

# PUBLIC ACTS

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[No. 1]

(SB 160)

AN ACT to provide for the audit and examination of this state and state funds; to provide for the audit and examination of the books and accounts of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state; to prescribe powers and duties of certain state officers and employees; to provide for access to certain records; to provide for the subpoena of witnesses and production of documents and records; to prescribe penalties; and to provide for the administration of this act.

*The People of the State of Michigan enact:*

## **13.101 Auditor general; duties; powers; employment and compensation; influencing action of examiner as misdemeanor; definitions.**

Sec. 1. (1) The auditor general shall conduct audits and examinations of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state.

(2) In connection with the audits and examinations described in this act, the auditor general may examine, or cause to be examined, the books, accounts, documents, records, performance activities, and financial affairs of each branch, department, office, board, commission, agency, authority, and institution of this state.

(3) Upon demand of the auditor general, deputy auditor general, or any person appointed by the auditor general to make the audits and examinations provided in this act, the officers and employees of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state shall produce for examination all books, accounts, documents, and records of their respective branch, department, office, board, commission, agency, authority, and institution and truthfully answer all questions relating to their books, accounts, documents, and records of their respective activities and affairs.

(4) In connection with audits and examinations described in this act, the auditor general, deputy auditor general, or any person appointed to make audits and examinations may issue subpoenas, direct the service of the subpoena by any police officer, and compel the attendance and testimony of witnesses; may administer oaths and examine any person as may be necessary; and may compel the production of books, accounts, papers, documents, and records. The orders and subpoenas issued by the auditor general, deputy auditor general, or any person appointed with the duty of making the examinations provided in this subsection may be enforced upon application to any circuit court as provided by law.

(5) The auditor general may employ and compensate auditors, examiners, and assistants as he or she considers necessary. In addition, the auditors, examiners, and assistants shall be paid their necessary traveling expenses while engaging in the duties provided under this act. Compensation and expenses shall be paid out of the funds appropriated for that purpose. The auditor general and the deputy auditor general shall receive their actual traveling expenses incurred while engaging in the duties provided under this act, which shall be paid out of the funds appropriated for that purpose.

(6) Any person who gives or offers to any examiner, accountant, clerk, or other employee of the auditor general, any money, gift, emolument, or thing of value for the purpose of influencing the action of the examiner or other employee, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any public account, or for the purpose of influencing the action of the examiner or other employee, in framing, changing, withholding, or delaying any report of any examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 nor less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

(7) Any person appointed by the auditor general to make the examinations provided for under this act, or any officer, clerk, or other employee of the auditor general, who receives or solicits any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 and not less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

(8) As used in this act:

(a) “Audit” means a post audit of financial transactions and accounts or performance audit as described in section 53 of article IV of the state constitution of 1963.

(b) “Auditor general” means the individual appointed auditor general under section 53 of article IV of the state constitution of 1963.

(c) “Examination” means an inquiry, compilation, or review within the scope of the auditor general’s authority under section 53 of article IV of the state constitution of 1963.

This act is ordered to take immediate effect.

Approved April 3, 2003.

Filed with Secretary of State April 3, 2003.

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**[No. 2]**

**(HB 4198)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain

parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending section 82126 (MCL 324.82126), as amended by 1998 PA 30.

*The People of the State of Michigan enact:*

**324.82126 Operation of snowmobile; prohibitions; construction, operation, and maintenance of snowmobile trail; conditions; “operate” defined; prohibited conduct; assumption of risk.**

Sec. 82126. (1) A person shall not operate a snowmobile under any of the following circumstances:

(a) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

(b) In a forest nursery, planting area, or on public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area that is in zone 2 or zone 3.

(c) On the frozen surface of public waters as follows:

(i) Within 100 feet of a person, including a skater, who is not in or upon a snowmobile.

(ii) Within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile.

(iii) On an area that has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(d) Without a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA, decibels on the “a” scale, on a sound meter having characteristics defined by American standards association S1, 4-1966 “general purpose sound meter”. However, noise emission from a snowmobile manufactured after July 1, 1977, and sold or offered for sale in this state shall not exceed 78 decibels of sound pressure at 50 feet as measured under the 1974 society of automobile engineers code J-192a. This subdivision does not apply to a snowmobile that is being used in an organized race on a course which is used solely for racing.

(e) Within 100 feet of a dwelling between 12 midnight and 6 a.m., at a speed greater than the minimum required to maintain forward movement of the snowmobile.

(f) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except under 1 or more of the following circumstances:

(i) During an emergency.

(ii) For law enforcement purposes.

(iii) To go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle.

(iv) For the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations.

(v) On the person’s own property or property under the person’s control or as an invited guest.

(g) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.

(h) On or across a cemetery or burial ground.

(i) Within 100 feet of a slide, ski, or skating area except when traveling on a county road right-of-way pursuant to section 82119 or a snowmobile trail that is designated and funded by the department. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.

(j) On a railroad or railroad right-of-way. This prohibition does not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, and persons using a snowmobile trail located on or along a railroad right-of-way, or an at-grade snowmobile trail crossing of a railroad right-of-way, that has been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and that meets the conditions imposed in subsections (2) and (3). A snowmobile trail or an at-grade snowmobile trail crossing shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.

(2) A snowmobile trail shall be constructed, operated, and maintained by a person other than the person owning the railroad right-of-way and the person operating the railroad, except that an at-grade snowmobile trail crossing of a railroad right-of-way shall be constructed and maintained by the person operating the railroad at the sole cost and expense of the person operating the trail connected by the crossing, pursuant to terms of a lease agreement under which the person operating the trail agrees to do all of the following:

(a) Indemnify the person owning the railroad right-of-way and the person operating the railroad against any claims associated with, arising from, or incidental to the construction, maintenance, operation, and use of the trail or at-grade snowmobile trail crossing.

(b) Provide liability insurance in the amount of \$2,000,000.00 naming the person owning the railroad right-of-way and the person operating the railroad as named insureds.

(c) Meet any other obligations or provisions considered appropriate by the person owning the railroad right-of-way or the person operating the railroad including, but not limited to, the payment of rent that the person owning the railroad right-of-way or the person operating the railroad is authorized to charge under this part and the meeting of all construction, operating, and maintenance conditions imposed by the person owning the railroad right-of-way and the person operating the railroad regarding the snowmobile trail.

(3) A snowmobile trail shall be clearly demarcated by signing constructed and maintained at the sole cost and expense of the grant program sponsor. The signing shall be placed at the outer edge of the railroad right-of-way, as far from the edge of the railroad tracks as possible, but not closer than 20 feet from the edge of the railroad tracks unless topography or other natural or manmade features require the trail to lie within 20 feet of the edge of the railroad tracks. The at-grade snowmobile trail crossing of a railroad right-of-way shall be aligned at 90 degrees or as close to 90 degrees as possible to the railroad track being crossed, and shall be located where approach grades to the crossing are minimal and where the vision of a person operating a snowmobile will be unobstructed as he or she approaches the railroad tracks. The design of the snowmobile trail, including the location of signing, shall be included upon plan sheets by the person constructing, operating, and maintaining the trail, and shall be approved in writing by the person owning the right-of-way and the person operating the railroad. Signing shall conform to specifications issued by the department to its snowmobile trail grant program sponsors.

(4) Notwithstanding section 82101, as used in this section, “operate” means to cause to function, run, or manage.

(5) A person shall not alter, deface, damage, or remove a snowmobile trail sign or control device.

(6) Each person who participates in the sport of snowmobiling accepts the risks associated with that sport insofar as the dangers are obvious and inherent. Those risks

include, but are not limited to, injuries to persons or property that can result from variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; or collisions with signs, fences, or other snowmobiles or snow-grooming equipment. Those risks do not include injuries to persons or property that can result from the use of a snowmobile by another person in a careless or negligent manner likely to endanger person or property. When a snowmobile is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of snowmobiling additionally assumes risks including, but not limited to, entanglement with tracks, switches, and ties and collisions with trains and other equipment and facilities.

This act is ordered to take immediate effect.

Approved April 21, 2003.

Filed with Secretary of State April 22, 2003.

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**[No. 3]**

**(HB 4079)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 20194 and 21799a (MCL 333.20194 and 333.21799a), section 20194 as added by 1993 PA 79.

*The People of the State of Michigan enact:*

**333.20194 Pamphlets; display; distribution; model standardized complaint form; availability.**

Sec. 20194. (1) Subject to subsections (2), (3), and (4), a health facility or agency, except a health facility or agency licensed under part 209, and including a health facility that is not licensed under this article but holds itself out as providing medical services, shall conspicuously display in the patient waiting areas or other common areas of the health facility or agency copies of a pamphlet developed by the department of consumer and

industry services outlining the procedure for filing a complaint against a health facility or agency with the department and the procedure for filing a complaint against an individual who is licensed or registered under article 15 and employed by, under contract to, or granted privileges by the health facility or agency. The pamphlet shall be developed and distributed by the department of consumer and industry services after consultation with appropriate professional associations.

(2) The department of consumer and industry services shall develop the pamphlets required under subsection (1) in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be displayed. The department shall use large, easily readable type and nontechnical, easily understood language in the pamphlet. The department shall periodically distribute copies of the pamphlet to each health facility or agency and to each unlicensed health facility described in subsection (1).

(3) The department of consumer and industry services shall include a model standardized complaint form in the pamphlet described in subsection (1). The department may develop a separate model standardized complaint form that is specific to a particular health facility or agency or category of health facilities and agencies. The department shall develop a model standardized complaint form that is specific to nursing homes. The department shall include on the model standardized complaint form, at a minimum, simple instructions on how to file a complaint, including with the nursing home as required under section 21723, the department, the state long-term care ombudsman, the Michigan protection and advocacy service, inc., and the health care fraud unit of the department of attorney general. The department shall distribute copies of the model standardized complaint form simultaneously with copies of the pamphlet as required under subsection (2). The nursing home shall conspicuously display and make available multiple copies of the pamphlet and model standardized complaint form with the complaint information required to be posted under section 21723 in the patient waiting areas or other common areas of the nursing home that are easily accessible to nursing home patients and their visitors, as described in subsection (1), and shall provide a copy of the pamphlet and complaint form to each nursing home resident or the resident's surrogate decision maker upon admission to the nursing home. The department shall include on the model standardized complaint form a telephone number for the receipt of oral complaints.

(4) The department may continue to distribute the complaint pamphlets within its possession on the effective date of the amendatory act that added this subsection until the department's stock is exhausted or until October 1, 2003, whichever is sooner. Beginning October 1, 2003, the department shall only distribute the complaint pamphlets and model standardized complaint forms that are in compliance with subsections (2) and (3).

(5) The department shall make the complaint pamphlet and the model standardized complaint form available to the public on the department's internet website. The department shall take affirmative action toward the development and implementation of an electronic filing system that would allow an individual to file a complaint through the website.

**333.21799a Violation; complaint; investigation; disclosure; determination; listing violation and provisions violated; copies of documents; public inspection; report of violation; penalty; request for hearing; notice of hearing.**

Sec. 21799a. (1) A person who believes that this part, a rule promulgated under this part, or a federal certification regulation applying to a nursing home may have been violated may request an investigation of a nursing home. The person shall submit the request for investigation to the department of consumer and industry services as a written complaint,

or the department shall assist the person in reducing an oral request to a written complaint within 7 days after the oral request is made. A person filing a complaint under this subsection may file the complaint on a model standardized complaint form developed and distributed by the department under section 20194(3) or file the complaint as provided by the department on the internet.

(2) The substance of a complaint filed under subsection (1) shall be provided to the licensee no earlier than at the commencement of the on-site inspection of the nursing home that takes place pursuant to the complaint.

(3) A complaint filed under subsection (1), a copy of the complaint, or a record published, released, or otherwise disclosed to the nursing home shall not disclose the name of the complainant or a patient named in the complaint unless the complainant or patient consents in writing to the disclosure or the investigation results in an administrative hearing or a judicial proceeding, or unless disclosure is considered essential to the investigation by the department of consumer and industry services. If the department considers disclosure essential to the investigation, the department shall give the complainant the opportunity to withdraw the complaint before disclosure.

(4) Upon receipt of a complaint under subsection (1), the department of consumer and industry services shall determine, based on the allegations presented, whether this part, a rule promulgated under this part, or a federal certification regulation for nursing homes has been, is, or is in danger of being violated. The department shall investigate the complaint according to the urgency determined by the department. The initiation of a complaint investigation shall commence within 15 days after receipt of the written complaint by the department.

(5) If, at any time, the department of consumer and industry services determines that this part, a rule promulgated under this part, or a federal certification regulation for nursing homes has been violated, the department shall list the violation and the provisions violated on the state and federal licensure and certification forms for nursing homes. The department shall consider the violations, as evidenced by a written explanation, when it makes a licensure and certification decision or recommendation.

(6) In all cases, the department of consumer and industry services shall inform the complainant of its findings unless otherwise indicated by the complainant. Within 30 days after receipt of the complaint, the department shall provide the complainant a copy, if any, of the written determination, the correction notice, the warning notice, and the state licensure or federal certification form, or both, on which the violation is listed, or a status report indicating when these documents may be expected. The department shall include in the final report a copy of the original complaint. The complainant may request additional copies of the documents described in this subsection and upon receipt shall reimburse the department for the copies in accordance with established policies and procedures.

(7) The department of consumer and industry services shall make a written determination, correction notice, or warning notice concerning a complaint available for public inspection, but the department shall not disclose the name of the complainant or patient without the complainant's or patient's consent.

(8) The department of consumer and industry services shall report a violation discovered as a result of the complaint investigation procedure to persons administering sections 21799c to 21799e. The department shall assess a penalty for a violation, as prescribed by this article.

(9) A complainant who is dissatisfied with the determination or investigation by the department of consumer and industry services may request a hearing. A complainant shall submit a request for a hearing in writing to the director within 30 days after the mailing

of the department's findings as described in subsection (6). The department shall send notice of the time and place of the hearing to the complainant and the nursing home.

This act is ordered to take immediate effect.  
Approved April 21, 2003.  
Filed with Secretary of State April 22, 2003.

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**[No. 4]**

**(HB 4139)**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43536a (MCL 324.43536a), as added by 1996 PA 585.

*The People of the State of Michigan enact:*

**324.43536a Person stationed outside state; lottery not required; validity; "member of the military" defined.**

Sec. 43536a. (1) A member of the military may obtain any license under this part for which a lottery is not required for \$1.00 upon presentation of leave papers, duty papers, military orders, or other evidence acceptable to the department verifying that he or she is stationed outside of this state. The license is valid for a period of up to 2 weeks designated by the member of the military but only during the season in which such a license would otherwise be valid.

(2) As used in this section, "member of the military" means either of the following:

(a) A person described by section 43506(3)(d) who is stationed outside this state.

(b) A person who meets all of the following requirements:

(i) The person is a reserve component soldier, sailor, airman, or marine called to federal active duty.

(ii) At the time the person was called to federal active duty, he or she was a resident of this state.

(iii) The person is stationed outside this state.

(iv) The person has maintained his or her residence in this state for the purpose of obtaining a driver license or voter registration, or both.

This act is ordered to take immediate effect.  
Approved April 22, 2003.  
Filed with Secretary of State April 22, 2003.



**[No. 5]****(HB 4010)**

AN ACT to amend 1974 PA 198, entitled “An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties,” by amending section 2 (MCL 207.552), as amended by 2002 PA 280.

*The People of the State of Michigan enact:*

**207.552 Definitions.**

Sec. 2. (1) “Commission” means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) “Facility” means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) “Replacement facility” means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(4) “New facility” means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(5) “Local governmental unit” means a city, village, or township.

(6) “Industrial property” means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, the manufacture of goods or materials, creation or synthesis of biodiesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from their research activities

and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. Industrial property also includes convention and trade centers over 250,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 U.S.C. 341, located in a city with a population of 750,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007.

(c) Inventory.

(7) “Obsolete industrial property” means industrial property the condition of which is substantially less than an economically efficient functional condition.

(8) “Economically efficient functional condition” means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors which make the property less desirable and valuable for continued use.

(9) “Research and development laboratories” means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 41 of the internal revenue code of 1986, except that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(10) “Manufacture of goods or materials” or “processing of goods or materials” means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(11) “High-technology activity” means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

This act is ordered to take immediate effect.

Approved April 24, 2003.

Filed with Secretary of State April 24, 2003.

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**[No. 6]**

**(SB 105)**

AN ACT to amend 1990 PA 182, entitled “An act to require counties to redistribute certain payments received from the federal government; and to repeal certain acts and parts of acts,” by amending the title and sections 1 and 3 (MCL 141.1301 and 141.1303).

*The People of the State of Michigan enact:*

## TITLE

An act to require this state and certain counties to redistribute certain payments received from the federal government; and to repeal acts and parts of acts.

### **141.1301 Definitions.**

Sec. 1. As used in this act:

(a) "County payment program" means the program authorized under chapter 192, 35 Stat. 260, 16 U.S.C. 500, including the secure rural schools and community self-determination act of 2000.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Full payment amount" and "25-percent payment" mean those terms as defined in the secure rural schools and community self-determination act of 2000.

(e) "Local school district" means that term as defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6.

(f) "National forest" means federally owned land for which money is paid to the state under the county payment program, as that land is situated on June 30 of the fiscal year for which the money is paid.

(g) "Secure rural schools and community self-determination act of 2000" means sections 1(a), 2, and 3 and titles I to IV of Public Law 106-393, 114 Stat. 1607, 16 U.S.C. 500 nt, as amended by section 751 of title VII of the agriculture, rural development, food and drug administration, and related agencies appropriations act, 2002, Public Law 107-76, 115 Stat. 739.

### **141.1303 Expenditure of money received under county payment act; distribution; notification; election to receive full payment or 25% payment amount; redistribution; duties of county treasurer; refusal to accept payment.**

Sec. 3. (1) All money received under the county payment program shall be expended for the purposes described under chapter 192, 35 Stat. 260, 16 U.S.C. 500, including the secure rural schools and community self-determination act of 2000. The department shall distribute money received under the county payment program to county treasurers in accordance with annual amounts provided by the United States department of agriculture, forest service, under the county payment program.

(2) Not later than September 30 of each year, the county board of commissioners of a county that is eligible to receive a payment under the county payment program shall provide written notification to the director and the United States secretary of agriculture that indicates the county board of commissioners' election to receive either the full payment amount or the 25-percent payment amount. The election by a county board of commissioners is subject to all of the following:

(a) An election made by a county board of commissioners to receive the full payment amount shall remain in effect through fiscal year 2006.

(b) An election by a county board of commissioners to receive the 25-percent payment amount shall remain in effect for 2 fiscal years.

(c) If a county board of commissioners fails to provide notification to the United States secretary of agriculture, the county is considered to have elected to receive the 25-percent payment amount.

(d) If a county board of commissioners elects to receive the full payment amount, the written notification shall also include the total amount of the payment that will be set aside for each of the uses provided for in subsection (5)(b) and the county board of commissioners shall provide a copy of the notification to the United States secretary of agriculture.

(e) If a county board of commissioners that has elected to receive the full payment amount fails to provide notification to the United States secretary of agriculture by September 30 of any year, the county treasurer of that county shall return 15% of the payment received for that fiscal year to the general treasury of the United States and the county shall use the remaining funds for the purposes set forth in subsection (4).

(3) As required under the secure rural schools and community self-determination act of 2000, the governor shall provide written notification to the United States secretary of agriculture of the election by each eligible county.

(4) If a county board of commissioners elects to receive the 25-percent payment amount, the county treasurer of that county shall redistribute all of the money in a ratio of 75% to local school districts for school purposes and 25% to townships for the improvement of county roads within those townships. The money redistributed under this subsection shall be apportioned among the local school districts and townships in the same proportion as the national forest acreage in each school district or township is to the total national forest acreage in the county.

(5) Except as provided in subsection (6), if a county board of commissioners elects to receive the full payment amount, the county treasurer shall do both of the following:

(a) Redistribute not less than 80% and not more than 85% of the funds as provided for in subsection (4).

(b) Set aside the remaining funds for 1 or more of the following:

(i) Reserve the balance for special projects on federal lands as provided for in title II of the secure rural schools and community self-determination act of 2000.

(ii) Reserve the balance for county projects as provided for in title III of the secure rural schools and community self-determination act of 2000.

(iii) Return the balance to the general treasury of the United States.

(6) If a county board of commissioners elects to receive the full payment amount, for any fiscal year the payment to the county is less than \$100,000.00, the county board of commissioners may elect to distribute the funds as provided for in subsection (4).

(7) Upon expiration of the election provisions of the secure rural schools and community self-determination act of 2000, a county treasurer that receives payment under this section shall redistribute all of the money as provided for in subsection (4).

(8) At the request of the department, a county treasurer shall provide information to the department related to the distribution of funds under this act as necessary for the department to meet its obligations under federal law.

(9) The county board of commissioners of a county that is eligible to receive a payment under the county payment program may refuse to accept the payment by returning the payment amount to the general treasury of the United States.

This act is ordered to take immediate effect.

Approved May 9, 2003.

Filed with Secretary of State May 9, 2003.

**[No. 7]****(HB 4078)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 8251 (MCL 600.8251), as amended by 1994 PA 5.

*The People of the State of Michigan enact:*

**600.8251 Places of sitting of district court; “population” defined.**

Sec. 8251. (1) In districts of the first class, the court shall sit at each county seat. In districts of the first class consisting of 1 county having a population of 130,000 or more, the court shall also sit at each city having a population of 6,500 or more, except the court is not required to sit at any city that is contiguous to the county seat or is contiguous to a city having a greater population. The court shall also sit at other places as the judges of the district determine. The court shall sit not less than once each week in each county of a multicounty district.

(2) In districts of the second class, the court shall sit at any county seat within the district, and at each city and incorporated village within the district having a population of 3,250 or more, except that if 2 or more cities or incorporated villages are contiguous the court need sit only in the city having the greater population. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision. If the district does not contain a county seat and does not contain any city or incorporated village having a population of 3,250 or more, the court shall sit at a place or places within the district as the judges of the district determine. In addition to the place or places where the court is required to sit, the court may upon agreement of a majority of the judges of the district and upon approval by resolution of the board of commissioners also sit at the county seat of its district control unit situated outside the district, but the court shall sit not less than once each week within the district. If the district does not contain any city, the foregoing provisions of this subsection do not apply to the district, and the court shall sit at the county seat of its district control unit situated outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of this subsection, the court may sit at a place or places within the district as the judges of the district determine. If the court sits at a county seat situated outside the district pursuant to this subsection, it has the same powers, jurisdiction, and venue as if sitting within the district.

(3) In districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at other places as the judges of the district determine. The court is not required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit in the political subdivision.

(4) Each judge of the district shall sit at places within the district as the presiding judge designates.

(5) A district judge or district court magistrate may sit at a place outside the district under a multiple district plan pursuant to section 8320.

(6) As used in this section, “population” means population according to the most recent federal decennial census, except that the most recent census shall not apply until the expiration of 18 months from the date on which the census is taken.

This act is ordered to take immediate effect.

Approved May 20, 2003.

Filed with Secretary of State May 20, 2003

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**[No. 8]**

**(HB 4332)**

AN ACT to amend 1937 PA 345, entitled “An act to provide for the establishment, maintenance, and administration of a system of pensions and retirements for the benefit of the personnel of fire and police departments employed by cities, villages, or municipalities having full paid members in the departments, and for the spouses and children of the members; to provide for the creation of a board of trustees to manage and operate the system; to authorize appropriations and deductions from salaries; to prescribe penalties and provide remedies; and to repeal all acts and parts of acts inconsistent therewith,” by amending sections 6, 6a, and 6b (MCL 38.556, 38.556a, and 38.556b), section 6 as amended by 2002 PA 98, section 6a as amended by 1982 PA 145, and section 6b as added by 1986 PA 30.

*The People of the State of Michigan enact:*

**38.556 Age and service retirement benefits.**

Sec. 6. (1) Age and service retirement benefits payable under this act are as follows:

(a) A member who is 55 years of age or older and who has 25 or more years of service as a police officer or fire fighter in the employ of the municipality affected by this act may retire from service upon written application to the retirement board stating a date, not less than 30 days or more than 90 days after the execution and filing of the application, on which the member desires to be retired. The retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member’s pension shall be deferred with service years of credit until actual retirement. Upon the approval of the legislative body or the electors of a municipality under this act, a member under 50 years of age who has 25 or more years of service, or without the necessity for approval, a member 50 years of age or more who has 25 or more years of service, may leave service and receive the full retirement benefits payable throughout the member’s life as provided in subdivision (e).

(b) A member who is 60 years of age or older shall be retired by the retirement board upon the written application of the legislative body, or board or official provided in the charter of the municipality as head of the department in which the member is employed. Upon retirement, the retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member’s pension shall be deferred with service years of credit until actual retirement.

(c) A member who is 65 years of age shall be retired by the retirement board on the first day of the month following attainment of 65 years of age.

(d) A member who has 10 or more years of service shall have vested retirement benefits that are not subject to forfeiture on account of disciplinary action, charges, or complaints. If the member leaves employment before the date the member would have first become eligible to retire as provided in subdivision (a) for any reason except the member's retirement or death, the member is entitled to a pension that shall begin the first day of the calendar month immediately after the month in which the member's written application for the pension is filed with the retirement board that is on or after the date the member would have been eligible to retire had the member continued in employment. The retirement board shall grant the member the benefits to which the member is entitled under this act, unless the member resumes service. If the member resumes service, the member's pension shall be further deferred with service years of credit until the member actually retires.

(e) Upon retirement from service as provided in this subsection, a member shall receive a regular retirement pension payable throughout the member's life of 2% of the member's average final compensation multiplied by the first 25 years of service credited to the member, plus 1% of the member's average final compensation multiplied by the number of years, and fraction of a year, of service rendered by the member in excess of 25 years. A municipality under this act, upon approval of the legislative body or the electors of the municipality, may increase the percentage of the payment from 2% up to a maximum of 2.5%. If an increase is approved, the increase shall not be reduced for members under the system at the time of the increase. The legislative body may also increase the percentage of employee contributions. If a retired member dies before the total of regular pension payments received by the member equals the total of the member's contributions made to the retirement system, the difference between the member's total contributions and the total of the member's regular retirement pension payments received shall be paid in a single sum to the person or persons the member nominates by written designation duly executed and filed with the retirement board. If there is not a person or persons surviving the retired member, the difference, if any, shall be paid to the retired member's legal representative or estate.

(f) As used in this section, "average final compensation" means the average of the highest annual compensation received by a member during a period of 5 consecutive years of service contained within the member's 10 years of service immediately preceding the member's retirement or leaving service. However, if so provided in a collective bargaining agreement entered into between a municipality under this act and the appropriate recognized bargaining agent, average final compensation may mean the average of the 3 years of highest annual compensation received by a member during the member's 10 years of service immediately preceding the member's retirement or leaving service. If the member has less than 5 years of service, average final compensation means the annual average compensation received by the member during his or her total years of service.

(g) A member shall be given service credit for time spent in the military, naval, marine, or other armed service of the United States government during time of war, or other national emergency recognized by the board, if the member was employed by the municipality at the time of entry into the armed service, and is or was reemployed by the municipality as a police officer or fire fighter within 6 months after the date of termination of his or her required enlistment or assignment in the armed service. A municipality by a 3/5 vote of its governing body or by a majority vote of the qualified electors may provide service credit for not more than 6 years of active military service to the United States government to a member who is employed subsequent to this military service upon

payment to the retirement system of 5% of the member's full-time or equated full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service is not creditable if it is or would be creditable under any other federal, state, or local publicly supported retirement system. However, this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. A member shall be given service credit for the time the member is absent from active service without full pay on account of sickness or injury. If the absence from active service is due to nonservice connected sickness or injury, not more than 60 days of the absence shall be credited as service in any 1 calendar year, as determined by the retirement board.

(h) Before the effective date of the member's retirement as provided in this subsection, but not after the effective date of the member's retirement, a member may elect to receive his or her benefit in a pension payable throughout the member's life, called a regular retirement pension, or the member may elect to receive the actuarial equivalent, computed as of the effective date of retirement, of the member's regular retirement pension in a reduced retirement pension payable throughout the member's life, and nominate a survivor beneficiary, under an option provided in this subdivision. Upon the death of a retirant who retires on or after July 1, 1975, and who is receiving a regular retirement pension, his or her spouse, if living, shall receive a pension equal to 60% of the regular retirement pension the deceased retirant was receiving. Benefits shall not be paid under this subdivision on account of the death of a retirant if the member elected to receive his or her pension under an option provided in this subdivision. As used in this subsection, "spouse" means the person to whom the retirant was legally married on both the effective date of retirement and the date of death. Except as otherwise provided in this act, if a member fails to elect an option before the effective date of retirement, then the pension shall be paid as a regular retirement pension. A member may elect 1 of the following options:

(i) Option I. Upon the death of a retired member, his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(ii) Option II. Upon the death of a retired member, 1/2 of his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(i) If a member continues in service on or after the date of acquiring 20 years of service credit, does not have an option I election provided for in subdivision (j) in force, and dies while in service of the municipality before the effective date of the member's retirement, leaving a surviving spouse, the spouse shall receive a pension computed in the same manner as if the member had retired effective the day preceding the date of the member's death, elected option I provided for in subdivision (h), and nominated the spouse as survivor beneficiary. Upon the death of the spouse the pension shall terminate. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(j) A member who continues in service on or after the date of acquiring 25 years of service credit may, at any time before the effective date of the member's retirement, by written declaration executed and filed with the board in the manner and form prescribed



by the board, elect option I provided for in subdivision (h) and nominate a survivor beneficiary whom the board finds to be dependent upon the member for at least 50% of the beneficiary's support. If a member who has an option I election provided for in this subdivision in force dies while in service before the effective date of the member's retirement, the member's survivor beneficiary shall immediately receive the same pension that the survivor beneficiary would have been entitled to receive under option I if the member had retired pursuant to this act effective the day preceding the date of the member's death, notwithstanding that the member may not have attained 55 years of age. If a member who has an option I election provided for in this subdivision in force subsequently retires pursuant to this act, the member, within 90 days immediately preceding the effective date of the member's retirement, but not after the effective date of the member's retirement, may elect an option provided for in subdivision (h). The option election is effective as of the effective date of the member's retirement. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(k) If a retirant receiving a reduced retirement pension under subdivision (h)(i) or (ii) is divorced from the spouse who had been named the retirant's survivor beneficiary under subdivision (h)(i) or (ii), the election of a reduced retirement pension payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in section 9 and dated after June 27, 1991 provides that the election of a reduced retirement pension payment option under subdivision (h)(i) or (ii) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement pension payment option under subdivision (h)(i) or (ii) is considered void by the retirement system under this subsection, the retirant's retirement pension shall revert to a regular retirement pension, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement pension shall revert to a regular retirement pension under this subdivision effective the first day of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subdivision does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subdivision does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(2) Disability and service connected death benefits payable under this act are as follows:

(a) To a surviving spouse, a duty death pension of the same amount each week as that which has been paid the surviving spouse under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable on the termination of the payments to the surviving spouse by a municipality under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue for the surviving spouse's life.

(b) If death results to a member in the line of duty, and the member leaves surviving children, the children shall be paid a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101

to 418.941, and to continue to each surviving child until he or she attains 18 years of age, or until his or her marriage or death before attaining 18 years of age.

(c) If death results to a member in the line of duty and the member leaves other surviving dependents, the dependents shall receive a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue until the time the retirement board determines that the need for a pension no longer exists.

(d) Upon the application of a member or the member's department head, a member who becomes totally incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of the member's employment by the municipality shall be retired by the retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality; that the incapacity is likely to be permanent; and that the member should be retired. Upon retirement for disability as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension of 50% of the member's average final compensation, which shall be determined according to subsection (1)(f), and shall be payable until the member becomes 55 years of age. Upon becoming 55 years of age, the disabled member shall receive a disability retirement pension computed according to subsection (1)(e). In computing the disability retirement pension, the member shall be given service credit for the period of receipt of a disability retirement pension before attainment of 55 years of age. If a member retired after attaining 55 years of age on account of disability, as provided in this subdivision, the member shall receive a disability retirement pension computed according to subsection (1)(e), notwithstanding that the member may not have 25 years of service credit. The disability retirement pension provided for in this subdivision is subject to subdivisions (f) and (g).

(e) Upon the application of a member or the member's department head, a member in service who has 5 or more years of service credit and who becomes totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the result of causes arising outside the course of the member's employment by the municipality may be retired by the retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality, that the incapacity is likely to be permanent, and that the member should be retired. Upon retirement for disability, as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension until the member becomes 55 years of age, recovers, or dies, whichever occurs first, of 1.5% of the member's average final compensation multiplied by the number of years of service credited to the member. Upon becoming 55 years of age, the member's disability retirement pension shall be increased to 2% of the member's

average final compensation multiplied by the number of years of service credited to the member at the time of his or her retirement. Upon retirement for disability as provided in this subdivision, a member who is 55 years of age or older shall receive a disability retirement pension computed according to subsection (1)(e). This subdivision is subject to subdivisions (f) and (g).

(f) At least once each year during the first 5 years after the retirement of a member with a disability retirement pension and at least once in every 3-year period after disability retirement, the retirement board may, and upon the retired member's application shall, require a retired member who has not attained 55 years of age to undergo a medical examination. The medical examination shall be given by or under the direction of a physician, designated by the retirement board, at the place of residence of the retired member or other place mutually agreed upon. If a retired member who has not attained 55 years of age refuses to submit to the medical examination in the period, the member's disability retirement pension may be discontinued by the retirement board. If the member's refusal continues for 1 year, all the member's rights to his or her disability retirement pension may be revoked by the retirement board. If upon a medical examination of the retired member the physician reports to the retirement board that the retired member is physically capable of resuming employment in the classification held by the member at the time of retirement, the member shall be restored to active service in the employ of the municipality and payment of the disability retirement pension shall cease if the report of the physician is concurred in by the retirement board. A retired member restored to active service shall again become a member of the retirement system from the date of return to service. The member shall contribute to the retirement system after restoration to active service in the same manner as before the member's disability retirement. Service credited to the member at the time of disability retirement shall be restored to full effect. The member shall be given service credit for the period the member was receiving a duty disability retirement pension provided for in subdivision (d), but shall not be given service credit for the period the member was receiving a nonduty disability retirement pension provided for in subdivision (e). Amounts paid under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to a retired member shall be offset against and payable in place of benefits provided under this act. If the benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, are less than the benefits payable under this act, the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and the benefits provided in this act. Upon the termination of benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the benefits shall be paid pursuant to this act.

(g) Within 60 days before a member becomes 55 years of age, or before retirement from service if retirement occurs after the member becomes 55 years of age, a disabled member who is retired as provided in subdivision (d) or (e) may elect to continue to receive a disability retirement pension as a benefit terminating at death, to be known as a regular disability pension, or may elect to receive the actuarial equivalent, at that time, of a regular disability pension in a reduced disability pension payable throughout life pursuant to an option provided in subsection (1)(h). If a disabled member fails to elect an option, as provided in this subdivision, before becoming 55 years of age or before retirement, the member's retirement pension shall be paid to the member as a regular disability pension terminating at death. If a disabled member who has not elected an option provided in subsection (1)(h) dies before the total of the member's regular disability pension payments received equals or exceeds the total of the member's contributions

made to the retirement system, the remainder, if any, shall be paid in a single sum to the person or persons nominated by the member by written designation duly executed and filed with the board. If there is not a designated person or persons surviving, then the remainder, if any, shall be paid to the retired member's legal representative or estate.

**38.556a Municipality having population of 80,000 or more; applicability of MCL 38.556(1)(h) to certain members.**

Sec. 6a. In a municipality having a population of 80,000 or more, section 6(1)(h) shall be applicable to any member who continues in service on or after the date he or she acquires 15 years of service credit.

**38.556b Remarriage of surviving spouse; applicability of subsection (1) to municipality.**

Sec. 6b. (1) Notwithstanding section 6 or any predecessor to section 6, the remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive a pension described in section 6(1)(i) or a duty death pension described in section 6(2)(a). A surviving spouse whose pension described in section 6(1)(i) or duty death pension described in section 6(2)(a) was terminated due to the surviving spouse's remarriage shall be eligible to receive that pension or duty death pension beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the pension or duty death pension attributable to any month beginning before the month of reinstatement under this section.

(2) Beginning on the effective date of the amendatory act that amended this subsection, the provisions of subsection (1) that apply to a surviving spouse who is eligible to receive a pension described in section 6(1)(i) shall apply to a municipality upon approval by resolution of the governing body of the municipality.

(3) Beginning on the effective date of the amendatory act that added this subsection, a surviving spouse who is eligible to receive a duty death pension described in section 6(2)(a) and who remarries after the effective date of the amendatory act that added this subsection shall not be denied a duty death pension described in section 6(2)(a) by a municipality because of the remarriage of the surviving spouse.

This act is ordered to take immediate effect.

Approved May 20, 2003.

Filed with Secretary of State May 20, 2003.

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**[No. 9]**

**(HB 4086)**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the

regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 255 (MCL 257.255), as amended by 1987 PA 34.

*The People of the State of Michigan enact:*

**257.255 Valid registration plate required; exceptions; violation of subsection (1) as misdemeanor; penalty; nonpayment of apportioned fee under international registration plan as misdemeanor; penalty; impoundment; towing and storage costs; care of load in vehicle; impounded vehicle subject to lien; hearing; certification of unpaid judgment; foreclosure sale.**

Sec. 255. (1) Except as otherwise provided in this chapter, a person shall not operate, nor shall an owner knowingly permit to be operated, upon any highway, a vehicle required to be registered under this act unless there is attached to and displayed on the vehicle, as required by this chapter, a valid registration plate issued for the vehicle by the department for the current registration year. A registration plate shall not be required upon any wrecked or disabled vehicle, or vehicle destined for repair or junking, which is being transported or drawn upon a highway by a wrecker or a registered motor vehicle.

(2) Except as otherwise provided in this section, a person who violates subsection (1) is responsible for a civil infraction. However, if the vehicle is a commercial vehicle which is required to be registered according to the schedule of elected gross vehicle weights under section 801(1)(k), the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(3) A person who operates a vehicle licensed under the international registration plan and does not have a valid registration due to nonpayment of the apportioned fee is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or by a fine of not more than \$100.00, or both. In addition, a police officer may impound the vehicle until a valid registration is obtained. If the vehicle is impounded, the towing and storage costs of the vehicle, and the care or preservation of the load in the vehicle shall be the owner's responsibility. Vehicles impounded shall be subject to a lien in the amount of the apportioned fee and any fine and costs incurred under this subsection, subject to a valid lien of prior record. If the apportioned fee, fine, and costs are not paid within 90 days after impoundment, then following a hearing before the judge or magistrate who imposed the fine and costs, the judge or magistrate shall certify the unpaid judgment to the prosecuting attorney of the county in which the violation occurred. The prosecuting attorney shall enforce the lien by foreclosure sale in accordance with the procedure authorized by law for chattel mortgage foreclosures.

**Effective date.**

Enacting section 1. This amendatory act takes effect September 1, 2003.

This act is ordered to take immediate effect.

Approved May 20, 2003.

Filed with Secretary of State May 20, 2003.

**[No. 10]****(HB 4115)**

AN ACT to amend 2001 PA 142, entitled “An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions,” (MCL 250.1001 to 250.1100) by adding section 79.

*The People of the State of Michigan enact:*

**250.1079 “Veterans Memorial Highway.”**

Sec. 79. Highway M-28, beginning at the eastern city limits of Ishpeming in Marquette county and continuing west through Baraga county, Houghton county, Ontonagon county, and Gogebic county to the intersection of highway M-28 and highway US-2, shall be known as the “Veterans Memorial Highway”.

This act is ordered to take immediate effect.

Approved May 29, 2003.

Filed with Secretary of State May 29, 2003.

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**[No. 11]****(HB 4432)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify

the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 2834.

*The People of the State of Michigan enact:*

**500.2834 Fire insurance policy; exclusion related to terrorism; definition.**

Sec. 2834. (1) Notwithstanding section 2833, a commercial fire insurance policy issued or delivered in this state may exclude coverage for loss by fire or other perils insured against if the fire or perils were caused directly or indirectly by terrorism.

(2) As used in this section, "terrorism" means any of the following:

(a) A certified act of terrorism as defined in the terrorism risk insurance act of 2002, Public Law 107-297, 116 Stat. 2322.

(b) A violent act or an act that is dangerous to human life, property, or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion.

(c) Terrorism as defined in a form that is voluntarily filed under and subject to section 2236 and is properly in use.

This act is ordered to take immediate effect.

Approved May 29, 2003.

Filed with Secretary of State May 29, 2003.

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**[No. 12]**

**(SB 180)**

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of

internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts,” (MCL 18.1101 to 18.1594) by adding section 224.

*The People of the State of Michigan enact:*

**18.1224 Access to public information; use of telephone system; limitation on charges.**

Sec. 224. Beginning January 1, 2004, a state agency shall not use a 900 telephone number or other telephone system that charges the caller for access to public information held or maintained by a state agency.

This act is ordered to take immediate effect.

Approved May 29, 2003.

Filed with Secretary of State May 29, 2003.

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**[No. 13]**

**(SB 397)**

AN ACT to amend 1954 PA 116, entitled “An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act,” by amending section 613a (MCL 168.613a), as amended by 1999 PA 72.

*The People of the State of Michigan enact:*

**168.613a Statewide presidential primary election; exception; time; limitation on participation; conduct.**

Sec. 613a. (1) Except in 2004 when no statewide presidential primary shall be conducted, a statewide presidential primary election shall be conducted under this act on the fourth Tuesday in February in each presidential election year.

(2) A political party that received 5% or less of the total vote cast nationwide for the office of president in the last presidential election shall not participate in the presidential primary election.



(3) Except as otherwise provided in sections 614a, 615a, 616a, 624g, and 879a, the statewide presidential primary election shall be conducted under the provisions of this act that govern the conduct of general primary elections.

This act is ordered to take immediate effect.

Approved May 29, 2003.

Filed with Secretary of State May 29, 2003.

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**[No. 14]**

**(HB 4257)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 30301, 30305, 30306, 30312, 32501, 32512, and 32513 (MCL 324.30301, 324.30305, 324.30306, 324.30312, 324.32501, 324.32512, and 324.32513), sections 30301, 30312, 32501, and 32512 as added by 1995 PA 59, section 30305 as amended by 1996 PA 550, section 30306 as amended by 1998 PA 228, and section 32513 as amended by 1999 PA 106, and by adding sections 32512a and 32516.

*The People of the State of Michigan enact:*

**324.30301 Definitions.**

Sec. 30301. As used in this part:

(a) “Beach” means the area landward of the shoreline of the Great Lakes as the term shoreline is defined in section 32301.

(b) “Beach maintenance activities” means any of the following in the area of Great Lakes bottomlands lying below the ordinary high-water mark and above the water’s edge:

(i) Manual or mechanized leveling of sand.

(ii) Mowing of vegetation.

(iii) Manual de minimis removal of vegetation.

(iv) Grooming of soil.

(v) Construction and maintenance of a path.

(c) “Debris” means animal or fish carcasses, zebra mussel shells, dead vegetation, trash, and discarded materials of human-made origin.

(d) “Department” means the department of environmental quality.

(e) “Director” means the director of the department.

(f) “Fill material” means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.

(g) “Environmental area” means an environmental area as defined in section 32301.

(h) “Grooming of soil” means raking or dragging, pushing, or pulling metal teeth through the top 4 inches of soil without disturbance of or destruction to plant roots, for the purpose of removing debris.

(i) “Leveling of sand” means the relocation of sand within areas being leveled that are predominantly free of vegetation, including the redistribution, grading, and spreading of sand that has been deposited through wind or wave action onto upland riparian property.

(j) “Minor drainage” includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.

(k) “Mowing of vegetation” means the cutting of vegetation to a height of not less than 2 inches, without disturbance of soil or plant roots.

(l) “Ordinary high-water mark” means that term as it is defined in section 32502.

(m) “Path” means a temporary access walkway from the upland riparian property directly to the shoreline across swales with standing water, not exceeding 6 feet in bottom width and consisting of sand and pebbles obtained from the exposed, nonvegetated bottomlands or from the upland riparian property.

(n) “Person” means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, an instrumentality or agency of the federal government, or other legal entity.

(o) “Removal of vegetation” means the manual or mechanized removal of vegetation, other than the manual de minimis removal of vegetation.

(p) “Wetland” means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

(i) Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.

(ii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.

(iii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.

**324.30305 Activities not requiring permit under part; uses allowed without permit; farming operation in wetland not requiring permit; incidental creation of wetland.**

Sec. 30305. (1) Activities that require a permit under part 325 or part 301 or a discharge that is authorized by a discharge permit under section 3112 or 3113 do not require a permit under this part.

(2) The following uses are allowed in a wetland without a permit subject to other laws of this state and the owner's regulation:

- (a) Fishing, trapping, or hunting.
- (b) Swimming or boating.
- (c) Hiking.
- (d) Grazing of animals.

(e) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. Wetland altered under this subdivision shall not be used for a purpose other than a purpose described in this subsection without a permit from the department.

(f) Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.

(g) Construction or maintenance of farm or stock ponds.

(h) Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products:

(i) An existing private agricultural drain.

(ii) That portion of a drain legally established pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, which has been constructed or improved for drainage purposes.

(iii) A drain constructed pursuant to other provisions of this part or former 1979 PA 203.

(i) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

(j) Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in this part, wetland improved under this subdivision after October 1, 1980 shall not be used for nonfarming purposes without a permit from the department. This subdivision does not apply to a wetland that is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland that the department has determined by clear and convincing evidence to be a wetland that is necessary to be preserved for the public interest, in which case a permit is required.

(k) Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.

(l) Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of 6 inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

(m) Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

(n) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.

(o) Construction of iron and copper mining tailings basins and water storage areas.

(p) Until November 1, 2007, beach maintenance activities that meet all of the following conditions:

(i) The activities shall not occur in environmental areas and shall not violate part 365 or rules promulgated under that part, or the endangered species act of 1973, Public Law 93-205, 87 Stat. 884, or rules promulgated under that act.

(ii) The width of any mowing of vegetation shall not exceed the width of the riparian property or 100 feet, whichever is less.

(iii) All collected debris shall be disposed of properly outside of any wetland.

(q) Until 3 years after the effective date of the amendatory act that added this subdivision, removal of vegetation as authorized under section 32516.

(3) An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this part.

(4) A wetland that is incidentally created as a result of 1 or more of the following activities is not subject to regulation under this part:

(a) Excavation for mineral or sand mining, if the area was not a wetland before excavation. This exemption does not include a wetland on or adjacent to a water body of 1 acre or more in size.

(b) Construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.

(c) A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

**324.30306 Permit for use or development listed in MCL 324.30304; filing, form, and contents of application; proposed use or development as single permit application; fee; work done in violation of permit requirement; fee refund.**

Sec. 30306. (1) Except as provided in section 30307(6), to obtain a permit for a use or development listed in section 30304, a person shall file an application with the department on a form provided by the department. The application shall include all of the following:

(a) The person's name and address.

(b) The location of the wetland.

(c) A description of the wetland on which the use or development is to be made.

(d) A statement and appropriate drawings describing the proposed use or development.

(e) The wetland owner's name and address.

(f) An environmental assessment of the proposed use or development if requested by the department, which assessment shall include the effects upon wetland benefits and the effects upon the water quality, flow, and levels, and the wildlife, fish, and vegetation within a contiguous lake, river, or stream.

(2) For the purposes of subsection (1), a proposed use or development of a wetland shall be considered as a single permit application under this part if the scope, extent, and purpose of a use or development are made known at the time of the application for the permit.

(3) Except as provided in subsections (4) and (5), an application for a permit submitted under subsection (1) shall be accompanied by the following fee:

(a) For a project in a category of activities for which a general permit is issued under section 30312, a fee of \$100.00.

(b) For a permit for the removal of vegetation in an area that is not more than 100 feet wide or the width of the property, whichever is less, or the mowing of vegetation in excess of what is allowed in section 30305(2)(p)(ii), in the area between the ordinary high-water mark and the water's edge, a fee of \$50.00.

(c) For a major project, including any of the following, a fee of \$2,000.00:

(i) Filling or draining of 1 acre or more of coastal or inland wetland.

(ii) 10,000 cubic yards or more of wetland fill.

(iii) A new golf course impacting wetland.

(iv) A subdivision impacting wetland.

(v) A condominium impacting wetland.

(d) For all other projects, a fee of \$500.00.

(4) A project that requires review and approval under this part and 1 or more of the following is subject to only the single highest permit fee required under this part or the following:

(a) Section 3104.

(b) Part 301.

(c) Part 323.

(d) Part 325.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to twice the permit fee required under this section.

(6) If the department determines that a permit is not required under this part, the department shall promptly refund the fee paid under this section.

**324.30312 General permit for category of activities; notice and public hearing; determinations; requirements and standards; conditions; time for completion or termination of construction, development, or use; duration of general permit; mowing or removal of vegetation.**

Sec. 30312. (1) The department, after notice and opportunity for a public hearing, may issue general permits on a statewide basis or within a local unit of government for a category of activities if the department determines that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will

have only minimal cumulative adverse effect on the environment. A general permit issued under this subsection shall be based on the requirements of this part and the rules promulgated under this part, and shall set forth the requirements and standards that shall apply to an activity authorized by the general permit.

(2) The department may impose conditions on a permit for a use or development if the conditions are designed to remove an impairment to the wetland benefits, to mitigate the impact of a discharge of fill material, or to otherwise improve the water quality.

(3) The department may establish a reasonable time when the construction, development, or use is to be completed or terminated. A general permit shall not be valid for more than 5 years.

(4) A general permit under this section may be issued for the mowing of vegetation or the removal of vegetation in the area between the ordinary high-water mark and the water's edge. An application under this subsection may be submitted by a local unit of government on behalf of property owners within its jurisdiction or by 1 or more adjacent property owners for riparian property located within the same county.

### **324.32501 Additional definitions.**

Sec. 32501. As used in this part:

(a) "Beach" means the area landward of the shoreline of the Great Lakes as the term shoreline is defined in section 32301.

(b) "Beach maintenance activities" means any of the following in the area of Great Lakes bottomlands lying below the ordinary high-water mark and above the water's edge:

(i) Manual or mechanized leveling of sand.

(ii) Mowing of vegetation.

(iii) Manual de minimis removal of vegetation.

(iv) Grooming of soil.

(v) Construction and maintenance of a path.

(c) "Debris" means animal or fish carcasses, zebra mussel shells, dead vegetation, trash, and discarded materials of human-made origin.

(d) "Department" means the department of environmental quality.

(e) "Director" means the director of the department.

(f) "Environmental area" means an environmental area as defined in section 32301.

(g) "Grooming of soil" means raking or dragging, pushing, or pulling metal teeth through the top 4 inches of soil without disturbance of or destruction to plant roots, for the purpose of removing debris.

(h) "Leveling of sand" means the relocation of sand within areas being leveled that are predominantly free of vegetation, including the redistribution, grading, and spreading of sand that has been deposited through wind or wave action onto upland riparian property.

(i) "Marina purposes" means an operation making use of submerged bottomlands or filled-in bottomlands of the Great Lakes for the purpose of service to boat owners or operators, which operation may restrict or prevent the free public use of the affected bottomlands or filled-in lands.

(j) “Mowing of vegetation” means the cutting of vegetation to a height of not less than 2 inches, without disturbance of soil or plant roots.

(k) “Path” means a temporary access walkway from the upland riparian property directly to the shoreline across swales with standing water, not exceeding 6 feet in bottom width and consisting of sand and pebbles obtained from the exposed, nonvegetated bottomlands or from the upland riparian property.

(l) “Removal of vegetation” means the manual or mechanized removal of vegetation other than the de minimis removal of vegetation.

(m) “Wetland” means that term as it is defined in section 30301.

### **324.32512 Acts prohibited; exceptions.**

Sec. 32512. (1) Unless a permit has been granted by the department or authorization has been granted by the legislature, or except as to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length where the spoil is not disposed of below the ordinary high-water mark of the body of water to which it is connected, a person shall not do any of the following:

(a) Construct, dredge, commence, or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection of the waterway with any of the Great Lakes, including Lake St. Clair.

(b) Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar waterway with any of the Great Lakes, including Lake St. Clair, for navigation or any other purpose.

(c) Dredge or place spoil or other material on bottomland.

(d) Construct a marina.

(2) Notwithstanding subsection (1), and with respect to lands covered and affected by this part, a permit or other approval is not required under this part for either of the following:

(a) Until November 1, 2007, beach maintenance activities that meet all of the following conditions:

(i) The activities shall not occur in environmental areas and shall not violate part 365 or rules promulgated under that part, or the endangered species act of 1973, Public Law 93-205, 87 Stat. 884, or rules promulgated under that act.

(ii) The width of any mowing of vegetation shall not exceed the width of the riparian property or 100 feet, whichever is less.

(iii) All collected debris shall be disposed of properly outside of any wetland.

(b) Until 3 years after the effective date of the amendatory act that added this subdivision, removal of vegetation as authorized in section 32516.

### **324.32512a Mowing or removal of vegetation; general permit.**

Sec. 32512a. (1) The department, after notice and opportunity for a public hearing, may issue general permits on a statewide basis or within a local unit of government for a category of activities if the department determines that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. A general permit issued under this subsection shall be based on the requirements of this

part and the rules promulgated under this part, and shall set forth the requirements and standards that shall apply to an activity authorized by the general permit.

(2) A general permit issued under this section shall not be valid for more than 5 years.

(3) A general permit under this section may be issued for the mowing of vegetation or the removal of vegetation in the area between the ordinary high-water mark and the water's edge. An application under this subsection may be submitted by a local unit of government on behalf of property owners within its jurisdiction or by 1 or more adjacent property owners for riparian property located within the same county.

### **324.32513 Application for permit; contents; fees; disposition of fees.**

Sec. 32513. (1) Before any work or connection specified in section 32512 or 32512a is undertaken, a person shall file an application with the department of environmental quality setting forth the following:

(a) The name and address of the applicant.

(b) The legal description of the lands included in the project.

(c) A summary statement of the purpose of the project.

(d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.

(e) Other information required by the department of environmental quality.

(2) Except as provided in subsections (3) and (4), an application for a permit under this section shall be accompanied by a fee according to the following schedule:

(a) Until October 1, 2004:

(i) For a project in a category of activities for which a general permit is issued under section 32512a, a fee of \$100.00.

(ii) For activities included in the minor project category as described in rules promulgated under this part and for a permit for the removal of vegetation in an area that is not more than 100 feet wide or the width of the property, whichever is less, or the mowing of vegetation in excess of what is allowed in section 32512(2)(a)(ii), in the area between the ordinary high-water mark and the water's edge, a fee of \$50.00.

(iii) For construction or expansion of a marina, a fee of:

(A) \$50.00 for an expansion of 1-10 slips to an existing permitted marina.

(B) \$100.00 for a new marina with 1-10 proposed marina slips.

(C) \$250.00 for an expansion of 11-50 slips to an existing permitted marina, plus \$10.00 for each slip over 50.

(D) \$500.00 for a new marina with 11-50 proposed marina slips, plus \$10.00 for each slip over 50.

(E) \$1,500.00 if an existing permitted marina proposes maintenance dredging of 10,000 cubic yards or more or the addition of seawalls, bulkheads, or revetments of 500 feet or more.

(iv) For major projects other than a project described in subparagraph (iii)(E), involving any of the following, a fee of \$2,000.00:

(A) Dredging of 10,000 cubic yards or more.

(B) Filling of 10,000 cubic yards or more.

(C) Seawalls, bulkheads, or revetment of 500 feet or more.

(D) Filling or draining of 1 acre or more of coastal wetland.



- (E) New dredging or upland boat basin excavation in areas of suspected contamination.
- (F) New breakwater or channel jetty.
- (G) Shore protection, such as groins and underwater stabilizers, that extend 150 feet or more on Great Lakes bottomlands.
- (H) New commercial dock or wharf of 300 feet or more in length.
- (v) For all other projects not listed in subparagraphs (i) through (iv), \$500.00.
- (b) Beginning October 1, 2004, a fee of \$50.00 for any project listed in subdivision (a).
- (3) A project that requires review and approval under this part and 1 or more of the following is subject to only the single highest permit fee required under this part or the following:
  - (a) Part 301.
  - (b) Part 303.
  - (c) Part 323.
  - (d) Section 3104.
  - (e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.
- (4) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department of environmental quality, the department of environmental quality may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under this section.
- (5) The department of environmental quality shall forward all fees collected under this section to the state treasurer for deposit into the land and water management permit fee fund created in section 30113.

### **324.32516 Removal of vegetation; designation of areas; conditions; procedures; report.**

Sec. 32516. (1) Within 10 working days after the effective date of the amendatory act that added this section, the director shall identify 2 areas of the shoreline of the Great Lakes and Lake St. Clair where the removal of vegetation between the ordinary high-water mark and the water's edge shall be allowed without a permit under this part or part 303. The designation shall be made in writing, is final, and is not subject to appeal. Within 1 year after this designation is made, the director may designate additional areas unless he or she determines that making additional designations would result in pollution, impairment, or destruction to the natural resources of the state. Within areas designated by the director under this subsection, the removal of vegetation is allowed if all of the following conditions are met:

- (a) The landowner has received a letter of approval from the department under subsection (2) confirming at least 3 of the following:
  - (i) The area is unconsolidated material predominantly composed of sand, rock, or pebbles, or is predominantly vegetated by non-native or invasive species.
  - (ii) The area met the requirement of subparagraph (i) as of January 1, 1997.
  - (iii) The removal of vegetation does not violate part 365 or rules promulgated under that part, or the endangered species act of 1973, Public Law 93-205, 87 Stat. 884, or rules promulgated under that act.
  - (iv) The area in which removal of vegetation may occur is not an environmental area.

(b) The area in which removal of vegetation may occur does not exceed 50% of the width of the upland riparian property or 100 feet, whichever is greater, or a wider area if approved by the director.

(c) All collected vegetation shall be disposed of properly outside of any wetland.

(2) A person who owns riparian property on the shoreline of the Great Lakes or Lake St. Clair within an area designated under subsection (1) may submit to the director a request to conduct removal of vegetation. The request shall be submitted by certified mail or facsimile and shall include the address of the property, a parcel description by section, township, and range, the parcel tax number, the width in feet of the shoreline frontage, the width of the area proposed for removal of vegetation, and permission for the department to conduct an on-site inspection, if needed. Within 10 working days after receipt of a request under this subsection, the director shall notify the riparian property owner, in writing, whether the conditions in subsection (1)(a) are met.

(3) Upon receipt of a letter of approval under subsection (2), the riparian property owner may conduct the removal of vegetation as provided in subsection (1).

(4) By January 1, 2006, the director shall prepare and submit to the senate majority leader, the speaker of the house of representatives, the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment, and the governor a report that evaluates the activities allowed under subsection (1), describes the impacts to the affected areas, and recommends statutory changes based upon the evaluation, if appropriate.

This act is ordered to take immediate effect.

Approved June 4, 2003.

Filed with Secretary of State June 5, 2003.

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**[No. 15]**

**(SB 118)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 215 (MCL 750.215), as amended by 2002 PA 672.

*The People of the State of Michigan enact:*

**750.215 False representation as peace officer or medical examiner; violation; penalty; “peace officer” defined.**

Sec. 215. (1) An individual who is not a peace officer or a medical examiner shall not do any of the following:

(a) Perform the duties of a peace officer or a medical examiner.

(b) Represent to another person that he or she is a peace officer or a medical examiner for any unlawful purpose.

(c) Represent to another person that he or she is a peace officer or a medical examiner with the intent to compel the person to do or refrain from doing any act against his or her will.

(2) Except as provided in subsection (3), an individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) An individual who, in violation of subsection (1), performs the duties of a peace officer to commit or attempt to commit a crime or represents to another person that he or she is a peace officer to commit or attempt to commit a crime is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(4) A sentence imposed under subsection (3) may be ordered to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(5) As used in this section, “peace officer” means any of the following:

(a) A sheriff or deputy sheriff of a county of this state or another state.

(b) An officer of the police department of a city, village, or township of this state or another state.

(c) A marshall of a city, village, or township.

(d) A constable.

(e) An officer of the Michigan state police.

(f) A conservation officer.

(g) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(h) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(i) A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that community college, college, or university to enforce state law and the rules and ordinances of that community college, college, or university.

(j) A park and recreation officer commissioned pursuant to section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(k) A state forest officer commissioned pursuant to section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(l) A federal law enforcement officer.

(m) An investigator of the state department of attorney general.

### **Effective date.**

Enacting section 1. This amendatory act takes effect September 1, 2003.

This act is ordered to take immediate effect.

Approved June 10, 2003.

Filed with Secretary of State June 10, 2003.

**[No. 16]****(SB 117)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 16 $l$  of chapter XVII (MCL 777.16 $l$ ), as amended by 2001 PA 19.

*The People of the State of Michigan enact:*

## CHAPTER XVII

**777.16/ MCL 750.213 to 750.219f; felonies to which chapter applicable.**

Sec. 16 $l$ . This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
750.213	Person	B	Threats to extort money	20
750.215(3)	Pub saf	F	Impersonating peace officer	4
750.217b	Pub saf	G	Impersonating public utility employee	2
750.217c(3)	Pub ord	H	Impersonating public officer or employee	2
750.217c(4)	Pub ord	G	Impersonating public officer or employee — third or subsequent conviction	4
750.217d	Pub saf	C	False representation or practice as health professional	15
750.217e	Pub ord	G	Impersonating an FIA employee	2
750.218(4)	Property	E	False pretenses involving \$1,000 to \$20,000 or with prior convictions	5

750.218(5)	Property	D	False pretenses involving \$20,000 or more or \$1,000 to \$20,000 with prior convictions	10
750.219a(2)(c)	Property	E	Telecommunications fraud with 1 or more prior convictions or involving a value of \$1,000 to \$20,000	5
750.219a(2)(d)	Property	D	Telecommunications fraud with 2 or more prior convictions or involving a value of \$20,000 or more	10
750.219e	Property	F	Receiving, possessing, preparing, or submitting an unauthorized credit application or receiving or possessing proceeds	4
750.219f	Property	F	Receiving with intent to forward, possessing with intent to forward, or forwarding an unauthorized credit application or proceeds	4

**Effective date.**

Enacting section 1. This amendatory act takes effect September 1, 2003.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 118 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 10, 2003.

Filed with Secretary of State June 10, 2003.

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**Compiler's note:** Senate Bill No. 118, referred to in enacting section 2, was filed with the Secretary of State June 10, 2003, and became P.A. 2003, No. 15, Eff. Sept. 1, 2003.

**[No. 17]****(HB 4285)**

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 4 (MCL 38.1304), as amended by 2002 PA 94, and by adding section 92.

*The People of the State of Michigan enact:*

**38.1304 Definitions; C to M.**

Sec. 4. (1) "Compound interest" means interest compounded annually on July 1 on the contributions on account as of the previous July 1 and computed at the rate of investment return determined under section 104a(1) for the last completed state fiscal year.

(2) “Contributory service” means credited service other than noncontributory service.

(3) “Deferred member” means a member who has ceased to be a public school employee and has satisfied the requirements of section 82 for a deferred vested service retirement allowance.

(4) “Department” means the department of management and budget.

(5) “Designated date” means September 30, 1997.

(6) “Direct rollover” means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(7) “Distributee” includes a member or deferred member. Distributee also includes the member’s or deferred member’s surviving spouse or the member’s or deferred member’s spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, “eligible retirement plan” means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such eligible plan under section 457(b) of the internal revenue code from this retirement system, that accepts the distributee’s eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(9) Beginning January 1, 2002, “eligible rollover distribution” means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee’s designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of a distribution that is not includable in federal gross income is paid to either of the following:

(i) An individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

(ii) A qualified defined contribution plan as described in section 401(a) or 403(a) of the internal revenue code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution which is not includable in gross income.

(10) “Employee organization professional services leave” or “professional services leave” means a leave of absence that is renewed annually by the reporting unit so that a member may accept a position with a public school employee organization to which he or she belongs and which represents employees of a reporting unit in employment matters. The member shall be included in membership of the retirement system during a professional services leave if all of the conditions of section 71(5) and (6) are satisfied.

(11) “Employee organization professional services released time” or “professional services released time” means a portion of the school fiscal year during which a member is

released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs. The member's compensation received or service rendered, or both, as applicable, by a member while on professional services released time shall be reportable to the retirement system if all of the conditions of section 71(5) and (6) are satisfied.

(12) "Final average compensation" means the aggregate amount of a member's compensation earned within the averaging period in which the aggregate amount of compensation was highest divided by the member's number of years, including any fraction of a year, of credited service during the averaging period. The averaging period shall be 36 consecutive calendar months if the member contributes to the member investment plan; otherwise, the averaging period shall be 60 consecutive calendar months. If the member has less than 1 year of credited service in the averaging period, the number of consecutive calendar months in the averaging period shall be increased to the lowest number of consecutive calendar months that contains 1 year of credited service.

(13) "Health benefits" means hospital, medical-surgical, and sick care benefits and dental, vision, and hearing benefits for retirants, retirement allowance beneficiaries, and health insurance dependents provided pursuant to section 91.

(14) "Internal revenue code" means the United States internal revenue code of 1986.

(15) "Long-term care insurance" means group insurance that is authorized by the retirement system for retirants, retirement allowance beneficiaries, and health insurance dependents, as that term is defined in section 91, to cover the costs of services provided to retirants, retirement allowance beneficiaries, and health insurance dependents, from nursing homes, assisted living facilities, home health care providers, adult day care providers, and other similar service providers.

(16) "Member investment plan" means the program of member contributions described in section 43a.

### **38.1392 Long-term care insurance; withholding from retirement allowance.**

Sec. 92. Beginning on July 1, 2004, upon written application of a retirant, the retirement system shall withhold from the retirant's retirement allowance the entire monthly premium for voluntary long-term care insurance for the retirant, the retirement allowance beneficiary, and health insurance dependents, as that term is defined in section 91, who elect coverage in a long-term care insurance plan that is authorized by the retirement system. If the entire monthly premium for retirants, retirement allowance beneficiaries, and health insurance dependents is greater than the retirement allowance, the retirement system shall withhold the entire retirement allowance and apply it to the premium balance.

This act is ordered to take immediate effect.

Approved June 10, 2003.

Filed with Secretary of State June 10, 2003.

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[No. 18]

(HB 4038)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the

laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1531d.

*The People of the State of Michigan enact:*

**380.1531d First aid and cardiopulmonary resuscitation; requirements for teacher certification.**

Sec. 1531d. (1) Beginning July 1, 2004, the superintendent of public instruction shall not issue an initial teaching certificate to a person unless the person presents evidence satisfactory to the superintendent of public instruction that the person meets 1 of the following:

(a) Has successfully completed a course approved by the department in first aid and cardiopulmonary resuscitation, including a test demonstration on a mannequin, and has successfully completed instruction approved by the department in foreign body airway obstruction management, and holds valid certification in these topics issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) Has physical limitations that make it impracticable for the person to complete the instruction and obtain the required certification under subdivision (a).

(2) A person who meets the requirements described in subsection (1)(a) and who performs first aid, cardiopulmonary resuscitation, or foreign body airway obstruction management on another person in the course of his or her employment as a teacher is not liable in a civil action for damages resulting from an act or omission occurring in that performance except an act or omission constituting gross negligence or willful and wanton misconduct.

(3) This section does not create a duty to act on the part of a person who holds the certification described in subsection (1)(a).

This act is ordered to take immediate effect.

Approved June 10, 2003.

Filed with Secretary of State June 10, 2003.

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**[No. 19]**

**(SB 150)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to



the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 78106, 78108, 78110, 78115, and 79112 (MCL 324.78106, 324.78108, 324.78110, 324.78115, and 324.79112), sections 78106, 78108, and 79112 as added by 1995 PA 58 and section 78110 as amended and section 78115 as added by 1998 PA 210.

*The People of the State of Michigan enact:*

### **324.78106 Authority of local agencies and public colleges and universities to enter contracts with department.**

Sec. 78106. The local units of government of this state, within the jurisdiction of which are situated inland waterways connected with or connecting the waters of the Great Lakes, or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels, may by majority vote of their respective legislative bodies enter into contracts and agreements with the department in carrying out the purposes of this part. In addition, the public colleges and universities of the state may enter into contracts and agreements with the department in carrying out the purposes of this part.

### **324.78108 Financing local agencies and public colleges and universities to obtain federal participation; contracts with army corps of engineers.**

Sec. 78108. (1) The department may do 1 or more of the following:

(a) Take actions as may be necessary to provide the finances required of local agencies and public colleges and universities as condition for United States’ participation in any project in which the department is empowered to act.

(b) Use any part or all of the appropriation and funds otherwise available to meet the portion of the requirement of local participation as the department considers proper.

(c) Enter into agreements with any public college or university or political subdivision of the state in connection with participation with the United States in any project in which the department is empowered to act and provide adjustments which in the judgment of the department are considered to be in the best interest of the state.

(2) The department may enter into any contract or agreement with the army corps of engineers of the United States, or any other agency or instrumentality of the United States for the dredging of harbors, the erection of breakwaters, piers or any other device for the protection of vessels, and may do any act or enter into any contract or agreement desirable in implementing this part. The department may take such steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part.

### **324.78110 Michigan state waterways fund and Michigan harbor development fund; creation; administration; use; revenues.**

Sec. 78110. (1) The Michigan state waterways fund is created in the state treasury. The fund shall be administered by the state treasurer and shall be used by the department solely for the construction, operation, and maintenance of recreational boating facilities,

the acquisition of property for the purposes of this part, for grants to local units of government and public colleges or universities to acquire and develop harbors of refuge and public boating access sites under section 78115, and for the administration of this part. The fund shall receive such revenues as the legislature may provide.

(2) The Michigan harbor development fund is created in the state treasury. The fund shall be administered by the state treasurer and shall be used by the department solely for the purposes provided in part 791 and for the administration of that part. The fund shall receive revenues as provided in part 791 and such other revenues as the legislature may provide.

### **324.78115 Public boating access sites grant program.**

Sec. 78115. (1) The department shall establish a public boating access sites grant program. The grant program shall provide funding with money in the Michigan state waterways fund to local units of government and public colleges or universities for all or a portion of the cost of either or both of the following:

- (a) The acquisition of land for the establishment of a public boating access site.
- (b) The cost of developing a public boating access site.

(2) A grant under subsection (1)(a) may be used as the required match by a local unit of government or a public college or university under part 19 or another state or federal program.

(3) A local unit of government or a public college or university receiving a grant under subsection (1)(b) must agree to operate the public boating access site in accordance with the department's operational requirements. The operational requirements shall be included within a grant agreement that is entered into by the grant recipient and the department. The grant agreement may contain, but need not be limited to, 1 or more of the following provisions as required by the department:

(a) Any net revenues accruing from the operation of the public boating access site shall be separately accounted for and reserved in a restricted fund by the grantee for the future maintenance or expansion of the public boating access site or, with the approval of the department, the construction of other recreational boating facilities. Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, if a fee is charged for the use of the public boating access site, the fee shall be the same as the fee rates set by the department.

(b) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, the public boating access site and any facilities constructed for use in conjunction with the public boating access site shall be reserved by the grantee exclusively for the use or rental, on a daily basis, of recreational watercraft.

(c) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, commercial operations of any type shall not be permitted to regularly use the public boating access site or any of the facilities constructed for use in conjunction with the public boating access site.

(d) The public boating access site and any facilities constructed for use in conjunction with that public boating access site shall be open to the public at all times on equal and reasonable terms.

(4) A local unit of government or a public college or university that wishes to be considered for a grant under this section shall submit an application to the department in a manner prescribed by the department and containing the information required by the department.

**324.79112 Lease agreements with 1 or more local units of government; apportionment of revenue.**

Sec. 79112. The department may enter into lease agreements for purposes of this part with 1 or more local units of government or public colleges or universities acting jointly with the department as a lessor. Revenue from each lease shall be apportioned according to the proportional share of the investments made by the department and the local unit or units of government or public colleges or universities in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the entities.

This act is ordered to take immediate effect.

Approved June 17, 2003.

Filed with Secretary of State June 18, 2003.

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**[No. 20]**

**(HB 4197)**

AN ACT to amend 1986 PA 281, entitled “An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing,” by amending section 2 (MCL 125.2152), as amended by 2000 PA 248.

*The People of the State of Michigan enact:*

**125.2152 Definitions.**

Sec. 2. As used in this act:

(a) “Advance” means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) “Assessed value” means 1 of the following:

(i) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(ii) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) “Authority” means a local development finance authority created pursuant to this act.

(d) “Authority district” means an area or areas within which an authority exercises its powers.

(e) “Board” means the governing body of an authority.

(f) “Business development area” means an area designated as a certified industrial park under this act prior to the effective date of the amendatory act that added this subdivision, or an area designated in the tax increment financing plan that meets all of the following requirements:

(i) The area is zoned to allow its use for eligible property.

(ii) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(g) “Business incubator” means real and personal property that meets all of the following requirements:

(i) Is located in a certified technology park.

(ii) Is subject to an agreement under section 12a.

(iii) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (p)(iii).

(h) “Captured assessed value” means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (cc), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(i) “Certified business park” means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(j) “Certified technology park” means that portion of the authority district designated by a written agreement entered into pursuant to section 12a between the authority, the municipality, and the Michigan economic development corporation.

(k) “Chief executive officer” means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(l) “Development plan” means that information and those requirements for a development set forth in section 15.

(m) “Development program” means the implementation of a development plan.

(n) “Eligible advance” means an advance made before August 19, 1993.

(o) “Eligible obligation” means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority’s written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(p) “Eligible property” means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated

whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(i) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(ii) Agricultural processing.

(iii) A high technology activity.

(iv) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(v) A business incubator.

(q) "Fiscal year" means the fiscal year of the authority.

(r) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(s) "High technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(t) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (cc).

(u) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan

economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(v) “Michigan strategic fund” means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(w) “Municipality” means a city, village, or urban township.

(x) “Obligation” means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(i) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(ii) A management contract or a contract for professional services.

(iii) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(iv) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(v) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(y) “On behalf of an authority”, in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(i) A reimbursement agreement between the municipality and an authority it established.

(ii) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(iii) A resolution of the authority agreeing to make payments to the incorporating unit.

(iv) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(z) “Other protected obligation” means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(ii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

(iii) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(iv) An ongoing management or professional services contract with the governing body of a county that was entered into before March 1, 1994 and that was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(aa) “Public facility” means 1 or more of the following:

(i) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph shall be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge shall be continuously open to public access. A public facility shall be located on public property or in a public, utility, or transportation easement or right-of-way.

(ii) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(iii) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (i) and (iv), including, but not limited to, architect’s, engineer’s, legal, and accounting fees as permitted by the district’s development plan.

(iv) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(v) All of the following costs approved by the Michigan economic development corporation:

(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986 for a business incubator located in a certified technology park.

(B) Costs related to the acquisition, improvement, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for laboratory facilities, research and development facilities, conference facilities, teleconference

facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (p)(iii), that are owned by a public entity, and that are located within a certified technology park.

(vi) Operating and planning costs included in a plan pursuant to section 12(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

(bb) “Qualified refunding obligation” means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

(i) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(ii) The net present value of the sum of the tax increment revenues described in subdivision (ee)(ii) and the distributions under section 11a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (ee)(ii) and the distributions under section 11a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(cc) “Specific local taxes” means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(dd) “State fiscal year” means the annual period commencing October 1 of each year.

(ee) “Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:

(i) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions, other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts, upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(ii) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (i), for the following purposes:

(A) To repay eligible advances, eligible obligations, and other protected obligations.



(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park to the extent the public facilities have been included in an agreement under section 12a(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality.

(iii) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment financing authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this act.

(iv) The amount of tax increment revenues authorized to be included under subparagraph (ii), and required to be transmitted to the authority under section 13(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (ii).

(ff) “Urban township” means a township that meets 1 or more of the following:

(i) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(i) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(iii) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized value for all real and personal property located in the township of more than \$200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

(iv) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

This act is ordered to take immediate effect.

Approved June 19, 2003.

Filed with Secretary of State June 20, 2003.

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**[No. 21]**

**(HB 4556)**

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” by amending section 110 (MCL 206.110), as amended by 1996 PA 484.