

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6025

A bill 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:

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

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

5 (a) That there exists in this state a continuing need to
6 strengthen and revitalize the economy of this state and to organize
7 the activities of local government in metropolitan areas in a
8 manner that reduces governmental barriers to economic growth,

1 facilitates economic development, preserves communities and
2 strengthens neighborhoods, prevents or reduces unemployment, and
3 creates new employment opportunities.

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

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

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

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

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

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

20 Sec. 5. As used in this act:

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

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

26 (c) "Commercial real property" means real property classified
27 as commercial real property under section 34c of the general

1 property tax act, 1893 PA 206, MCL 211.34c.

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

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

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

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

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

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

21 (j) "Metropolitan areas component tax" means that portion of
22 the use tax levied by the authority under the use tax act, 1937 PA
23 94, MCL 205.91 to 205.111.

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

26 (i) Counties.

27 (ii) Cities.

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1 (iii) Villages.

2 (iv) Townships.

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

5 (vi) Local school districts.

6 (vii) Intermediate school districts.

7 (viii) Community college districts.

8 (ix) Libraries.

9 (x) Other local and intergovernmental taxing units.

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

12 (m) "Qualified municipality" means a municipality that
13 experienced a reduction in taxable value of more than 2.5% as a
14 result of the exemption of industrial personal property and
15 commercial personal property under sections 9m, 9n, and 9o of the
16 general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and
17 211.9o. A municipality's reduction in taxable value shall be
18 calculated in the following manner:

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

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

26 (iii) From the amount determined in subparagraph (ii), add the
27 total taxable value of all property in the municipality in the

1 current year.

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

4 (n) "School debt loss" means the amount of revenue lost from
5 ad valorem property taxes specifically levied for the payment of
6 principal and interest of obligations approved by the electors
7 before January 1, 2013 or obligations pledging the unlimited taxing
8 power of a local school district or intermediate school district
9 incurred before January 1, 2013, as a result of the exemption of
10 industrial personal property and commercial personal property under
11 sections 9m, 9n, and 9o of the general property tax act, 1893 PA
12 206, MCL 211.9m, 211.9n and 211.9o.

13 (o) "School operating loss not reimbursed by the school aid
14 fund" means the amount of revenue lost from ad valorem property
15 taxes levied under section 1211 of the revised school code, 1976 PA
16 451, MCL 380.1211, as a result of the exemption of industrial
17 personal property and commercial personal property under sections
18 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL
19 211.9m, 211.9n, and 211.9o, for mills other than basic school
20 operating mills, as that term is defined in section 2c of the use
21 tax act, 1937 PA 94, MCL 205.92c.

22 (p) "Taxable value" means that value determined under section
23 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

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

1 by the department.

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

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

10 (3) Property of the authority and its income, activities, and
11 operations are exempt from all taxes and special assessments of
12 this state or a political subdivision of this state. Property of
13 the authority is exempt from any ad valorem property taxes levied
14 under the general property tax act, 1893 PA 206, MCL 211.1 to
15 211.155, or other law of this state authorizing the taxation of
16 real or personal property. The authority is an entity of government
17 for purposes of section 4a(1)(a) of the general sales tax act, 1933
18 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937
19 PA 94, MCL 205.94.

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

26 Sec. 9. (1) The metropolitan areas council is established as
27 the governing body of the authority. The powers, duties, functions,

1 and responsibilities of the authority are vested in the council.
2 The council shall consist of 5 residents of this state appointed by
3 the governor. Not less than 3 members of the council shall be
4 residents of separate metropolitan areas within this state. An
5 officer or employee of this state may not serve as a member of the
6 council.

7 (2) Of the members of the council initially appointed by the
8 governor, 1 member shall be appointed for an initial term of 5
9 years, 1 member shall be appointed for an initial term of 4 years,
10 1 member shall be appointed for an initial term of 3 years, 1
11 member shall be appointed for an initial term of 2 years, and 1
12 member shall be appointed for an initial term of 1 year. After the
13 initial appointments, a member of the council shall be appointed
14 for a term of 6 years. If a vacancy on the council occurs other
15 than by expiration of a term, the vacancy shall be filled in the
16 same manner as the original appointment for the balance of the
17 unexpired term. A member of the council may continue to serve until
18 a successor is appointed and qualified. The governor shall
19 designate a member of the council to serve as its chairperson at
20 the pleasure of the governor.

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

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

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

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

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

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

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

25 (7) The council shall conduct its business at a public meeting
26 held in compliance with the open meetings act, 1976 PA 267, MCL
27 15.261 to 15.275. Public notice of the time, date, and place of the

1 meeting shall be given in the manner required by the open meetings
2 act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt
3 bylaws consistent with the open meetings act, 1976 PA 267, MCL
4 15.261 to 15.275, governing its procedures and the holding of
5 meetings. After organization, the council shall adopt a schedule of
6 regular meetings and adopt a regular meeting date, place, and time.
7 A special meeting of the council may be called by the chairperson
8 of the council or as provided in bylaws adopted by the council.
9 Notice of a special meeting shall be given in the manner required
10 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

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

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

26 (10) Before the beginning of each fiscal year, the council
27 shall prepare a budget for the authority containing an itemized

1 statement of the estimated expenses and revenue of the authority
2 from all sources for the next fiscal year. Before final adoption of
3 the budget, the council shall hold a public hearing as required by
4 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open
5 meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall
6 adopt a budget for the fiscal year in compliance with the uniform
7 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

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

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

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

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

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

25 (12) Members of the council are public servants subject to
26 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other
27 applicable law with respect to conflicts of interest. The council

1 shall establish policies and procedures requiring periodic
2 disclosure of relationships which may give rise to conflicts of
3 interest. The council shall require that a member of the council
4 with a direct interest in any matter before the authority disclose
5 the member's interest before the council takes any action with
6 respect to the matter. The council shall establish an ethics manual
7 for the authority governing authority business and the conduct of
8 authority officers and employees. The authority shall establish
9 policies that are no less stringent than those provided for public
10 officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and
11 coordinate efforts for the authority to preclude the opportunity
12 for and the occurrence of transactions by the authority that would
13 create a conflict of interest involving officers or employees of
14 the authority. At a minimum, the policies shall include compliance
15 by each officer or employee who regularly exercises significant
16 discretion over the award and management of authority procurements
17 with policies governing all of the following:

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

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

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

1 other misfeasance or malfeasance in office.

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

4 (a) Levy and distribute the metropolitan areas component tax
5 as provided under the use tax act, 1937 PA 94, MCL 205.91 to
6 205.111.

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

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

16 (a) Establish and maintain an office.

17 (b) Adopt, amend, and repeal bylaws for the regulation of its
18 affairs and the conduct of its business.

19 (c) Sue and be sued in its own name and plead and be
20 impleaded.

21 (d) Solicit, receive, and accept gifts or grants from any
22 public or private source.

23 (e) Employ personnel, contract for goods and services, and
24 enter into agreements with other governmental entities.

25 (f) Establish 1 or more depositories for authority money and
26 invest authority money under an investment policy consistent with
27 this act and 1943 PA 20, MCL 129.91 to 129.97a.

1 (g) Acquire, hold, and dispose of interests in property.

2 (h) Incur indebtedness, but only in the manner and to the
3 extent authorized by law.

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

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

15 (2) The department shall administer under the use tax act,
16 1937 PA 94, MCL 205.91 to 205.111, the receipt and collection of
17 the metropolitan areas component tax on behalf of the authority as
18 an agent of the authority. The authority may enter into an
19 agreement with the department relating to the receipt and
20 collection of the metropolitan areas component tax and the payment
21 of the authority revenue generated by the metropolitan areas
22 component tax to the authority.

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

26 Sec. 14. Not later than June 15, 2016, and each June 15
27 thereafter, each municipality that is not a local school district

1 or intermediate school district shall do all of the following:

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

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

9 (c) Multiply the result of the calculation in subdivision (b)
10 by the sum of the lowest rate of each individual millage levied by
11 that municipality in the period between 2012 and the year
12 immediately preceding the current year.

13 (d) Subtract from the result of the calculation in subdivision
14 (c) the amount of revenue the municipality is authorized to levy
15 for that year under section 4(1) of the local unit of government
16 essential services special assessment act, as adjusted by the
17 limitation provided in section 4(2) of the local unit of government
18 essential services special assessment act.

19 (e) Submit to the department the amount calculated under this
20 section.

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

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

27 (b) From the amount determined in subdivision (a), subtract

1 the total taxable value of all industrial personal property and
2 commercial personal property in the municipality in the current
3 year.

4 (c) Multiply the result of the calculation in subdivision (b)
5 by the sum of the lowest rate of each individual millage levied
6 under section 1212 of the revised school code, 1976 PA 451, MCL
7 380.1212, and section 2 of 1917 PA 156, MCL 123.52, levied by that
8 municipality in the period between 2012 and the year immediately
9 preceding the current year.

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

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

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

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

22 (c) Multiply the result of the calculation in subdivision (b)
23 by the sum of the lowest rate of each individual millage levied by
24 the municipality, excluding debt millage, in the period between
25 2012 and the year immediately preceding the current year.

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

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

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

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

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

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

17 (a) The authority shall distribute to each municipality an
18 amount equal to 100% of that municipality's school debt loss<<, 100%
19 of that municipality's amount calculated under section 16(c),>> and
20 100% of that municipality's school operating loss not reimbursed by
21 the school aid fund.

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

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

1 (ii) Multiply the result of the calculation in subparagraph (i)
2 by the sum of the lowest rate of each individual millage levied by
3 the municipality in the period between 2012 and the year
4 immediately preceding the current year.

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

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

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

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

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

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

26 Sec. 19. From the amount received under section 17, a
27 municipality shall first replace debt loss or school debt loss, as

1 applicable. A municipality shall not receive a distribution under
2 this act if it has increased its millage rate to replace a debt
3 loss or school debt loss, as applicable.

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

10 Enacting section 1. This act takes effect January 1, 2013.