STADIA OR CONVENTION FACILITY DEVELOPMENT
Act 180 of 1991

AN ACT to assist in the financing of stadia or convention facilities; to permit eligible municipalities to impose and collect an excise tax on businesses engaged in the preparation and delivery of food and beverages for immediate consumption, in leasing or renting motor vehicles in the eligible municipality, and in providing accommodations for dwelling, lodging, or sleeping purposes; to limit the rate of that excise tax; to authorize voter approval in a single ballot question of the excise tax authorized by this act and of certain purposes for which the excise tax is imposed; to provide for the establishment of procedures for the collection, administration, and enforcement of the excise tax; to prescribe the powers and duties of certain state departments and state and local officials; to provide for the disposition and transmittal of the revenues from the tax for stadia or convention facility development and other purposes and authorize the pledge of those revenues; to authorize the appointment of employees and officials of a local governmental unit to an authority to which revenues from the tax may be pledged; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

The People of the State of Michigan enact:

207.751 Definitions.

Sec. 1. As used in this act:

(a) "Accommodations" means the room or other space provided for sleeping, including furnishings and other accessories in the room but not including the provision of food, beverages, telephone services, television or movie services, or other similar services, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or community substance abuse treatment facility, or campground.

(b) "Chief executive officer" means for a county the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners and for a city, the mayor.

(c) "Convention facility" means a convention exhibition facility, including meeting rooms and necessary sites, related parking lots or structures, and appurtenant properties and facilities, if the facility itself contains not less than 50,000 square feet of exhibition space and if the eligible municipality is a county, the facility is located within the boundaries of the most populous city in the county.

(d) "Eligible county" means a county with a population of 1,500,000 or more persons that adopts or has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, and that intends to impose the tax authorized by this act for purposes related to a stadium as defined under subdivision (i)(*i*).

(e) "Eligible municipality" means any of the following:

(*i*) An eligible county that intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*i*).

(*ii*) A county that is not a charter county that has a population of more than 500,000 and contains a city with a population of 180,000 or more persons, or the most populous city in that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*iii*) A county with a population of less than 200,000 that contains a city with a population of more than 40,000 but less than 50,000, or the most populous city in that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*iv*) A county with a population of less than 300,000 with a city with a population of more than 100,000 persons, or the most populous city within that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*v*) A county with a population of more than 250,000 with an optional unified form of government or a city within that county that levies a city income tax if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*vi*) A county with a population of less than 300,000 with a city with a population of more than 70,000 persons, or the most populous city within that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*).

(f) "Gross receipts" means that term as defined in former section 7 of 1975 PA 228, or section 111 of the Michigan business tax act, 2007 PA 36, MCL 208.1111. Gross receipts do not include any amount received as reimbursement of sales tax or as charges for use tax.

(g) "Motor vehicle" means a motor vehicle subject to registration and certificate of title under section 216

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of the Michigan vehicle code, 1949 PA 300, MCL 257.216, that is designed and intended to be used primarily in the transportation of passengers. Motor vehicle does not include a road tractor, school bus, special mobile equipment, tank vehicle, truck tractor, implement of husbandry, or farm tractor as these terms are defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(h) "Person" means an individual, partnership, corporation, association, or other legal entity.

(i) "Stadium" means a facility, including necessary sites, related parking lots or structures, and appurtenant properties and facilities, that is intended to provide space for any of the following:

(*i*) A professional baseball franchise, if the facility itself contains not less than 25,000 seats and is located in the downtown area of the most populous city in the eligible county.

(*ii*) Professional sports or entertainment, if the facility itself contains not less than 3,000 seats, is not a facility as defined by subparagraph (*i*).

(j) "Transient guest" means a person who occupies an accommodation for less than 30 consecutive days.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991;—Am. 2007, Act 172, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 532, Imd. Eff. Jan. 13, 2009.

207.752 Municipal excise tax on certain businesses; maximum rate; ordinance; question presented to voters; expiration of excise tax; initiative and referendum; limitation.

Sec. 2. (1) The governing body of an eligible municipality, by ordinance, may levy, assess, and collect an excise tax on the privilege of operating the following businesses in the eligible municipality:

(a) A person engaged in the business of preparation and delivery of food or alcoholic or nonalcoholic beverages for immediate consumption either on or off the premises, who is licensed to operate within the eligible municipality as a food service establishment under part 129 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12901 to 333.12922 of the Michigan Compiled Laws. This subdivision does not apply to a school district, to a nonprofit organization exempt from paying sanitation fees under section 12906(3) of part 129 of Act No. 368 of the Public Acts of 1978, being section 333.12906 of the Michigan Compiled Laws, or to a grocery store licensed under the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws, whose sale of food or beverages for immediate consumption is in a volume incidental to the volume of its business as a grocery store.

(b) A person engaged in the business of the leasing or rental of motor vehicles of which delivery is made in the eligible municipality.

(c) A person engaged in the business of providing accommodations for dwelling, lodging, or sleeping purposes in an eligible municipality to transient guests, whether or not membership is required for the use of the accommodations.

(2) The rate of tax imposed pursuant to subsection (1) shall not exceed the following amounts:

(a) 1% of the gross receipts received by the person subject to tax under subsection (1)(a) from the sale of food and beverages, including alcoholic beverages, for immediate consumption either on or off the premises.

(b) 2% of the gross receipts received by the person subject to tax under subsection (1)(b) from the leasing or rental of motor vehicles for periods of less than 30 consecutive days.

(c) 1% of the gross receipts received by a person subject to tax under subsection (1)(c) from the charges imposed for the use or occupancy of accommodations provided in the eligible municipality to transient guests, but excluding charges imposed as reimbursement for the tax levied under the state convention facility development act, Act No. 106 of the Public Acts of 1985, being sections 207.621 to 207.640 of the Michigan Compiled Laws, or for assessments imposed under the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws, the regional tourism marketing act, Act No. 244 of the Public Acts of 1989, being sections 141.891 to 141.900 of the Michigan Compiled Laws, and the community convention or tourism marketing act, Act No. 395 of the Public Acts of 1980, being sections 141.871 to 141.880 of the Michigan Compiled Laws.

(3) The ordinance shall specify the date on which the ordinance becomes effective, which shall not be earlier than 30 days after the date on which the ordinance is approved by a vote of a majority of the electors of the eligible municipality voting on the ordinance at a primary or general election or at a special election called for that purpose. Any ordinance under this act shall not be submitted to the electors of an eligible municipality more than 2 times. The county clerk and all local election officials within the county shall take those steps necessary to conduct the election, the incremental expense of which shall be reimbursed by the eligible county. The question presented to the voters shall state the rates at which the tax is authorized and that the purpose of the tax is principally to secure and fund the payment of rentals by the eligible municipality to an authority organized for the purpose of acquiring a stadium or convention facility and leasing it to the eligible municipality. The question presented may also request approval of the leasing and subleasing of the stadium

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or convention facility by the eligible municipality. However, if the question presented does not include a request for approval of the leasing and subleasing of the stadium or convention facility, a right of initiative and referendum exists, pursuant to the terms of the local charter, in relation to the adoption or execution of any contract, lease, or sublease for the stadium or convention facility or of any amendment to any contract of lease or sublease of any local unit of government necessary to allow the eligible municipality to lease or sublease the stadium or convention facility.

(4) The ordinance imposing the excise tax authorized by this act shall provide for the expiration of the excise tax not later than the end of the fiscal year of the eligible municipality in which obligations issued by an authority to which the revenues of the excise tax are pledged as rentals under section 6 or any obligations that may refund those obligations, in whole or in part, are retired.

(5) A right of initiative and referendum exists in relation to any issue related to an ordinance adopted in a county that is not a charter county. To invoke that initiative or referendum, petitions signed by not less than 5% of the registered electors in the county shall be filed with the county clerk of that county. The county board of commissioners shall provide the time and manner of submitting the question at the election and of determining the result of the election.

(6) An eligible municipality shall not levy the tax under this act on businesses upon which another eligible municipality has imposed the tax.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.752a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 2a. A petition under section 2, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 172, Eff. Mar. 23, 1999.

207.753 Ordinance; required provisions.

Sec. 3. The ordinance adopted pursuant to section 2 shall provide for the following:

(a) The rates of the tax.

(b) The manner of imposition of the tax, including the dates on which the tax is due, the period covered by each collection, and the method or methods of payment.

(c) The rates and manner of the imposition of interest and penalties for delinquency in filing returns, payment of taxes, or violations of the ordinance, which shall not exceed interest and penalty charges imposed under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, for a tax levied by the state.

(d) The determination and allowance of exemptions, abatements, and refunds.

(e) The designation of the collector of the tax.

(f) Procedures for the appeal of any assessment, including the period in which a person may appeal the assessment. All appeals shall be made to the tax tribunal subject to the tax tribunal act, Act No. 186 of the Public Acts of 1973, being sections 205.701 to 205.779 of the Michigan Compiled Laws.

(g) That if any 1 or more provisions of the ordinance for any reason are adjudged invalid or unenforceable, that judgment does not affect, impair, or invalidate the remaining provisions of the ordinance.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.754 Administration and collection of excise tax; agreement with state treasurer; remittance to municipality; ordinance provisions; confidentiality of taxpayer information; violation; penalties.

Sec. 4. (1) The chief executive officer and the state treasurer may enter into an agreement providing that the tax imposed pursuant to this act be administered and collected by the revenue division under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws. If there is agreement, the department of treasury shall administer and collect the tax imposed by this act on behalf of the eligible municipality, and the ordinance shall provide for the administration and collection of the tax imposed by this act in the same manner as state taxes are administered and collected under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, except for procedures for the appeal of any assessment as provided by the ordinance. Not more than 15 days after their due date, taxes, interest, and penalties collected by the revenue division of the department of treasury pursuant to that agreement shall be remitted to the eligible municipality that imposed the tax. Any remittance to the eligible

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municipality by the department of treasury after that date shall include interest earned on the gross collections after that deadline and before transmittal to the eligible county, calculated on the basis of the rate of interest accrued for this period on the common cash fund of the state.

(2) The ordinance may provide for 1 or more of the following:

(a) The adoption and enforcement of rules by the eligible municipality to apply, interpret, and effectuate the provision and purposes of the tax.

(b) The prescribing and furnishing to taxpayers of forms, instructions, manuals, and other materials necessary or convenient for the administration of the tax.

(c) The requiring of taxpayers to file returns, provide information, and maintain records that are reasonable for enforcement of the tax and auditing of the returns.

(d) The examination of the books and records of a taxpayer for purposes of determining the correctness of a tax return or information filed, or for the determination of any further tax liability.

(3) Information obtained pursuant to a provision in the ordinance authorized under subsection (2)(d) or through any return, investigation hearing, or verification required or authorized by the ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except pursuant to a proper judicial order. A person who divulges this confidential information, except for official purposes, is guilty of a violation of the ordinance punishable by a fine of not more than $5,000.00, or imprisonment for not more than 5 years, or both. Additionally, if the offense is committed by an employee of the eligible municipality or the state, the person shall be dismissed from office or discharged from employment upon conviction.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.755 Excise tax levied in addition to other lawful taxes.

Sec. 5. The excise tax levied under this act is in addition to any other taxes, charges, or fees and may be levied notwithstanding any other law to the contrary.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.756 Disposition and use of excise tax revenues.

Sec. 6. The revenues from the tax imposed under this act shall be deposited in a special fund and shall be used and may be pledged by the eligible municipality only for the following purposes or paid to the following entities in the following order of priority:

(a) Costs borne by the eligible municipality for the election required under section 2(3) and in the administration and enforcement of the ordinance.

(b) Costs associated with the acquisition and construction of a stadium as defined by section 1(i)(*i*) or with the acquisition, improvement, enlargement, and construction of a stadium as defined by section 1(i)(*ii*) or convention facility as defined by section 1(c), including the reimbursement of those costs paid by an eligible municipality, and costs of current or future annual rental payable for a stadium or convention facility by an eligible municipality, or reimbursement of the eligible municipality for rentals paid, to an authority that is incorporated by the eligible municipality pursuant to Act No. 31 of the Public Acts of the First Extra Session of 1948, being sections 123.951 to 123.965 of the Michigan Compiled Laws.

(c) To the extent not needed for purposes identified in subdivision (a) or (b) in any year or to maintain a reserve for those purposes in future years, costs associated with the clearance and improvement of land for assembly and development purposes.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.757 Entering into contract for lease of stadium or convention facility payable from excise tax revenues; conditions.

Sec. 7. An eligible municipality imposing an excise tax pursuant to this act shall not enter into a contract for lease of a stadium or convention facility payable in whole or in part from the revenues of the excise tax unless the eligible municipality takes action to insure the proceeds of any obligations issued by an authority to which rentals are payable, whether or not secured by a pledge of revenues from the excise tax, and any other available money are sufficient to defray the cost of the stadium or convention facility. This action may include the appointment of officials or employees of a local governmental unit as members of the authority to which revenues of the excise tax may be pledged under this act. An official or employee of a local governmental unit appointed to an authority to which revenues of the excise tax may be pledged under this act is not considered to be concurrently holding incompatible offices or to be in breach of a duty of his or her public office by reason of the power of the position or because of a contract for lease of the stadium or convention facility between the authority and the eligible municipality.

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History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.758 Legislative intent.

Sec. 8. (1) It is the intent of this legislature that state funds shall not be used for the construction, maintenance, or operation of stadia or convention facilities.

(2) It is the intent of this legislature that state funds shall not be used as a subsidy or to subsidize a shortfall of revenues collected from nonstate sources.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

207.759 Repeal of MCL 141.851 to 141.855.

Sec. 9. Act No. 232 of the Public Acts of 1971, being sections 141.851 to 141.855 of the Michigan Compiled Laws, is repealed.

History: 1991, Act 180, Imd. Eff. Dec. 26, 1991.

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