessary or appropriate, any ancillary facility
10 for any of the following purposes:

11 (a) To facilitate the issue, sale, resale, purchase,
12 repurchase, or payment of bonds, or the making or performance of
13 swap contracts, including without limitation bond insurance,
14 letters of credit, and liquidity facilities.

15 (b) To attempt to hedge risk or achieve a desirable effective
16 interest rate or cash flow.

17 (2) An authority may enter into, amend, or terminate any
18 ancillary facility as it determines necessary or appropriate or to
19 place the obligations or investments of the authority, as
20 represented by the bonds or the investment of bond proceeds, in
21 whole or in part, on the interest rate, cash flow, or other basis
22 desired by the authority. The ancillary facility may include
23 without limitation contracts commonly known as interest swap
24 agreements and futures or contracts providing for payments based on
25 levels of, or changes in, interest rates. The authority may enter
26 into these contracts or arrangements in connection with, or
27 incidental to, entering into, or maintaining any agreement that

1 secures bonds of the authority or any investment of reserves, or
2 contract providing for investment of reserves, or similar ancillary
3 facility guaranteeing an investment rate for a period of years.

4 (3) An authority's determination that an ancillary facility,
5 or the amendment or termination of an ancillary facility, is
6 necessary or appropriate is conclusive. The authority may determine
7 the terms and conditions of an ancillary facility, including
8 without limitation provisions as to security, default, termination,
9 payments, remedy, and consent to service of process.

10 (4) Before an authority enters into any ancillary facility,
11 the authority must have the consent of the Michigan finance
12 authority.

13 Sec. 25. (1) An authority and any local government may enter
14 into a contract providing for the construction, acquisition,
15 improvement, enlargement, or extension of a lighting system,
16 including the payment of engineering, legal, and financing expenses
17 in connection with the lighting system, and after the establishment
18 of the initial service rates and the execution of contracts for the
19 provision of construction services, purchase of power, and other
20 related activities within the corporate limits of the authority.
21 Contracts shall provide for the rates and charges for each local
22 government. Each local government may pledge its full faith and
23 credit for the payment of the obligation in the manner and times
24 specified in the contract. If a local government makes this pledge,
25 it may include in its annual tax levy an amount sufficient so the
26 estimated collections from the tax levy will be sufficient to
27 promptly pay when due the portion of the obligation falling due

1 before the time of the following year's tax collection, subject to
2 constitutional, statutory, and charter limitations. If the contract
3 or an unlimited tax pledge in support of the contract has been
4 approved by the electors of a local government, the tax may be in
5 addition to any tax that the local government may otherwise be
6 authorized to levy and may be imposed without limitation as to rate
7 or amount, but shall not be in excess of the rate or amount
8 necessary to pay the contractual obligation. If, at the time of
9 making the annual tax levy, there are other funds on hand earmarked
10 for the payment of the contractual obligation, credit for those
11 funds may be taken upon the annual levy for the payment of the
12 obligation. The contract is not subject to the revised municipal
13 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

14 (2) The contract may provide for other funds to be raised and
15 pledged by each contracting local government by the use of 1 or
16 more of the following additional methods:

17 (a) The levy of special assessments to the extent legally
18 permitted by the local government. The procedures relative to the
19 levying and collection of the special assessments shall conform as
20 nearly as is applicable to charter or statutory provisions for the
21 levying and collection, except that a petition is not required from
22 property owners.

23 (b) The levy and collection of charges to users and
24 beneficiaries of the service or services furnished by the lighting
25 system.

26 (c) A pledge of revenue that would otherwise be received by
27 the local government under the city utility users tax act, 1990 PA

1 100, MCL 141.1151 to 141.1177, as provided in subsection (3).

2 (d) The receipt of money derived from the imposition of taxes
3 by this state, except to the extent that the use of the money for
4 this purpose is expressly prohibited by the state constitution of
5 1963.

6 (e) The receipt of other funds that may be validly used for
7 this purpose.

8 (3) If an authority issues bonds pursuant to this section to
9 be paid from revenues from a contract entered into pursuant to this
10 section, a local government, in furtherance of its obligations
11 under the contract, may by resolution or order pledge revenues to
12 be received by the local government pursuant to the city utility
13 users tax act, 1990 PA 100, MCL 141.1151 to 141.1177, to bonds of
14 the authority issued pursuant to the contract. If the local
15 government pledges these revenues, all of the following apply:

16 (a) Before the pledge and the contract become effective, the
17 local government shall do all of the following:

18 (i) Enter into a trust agreement with the authority, the
19 Michigan finance authority, and a trustee to provide for both of
20 the following:

21 (A) Collection of pledged revenues by public utilities and
22 resale customers.

23 (B) Direct payment of those pledged revenues to the trustee
24 for the purposes provided in this act.

25 (ii) Levy the tax.

26 (iii) Send a notice to each public utility and resale customer
27 collecting the tax to remit those collections to the trustee

1 designated in the trust agreement, pursuant to the city utility
2 users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

3 (iv) Take all other steps necessary and convenient to arrange
4 for and ensure the orderly collection of the taxes.

5 (b) After the pledge and contract become effective, the local
6 government shall continue to do all of the following:

7 (i) Levy the tax at not lower than the rate at which the tax is
8 levied when the contract becomes effective.

9 (ii) Take all other steps necessary and convenient to ensure
10 orderly collection of the taxes.

11 (iii) Perform all of its other lawful obligations under the
12 contract.

13 (c) The pledged revenues collected or to be collected by
14 public utilities and resale customers shall be held in trust to be
15 applied for the sole and exclusive benefit of authority bondholders
16 to the extent and in the manner provided for by this act, the
17 contract, and the trust agreement, and may not be commingled with
18 any other funds.

19 (d) The pledged revenues are exempt from being levied upon,
20 taken, sequestered, or applied toward paying the debts or
21 liabilities of the local government other than for payment of debt
22 service on the authority bonds and related administrative costs to
23 which the contract and trust agreement apply. The pledged revenues
24 shall be exempt from any further taxes or special assessments of
25 this state or a political subdivision of this state.

26 (e) Although the pledged revenues are held in trust, to the
27 extent that the local government or authority retains any interest

1 in the pledged revenues, and solely to that extent, the pledged
2 revenues shall be subject to a lien in favor of the authority
3 bondholders. This lien is paramount and superior to all other liens
4 and interests of any kind, including any interest of the local
5 government or the authority, and shall be for the sole purpose of
6 ensuring payment of the principal, interest, and related
7 administrative costs of authority bonds secured by the contract and
8 the trust agreement. The lien created is effected and perfected
9 without delivery, recording, or notice.

10 (4) A trust agreement may provide that, should the trustee
11 determine that it holds funds in excess of those it reasonably
12 considers necessary to make bond payments obligated under the
13 contract and trust agreement, the trustee may release some or all
14 of the excess funds from the trust and distribute them to the local
15 government.

16 (5) A local government may not enter into a contract pledging
17 revenues pursuant to subsection (3) that would result in
18 outstanding bonds secured by those pledged revenues having an
19 aggregate annual debt service that exceeds \$12,500,000.00 in any 1
20 year taking into account any anticipated federal credits as
21 determined by the authority.

22 (6) As used in this section:

23 (a) "Bonds" includes any ancillary facility or other financing
24 instruments entered into by the authority if the facilities are
25 permitted by the contract entered into between the local government
26 and the authority.

27 (b) "Pledged revenues" means all money to be received by the

1 local government pursuant to the city utility users tax act, 1990
2 PA 100, MCL 141.1151 to 141.1177, to the extent pledged for
3 repayment of authority bonds under the contract.

4 (c) "Public utilities" and "resale customers" mean those terms
5 as defined in the city utility users tax act, 1990 PA 100, MCL
6 141.1151 to 141.1177.

7 Sec. 27. (1) The property of an authority created under this
8 act is public property devoted to an essential public and
9 governmental purpose. Income of an authority is for a public and
10 governmental purpose.

11 (2) Except as otherwise provided in this subsection, the
12 property of an authority created under this act and its income,
13 activities, and operations are exempt from all taxes and special
14 assessments of this state or a political subdivision of this state.
15 Property of an authority and its income, activities, and operations
16 that are leased to private persons are not exempt from any tax or
17 special assessment of this state or a political subdivision of this
18 state. Property of an authority is exempt from any ad valorem
19 property taxes levied under the general property tax act, 1893 PA
20 206, MCL 211.1 to 211.155, or other law of this state authorizing
21 the taxation of real or personal property. An authority is an
22 entity of government for purposes of section 4a(1)(a) of the
23 general sales tax act, 1933 PA 167, MCL 205.54a, and section
24 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

25 Sec. 29. An authority may acquire property for a lighting
26 system by purchase, construction, lease, gift, or devise, either
27 within or outside its corporate limits. The authority may hold,

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1 manage, control, sell, exchange, or lease the property, except that
2 if the property at issue was purchased, devised, leased, or
3 otherwise came into the authority's ownership or control from a
4 constituent local government, the authority may not sell, exchange,
5 or otherwise dispose of the property unless the other party to the
6 transaction is the local government that previously owned the
7 property so that the property will return to the ownership of the
8 constituent local government that owned the property before the
9 transfer to the authority.

10 Sec. 31. The governing body of each local government composing
11 the authority may advance or loan to the authority any money
12 required for administrative expenses or for the purpose of
13 obtaining maps, plans, designs, specifications, and cost estimates
14 of a proposed lighting system. An advance or loan may be included
15 as a part of any bond issue by the authority under this act and
16 repaid to the local government upon the sale of the bonds.

17 Sec. 33. The powers granted under this act are in addition to
18 those granted by any charter or statute.

19 Sec. 35. This act shall be liberally construed in the interest
20 of the public health, safety, and welfare of the persons and
21 property within an authority created under this act.

[Enacting section 1. This amendatory act does not take effect
unless all of the following bills of the 96th Legislature are enacted
into law:

- (a) Senate Bill No. 970.
- (b) House Bill No. 5705.]