

HOUSE BILL No. 5564

April 24, 2012, Introduced by Reps. Stallworth and Durhal and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to provide for the establishment of public lighting infrastructure and housing stock inventory investment authorities in certain cities; to provide for the powers and duties of a public lighting infrastructure and housing stock inventory investment authority; to provide for the powers and duties of certain governmental officials; to provide for the issuance of bonds and notes; to impose certain powers and duties upon state and local departments, agencies, and officers; and to make appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "public lighting infrastructure and housing stock inventory
3 investment authority act".

4 Sec. 3. As used in this act:

1 (a) "Asset improved" means a residential property that has
2 more value for a prospective homeowner than the homeowner's current
3 property and that has an appraised value that makes a mortgage
4 viable.

5 (b) "Authority" means a public lighting infrastructure and
6 housing stock inventory investment authority created under section
7 5.

8 (c) "Best value" means a contract and procurement process that
9 rewards the lowest responsible bids from locally headquartered
10 operations and that includes local workforce employment and
11 training plans.

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

13 (e) "Business enterprise unit" means an internal or contracted
14 subdivision of an authority that establishes, implements, and
15 collects fees from pricing approved by the board for the provision
16 of their products and services, establishes percentage
17 contributions to the general fund of the qualified city, and that
18 does 1 or more of the following:

19 (i) Sells, distributes, and inspects commercial, residential,
20 and consumer exterior illumination products related to the
21 effective, efficient, and uniform delivery of electricity.

22 (ii) Buys, leases, and sells real property.

23 (iii) Manages the coordination of asset improved homeowner
24 relocation and wrap-around expense budget programs that are
25 designed to increase community reinvestment act loan underwriting
26 under the community reinvestment act of 1977, 12 USC 2901 to 2908,
27 population density, efficient delivery of city services, and

1 improved neighborhood stabilization and investment through targeted
2 abatement, rehabilitation, and remodeling resources that maintain
3 or increase property value and local resident wealth.

4 (f) "Chief executive officer" means the mayor of a qualified
5 city.

6 (g) "Legislative body" means the elected body of a qualified
7 city possessing the legislative power of the qualified city.

8 (h) "Qualified city" means a city with a population of more
9 than 600,000 according to the most recent federal decennial census.

10 (i) "Solid state lighting" means a light emitting diode (LED)
11 street lamp system.

12 (j) "Wrap-around expense budget" means a home mortgage plan
13 that includes down payment assistance, a credit-based fixed rate
14 mortgage, and a monthly payment that includes the payment of
15 property taxes, and includes 1 or more expenses not limited to
16 abatement, repair and remodeling, transportation, moving expenses,
17 and a forgivable second mortgage.

18 Sec. 5. (1) A qualified city may form a public lighting
19 infrastructure and housing stock inventory investment authority.

20 (2) The name of an authority formed under this section shall
21 include the name of the qualified city forming the authority and
22 the phrase "public lighting infrastructure and housing stock
23 inventory investment authority".

24 (3) An authority formed under this section shall be a
25 municipal public body corporate and politic and an authority
26 authorized by section 27 of article VII of the state constitution
27 of 1963 and shall possess the powers and duties necessary for

1 carrying out the purposes of its formation. The enumeration of
2 specific powers in this act shall not be construed as a limitation
3 on the general powers of the authority. The authority shall not be
4 an authority or agency of this state.

5 Sec. 7. (1) An authority created under this act shall be
6 directed and governed by a board of directors consisting of 5
7 voting members. The voting members of a board shall include all of
8 the following:

9 (a) One individual, appointed by the chief executive officer
10 of the qualified city, who is either of the following:

11 (i) An electrical engineer who is a professional engineer
12 licensed under article 20 of the occupational code, 1980 PA 299,
13 MCL 339.2001 to 339.2014.

14 (ii) A certified public accountant who is licensed as a
15 certified public accountant under article 7 of the occupational
16 code, 1980 PA 299, MCL 339.720 to 339.736.

17 (b) One individual, appointed by the chief executive officer
18 of the qualified city, representing the economic growth corporation
19 of the qualified city.

20 (c) Two individuals appointed by the chief executive officer
21 of the qualified city from a list of not more than 6 candidates
22 submitted by the governor.

23 (d) One individual, appointed by the legislative body of the
24 qualified city, who is either of the following:

25 (i) An attorney licensed to practice in this state.

26 (ii) A mortgage lender. As used in this subparagraph, "mortgage
27 lender" means that term as defined in section 1a of the mortgage

1 brokers, lenders, and servicers licensing act, 1987 PA 173, MCL
2 445.1651a.

3 (2) The chief executive officer of the qualified city is the
4 chairperson of the board, but is a nonvoting member.

5 (3) Except as otherwise provided in this subsection, the
6 voting board members of the board shall be appointed for a term of
7 3 years. Initial appointments under subsection (1) shall be made
8 within 30 days of the creation of the authority. If a vacancy
9 occurs on the board, other than by expiration of a term, the
10 vacancy shall be filled in the same manner as the original
11 appointment for the remainder of the term. Board members may
12 continue to serve until a successor is appointed.

13 (4) Upon appointment to a board under this section, and upon
14 taking and filing of the oath of office required by section 1 of
15 article XI of the state constitution of 1963, a board member shall
16 enter office and exercise the duties of the office of board member.

17 (5) Board members shall serve without compensation but may be
18 reimbursed for actual and necessary expenses incurred while
19 attending board meetings or performing other authorized official
20 business of the authority.

21 Sec. 9. (1) Within not more than 30 days following the
22 appointment of members of a board, the board shall hold its first
23 meeting at a date and time determined by the chief executive
24 officer of the qualified city.

25 (2) The chief executive officer of the qualified city is the
26 chairperson of the board. At its first meeting, the board may elect
27 other officers as the board considers necessary. All officers,

1 except the chairperson, shall be elected annually by the board.

2 (3) A majority of the board members constitute a quorum for
3 the purpose of conducting business and exercising powers of the
4 authority. Official action may be taken by an authority upon the
5 vote of a majority of the board members present, unless the
6 authority bylaws require a larger number.

7 (4) The board shall adopt bylaws governing its procedures and
8 the holding of meetings.

9 (5) The business of the board shall be conducted at a public
10 meeting of the board held in compliance with the open meetings act,
11 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
12 and place of the meeting shall be given in the manner required by
13 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. After
14 organization, a board shall adopt a schedule of regular meetings
15 and adopt a regular meeting date, place, and time. The board shall
16 meet weekly or more often as necessary. A special meeting of the
17 board may be called by the chairperson of the board or as provided
18 in the bylaws adopted by the board. Notice of a special meeting
19 shall be given in the manner required by the open meetings act,
20 1976 PA 267, MCL 15.261 to 15.275.

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

27 (7) A board shall provide for a system of accounts for the

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

10 Sec. 11. (1) A board member shall discharge the duties of his
11 or her position in a nonpartisan manner, in good faith, and with
12 the degree of diligence, care, and skill that an ordinarily prudent
13 person would exercise under similar circumstances in a like
14 position. In discharging his or her duties, a board member of an
15 authority, when acting in good faith, may rely upon any of the
16 following:

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

18 (b) The report of an independent appraiser selected by the
19 board.

20 (c) Financial statements of the authority represented to the
21 member of the board to be correct by the officer of the authority
22 having charge of its books of account or stated in a written report
23 by the state auditor general or a certified public accountant, or a
24 firm of certified accountants, to reflect the financial condition
25 of the authority.

26 (2) A member of a board is not subject to personal liability
27 when acting in good faith within the scope of his or her authority

1 or on account of liability of the authority, and the board may
2 indemnify a member of the board against liability arising out of
3 the discharge of his or her official duties. An authority may
4 indemnify and procure insurance indemnifying members of the board
5 from personal loss or accountability for liability asserted by a
6 person with regard to bonds or other obligations of the authority,
7 or from any personal liability or accountability by reason of the
8 issuance of the bonds or other obligations or by reason of any
9 other action taken or the failure to act by the authority. The
10 authority also may purchase and maintain insurance on behalf of any
11 person against any liability asserted against the person and
12 incurred by the person in any capacity or arising out of the status
13 of the person as a member of the board, whether or not the
14 authority would have the power to indemnify the person against that
15 liability under this section. An authority, pursuant to bylaw,
16 contract, agreement, or resolution of its board, may obligate
17 itself in advance to indemnify persons.

18 (3) Board members are public servants subject to 1968 PA 317,
19 MCL 15.321 to 15.330, and are subject to any other applicable law
20 with respect to conflicts of interest. A board shall establish
21 policies and procedures requiring periodic disclosure of
22 relationships which may give rise to conflicts of interest. The
23 board shall require that a board member with a direct interest in
24 any matter before the authority disclose the board member's
25 interest and any reasons reasonably known to the board member why
26 the transaction may not be in the best interest of the public or
27 the authority before the board takes any action with respect to the

1 matter. The disclosure shall become part of the record of an
2 authority's proceedings.

3 (4) An authority shall establish an ethics manual governing
4 the conducting of authority business and the conduct of authority
5 officers. An authority shall establish policies that are no less
6 stringent than those provided for public officers and employees by
7 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the
8 authority to preclude the opportunity for and the occurrence of
9 transactions by the authority that would create a conflict of
10 interest involving board members of the authority. At a minimum,
11 the policies shall include compliance by each board member who
12 regularly exercises significant discretion over the award and
13 management of authority procurements with policies governing all of
14 the following:

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

18 (b) Withdrawal by a board member from participation in or
19 discussion or evaluation of any recommendation or decision
20 involving an authority procurement that would reasonably be
21 expected to create a conflict of interest for that board member.

22 (c) Annual public financial disclosure of significant
23 financial interests as provided under this act.

24 (5) The appointing authority of a board member may remove the
25 board member from office for gross neglect of duty, corrupt conduct
26 in office, or any other misfeasance or malfeasance in office.

27 (6) A member of the board of an authority shall not hold any

1 direct or indirect interest in, be employed by, or enter into a
2 contract for services with any entity doing business with the
3 authority for a period of 2 years after the date his or her
4 membership on the board terminates.

5 Sec. 13. (1) Upon the appointment of the board, the chief
6 executive officer of the qualified city shall do both of the
7 following:

8 (a) Authorize the creation of a best value operating and
9 servicing agreement with the owner of the primary electric
10 distribution infrastructure that services the qualified city.

11 (b) Provide to the authority board a written statement of
12 executive direction concerning first year operations of the
13 authority.

14 (2) No later than June 1 of each year, the chief executive
15 officer of the qualified city shall provide to the board an annual
16 statement of executive direction.

17 Sec. 15. (1) No later than September 1 of each year, the board
18 shall, in collaboration with the chief executive officer of the
19 qualified city, prepare and submit to the legislative body of the
20 qualified city a proposed annual operating plan. The proposed
21 annual operating plan shall include, but is not limited to, all of
22 the following:

23 (a) The chief executive officer's statement of executive
24 direction.

25 (b) Staffing requirements.

26 (c) Payroll and expense budget.

27 (d) Revenue source and operating expense forecasts.

1 (e) Progress objectives relating to the creation of a single
2 solid state lighting electric distribution system.

3 (f) Schedules and budget relating to a single electric
4 distribution system integration.

5 (g) Schedules and budget relating to street pole and lamp
6 installation, upgrades, repair, maintenance, decommissioning, and
7 removal.

8 (h) Schedules and budget relating to electric distribution
9 line clearance.

10 (i) Progress goals relating to electric distribution line
11 clearance.

12 (j) Progress and plans relating to the acquisition,
13 reallocation, transfer, disencumbering, assignment, or sale of
14 nonoperating and nonessential public lighting department
15 facilities, equipment, and resources in a manner that reduces
16 financial liability without decreasing services and creates greater
17 operating efficiency for the authority.

18 (k) Goals relating to the review and establishment of exterior
19 industrial, commercial, and residential illumination standards,
20 lighting products, community supports, rebates, and enforcement
21 programs to compliment a solid state street lighting, lamping, and
22 public safety plan that is based on population and activity
23 density.

24 (l) Business enterprise unit descriptions, objectives, budgets,
25 and revenue and expense forecasts.

26 (m) Best value objectives.

27 (n) Neighborhoods in the qualified city selected for the

1 public housing stock inventory investment program, the
2 participating community reinvestment act lenders, and plans for
3 program candidate identification, screening, and education.

4 (2) No later than December 31 of each year, the legislative
5 body of the qualified city may propose amendments to the proposed
6 annual operating plan.

7 (3) No later than February 1 of each year, the board shall
8 provide a written report to the legislative body of the qualified
9 city that clearly states a reason for the inclusion or rejection of
10 each proposed amendment to the annual operating plan.

11 (4) No later than March 1 of each year, the board shall
12 prepare and submit to the chief executive officer of the qualified
13 city a final operating plan that includes an appendix that clearly
14 states each amendment to the annual operating plan proposed by the
15 legislative body of the qualified city and the board's reason for
16 the inclusion or rejection of each proposed amendment to the annual
17 operating plan.

18 (5) No later than March 31 of each year, the chief executive
19 officer of the qualified city shall present to the public the
20 annual operating plan for the authority.

21 Sec. 17. (1) The board shall prepare and submit a monthly
22 progress report to the chief executive officer of the qualified
23 city.

24 (2) The board shall appear before the legislative body of the
25 qualified city once a month and provide to the legislative body of
26 the qualified city the monthly progress report submitted to the
27 chief executive officer of the qualified city under subsection (1).

1 (3) No later than July 1 of each year, the board shall prepare
2 and present an annual report to the governor, the legislature, and
3 the United States secretary of energy concerning the operation of
4 the for the preceding year. In addition, the board shall prepare
5 and present to the governor, the legislature, and the United States
6 secretary of energy a needs forecast relating to the creation of a
7 single electric distribution system, advancing solid state
8 lighting, and tax credits supporting sustainable upgrades and
9 progress.

10 Sec. 19. The board shall do both of the following:

11 (a) Enter into a best value operating and servicing agreement
12 with the owner of the primary electric distribution infrastructure
13 serving the qualifying city to create a single electric
14 distribution system.

15 (b) Develop and operate a public housing stock inventory
16 investment program that matches inventory with first-time home
17 buyers and low-loan balance homeowners using a wrap-around expense
18 budget.

19 Sec. 21. The board may do any of the following:

20 (a) Issue bonds related to land acquisition, demolition and
21 clearance, economic development, public lighting infrastructure
22 maintenance, and project upgrades.

23 (b) Coordinate the authority's wrap-around expense budget
24 program with the qualifying city's lead abatement and low-income
25 energy efficiency and weatherization programs.

26 (c) Operate internal or contracted business enterprise units.

27 (d) Solicit and receive money, contributions, or other aid

1 from, but not limited to, nonprofit foundations.

2 Sec. 23. A business enterprise unit operated by a board shall
3 make contributions to the general fund of the qualified city.

4 Sec. 25. (1) A public housing stock inventory investment
5 program shall seek to improve a qualifying city's neighborhood
6 density and stability through increased residential mortgage
7 underwriting of authority screened and financially educated
8 borrowers who have been matched for participating mortgage lenders
9 on a fee basis with a property purchased or received by transfer
10 from the qualified city's inventory and placed in the wrap-around
11 expense budget program.

12 (2) An authority shall make internal or contracted business
13 enterprise unit program services available on a fee basis to
14 participating lenders that agree in the case of a default to return
15 an asset improved property unencumbered to the public housing stock
16 inventory investment program.

17 Sec. 27. (1) An authority may raise revenues to fund all of
18 its activities, operations, and investments consistent with its
19 purposes. The sources of revenue available to the authority may
20 include, but are not limited to, any of the following:

21 (a) Revenue from its business enterprise units.

22 (b) Federal, state, or local government grants, loans,
23 appropriations, payments, or contributions.

24 (c) The proceeds from the sale, exchange, mortgage, lease, or
25 other disposition of property that the authority has acquired.

26 (d) Grants, loans, appropriations, payments, proceeds from
27 repayments of loans made by the authority, or contributions from

1 public or private sources.

2 (e) Investment earnings on the revenues described in
3 subdivisions (a) to (d).

4 (2) The revenues raised by an authority may be pledged, in
5 whole or in part, for the repayment of bonded indebtedness and
6 other expenditures issued or incurred by the authority.

7 (3) The board by resolution may establish an enterprise
8 investment fund for the purpose of accumulating funds to pay for
9 the cost of supporting exterior residential property and commercial
10 business solid state lighting upgrades. Money for supplanting
11 portions of de-lamped areas with residential or commercial solid
12 state lighting, at the authority's discretion, may be provided from
13 this fund or any other money of the authority. The resolution
14 establishing the fund shall include all of the following:

15 (a) The designation of a person or persons who shall act as
16 the fund's investment fiduciary.

17 (b) A restriction of withdrawals from the fund solely for the
18 payment of reasonable operating and maintenance expenses of the
19 enterprise investment fund and the payment of the expenses of
20 administration of the fund.

21 (4) An investment fiduciary shall invest the assets of the
22 fund in accordance with an investment policy adopted by the board
23 that complies with section 13 of the public employee retirement
24 system investment act, 1965 PA 314, MCL 38.1133. However, the
25 investment fiduciary shall discharge his or her duties solely in
26 the interest of the authority. The authority may invest the fund's
27 assets in the investment instruments and subject to the investment

1 limitations governing the investment of assets of public employee
2 retirement systems under the public employee retirement system
3 investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

4 (5) A financial obligation of an authority is a financial
5 obligation of the authority only and not a financial obligation of
6 this state or a qualified city. A financial obligation of the
7 authority shall not be transferred to this state or a qualified
8 city.

9 Sec. 29. (1) The authority may borrow money and issue
10 municipal securities in accordance with and exercise all of the
11 powers conferred upon municipalities by the revised municipal
12 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

13 (2) The authority may issue a bond or municipal security that
14 bears no interest and appreciates as to principal amount. The bonds
15 or municipal securities authorized by this subsection shall be
16 exempt from section 305(2) and (3) of the revised municipal finance
17 act, 2001 PA 34, MCL 141.2305.

18 (3) All bonds, notes, or other evidences of indebtedness
19 issued by an authority under this act, and the interest on the
20 bonds or other evidences of indebtedness, are free and exempt from
21 all taxation within this state, except for transfer and franchise
22 taxes.

23 (4) The issuance of bonds, notes, or other evidences of
24 indebtedness by an authority shall require approval of the board.

25 (5) For the purpose of more effectively managing its debt
26 service, an authority may enter into an interest rate exchange or
27 swap, hedge, or similar agreement or agreements in connection with

1 the issuance or proposed issuance of bonds, notes, or other
2 evidences of indebtedness or in connection with its then
3 outstanding bonds, notes, or other evidences of indebtedness.

4 (6) In connection with entering into an interest rate exchange
5 or swap, hedge, or similar agreement, the authority may create a
6 reserve fund for the payment thereof.

7 (7) An agreement entered into pursuant to this section shall
8 comply with all of the following:

9 (a) The agreement is not a debt of the authority entering into
10 the agreement for any statutory or charter debt limitation purpose.

11 (b) The agreement is payable from general funds of the
12 authority or, subject to any existing contracts, from any available
13 money or revenue sources, including revenues specified by the
14 agreement, securing the bonds, notes, or evidences of indebtedness
15 in connection with which the agreement is entered into.

16 (8) An authority upon approval by resolution of the board may
17 issue notes in anticipation of the proceeds of a proposed authority
18 bond issuance. The authority may pledge for the payment of the
19 principal, interest, or redemption premiums on the notes security
20 from 1 or more of the sources to secure the bonds and the proceeds
21 of the bonds to be issued to refund the notes. The pledge shall be
22 valid and binding from the time made. The security pledged and
23 received by an authority is immediately subject to the lien of the
24 pledge without physical delivery of the security or further action.
25 The lien is valid and binding against a person with a claim of any
26 kind against the authority whether or not the person has notice of
27 the pledge. Neither the resolution, trust indenture, nor any other

1 instrument creating a pledge must be filed or recorded to establish
2 and perfect a lien or security interest in the property pledged. In
3 the resolution, the authority shall declare the necessity of the
4 notes, the purpose of the notes, the principal amount of the notes
5 to be issued, and an estimated principal payment schedule for and
6 an estimated or maximum average annual interest rate on the notes.
7 The issuance and delivery of the notes shall be conclusive as to
8 the existence of the facts entitling the notes to be issued in the
9 principal amount of the notes and shall not be subject to attack.
10 The notes shall mature not more than the earlier of 3 years from
11 the date of issuance or 90 days after the expected date of issuance
12 of the bonds in anticipation of which the notes are issued and may
13 bear no interest or interest at a fixed or variable rate or rates
14 of interest per annum. The proceeds of notes issued under this
15 subsection shall be used only for the purpose to which the proceeds
16 of the bonds may be applied, the costs of issuance of the notes,
17 and the payment of principal and interest on the notes. Notes
18 issued under this section are exempt from the provisions of the
19 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
20 141.2821.

21 Sec. 31. This state may maintain an annual loss reserve of
22 \$50,000,000.00 for bad debt payments to an authority from any of
23 the following:

24 (a) A local government or school district that has entered
25 into a consent agreement under the local government and school
26 district fiscal accountability act, 2011 PA 4, MCL 141.1501 to
27 141.1531.

1 (b) A local government or school district that has an
2 emergency manager appointed for it under the local government and
3 school district fiscal accountability act, 2011 PA 4, MCL 141.1501
4 to 141.1531.

5 (c) A school district operating under the education
6 achievement authority.

7 Sec. 33. The legislature shall annually appropriate to each
8 authority created under this act \$500,000.00 to the support the
9 administrative operations of the authority.